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Nashville District
Memphis District

Public Notice

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Please address all comments to:
Nashville District Corps of Engineers, Regulatory Division
3701 Bell Road, Nashville, TN 37214-2660

AUTHORITY: Pursuant to 33 CFR 332, Compensatory Mitigation for Losses of Aquatic Resources (Federal Register: April 10, 2008 { Volume 73, Number 70}, Pages 58605-58614), this notice announces a prospectus submitted for the establishment of an In-Lieu Fee (ILF) mitigation program for the state of Tennessee.

SPONSOR: Southeast Natural Resources Restoration
Attn: Mr. James T. Ward
32 North Main Street
Sparta, Tennessee 38583

PURPOSE: Southeast Natural Resources Restoration (SNRR) has provided a prospectus to initiate the development of an ILF mitigation program to meet compensatory mitigation requirements for future permits issued under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The purpose is to establish guidelines, responsibilities, and standards for the establishment, use, operation, and maintenance of the program in a way that complies with the regulations governing compensatory mitigation for activities authorized by Department of Army (DA) permits granted by the U.S. Army Corps of Engineers (USACE). If approved by the State of Tennessee, the proposed ILF program could also be used as compensatory mitigation for activities authorized under Aquatic Resources Alterations Permits (ARAP) authorized by the Tennessee Department of Environment and Conservation Division of Water Pollution Control (TDEC).

IN-LIEU FEE PROGRAM DEFINITION: An ILF program is a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for DA permits. Similar to a mitigation bank, an ILF program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor. However, the operation and use of an ILF program are governed by an ILF program instrument.

LOCATION: The sponsor's proposed ILF program would service the entire state of Tennessee. This Public Notice (PN) applies to the entire state of Tennessee including areas in the Memphis and Nashville Districts of the U.S. Army Corps of Engineers. The proposed SNRR Stream & Wetland ILF Program's prospectus identifies ten geographic services areas in which the proposed ILF would be operated.

DESCRIPTION OF WORK: Information required for a complete ILF program prospectus is outlined in 33 CFR 332.8(d)(2). The prospectus describes the objectives, ILF establishment and operation, services areas, general need and technical feasibility of the ILF program, Ownership arrangements and long-term management strategy of ILF project sites, qualifications of the sponsor, compensation planning framework, and description of the ILF program account. A complete copy of the [SNRR Statewide Stream and Wetland In-Lieu Fee Program Prospectus is posted here](#).

The proposed prospectus is also available for review in the Nashville District Regulatory office between the hours of 8:00 AM and 3:00 PM, Monday through Friday.

OPERATION OF THE IN-LIEU FEE PROGRAM: An Interagency Review Team (IRT) composed of representatives from various Federal and state resource agencies would advise the Corps and TDEC on the establishment and management of the in-lieu fee program. The SNRR would identify and develop site-specific plans to satisfy compensatory mitigation requirements. Plans would be submitted to the IRT for review prior to development and implementation of the mitigation project. Specific projects would be treated as modifications to the program instrument and would be processed in accordance with the provisions at 33 CFR 332.8 (g).

PUBLIC INTEREST REVIEW: The purpose of this PN is to advise all interested parties of the proposed ILF program and to solicit comments and information necessary to evaluate the probable impact on the public interest.

The decision whether to authorize the ILF program will be based on an evaluation of the probable impact, including cumulative impacts, of the ILF program on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the ILF program must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the ILF program will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Federally-recognized Tribes; and other interested parties in order to consider and evaluate the proposed ILF program. Any comments received will be considered by the Corps of Engineers to determine whether to approve the ILF instrument. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this prospectus. Requests for a public hearing shall state, with particularity, the reason for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision.

COMMENTS OR REQUEST FOR ADDITIONAL INFORMATION: Any response to this notice should be directed to the Nashville District Corps of Engineers, Regulatory Division, Attention: Mr. Mark G. McIntosh at the

above address or by email: mark.g.mcintosh@usace.army.mil . Copies of all comments, including the names and address of commenters will be provided to the ILF sponsor for consideration and response prior to a decision by the Corps. Written statements received in this office within 30 days from the date of this notice will become a part of the record and will be considered in the determination.

/s/

Joshua W. Frost
Chief, Technical Services Branch
Regulatory Division