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Nashville District
Memphis District

Special Public Notice

Public Notice No. 13-28

Date: June 21, 2013

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

Subject: Annual Report for the Tennessee Stream Mitigation Program (TSMP) In-Lieu-Fee (ILF) Program

Reporting Period: Calendar Year 2012

Location: The report includes TSMP operations throughout the entire state of Tennessee including both the Memphis and Nashville Districts of the U.S. Army Corps of Engineers (Corps).

General Information: In-lieu-fee programs provide a fee-based compensatory mitigation option whereby money is paid by a permittee to a third party who assumes responsibility to develop and implement compensatory mitigation. In-lieu-fee arrangements are established between Corps Districts and natural resource management organizations following consultation with other state and Federal resource agencies. There are two (2) ILF program sponsors in the state of Tennessee - Tennessee Wildlife Resources Foundation (TWRFF) and Tennessee Wildlife Federation (TWF).

Background: The TSMP was established via an August 16, 2002, Memorandum of Agreement (MOA) with the TWRFF. Agencies involved in the development and execution of the MOA include the U.S. Army Corps of Engineers (Memphis and Nashville Districts), Tennessee Department of Environment and Conservation (TDEC), Tennessee Valley Authority (TVA), Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), and Tennessee Wildlife Resources Agency (TWRA). A Final Instrument was approved by the Corps on June 7, 2013. The Final Instrument supersedes the previous MOA and satisfies the current regulatory requirements for the operation and use of ILF Programs.

Reporting Requirements: *"Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbor Act"* (Federal Register: November 7, 2000, Volume 65, Number 216) stated that the Corps would track all uses of ILF arrangements and report those figures by public notice on an annual basis.

The TSMP has prepared and submitted its 2012 annual report. The attached tables provide a summary of ILF project related expenditures and overview of approved projects. This PN is being circulated to notify the public of the availability of TSMP's 2012 annual report.

Reporting Status: This is the last public notice regarding an annual report for the TSMP. The *Compensatory Mitigation for Losses of Aquatic Resources* (Federal Register: April 10, 2008, Volume 73, Number 70) requires the ILF sponsor to provide annual reports to the district engineer and the Interagency Review Team (IRT). Future transactions involving the TSMP will be tracked on the Regulatory In-lieu fee and Bank Information Tracking System (RIBITS) database. Information including the number of credits accepted as mitigation obligations and the number of credits generated by compensatory mitigation projects will be tracked and reported by service area.

The TSMP is authorized to provide stream mitigation associated with Department of Army (DA) Permits pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the River and Harbors Act of 1899 (33 U.S.C. 403) throughout the state of Tennessee. Applicants wishing to purchase stream mitigation credits should contact the TSMP at telephone (615) 831-9311 or by mail at 5000 Linbar Drive, Suite 275, Nashville, TN 37211 to determine mitigation credit availability.

Contact Information: Questions and requests for additional information can be directed to Mr. Roger Allan at roger.s.allan@usace.army.mil, (901) 544-3682, U.S. Army Corps of Engineers, Memphis District, 167 North Main Street, Room B-202, Memphis, Tennessee 38103, or Mr. Marty Tyree at marty.g.tyree@usace.army.mil, (615) 369-7514, U.S. Army Corps of Engineers, Nashville District, 3701 Bell Road, Nashville, Tennessee 37214.

TSMP Permitted Impacts Summary. The TSMP accepted mitigation responsibility for 26,169 credits during 2012. As of December 31, 2012, the TSMP had accepted the liability for 203,824 credits and had produced 144,819 credits through IRT approved projects.

TSMP Financial Status. Total assets equaled \$9,842,365 while accrued liabilities totaled \$479,733 giving the mitigation fund an end of year equity balance of \$9,362,632 as of December 31, 2012. The mitigation fund received deposits totaling \$5,233,800 while reflecting an accounts receivable balance of \$352,400. The program account also earned a total of \$48,538 from interest bearing accounts. Total expenditures for 2012 equaled \$5,991,183 of which \$5,910,990 was program/project related expenditures and the remaining \$80,193 were general and administrative expenditures. Detailed 2012 accrued project expenditures can be seen below.

Project Name	Work Performed 2012	2012 Expenditures	Expenditures to Date
Beasley Creek	Implementation	\$ 1,457,678	\$ 2,331,849
Burrough's Hollow	Monitoring	\$ 8,544	\$ 216,032
Cole Creek	Long Term Management	\$ 0	\$ 482,288
Crooked Creek	Long Term Management	\$ 22	\$ 1,013,180
Flat Fork	Monitoring	\$ 48,115	\$ 2,815,972
Friar Branch	Monitoring	\$ 14,088	\$ 1,196,742
Green Valley	Implementation	\$ 568,714	\$ 998,753
Kyle's Ford	Long Term Management	\$ 540	\$ 895,860
Leiper's Fork	Monitoring	\$ 20,703	\$ 1,465,588
Marble Springs	Long Term Management	\$ 394	\$ 480,098
May Prairie	Development	\$ 7,234	\$ 7,234
Middle Fork Creek	Implementation	\$ 1,008,737	\$ 1,882,086
Mill Creek	Monitoring	\$ 7,365	\$ 237,885
Murfrees Fork	Monitoring	\$ 17,934	\$ 1,292,537
North Fork Mud Creek	Implementation	\$ 358,836	\$ 2,675,910
Pavilion Branch	Long Term Management	\$ 0	\$ 678,513
Pond Creek	Long Term Management	\$ 0	\$ 391,652
Robinson Creek	Monitoring	\$ 58,964	\$ 635,697
Roseberry Creek	Monitoring	\$ 8,183	\$ 367,998
Sevenmile Creek	Long Term Management	\$ 246	\$ 276,676
Sugar Creek	Monitoring	\$ 86,569	\$ 1,809,265
Third Creek	Long Term Management	\$ 250	\$ 1,185,795
Turnbull Creek	Long Term Management	\$ 0	\$ 340,090
UT Wolf River	Monitoring	\$ 14,962	\$ 1,862,093
West Harpeth River	Long Term Management	\$ 247	\$ 1,758,312
West Piney River	Implementation	\$ 1,661,259	\$ 1,860,322
Yanahli	Long Term Management	\$ 343	\$ 164,578

Status of TSMP Projects. As of December 31, 2012, the TSMP had twenty-seven active approved projects that were in some phase of development, design, implementation, adaptive management, monitoring or long term management. An overview of each approved active project can be found below.

Project Name	8 Digit HUC	Treatment type(s)	Project Length	Credits
Beasley Creek	08010210	Restoration	16,209	10,806
Burrough's Hollow	05130106	Restoration	940	661
Cole Creek	08010209	Restoration, Enhancement I	4,564	2,262
Crooked Creek	06040001	Restoration	11,986	8,556
Flat Fork	06010208	Restoration	12,940	11,469
Friar's Branch	06020001	Restoration	7,310	5,242
Green Valley	05130108	Restoration	7,069	5,265
Kyle's Ford	06010205	Restoration	18,234	5,538
Leiper's Fork	05130204	Restoration	12,274	7,416
Marble Springs	06010201	Restoration	3,020	2,013
May Prairie	06040002	Restoration	4,205	2,879
Middle Fork Creek	08010205	Restoration	7,747	7,524
Mill Creek	05130202	Restoration	2,385	1,325
Murfrees Fork	05130204	Restoration	9,901	7,256
North Fork Mud Creek	06040005	Restoration	17,950	9,905
Pavilion Branch	05130202	Restoration	4,916	4,849
Pond Creek	08010204	Restoration	2,707	2,041
Robinson Creek	06030003	Restoration	5,028	3,363
Roseberry Creek	06010104	Restoration	2,384	1,505
Sevenmile Creek	05130202	Enhancement II	3,700	1,233
Sugar Creek	06040003	Restoration	9,727	5,556
Third Creek	06010201	Restoration	7,601	5,092
Turnbull Creek	05130204	Enhancement II	4,430	1,476
UT Wolf River	08010210	Restoration	9,471	6,823
West Harpeth River	05130204	Restoration	15,350	10,058
West Piney River	06040003	Restoration	18,623	10,701
Yanhli	06040002	Enhancement I	16,020	4,005