

Indiana Department of Natural Resources
Indiana Stream and Wetland Mitigation Program
Calendar Year 2018 Annual Report

Prepared in Accordance with the approved Final Instrument
US Army Corps of Engineers I.D. Number LRL-2014-100-lcl

February 2019



Division of Land Acquisition

Table of Contents

Introduction.....	1
Purpose of an In-Lieu Fee Program.....	1
Annual Program Summary.....	2
IN SWMP Staffing and Organizational Structure.....	3
Credits, Pricing and Status.....	5
Program Financial Status.....	12
Administrative Fund.....	12
Service Area Funds (Jurisdictional WOTUS and State Isolated Wetland.....	13
Reserve Fund and Interest.....	14
Project Planning Activities.....	14

Appendix A – CY18 Annual Credit Sales Ledger

Appendix B – Indiana Natural Resources Foundation IN SWMP CY18 Financial Report

List of Tables

Table 1. Quarterly IN SWMP Credit Sales and Revenue for CY 2018.....	2
Table 2. Total number of permitted projects in which ILF credits purchased for CY18.....	3
Table 3. Stream and Wetland credit pricing per service area for CY18.....	5
Table 4. CY18 Stream Credits.....	6
Table 5. CY18 Wetland Credits.....	7
Table 6. Cumulative permitted stream impact quantities by stream type (ILF only).....	7
Table 7. Cumulative permitted wetland impact quantities by jurisdiction & type (ILF only).....	7
Table 8. All income for CY18.....	12
Table 9. Administrative Fund details for CY18.....	12
Table 10. Service Area Fund details for CY18.....	13
Table 11. Reserve Fund details for CY18.....	14

List of Figures

Figure 1. IN SWMP Organizational Chart.....	3
Figure 2. Current IN SWMP Staff and Service Areas Map.....	4
Figure 3. Percentage of the Number of Projects by Jurisdiction.....	8
Figure 4. Aquatic resource type(s) impacted per permitted project.....	9
Figure 5. Number of authorized permits by IN SWMP CPF threat category (ILF only).....	10
Figure 6. Location and IN SWMP CPF threat category of permitted impacts (ILF only).....	11

Introduction

This report provides information on the Indiana Stream and Wetland Mitigation Program (IN SWMP), an in-lieu fee (ILF) program sponsored by the Indiana Department of Natural Resources (DNR), for calendar year 2018 (CY18) as required by the 2008 federal mitigation rule (specifically 33 CFR §332.8(i)(3) & (q)(1)), and the DNR's approved IN SWMP Instrument. The Instrument was approved by the U.S. Army Corps of Engineers (USACE) Louisville, Detroit and Chicago Districts and the Interagency Review Team (IRT) on May 3, 2018, officially authorizing the DNR to sell mitigation credits for stream and wetland impacts authorized by permits issued by USACE and the Indiana Department of Environmental Management (IDEM). This is DNR's first annual report since receiving program approval.

The Instrument defines roles and responsibilities of the USACE, DNR, and an Interagency Review Team (IRT) composed of USACE Louisville, Detroit, and Chicago Districts within Indiana, the U.S. Environmental Protection Agency (USEPA), IDEM, U.S. Fish and Wildlife Service (USFWS), and the U.S. Department of Agriculture's Natural Resource Conservation Service (NRCS).

The Indiana Natural Resources Foundation (INRF) is serving as the DNR's fiscal agent for IN SWMP. The INRF is a quasi-governmental organization supporting the DNR as its official non-profit partner. The INRF and DNR have a memorandum of understanding (MOU) outlining roles and responsibilities for the management of the IN SWMP account and the funds within the account and any sub-accounts. The NRF receives 2 percent of each credit sale as their administrative fee for the management of the IN SWMP funds. Information about the Indiana Natural Resources Foundation can be found at <https://www.indiananrf.org/>.

Purpose of an In-Lieu Fee Program

The DNR's IN SWMP was developed in accordance with 33 C.F.R. 332.8. The approved Instrument allows the DNR to sell stream and wetland mitigation credits to permittees that can be used for compensatory mitigation for unavoidable impacts to waters of the United States and isolated wetlands in the State of Indiana. Permits are required by USACE in accordance with Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) for work in or affecting traditionally navigable "waters of the United States", Section 404 of the Clean Water Act (CWA) (33 U.S.C. §1251 et seq.) for the discharge of dredged and/or fill material into "waters of the U.S.", and by IDEM under Section 401 Water Quality Certification of the CWA and state isolated wetland impacts under the Indiana Isolated Wetlands law (Indiana Code 13-18-22).

An ILF program provides one option for mitigating unavoidable impacts to waters of the U.S. and/or waters of the state regulated by USACE and/or IDEM. This involves purchase of credits (or payment of a fee) to an entity approved by USACE to conduct the mitigation in-lieu of performing the mitigation themselves (permittee-responsible mitigation). This additional method of mitigation is termed "in-lieu fee mitigation". An ILF program involves restoration, establishment, enhancement and/or preservation of aquatic resources after impacts have occurred on the landscape. Therefore, an ILF program sells "advanced credits" to permittees who purchase these credits in lieu of performing permittee responsible mitigation because the credits

are purchased in advance of the program sponsor building mitigation projects on the landscape. The legal obligation to provide the compensatory mitigation required by the authorized permits is then transferred to the sponsor of the ILF program upon receipt of funds for credits sold to permittees for stream and/or wetland mitigation in a service area.

Annual Program Summary

While the program was approved for credit sales on May 3, 2018, the first credit sale was not completed until September 24, 2018. Therefore, stream and/or wetland mitigation credits were only sold in the following six (6) of eleven (11) IN SWMP services areas in CY18: St. Joseph River (MI), Upper Wabash, Upper White, Whitewater-East Fork White, Upper Ohio and Ohio-Wabash Lowlands. Credit sale letters from DNR along with receipts from the INRF have been provided to permittees, regulatory project managers, USACE IRT members and USACE RIBITS administrators upon the completion of each credit sale. A credit sale ledger has been provided to the USACE Louisville, Detroit and Chicago Districts and to IDEM on a monthly basis since September as required by the Instrument. **Table 1** below shows a summary of credit sales for stream and wetland credits and total revenue for each quarter in 2018.

Calendar Year 2018 Quarter	Total Advanced Wetland Credit Sales	Total Advanced Stream Credit Sales	Total Credit Revenue
1 st Quarter	Not Approved	Not Approved	Not Approved
2 nd Quarter	0	0	\$0.00
3 rd Quarter	6.2	405	\$658,000.00
4 th Quarter	9.492	750	\$1,158,460.00
Total	15.692	1,155	\$1,816,460.00

Table 1. Quarterly Program Credit Sales and Revenue for CY 2018

In general, implementation of IN SWMP mitigation projects will occur after sufficient funds are available in a service area to undertake a project. Unless the Corps determines more time is needed to plan and implement an IN SWMP project (33 CFR §332.8(n)(4)), all advanced credits sold within a calendar year in each respective service area will accumulate, and the delivery of permanent protection and initial physical and/or biological improvements for the sum of those credit sales shall be due three (3) years from the end of the given calendar year. DNR IN SWMP plans to have stream and/or wetland restoration projects constructed by the end of the growing season of 2021 to satisfy credits sold in CY18.

Table 2 below shows the distribution of permitted projects in which the permittee purchased IN SWMP mitigation credits in CY18 by each of the three USACE Districts in Indiana. **Table 2** also shows the number of permits authorized by IDEM where there were only impacts to state isolated wetlands and no jurisdictional waters of the U.S. were impacted.

USACE Districts and State Isolated Wetland Only	Number of Projects
Louisville District	9
Detroit District	1
Chicago District	0
Isolated Only*	4
Total Projects purchasing ILF credits in CY18	14

Table 2. Total number of projects in which ILF credits were purchased in CY18 per Corps District or State Isolated Wetland jurisdiction

IN SWMP Staffing and Organizational Structure

Figures 1 below shows the organizational structure of DNR and INRF IN SWMP team. **Figure 2** shows the Indiana ILF program service areas and the DNR IN SWMP staff coverage for the state.

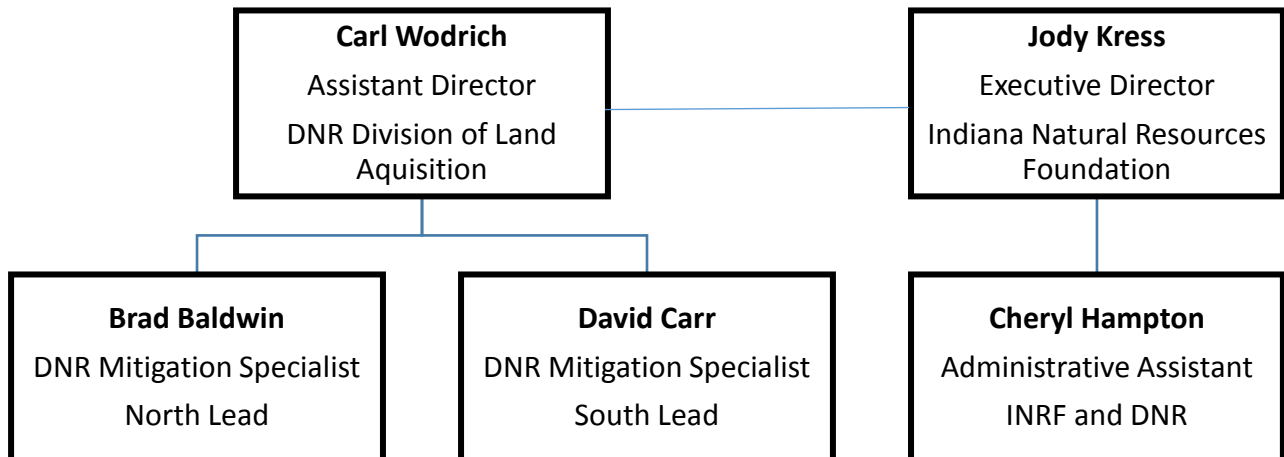


Figure 1. IN SWMP Organizational Chart

Indiana Stream and Wetland Mitigation Program (IN SWMP)

<https://on.in.gov/inswmp>

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South 

IN SWMP Service Areas

- Calumet-Dunes
- St. Joseph River
- Maumee
- Kankakee
- Upper Wabash
- Middle Wabash
- Upper White
- Whitewater-East Fork White
- Lower White
- Upper Ohio
- Ohio-Wabash Lowlands

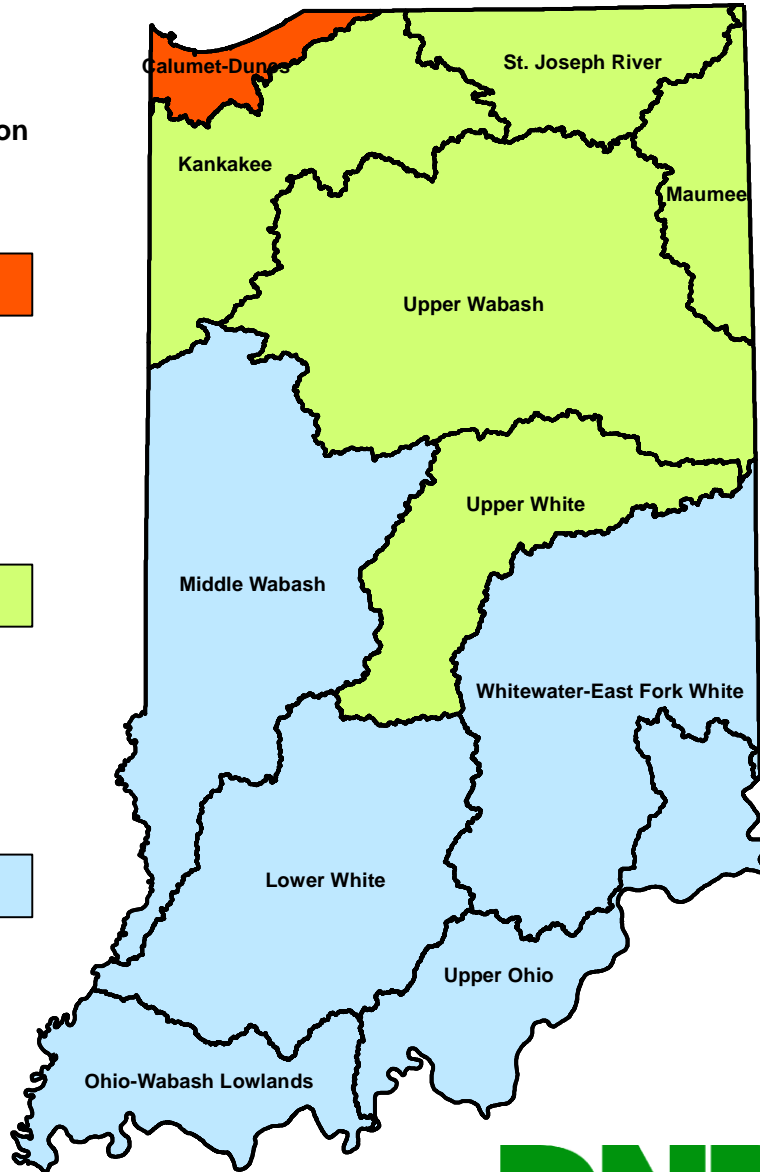


Figure 2. Current IN SWMP Staff and Service Areas Map

Carl Wodrich, Assistant Director for the DNR’s Division of Land Acquisition, is responsible for the overall administration and management of the program and was the lead for DNR in seeking program approval. In 2015, DNR hired two (2) Mitigation Specialists, David Carr and Brad Baldwin, with financial assistance from the Indiana Department of Transportation and Federal Highway Administration to assist the DNR with finalizing the instrument and gaining USACE approval of the program. In addition to being the lead on the CPF and assisting DNR with gaining program approval, they are responsible for the implementation of restoration and mitigation projects in five (5) service areas. Staff responsibilities include but are not limited to:

- Ongoing assessment of IN SWMP internal and external procedures and documentation in coordination with division and program management;
- Outreach and marketing to public, non-profit and private sectors;
- Develop and maintain conservation partnerships, to include federal, state and local governments, and land trusts;
- Execute credit sales and coordinate with permittees, regulatory agencies and the Indiana Natural Resources Foundation as necessary to complete sales;
- Maintain ledgers and draft annual reports to USACE;
- Identification and initial assessment of potential mitigation sites through GIS, other data sources, and field visits;
- Coordination and oversight of contractors assisting the DNR with site selection, design, permitting/regulatory approvals, site visits, construction, maintenance, and project performance monitoring.

Credits, Pricing and Status

Table 3 below provides the stream and wetland credit prices per service area as initially established and approved in the Instrument. Stream and wetland credit prices have not been adjusted since the program’s approval.

Service Area	Stream Credit Price (lf)	Wetland Credit Price (acre)
Calumet-Dunes	\$600	\$95,000
St. Joseph River (Lake MI)	\$600	\$120,000
Maumee	\$450	\$80,000
Kankakee	\$500	\$95,000
Upper Wabash	\$400	\$80,000
Middle Wabash	\$400	\$80,000
Upper White	\$450	\$80,000
Whitewater-East Fork White	\$400	\$80,000
Lower White	\$400	\$80,000
Upper Ohio	\$400	\$80,000
Ohio-Wabash Lowlands	\$400	\$80,000

Table 3. Stream and Wetland credit pricing per service area for CY18

Table 4 and Table 5 below provide an overview of the advance credit allocation as approved in the Instrument, as well as the advance credits sold, advance credit balance available, and the percent of advance credits available for stream and wetland mitigation for CY18. There are currently no released credits to report.

Service Area	Advance Stream Credit Allocation	Advance Stream Credits Sold	Advance Stream Credits Available	% of Advance Stream Credits Available
Calumet-Dunes	45,000	0	45,000	100%
St. Joseph River (Lake MI)	45,000	0	45,000	100%
Maumee	45,000	0	45,000	100%
Kankakee	45,000	0	45,000	100%
Upper Wabash	45,000	0	45,000	100%
Middle Wabash	45,000	0	45,000	100%
Upper White	60,000	750	59,250	98.75%
Whitewater-East Fork White	45,000	0	45,000	100%
Lower White	45,000	0	45,000	100%
Upper Ohio	45,000	405	44,595	99.1%
Ohio-Wabash Lowlands	50,000	0	50,000	100%

Table 4. CY18 Stream Credits

Service Area	Advance Wetland Credit Allocation	Advance Wetland Credits Sold	Advance Wetland Credits Available	% of Advance Wetland Credits Available
Calumet-Dunes	90	0	90	100%
St. Joseph River (Lake MI)	90	1.54	88.46	98.29%
Maumee	90	0	90	100%
Kankakee	90	0	90	100%
Upper Wabash	90	0.43	89.57	99.52%
Middle Wabash	90	0	90	100%
Upper White	120	0.62	119.38	99.48%
Whitewater-East Fork White	90	6.172	83.828	93.14%
Lower White	90	0	90	100%
Upper Ohio	90	2.73	87.27	96.97%
Ohio-Wabash Lowlands	115	4.2	110.8	96.35%

Table 5. CY18 Wetland Credits

Table 6 and Table 7 provide information on the statewide cumulative impact quantities per stream type, wetland type and regulatory jurisdiction for permits in which ILF mitigation credits were purchased. For additional details, see **Appendix A**.

Linear Feet of Impact per Stream Type			
Ephemeral	Intermittent	Perennial	Total Linear Feet Impacts
301	542	450	1,293

Table 6. Statewide cumulative stream impact quantities by stream type (flow regime) for permits in which ILF mitigation credits were purchased

Acres of Impact per Wetland Type						
Emergent	Scrub-Shrub	Forested	Isolated Class I Non-Forested	Isolated Class I Forested	Isolated Class II Forested	Total Impact Acreage
2.283	0.106	1.51	2.136	0.025	0.2337	6.2937

Table 7. Statewide cumulative wetland impact quantities by wetland type and jurisdiction for projects in which ILF mitigation credits were purchased

Figure 3 below depicts the jurisdiction(s) of cumulative permitted aquatic resource impacts statewide that required purchase of IN SWMP advance credits for sales that were completed in CY18.

% of Number of Projects by Jurisdiction

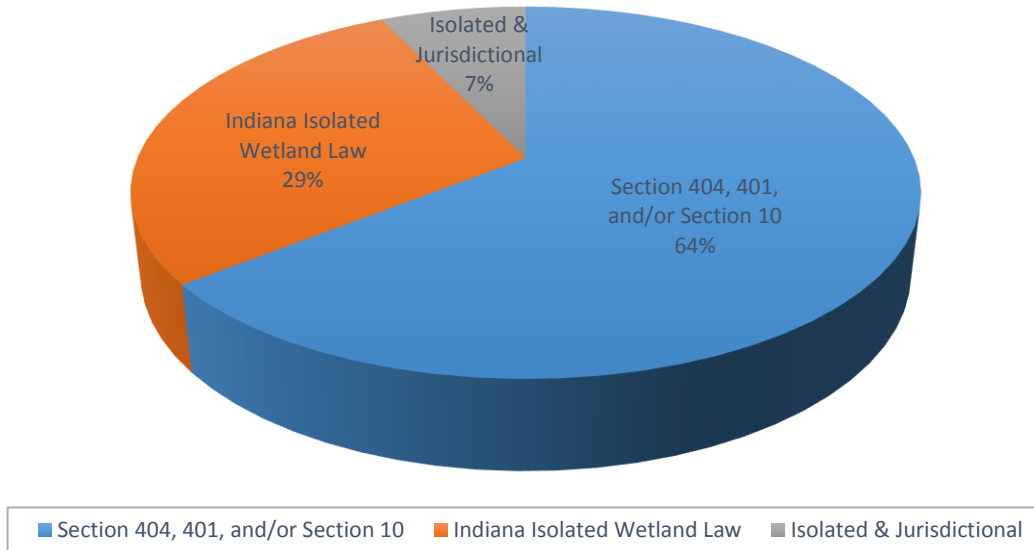


Figure 3. Percentage of the Number of Projects by Jurisdiction

Following, **Figure 4** shows the location and type of permitted aquatic resource impacts requiring IN SWMP advance credit purchases that were sold in CY18.

Indiana Stream and Wetland Mitigation Program

Statewide Impacts by Aquatic Resource Type and Jurisdiction

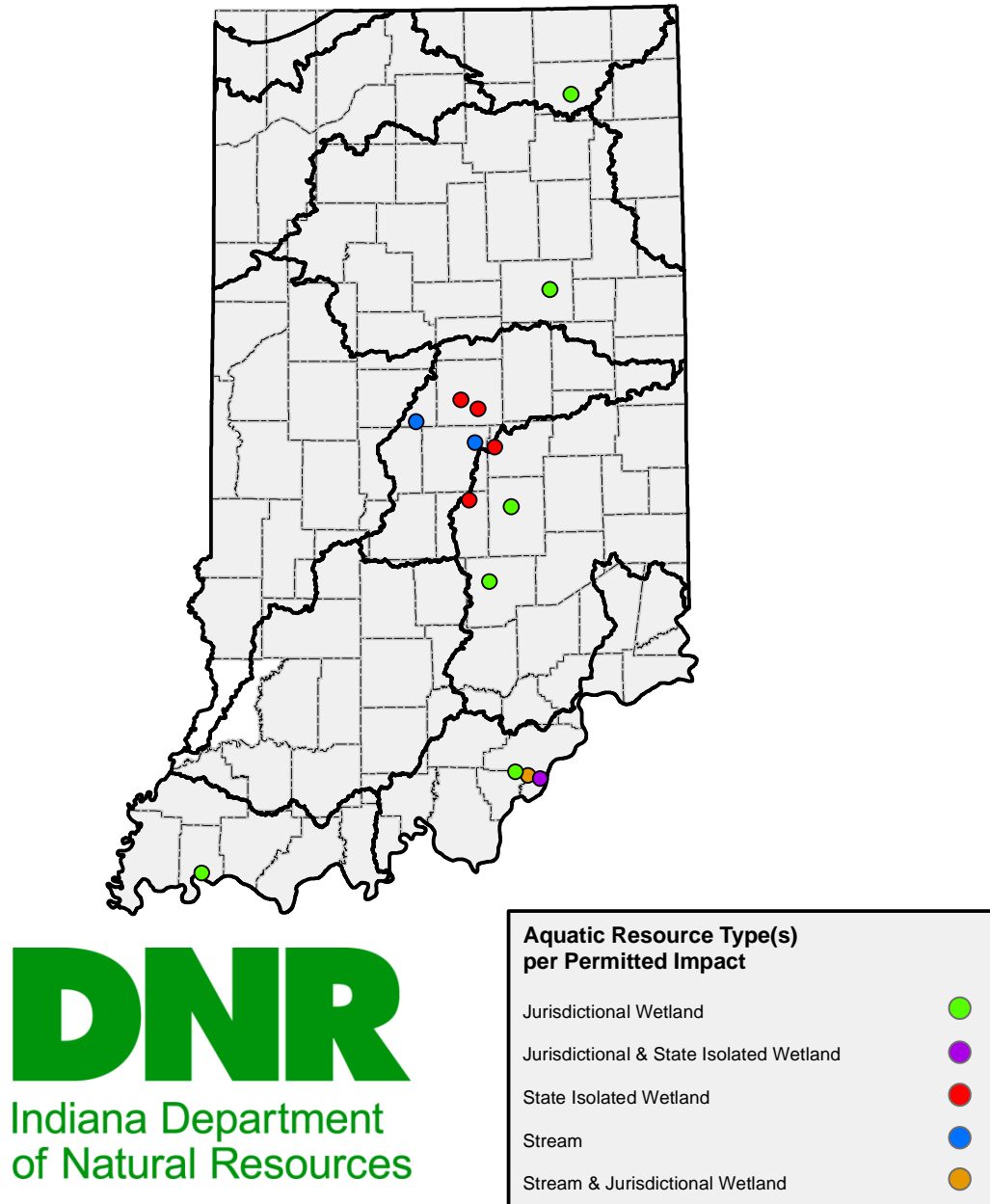


Figure 4. Aquatic resource type(s) per permitted project

The DNR’s IN SWMP Compensation Planning Framework (CPF), appendix B to the Instrument, identified the major anthropogenic categories of activities, both historic and ongoing, that result in the threats and impacts to the chemical, physical and biological integrity of aquatic resources and habitats across Indiana which include, but are not limited to, the following: 1) Growth and Development; 2) Agricultural Land Use; 3) Dams, Levees and Non-Levee Embankments; 4) Energy Production and Mining; and 5) Transportation and Service Corridors.

Stream and/or wetland ILF mitigation credit purchases based on the major anthropogenic aquatic resource threat categories in the IN SWMP CPF are shown below in **Figure 5** with the impact locations shown in **Figure 6**.

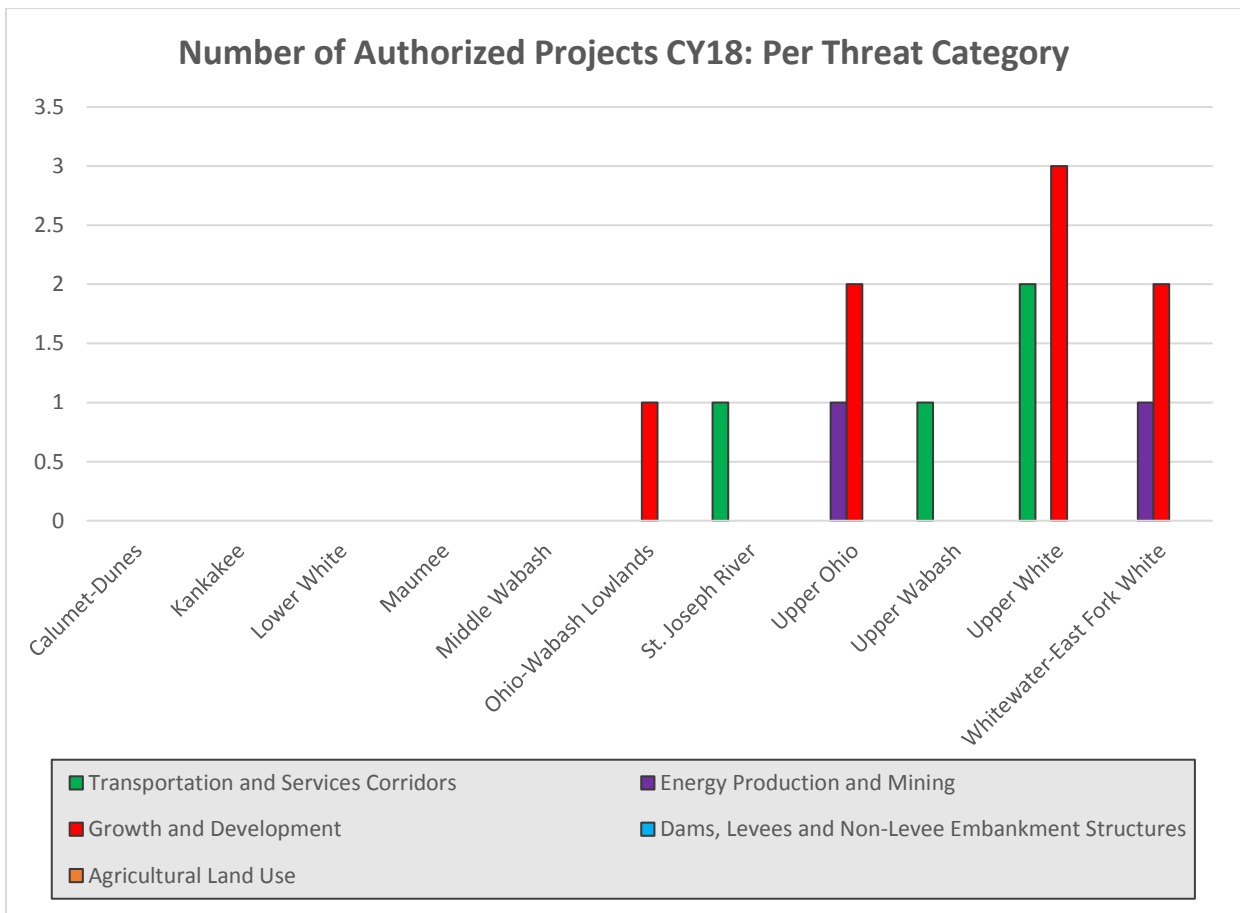


Figure 5. Number of authorized permits by threat category that required IN SWMP credits that were purchased in CY18

Indiana Stream and Wetland Mitigation Program

Statewide Impacts by Major Anthropogenic Threat Category

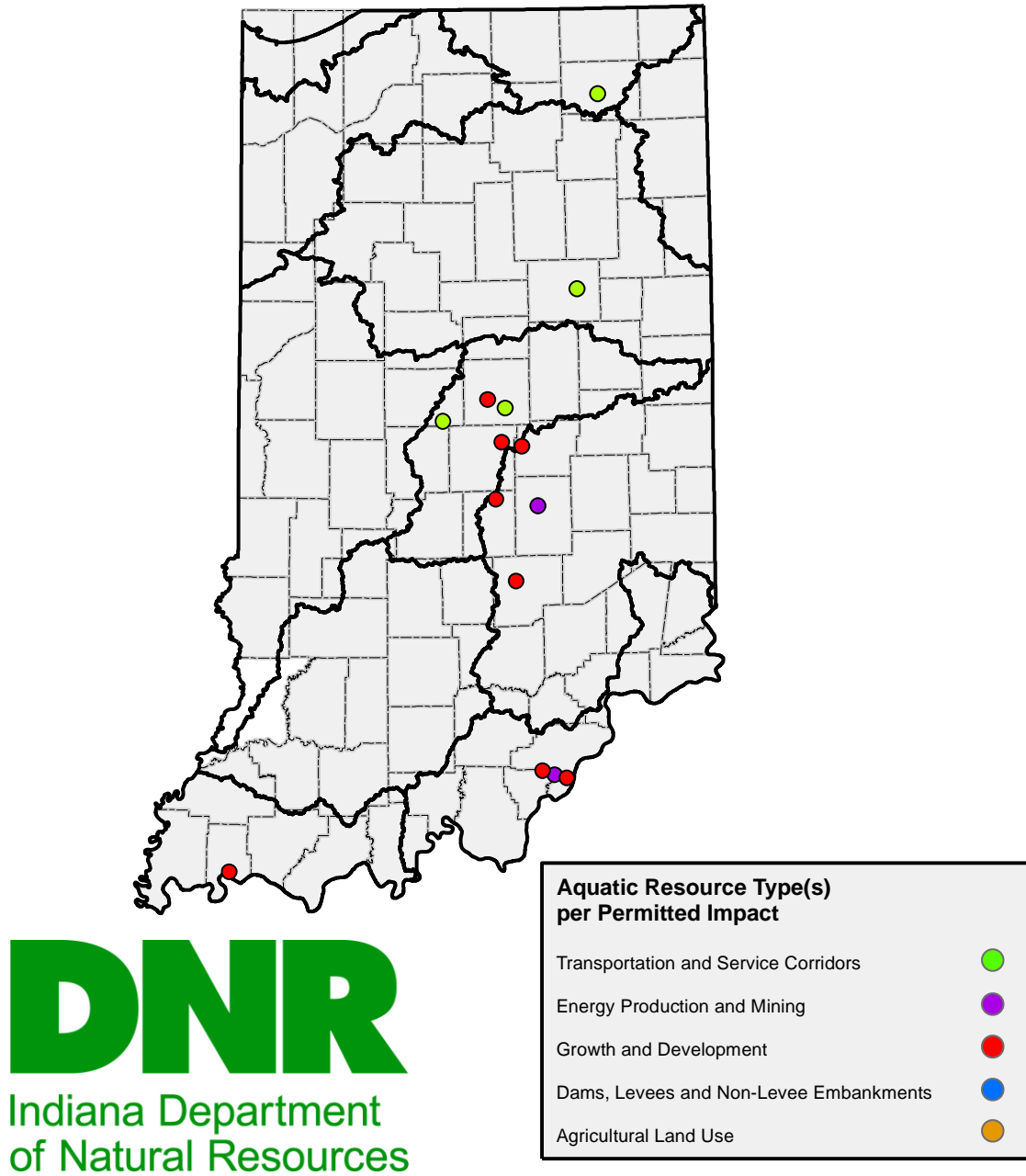


Figure 6. Location and major anthropogenic threat category of each permitted impact

Program Financial Status

The INRF IN SWMP Account has four sub-accounts as laid out in appendix A of the approved Instrument as follows:

- (a) Administrative Fund
- (b) Service Area Funds (in-lieu fee project funds for Section 10, 404, and 401 permitted impacts)
- (c) Service Area Funds (from credits sold for IDEM-permitted isolated wetland impacts)
- (d) Reserve Fund

Table 8 below provides an overview of all income in CY18 into the INRF IN SWMP account for DNR’s ILF program. For additional details, see **Appendix A and B**.

Admin Funds Received	\$272,469.00
Service Area Funds (WOUS)	\$1,065,442.00
Service Area Funds (Isolated)	\$206,080.00
Reserve Funds Received and Interest	\$274,068.59
Total Funds Received in CY18	\$1,818,059.59

Table 8. All income for CY18 for DNR IN SWMP

Please note that there are two credit sales where INRF received the funds at the end of December 2018 and are reflected in their financials, but DNR IN SWMP did not provide credit sale letters to permittees until January 4, 2019 and are not included in the CY18 DNR ledger.

Administrative Fund

Pursuant to the Instrument, the credit costs include an amount to fund the administration of the program. Fifteen (15) percent of each credit sale was deposited into this fund to carry out administrative tasks including, but not limited to, tasks completed by DNR staff, INRF staff, and/or professional services required to carry out operation of the IN SWMP program.

DNR may make withdrawals from the Administrative Fund at their discretion without the approval of USACE or the IRT to perform the tasks necessary to carry out the program. Administrative funds are being tracked separately from the service area funds and the reserve funds.

A total of \$272,469.00 in administrative funds were received in CY18 into the INRF IN SWMP Account. **Table 9** below provides the details of the administrative funds during CY18, leaving a year-end balance of \$233,416.37.

	Amount
Admin funds received	\$272,469.00
Admin fees paid to INRF	\$33,219.20
Admin funds transferred to DNR	\$30,000.00
CY18 IN SWMP Admin Fund Balance	\$209,249.80
Admin expenses by DNR	\$5,833.43
Admin funds remaining in DNR Fund	\$24,166.57
Total Admin funds remaining	\$233,416.37

Table 9. Administrative Fund details for CY18

Service Area Funds

Pursuant to the Instrument, service area funds to implement IN SWMP mitigation projects shall be deposited into the IN SWMP account and tracked by service area. Funds from credits sold for state isolated wetland impacts are deposited into a separate sub-account from credits sold for Section 10, 404 and 401 impacts. When funds are moved from the INRF to the DNR IN SWMP fund, these funds will be co-mingled but will be tracked separately when deposited into the DNR fund.

The service area funds will be used to implement compensatory mitigation projects including locating and identifying potential sites, planning, acquisition and/or site protection, design, construction, performance monitoring, adaptive management, financial assurances, long term management funding mechanisms, anticipated contingencies and/or other activities necessary for project approval and construction. Each individual mitigation project's finances will be tracked within each service area using a project number in the financial system.

Stream and/or wetland credits were sold in six (6) of the eleven (11) Service Areas in CY18, to include the St. Joseph River, Upper Wabash, Upper White, Whitewater-East Fork White, Upper Ohio and Ohio Wabash Lowlands service areas. Contributions to the service area funds come from 70% of each credit purchase and are tracked per service area. **Table 10** shows, by service area, the total amount of stream and wetland credit sale revenue that was deposited into the service area fund in CY18. Additionally, **Table 10** shows the amount of funds deposited by service area that resulted from the sale of credits for isolated impacts permitted by IDEM.

Service Area	Stream Receipts	Jurisdictional Wetland Receipts	Isolated Wetland Receipts	Service Area Total Funds
Calumet-Dunes	\$0.00	\$0.00	\$0.00	\$0.00
Kankakee	\$0.00	\$0.00	\$0.00	\$0.00
Lower White	\$0.00	\$0.00	\$0.00	\$0.00
Maumee	\$0.00	\$0.00	\$0.00	\$0.00
Middle Wabash	\$0.00	\$0.00	\$0.00	\$0.00
Ohio-Wabash Lowlands	\$0.00	\$235,200.00	\$0.00	\$235,200.00
St. Joseph River	\$0.00	\$129,360.00	\$0.00	\$129,360.00
Upper Ohio	\$113,400.00	\$152,320.00	\$560.00	\$266,280.00
Upper Wabash	\$0.00	\$24,080.00	\$0.00	\$24,080.00
Upper White	\$236,250.00	\$0.00	\$34,720.00	\$270,970.00
Whitewater-E. Fork White	\$0.00	\$174,832.00	\$170,800.00	\$345,632.00
Totals	\$349,650.00	\$715,792.00	\$206,080.00	\$1,271,522.00

Table 10. Service Area Funds for Stream and Wetland (Jurisdictional WOTUS and state isolated) per Service Area.

DNR IN SWMP plans to have stream and/or wetland restoration projects constructed by the end of the growing season of 2021 to satisfy credits sold in CY18.

Reserve Fund

Pursuant to the Instrument, the reserve fund shall be used for contingency actions, to provide program and project-specific financial assurances, long-term management, permanent protection activities (legal fees, encroachment repairs, boundary signage, etc.), and extra mitigation as may be necessary based upon the interest accrued on the account. As funds used for financial assurances for IN SWMP projects are released, those funds will remain in the Reserve Fund.

Contributions to the Reserve Fund for CY18 came from 15% of each credit sale and the accumulated interest on all IN SWMP account funds. The contributions to the Reserve Fund during CY18 included \$272,469.00 from credit sales and \$1,599.59 from interest for a total of \$274,068.59. **Table 11** provides a full accounting of the Reserve Fund. There were no expenditures from the reserve fund in CY18.

Service Area	Stream Reserve Receipts	Wetland Reserve Receipts	Total Reserve Funds
Calumet-Dunes	\$0.00	\$0.00	\$0.00
Kankakee	\$0.00	\$0.00	\$0.00
Lower White	\$0.00	\$0.00	\$0.00
Maumee	\$0.00	\$0.00	\$0.00
Middle Wabash	\$0.00	\$0.00	\$0.00
Ohio-Wabash Lowlands	\$0.00	\$50,400.00	\$50,400.00
St. Joseph River	\$0.00	\$27,720.00	\$27,720.00
Upper Ohio	\$24,300.00	\$32,760.00	\$57,060.00
Upper Wabash	\$0.00	\$5,160.00	\$5,160.00
Upper White	\$50,625.00	\$7,440.00	\$58,065.00
Whitewater-East Fork White	\$0.00	\$74,064.00	\$74,064.00
Subtotal			\$272,469.00
Interest Earned on Reserve*			\$1,599.59*
Total			\$274,068.59

Table 11. Reserve Funds Received in CY 2018

**Interest earned in 2018 included interest on two credit sales where funds were received into the INRF IN SWMP account towards the end of December 2018, but the credit sale letters were not processed and sent by DNR IN SWMP to the permittee until January 4, 2019, therefore, those two sales are not included in the ledger (Appendix A).*

Project Planning Activities

DNR IN SWMP is currently evaluating potential initial project credit delivery targets based on CY18 credit sales, current credit demand being observed in CY19, in addition to the targets utilized in the business and pricing models that were used during the development of the program. As part of that effort, DNR IN SWMP has met with a number of conservation partners across the state, both during program development and since program approval in May 2018, to educate and begin to collaborate on potential projects. These relationships will continue to be fostered, especially with those partners who have shared potential mitigation sites for consideration with DNR staff. Specifically, Indiana land trust organizations have been particularly interested and willing to share potential project sites in their regions of the state. IN

SWMP will continue to reach out to additional conservation partners across Indiana to educate them on the program and discuss opportunities for partnering on future mitigation projects.

The IN SWMP has also met with and/or presented to many organizations such as the Indiana Conservation Partnership, Soil and Water Conservation Districts (SWCD), county surveyors, Indiana Silver Jackets, Indiana Society of Mining and Reclamation, Local Technical Assistance Program (LTAP), Indiana Road School, Farm Bureau Drainage 101, MS4 annual meeting, Indiana Conservation Conversation North and South meetings, and American Council of Engineering Companies (ACEC) among others.

DNR IN SWMP has met with private property owners in several service areas to assess potential stream and/or wetland mitigation sites for consideration. Determination of suitability for some of these sites is still ongoing, with minimal credit sales in 2018 being the primary uncertainty for moving forward on any substantive project development activities in 2018.

DNR IN SWMP and the Indiana Department of Administration Division of Public Works selected six (6) consulting firms from across the state through the Indiana Department of Administration's Division of Public Works consultant/design services contracting process and will enter into \$0.00 consultant/designer contracts to assist the DNR with a range of consultant and design services that will be essential for the program success. These contracts will be fully executed in early 2019 with future detailed scopes-of-work with budgets to be amended via a change order. The DNR is not planning to work exclusively with these six firms. DNR intends to work with other firms on projects in addition to these six in order to deliver quality mitigation in Indiana as efficiently as possible.

Additional Information

Additional Information related to the Indiana Stream and Wetland Mitigation Program can be found by visiting the following website: <http://on.in.gov/inswmp>

Appendix A
IN SWMP-CY 2018
Annual Ledger

Appendix B
Indiana Natural Resources Foundation
IN SWMP CY18 Financial Report