

IN LIEU FEES – PERSPECTIVES FROM THE SOUTHEAST

Upper Midwest Stream
Restoration Symposium
February 25, 2014
La Crosse, Wisconsin

Presentation Outline

- Overview of Mitigation/In Lieu Fees
- Example In Lieu Fee Programs
 - North Carolina Ecosystem Enhancement Program (NCEEP)
 - Tennessee Stream Mitigation Program (TSMP)
 - KY Dept. of Fish & Wildlife Resources (KDFWR FILO Program)
- Case Study Project: Kyles Ford
- Advantages/Disadvantages
- Key Considerations



Overview of Mitigation

- It all Started with the Clean Water Act
- 2008 Final Compensatory Mitigation Rule
- Forms of Mitigation
 - On-Site
 - Mitigation Banks
 - In Lieu Fee Programs
- All Forms Offer Viable Mitigation



In Lieu Fee Overview

- Form of Compensatory Mitigation
- Provides a Means to Pool Mitigation Dollars
- Allows for Larger More Comprehensive Restoration Projects
- Typically Paid at a Set Rate Per Unit of Impact



Example In Lieu Fee Programs



North Carolina In Lieu Fee

- First Initiate in 1997
- Administered by NCEEP (formed in 2003)
- Annual Income Approx. \$23M
- Fees Per Unit
 - Urban- \$374
 - Rural - \$283
- Initially Followed Design/Bid/Build
- Currently Follows Full Delivery Format



North Carolina In Lieu Fee

- Have Implemented Over 500 Projects
- 630+ Miles of Streams
- 30,000 Acres of Wetlands
- 680 Acres of Buffers
- Average length of Project – Approx. 10,000 feet



Tennessee In Lieu Fee

- First Initiate in 2003
- Administered by TSMP
- Annual Income Approx. \$5.5M
- Fees Per Unit - \$200
- Stream Mitigation Only – No Wetlands
- Follows a Hybrid Design/Build Format



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Hybrid Design/Build Format

- TSMP Selects On-Call Designer
- TSMP & On-Call Designer Selects Contractor
- Present Project to IRT
- If Approved, TSMP Contracts with Designer
- Designer Completes the Design with Input from Contractor
- Contract Develops Final Cost Based on 100% Design



Tennessee In Lieu Fee

- Have Implemented Over 30 Projects
- 45+ Miles of Streams
- Average length of Project – Approx. 8,800 feet



Kentucky In Lieu Fee

- First Initiate in 2000
- Administered by Kentucky Department of Fish & Wildlife
- Annual Income Approx. \$12M
- Fees Per Unit
 - Eastern KY - \$650
 - All Other Areas - \$240
 - Initial Fee - \$125 for all Areas
- Follows a Design/Bid/Build and Design/Build Format



Kentucky In Lieu Fee

- Have Implemented 59 Projects Thru 2012
- 110+ Miles of Streams
- Average length of Project – Approx. 13,500 feet
- 45 Acres of Wetlands





In Lieu Fee Case Study: Kyles Ford Stream Restoration





Wallen's Bend
Creek

Clinch River

Clinch River

- **TSMP Project**
- **Restored 4000 feet of Wallen's Bend**
- **Restored Severely Eroding Streambank along Clinch River**
- **Diverse Mussel Shoal with Numerous Endangered Species**





Clinch River

Mid Channel Bar















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In-Lieu Fee Advantages/Disadvantages

- Allows for Pooling of Dollars
- Potential for Larger Restoration Efforts
- Opportunity to Perform Some Restoration that For-Profit Organizations May Pass On
- Stream-lined Monitoring Process
- Difficulties with Multiple Land Owners/Conservation Easements
- Procurement Process
- Credits for Dam Removals



Key Considerations

- Set Up Program Consistent with 2008 Final Mitigation Rule
- Appropriate \$ Per Mitigation Unit
- Credit (Mitigation Unit) Determinations
- Economy of Scale
- Contracting/Procurement Process





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