

# The Nature Conservancy's Ohio Stream and Wetland In-Lieu Fee Mitigation Program Instrument



The Nature  
Conservancy   
Protecting nature. Preserving life.™



The Nature Conservancy with  
support from the Ohio Water  
Development Authority

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## **I. INTRODUCTION**

### **A. PREAMBLE**

This In-lieu Fee Mitigation Program Instrument ("Instrument") is an agreement by and among the U.S. Army Corps of Engineers ("Corps"), Ohio Environmental Protection Agency ("OEPA"), Ohio Water Development Authority ("OWDA") and The Nature Conservancy ("Sponsor" or "TNC"), for the establishment, operation, and use of TNC's Ohio Stream and Wetland In-lieu Fee Mitigation Program (the "Program"). On April 10, 2008, a "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule" (the "Compensatory Mitigation Rule") was published in the Federal Register, 33 CFR Parts 325 and 332. This Instrument is developed in accordance with the Compensatory Mitigation Rule that relates to in-lieu fee programs.

### **B. PURPOSE & GOALS**

The overall goal of this and other stream and wetland mitigation programs in the state of Ohio is to achieve no net loss of existing wetland acreage or stream footage, and associated functions. As the sponsor of this Program, TNC and its project partners will use a watershed approach to select mitigation projects in Ohio efficiently and at beneficial economies of scale to provide for a significant net gain of stream and/or wetland resource functions and values where possible.

This Instrument serves as the legal document for the establishment, operation and use of an In-Lieu Fee stream and wetland mitigation program in compliance with the laws and regulations referenced below which govern compensatory mitigation for activities authorized by permits issued by the Corps and/or OEPA.

This Program is designed to provide compensatory mitigation for unavoidable adverse impacts to waters of the United States and State Waters that result from activities authorized under Section 404 of the Clean Water Act (33 U.S.C. 1344), the Ohio Revised Code (ORRC Chapter 611 – Isolated Wetlands) and/or Ohio Administrative Code (OAC 3745-1) and/or Sections 9 or 10 of the Rivers and Harbors Act (33 U.S.C. §§ 401, 403). More specifically, the Program may be utilized to provide compensatory mitigation for impacts permitted by the Corps or OEPA involving: (a) Corps General Permits; (b) OEPA General Permits; (c) Corps and OEPA Individual Permits and unauthorized activities impacting less than three (3) acres of waters (including wetlands) other than streams and/or less than two thousand (2,000) linear feet of streams; (d) the resolution of enforcement and compliance actions initiated by the Corps or other agencies; or (e) in other cases if agreed upon by the Corps, OEPA and Sponsor.

TNC pursues non-confrontational, pragmatic, market-based solutions to conservation challenges. This makes it essential for us to work collaboratively with partners in a non-partisan manner. TNC works with communities, companies, government agencies, multilateral institutions, individuals and other non-profit organizations around the globe. In Ohio, we have worked with the Ohio Department of Natural Resources, other state agencies, metroparks, and local communities to assist with expanding natural areas and find creative

solutions to conservation challenges. Additionally, TNC has recognized that the private sector has an important role to play in advancing our conservation mission. In that spirit, we are partnering with companies large and small around the world. This collaborative, non-antagonistic approach has allowed TNC to become the largest and arguably most effective conservation organization in the world. This methodology will similarly be used to implement this Program.

### **C. ROLES AND RESPONSIBILITIES OF THE PARTIES**

1. District Engineer(s). This Program operates in three Corps districts -- Huntington, Buffalo and Pittsburgh. The District Engineers in all three districts shall serve on the Interagency Review Team. Review and approval of individual projects carried out by this Program, however, will be overseen by the district engineer in the Corps district where the mitigation project at issue is located. The term "relevant District Engineer" refers to the District Engineer in the Corps district, or designee, where the Mitigation Project is located.
2. Interagency Review Team ("IRT"). The IRT for this Program shall be comprised of the district engineers for the Huntington District, Buffalo District and Pittsburgh District, as well as agency representatives from the OEPA, US Environmental Protection Agency (USEPA), US Fish and Wildlife Service (FWS), Ohio Department of Natural Resources (ODNR), and Natural Resources Conservation Service (NRCS). The district engineer for the Huntington District shall serve as the chair of the IRT. The IRT is responsible for reviewing documentation for, and advising the District Engineers on, the establishment and management of this Program. .
3. Sponsor. TNC is the Sponsor of this Program and is responsible for oversight, implementation, and fiscal management of the Program as set forth in this Instrument. TNC has authority under this Instrument to enter into agreements with state agencies, non-profit organizations, and for-profit organizations to implement the Program. However, Sponsor remains responsible for the implementation, long-term management, and any required remediation of the restoration, establishment, enhancement, and/or preservation activities, even though those activities may be conducted by other parties.
4. Ohio Water Development Association ("OWDA"). OWDA is responsible for accepting and managing the funds in the Program, as well as disbursing the funds in accordance with this Instrument and accounting for the funds in accordance with generally accepted accounting principles and this Instrument.

## DEFINITIONS

1. Adaptive management – The development of a management strategy that anticipates likely challenges associated with compensatory mitigation projects and provides for the implementation of actions to address those challenges, as well as unforeseen changes to those projects.
2. Advance credits – Any credits of an approved in-lieu fee program that are available for sale prior to being fulfilled in accordance with an approved mitigation project plan.
3. Buffer – An upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.
4. Compensatory mitigation – The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.
5. Credit – A unit of measure representing the accrual or attainment of aquatic resource functions at a Mitigation Site. The measure of aquatic functions is based on the resources restored, established, enhanced, or preserved.
6. Credit Request Form – Verification provided by the Sponsor to potential credit purchasers stating that credits are available and details the cost per credit.
7. Financial assurances – A mechanism used to ensure a high level of confidence that the mitigation project will be successfully completed, in accordance with the applicable performance standards.
8. Full cost accounting – The process of collecting and presenting information (costs as well as advantages) for each mitigation project. It is a conventional method of cost accounting that traces direct costs and allocates indirect costs. It includes all appropriate expenses such as land acquisition, planning and design, construction, planting, labor, legal expenses, monitoring, maintenance, remediation, adaptive management, administration of the Program, long-term management, contingencies and other financial assurances.
9. Hydrologic Unit Code (“HUC”) – Divisions of the watersheds of the United States. For the purposes of this Instrument, hydrologic unit code refers to those divisions as defined by the United States Geological Survey (“USGS”).
10. Ledger – An accounting of mitigation credits and debits.
11. Long-Term Management Plan – The plan that defines the goals and objectives of long-term stewardship of a mitigation site after performance standards have been met and the monitoring ended.
12. Long-Term Steward – The party (landowner, easement holder, or other party) responsible for long-term management and maintenance of the Mitigation Site.

13. Mitigation Plan – A detailed plan of a Mitigation Project that identifies specifically how aquatic resources and associated buffers will be restored, created, enhanced, preserved, managed, and maintained on a Mitigation Site.
14. Mitigation Project – A compensatory mitigation project approved under this Instrument, including all activities described in the Mitigation Plan and undertaken on the Mitigation Site to generate credits.
15. Mitigation Site – A site or sites where a Mitigation Project has been approved, where aquatic resources are restored, created, enhanced, or preserved expressly for the purpose of providing compensatory mitigation for authorized impacts to similar resources.
16. Performance standards – Observable or measurable physical (including hydrological), chemical and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.
17. Released credits - Credits associated with Mitigation Sites that have met their performance standards.
18. Site Closure Letter – Verification from the District Engineer that a mitigation project has met its performance standards, thereby releasing any remaining credits associated with the mitigation site.
19. Site Protection Instrument – The document or instrument intended to establish long-term protection of a mitigation site and that will be recorded in local land records. The document may take the form of a conservation easement environmental covenant, or, if appropriate and approved by the relevant District Engineer, such other available mechanisms authorized for long-term protection as provided in section 332.7(a) of the Compensatory Mitigation Rule.

## **II. PROGRAM OPERATION**

### **A. GEOGRAPHIC SERVICE AREAS**

This Program will operate state-wide in Ohio and consists of primary service areas and secondary service areas. Both service areas are watershed focused. Primary service areas are the Fourth Level (8-digit) hydrologic unit code (“HUC”) watersheds. Secondary service areas are the 6-digit HUC watersheds. These service areas are further described and illustrated in the Compensation Planning Framework (“CPF”) in Exhibit A attached to and made a part of this Instrument. Program activities, including impacts, payments, credits and projects will be tracked and reported for both primary and secondary service areas.

In general, there will be a strong preference for providing compensatory mitigation for permitted impacts within the same 8-digit HUC in which the impacts occur. However, a different 8-digit HUC may be used in the secondary service area for certain compensatory mitigation under the following circumstances:

1. Sufficient funds have not been acquired within the impacted primary service area to carry out an ecologically effective and sustainable mitigation project within 2 years of the first credit sale in that primary service area (as further described in Section IV (C));
2. An exceptional mitigation opportunity has been identified outside of the primary service area but within the secondary service area and that project is both supported by the CPF and is environmentally preferable to projects that have been identified in the primary service area; or
3. The Sponsor has been unable to identify a suitable mitigation site in the impacted primary service area after 2 years from the first credit sale in that primary service area.

If the above circumstances exist or other circumstances warrant, the secondary service area may be used for compensatory mitigation on a case-by-case basis with the approval of the relevant District Engineer.

#### **B. IN-LIEU FEE PROGRAM ACCOUNT**

1. Account. Payments made to this Program by permit applicants, permittees or other parties as approved by the Corps and OEPA to compensate for losses to aquatic resources will be deposited into an interest-bearing account at a financial institution that is a member of the Federal Deposit Insurance Corporation (the "Account"). The funds will be owned by the Sponsor and, at the Sponsor's request, will be managed by OWDA as the Sponsor's agent. Funds accepted from entities other than permittees shall be kept in a separate account. OWDA shall account for the funds in accordance with generally accepted accounting principles, and the accounts shall be subject to audit by the Corps, OEPA and/or the State of Ohio from time to time, as they each may determine. Interest produced by the Program shall be used for the Program.

The District Engineers shall monitor the funds and may request reports at any time. The Corps and OEPA may review account records with 14 days written notice. When so requested, the OWDA and the Sponsor shall provide all books, accounts, reports, files, and other records relating to the Account and the funds of the Program.

2. Subaccounts and Expenditures. Funds in the Account may be expended for multiple mitigation projects, multiple watersheds or for the Program itself. In any event, all funds expended reflect, and therefore help establish, the minimum cost of credits in each watershed. The funds will be placed into subaccounts as described below to assure proper management and accounting of deposits and expenditures as follows:

- a. Project Subaccounts and Expenses – Each Mitigation Project will be assigned a subaccount which will track (i) funds budgeted for that project through its approved Mitigation Plan, and (ii) funds expended associated with that project. Expenses associated with a Mitigation Project may include, without limitation, development of that project's concept plan and mitigation plan, design, acquisition (including purchase price, appraisals, surveys title examination and insurance, environmental assessments, closing costs, etc.), planning, implementation (including equipment and materials), contingencies, long-term maintenance and management, monitoring, administration,



management, establishment of financial, technical, and legal mechanisms to ensure long-term success of the mitigation projects, and financial assurances (further described below). Project expenses include staff time, contract services, legal costs and other fees and expenses associated with a Mitigation Project, and all expenses for planning, selecting and conducting mitigation activities, activities related to the restoration, enhancement, creation, and/or preservation of aquatic resources, maintenance and monitoring of mitigation sites, and the purchase of credits from mitigation banks. Notwithstanding the foregoing, project expenses, including staff time, incurred by Sponsor with respect to a Mitigation Project prior to approval of that project's Mitigation Plan are incurred at Sponsor's risk but may be reimbursed to Sponsor once the Mitigation Plan is approved.

b. Financial Assurances - Financial assurances will be set aside into separate subaccounts in the form of:

- i. *Project Contingency Fund* – For each Mitigation Project, an amount shall be set aside and placed into a Project Contingency Subaccount. The amount will be specified in the Mitigation Plan budget. Funds from this subaccount will be used to cover unanticipated costs which may arise during the implementation of the Mitigation Project. Once the Mitigation Site has closed, the funds in this subaccount will be released and will go into the Long-Term Management Fund (described below) if needed, or otherwise will be used on other mitigation projects in the same primary service area.
- ii. *Other Project Financial Assurances* – The District Engineer, in consultation with the IRT, will determine whether additional financial assurances are warranted for an individual mitigation project to ensure a high level of confidence that the project will be successfully completed in accordance with the applicable performance standards. It is not anticipated that additional financial assurances will usually be required due to the project and program contingency funds. However, if it is determined that additional financial assurances are needed, they may include performance bonds, insurance, letters of credit, or other mechanisms to the extent set forth in the Compensatory Mitigation Rule and acceptable to the IRT to be set aside.
- iii. *Program Contingency Fund* - A maximum of 5% of funds paid into the Program will be set aside and placed into a subaccount for a Program Contingency Fund. This subaccount may be used to fund unanticipated program or project expenses not covered by the Project Contingency Fund (such as catastrophic events which occur after the project contingency fund has been released), and/or to implement supplemental or advance mitigation projects. Additionally, the Sponsor may use this fund for management or maintenance costs after site closure for stream repairs or invasive plant control deemed necessary for project success.

If the balance of the Program Contingency Funds accumulates to an amount deemed excessive for the purposes described above, continued deposits into this account may be temporarily reduced or suspended, or advance mitigation projects may be

undertaken, at the discretion of the Sponsor. The upper limit target will be determined considering the outstanding program mitigation obligation, mitigation success uncertainty, and other risk factors.

iv. *Long-Term Management Fund* - For each Mitigation Project, an amount shall be set aside and placed into a Long-Term Management Subaccount. The amount will be specified in the Mitigation Plan budget, which will include a line item for long-term management that will be determined by the size of the property, the type of Site Protection Instrument, the specific long-term management needs, the stewardship needs of the owner/holder of the Site Protection Instrument, annual cost estimates to meet the various needs, inflationary adjustments, and other contingencies, as appropriate. Funds in the subaccount will be used to support long-term success of the Mitigation Project in accordance with the Mitigation Plan (including the Long-Term Management Plan) and Corps and OEPA regulations. After site closure, these funds would be provided to the Long-Term Steward (which may be a single disbursement of funds in a lump sum). However, a portion of these funds may also be provided to the owner or holder of the Site Protection Instrument (in a lump sum or otherwise) for long-term stewardship of the Site Protection Instrument (such as conservation easement monitoring and enforcement, or administration of fee title ownership separate and apart from long-term mitigation management).

c. Administrative Fees - Administrative fees shall be paid to the Sponsor and OWDA. The fee paid to the Sponsor will be a minimum of 8% and a maximum of 15% of the funds paid into the Program (from credit sales or other sources), plus all interest accruing upon the funds. The administrative fee shall initially be established at 15%, but may be periodically adjusted within the minimum and maximum range as the Program becomes fully established and the Sponsor determines that its administrative costs have decreased (or increased, but not to exceed the maximum). Out of this administrative fee, OWDA will receive a fee amounting to 0.35% of the funds deposited as reimbursement for its costs associated with administering the account. The administrative fees will be deducted when payment is received and deposited. Sponsor may request that its fee be paid immediately, or the Sponsor may request that OWDA hold Sponsor's administrative fee in an Administrative Subaccount. The administrative fee offsets expenses associated with program administration which includes managing credit sale transactions, annual reporting, accounting, program related meetings, expenses for day-to-day management of the Program, site selection (identification and assessment of ecologically appropriate stream and wetland restoration and protection opportunities), development of concept plans and other expenses incurred on projects which do not become approved Mitigation Projects, and overhead. Separate project accounting may be established internally by Sponsor to record administrative costs to justify increasing or decreasing the administrative fee within the minimum and maximum range. Approval is not required for the expenditure of administrative fees.

3. Disbursements to Sponsor. The timing and logistics of disbursement of funds to Sponsor by OWDA shall be pursuant to arrangements agreed upon between Sponsor and OWDA.

4. Budgets. Complete budgets for mitigation projects must be included in the Mitigation Plan. Changes in amounts among budget line items is permitted; provided, however, that any increase from the total approved budget for a Mitigation Plan in excess of 10% will require the relevant District Engineers' approval before additional funds may be disbursed.

5. Excess Funds. Funds received by the Program in excess of the amount needed for Mitigation Projects shall remain with the Program and shall be disbursed for other mitigation projects or other uses approved by the relevant District Engineer in consultation with the IRT. In service areas where Sponsor has met all mitigation obligations, any remaining funds that are paid into the Program because of impacts in those service areas may be used to establish additional mitigation sites subject to the approval of the relevant District Engineer in consultation with the IRT. With the approval of the relevant District Engineer, remaining funds may also be used in adjacent service areas where insufficient funds are available to accomplish suitable mitigation projects, or to expand the size and ecological value of established projects.

### **C. PROGRAM ACCOUNTING PROCEDURES**

Sponsor shall establish and maintain a system for tracking the production of credits, credit transactions, and financial transactions for the Program. The accounting system shall be approved by the District Engineers. Credit production (the generation of credits based on projects), credit transactions (purchase of credits by permittees and debit of credits from the account by the Sponsor) and financial transactions (the exchange of money in relation to credits) shall be tracked both on a programmatic basis (*i.e.*, the number of available credits for the entire program across all of the service areas), within each primary and secondary service area, and separately for each Mitigation Project. Credits will be tracked by credit type, quality of the impact, latitude and longitude of the impacts, mitigation site, 8-digit HUC, and 6-digit HUC. OWDA's existing accounting system will track all financial transactions for the Program. All deposits and expenditures will be entered into the system along with the associated credit information. Transactions for the Program will be incorporated into this system.

Sponsor shall establish and maintain (i) an annual report ledger showing the balance of advance credits and released credits at the end of the report period for each service area, and (ii) individual ledgers that track the production of released credits for each Mitigation Project. The annual ledger report must show the beginning and ending balance of available credits and permitted impacts for each resource type, all additions and subtractions of credits, and any other changes in credit availability (e.g., additional credits released, credit sales suspended). The ledger report must be submitted to the District Engineers for each district per Section III.D below. The Chair will distribute copies to the other IRT members. The ledger report is part of the administrative record for the Program. The District Engineers will make the ledger report available to the public upon request.

The sale, conveyance, or transfer of credits includes all natural services, functions and values associated with the natural resources (*e.g.* wetlands, streams) from which credits were derived. Credits may be used to compensate for environmental impacts under other programs (Civil Works, Superfund program removal and remedial actions, supplemental

environmental projects for state and federal enforcement actions, etc.), but credits may not simultaneously serve as mitigation for more than one activity; *e.g.*, a credit may be used to offset impacts under any Federal, State, or local program related to wetlands and streams, however that credit may only be counted against permitted impacts one time. If funds from entities other than permittees are accepted for projects, those funds will be kept in a separate account.

#### **D. REPORTING PROTOCOLS**

The OWDA and the Sponsor shall submit to the District Engineers an Annual Report by March 31 of each year that covers the previous calendar year (January 1-December 31). The Annual Report shall include:

1. Financial Reporting
  - a. All funds received and interest earned in the accounts (including in any subaccounts) by service area.
  - b. List of all permits for which the funds were accepted by service area, including:
    - i. Corps permit number (and/or state permit number, if applicable)
    - ii. Service area where the authorized impacts are located
    - iii. The amount of authorized impacts
    - iv. The amount of required compensatory mitigation
    - v. The amount paid to the Program
    - vi. Date the funds were received from the permittee
  - c. A description of expenditures for the Program by service area and Mitigation Project.
2. Credit Reporting
  - a. The balance of advance credits and released credits for each service area
  - b. The permitted impacts for each resource type
  - c. All additions and subtractions of credits
  - d. Other changes in credit availability (*e.g.*, additional credits released, credit sales suspended)
3. Financial Assurances and Long-term Management Reporting
  - a. Beginning and ending balances of subaccounts providing funds for financial assurances and long-term management.
  - b. Deposits into and any withdraws from each subaccount providing funds for financial assurances and long-term management.
  - c. Information on the amount of required financial assurances and the status of those assurances, including their potential expiration for each individual project.

#### **E. CREDIT FEE DETERMINATION**

The fees charged to permittees and others for credits shall be determined by the Sponsor. The cost per unit of credit will take into account the expected costs associated with the restoration, establishment, enhancement and/or preservation of aquatic resources in a particular service area. Such costs must be based on full cost accounting in accordance with the Compensatory Mitigation Rule (33 CFR §332.8(o)) and will reflect, as appropriate, expenses for land or property interest acquisition, project planning and design, construction,

plant materials, labor, legal fees, monitoring, remediation or adaptive management activities, long-term management, and costs associated with the administration of the program. The cost per unit credit shall also take into account contingency costs appropriate to the stage of project planning, including uncertainties in construction and real estate expenses. In addition, the cost must also include the cost of providing financial assurances that are necessary to ensure successful completion of projects, and may reflect other factors as deemed appropriate by the Sponsor and the District Engineers. The Sponsor will evaluate credit fees on an annual basis. Fees may be adjusted as deemed necessary to reflect the full cost accounting and the fee adjustments will not constitute a modification of the Instrument. Table 1 in Section V.A below provides the inaugural advance credit fees for streams and wetlands.

#### **F. CREDIT NEED AND AVAILABILITY**

The primary emphasis of this Program is on aquatic resource restoration and protection. The use of this Program for compensatory mitigation shall occur only after the relevant permitted activity has complied with Corps and/or OEPA, regulations and policies regarding avoidance and minimization of impacts or as stated otherwise herein. The Sponsor and its project partners shall play no role in the Corps' or OEPA's decision to approve or deny a permit or whether mitigation is a necessary condition of any such permit or whether the permitted activity complies with laws, rules or regulations. Further, provision of any credits by Sponsor shall in no event be construed as an endorsement or support for the permitted activity.

The Corps and OEPA will determine the number of credits required to compensate for permitted impacts utilizing accepted procedures used in Ohio for evaluating compensatory mitigation credits.

Credits will be requested by applicants as follows:

- i. Applicant contacts Sponsor for credit availability and requests number and type of credits required.
- ii. Applicants must complete and submit an Initial Credit Request form. The Initial Credit Request form (to be provided by Sponsor upon request) requires the applicant to specify the number and types of credits sought, the service area in which the permitted impacts are proposed, and other information deemed necessary by the Corps, OEPA, and Sponsor.
- iii. In most circumstances the Sponsor will respond to the Initial Credit Request within 5 business days with a Letter of Credit Availability informing the applicant of whether the appropriate credits are available, the amount of credits available, the cost per credit in the relevant service area(s), and a specific deadline for payment. However, in certain circumstances the Sponsor may request counsel with the relevant District Engineer, prior to responding to the Applicant, regarding the potential use of the Secondary Service Area, or other areas within the regulatory boundaries of the relevant Corps District, if the credits are for low quality, category 1 wetland impacts or isolated category 2 wetland impacts that are 0.5 acres or less. The Sponsor will ask the relevant District Engineer, for this particular credit sale, if despite their best efforts to identify appropriate mitigation project sites, after 2 years the District Engineer might approve alternative means of

compensatory mitigation, instead of subjecting the Sponsor to material default. These circumstances would be if:

- The impacts are located in a primary service area in which the constricted geography (such as those with less than 250 square miles like Raisin, Mississinewa, Conneaut, Whitewater, Ottawa-Stony, Upper Maumee, Middle Ohio-Laughery, St. Joseph) could result in difficulties identifying appropriate mitigation projects.
  - The impacts are located in a primary service area that historically has low compensatory mitigation activity and there is a chance that low credit sales could result in too few funds for completing an appropriate mitigation project.
  - The impacts are located in a primary service area that has a preponderance of extractive minerals, and severed mineral rights could result in difficulties identifying appropriate mitigation projects.
- iv. Applicant submits Letter of Credit Availability with its permit documents to the permitting agency(ies) and the District Engineer.
  - v. Once the relevant District Engineer notifies the applicant of his determination regarding the acceptability of using the Program for meeting the applicant's required compensatory mitigation, the applicant shall complete a Final Credit Request form (available from the Sponsor upon request) and submit the form and credit payment to the Sponsor. The Final Credit Request must be approved by the relevant District Engineer and shall indicate the final number and type of credits being purchased, reflecting any final mitigation requirements of the permit.
  - vi. Once payment is received from the applicant, Sponsor will issue a Payment Voucher acknowledgement of payment to applicant and will send a copy to the relevant District Engineer. OWDA will record the payment and Sponsor will record the associated credits on the credit ledger for that primary service area.

#### **G. LEGAL RESPONSIBILITY FOR PROVIDING COMPENSATORY MITIGATION**

Upon accepting payment from a permit applicant or permittee, Sponsor assumes legal responsibility for providing the compensatory mitigation for the permit for which credits have been transferred to an applicant or a permittee. Sponsor's assumption of legal responsibility is established upon: 1) the approval of this Instrument; 2) approval by the Corps and OEPA for a permittee or other party to use the Program as a compensatory mitigation method, including the amount of credits required for particular impacts; 3) receipt and approval by the Corps and OEPA of a Final Credit Request form; 4) the transfer of fees from the permittee or other party requiring compensatory mitigation to Sponsor and/or the OWDA, and 5) acceptance of those fees by the Sponsor and/or the OWDA, and the issuance of the Payment Voucher signed by the Sponsor. Sponsor assumes the foregoing responsibility until the Site Closure Letter is issued. Upon issuance of the Site Closure Letter, Sponsor may transfer long-term management to a designated entity as provided in Section IV.F below, and thereafter Sponsor shall have no further responsibility.

### III. MITIGATION PROJECT ESTABLISHMENT AND OPERATION

To offset adverse impacts to aquatic resources that resulted in payments into the Account, Sponsor shall solicit and submit mitigation project proposals for funding approval in accordance with this Instrument. It is anticipated that project proposals will primarily come from nongovernmental organizations with a conservation mission, including TNC, state and local governmental agencies and established private compensatory mitigation providers.

#### A. PROJECT IDENTIFICATION, SELECTION, AND APPROVAL

1. Proposals. Sponsor may elect to solicit project proposals through requests for proposals (RFP) or other means. The RFPs will be published publicly and distributed specifically to natural resource agencies, colleges and universities, non-profit organizations, and potentially others active in the relevant primary service area. The RFP will require that proposals include sufficient information to provide Sponsor with adequate information to evaluate the likelihood of proposed projects to meet the goals outlined in the Comprehensive Planning Framework to fulfill credit demand within the set credit pricing, and to provide compensatory mitigation that is ecologically effective and sustainable.
2. Compensation Planning Framework (CPF). Project sites will be evaluated and selected in accordance with the information detailed in the CPF presented in Exhibit A. The CPF is based on TNC's Conservation by Design approach which will result in project selection that is watershed based and will provide compensatory mitigation for lost functions and values relevant to permitted impacts to wetlands and streams.
3. Site Selection and Evaluation. The CPF provides important parameters and guidance that will guide site selection and evaluation. The evaluation may also include parameters from the Guidelines for Wetland Mitigation Banking in Ohio, which provide that the project sites will contain features that make each site conducive to the development or restoration of high quality streams and wetlands that:
  - i. replace the desired type of wetlands or streams (typically the same as what is being lost),
  - ii. provide multiple functions,
  - iii. are appropriate for the landscape,
  - iv. are compatible with surrounding land use,
  - v. can be managed in a relatively easy and sustainable manner, and
  - vi. are ecologically of the highest quality achievable and compatible with current and historic site conditions.

Unless otherwise approved by the relevant District Engineer in consultation with the IRT, a project site will not be selected when oil, gas, mineral rights, timber rights, or other land use rights are known to be severed from fee ownership and where the exercise of such rights could threaten the long-term success of the compensatory mitigation. See Section IV.C below.

4. ODNR Mitigation Projects. Notwithstanding the foregoing, where the permittee requiring mitigation is the state of Ohio, there will be a preference to fulfill the mitigation, when possible, at project sites that are priorities for the Ohio Department of Natural Resources ("ODNR"). Where the state of Ohio is the permittee, Sponsor will request proposals from ODNR for mitigation projects that meet the criteria described in the CPF (Exhibit A) for all projects in this program. Sponsor will review and evaluate proposals based on these and potentially additional criteria, and if no projects are proposed, or if proposed projects do not adequately meet criteria, will seek additional proposals from ODNR and/or others.

5. Concept Plan. Once the Sponsor selects a potential Mitigation Project, but prior to the development of a Mitigation Plan (described below), Sponsor will submit a Concept Plan of the potential Mitigation Project to the relevant District Engineer for review and approval, with input from the IRT as may be required by regulation or desired by the relevant District Engineer. Concept Plans will include preliminary elements of the Mitigation Plan: Objectives, Site Selection, Site Protection Instrument, Baseline Information, Determination of Credits, and Mitigation Work Plan. The relevant District Engineer will make every effort to comment on the Concept Plans in a timely manner.

The District Engineer will ultimately approve or deny specific Mitigation Project proposals for restoration, creation, enhancement, buffering, preservation of aquatic resources and their adjacent uplands, or the purchase of credits from an approved mitigation bank. Such approval or denial will be based on factors including site suitability, long-term sustainability, impacts to aquatic resources mitigated via the Program, the ratio of restoration to impacts of Program projects in particular watersheds, maximum return on expended funds, benefits to rare and endangered natural resources, and an acceptable Mitigation Plan.

## **B. MITIGATION PLANS**

Following approval of a project Concept Plan, Sponsor will work with the project partner to develop a Mitigation Plan. Each Mitigation Plan (including associated funding) must be approved by the relevant District Engineer, in consultation with the IRT. The relevant District Engineer will make every effort to approve or provide its concerns about the Mitigation Plan within three (3) months after its receipt from the Sponsor.

Mitigation Plans will be developed and implemented in accordance with 33 CFR 332.4 and Ohio regulations and will include the following required twelve elements:

- |                                     |                               |
|-------------------------------------|-------------------------------|
| 1. Project objectives               | 7. Maintenance plan           |
| 2. Site selection criteria          | 8. Performance standards      |
| 3. Site protection instruments      | 9. Monitoring requirements    |
| 4. Baseline information             | 10. Long-term management plan |
| 5. Credit determination methodology | 11. Adaptive management plan  |
| 6. Work plan                        | 12. Financial assurances      |



The number of credits allotted to each Mitigation Project shall be based on the compensation activity and must be included and approved in each Mitigation Plan. Stream and wetland credits shall be determined using methodology approved by the IRT.

Mitigation Plans shall include a budget and Credit Release Schedule for each Mitigation Project and request funding approval for all costs associated with accomplishment of the Mitigation Projects including, but not limited to, labor, land acquisition, appraisals, project design, project management, restoration, creation, monitoring, stewardship, legal, closing, equipment and materials necessary to accomplish mitigation, contingencies, and monitoring. The budget will also include funding for financial assurances, including the Project Contingency Fund and other financial assurances, the Long-Term Management Fund, and all other potential costs for the planning, implementation, and long-term success of the Mitigation Project.

In the event the Sponsor and/or its project partners determine that modifications must be made to a Mitigation Plan to ensure successful establishment of a Mitigation Project, Sponsor and project partner shall submit a written request for such modification, including a timeframe for any actions associated with the request, to the relevant District Engineer for approval. The relevant District Engineer, in consultation with the IRT as necessary, will provide Sponsor with a letter of determination documenting the approval of any such amendments.

The Sponsor shall have the sole discretion as to whether or not to implement any approved Mitigation Project.

#### **C. PROTECTION OF MITIGATION SITES**

All Mitigation Projects will be provided long-term protection in accordance with Section 332.7(a) of the Compensatory Mitigation Rule through appropriate real estate instruments. The preferred real estate instruments are conservation easements held by federal, tribal, state, or local resource agencies, non-profit conservation organizations, or private land managers; or environmental covenants; or, if appropriate and approved by the IRT, such other available mechanisms authorized for long-term protection as provided in Section 332.7(a) of the Compensatory Mitigation Rule.

In general, the Sponsor should not implement mitigation on sites where oil, gas, mineral rights, timber rights, or other land use rights are known to be severed from fee ownership and where the exercise of such rights could threaten the long-term success of the compensatory mitigation unless all holders of those severed rights agree in writing, via a permanent and recorded legal document, to conduct no activities on the property that would threaten the long-term success of the Mitigation Project. In some instances, the relevant District Engineer (in consultation with the IRT) may also approve a mitigation project on a site with severed rights where the holders of those rights do not sign a legal agreement if an analysis is completed to show that the risk is low that the rights will be exercised and/or, if exercised, they would not threaten the long-term success of the project. In the event approval is given by the relevant District Engineer for the project and any damage to the project results from the exercise of the severed rights, IRT and the Corps will look to the permit requirements, if

any, imposed on the owner of the severed rights or other responsible party for replacement or remediation of the compensatory mitigation. Remediation and replacement of the compensatory mitigation should take into account temporal losses of wetland/stream functions.

Any real estate instruments establishing long-term protection ("Site Protection Instrument") must be approved by the relevant District Engineer and must be recorded in the appropriate real property records for the locality where such project is located. In general, the relevant District Engineer will provide its approval of or concerns about the Site Protection Instrument in a timely manner after receipt of a draft from the Sponsor. In appropriate circumstances, and upon approval by the relevant District Engineer, portions of land not used for mitigation may be exempted from, and conveyed separately free and clear of, such long-term protection.

For any Mitigation Project under this Instrument, the long-term protection mechanism must be finalized before advance credits can become released credits.

Funds may be provided to the owner or holder of the Site Protection Instrument from the Long-Term Management Fund (in a lump sum or otherwise) for long-term stewardship of the protection mechanism (such as conservation easement monitoring and enforcement, or administration of fee title ownership separate and apart from long-term mitigation management).

#### **D. PROJECT MONITORING**

Monitoring will be completed on each Mitigation Project to determine if the project is meeting its performance standards, or if any additional measures are necessary to ensure the success of the Mitigation Project. Monitoring requirements for each Mitigation Project will be described in the Mitigation Plan. Each Mitigation Plan will describe the scope of monitoring activities, the frequency of monitoring activities, the length of the monitoring period, a schedule for reporting to the relevant District Engineer, and the party responsible for submitting monitoring reports. Monitoring activities will continue on each Mitigation Project until the District Engineer provides TNC with a determination that the project has achieved its performance standards.

Upon request, Sponsor will coordinate project site visits with the IRT to evaluate mitigation site performance, which will make every effort to complete the site inspections in a timely manner.

If the Mitigation Project does not meet designated project specific criteria or achieve the performance standards detailed in the Mitigation Plan, the relevant District Engineer may require that the Sponsor carry out remedial activities (and amend the Mitigation Plan), modify the Credit Release Schedule (described in Section V.D), extend the monitoring period (and amend the Mitigation Plan), or reduce the number of credits eligible for release.

#### **E. CLOSURE OF MITIGATION PROJECT SITES**

At the end of the monitoring period for the Mitigation Project (or sooner if the performance standards have been achieved), Sponsor or the project partner will submit a final monitoring report to the relevant District Engineer, which will include a request to release any remaining mitigation credits according to the Credit Release Schedule explained in Section V.D below. Upon determination by the relevant District Engineer that the performance standards have been achieved, the District Engineer shall issue a letter to the Sponsor that the Mitigation Project has met its performance standards and that any remaining credits are thereby released. A Site Closure Letter may be requested by the Sponsor and issued by the relevant District Engineer, once the performance standards have been achieved and all of the credits produced by the site, including preservation only projects, are used either for fulfillment of advance credits or direct credit sale. Once the Sponsor receives a Site Closure Letter for a Mitigation Project, the period of Long-Term Management will commence and the Sponsor's responsibility and liability for the Mitigation Project ceases other than long-term management. Any remaining funds in the Project Contingency Subaccount in excess of that needed for use in long-term management of the Mitigation Project shall be used on other compensatory mitigation activities within the same service area. Any other financial assurances associated with the project (other than the Long-Term Management Fund) shall be released.

#### **F. LONG-TERM MANAGEMENT**

A Long-Term Management Plan shall be developed for each Mitigation Project and included in or by reference in the Mitigation Plan. The Long-Term Management Plan will include a description of long-term management needs, annual costs estimates for these needs, and identify the funding mechanism (such as a non-wasting endowment) that will be used to meet those needs (which may be a single disbursement of funds in a lump sum to the Long-Term Steward).

It is preferred that the party responsible for long-term management beyond the scope of easement monitoring and defense (the "Long-Term Steward") will be identified in the mitigation plan, if possible. In any event, the Long-Term Steward will be identified no later than the time of the Site Closure Letter. The Sponsor will provide the relevant District Engineer with 60 days advance notice before any actions are taken to modify the Long-Term Management Plan or transfer long-term management responsibilities to another entity.

The Long-Term Management Plan shall include, at a minimum, the following provisions:

1. Maintenance of the condition of structural elements and facilities of the site such as signage, fencing, and roads. The Long-Term Management Plan will include provisions to maintain and repair these improvements as necessary to achieve the objectives of the Mitigation Project and comply with the provisions of the real estate instrument providing protection to the site.
2. Improvements such as access roads, berms or water control structures that are no longer needed to facilitate or protect the ecological function of the site may be

- removed or abandoned if consistent with the terms and conditions of the recorded protection document.
3. Allowance of access to the site by the IRT.

The Sponsor and the Long-Term Steward (if different from the Sponsor) shall enter into a Long-Term Management Agreement wherein the Long-Term Steward accepts responsibility for any and all long-term management responsibilities outlined in the Long-Term Management Plan, this Program and any other applicable project requirements approved or required by the relevant District Engineer. Until such time as the long-term management responsibilities are assigned to another party, the Sponsor will be considered responsible for long-term management of the Mitigation Project. Upon transfer of the long-term management responsibilities, the Sponsor shall have no further responsibilities for that Mitigation Project.

#### **IV. CREDIT ACCOUNTING**

##### **A. ADVANCE CREDITS**

Advance credits are any credits that are available for sale prior to being fulfilled in accordance with an approved Mitigation Plan. The number of advance credits available to this Program will be approved by the relevant District Engineer, in consultation with the IRT, and will be specific to each primary service area based on considerations provided in 33 CFR 332.8(n):

- i. the CPF (Exhibit A attachment);
- ii. Sponsor's past performance for implementing aquatic resource restoration, establishment, enhancement, and/or preservation activities; and
- iii. the projected financing necessary to begin planning and implementation of mitigation projects under this Program.

The number of advance credits Sponsor will be permitted to sell is specified by primary service area in Table 1 and is derived from methodology presented in Exhibit B. In general, advance credit numbers are derived from projected demand for credits using data from historical impacts and projections of future impacts. In the service areas with fewer historical impacts, a minimum number of advance credits have been specified to ensure that the Program meets potential demand and has sufficient financing for project delivery. If demand for mitigation credits exceeds the allotted amount of advance credits, and purchased credits have not been released, the IRT may approve an increase in the number of advance credits.

The number of advance credits available to the Sponsor at any time to sell in a given service area is equal to the number of advance credits specified in this Instrument minus any that have already been sold but not yet fulfilled. Once sold advance credits have been fulfilled, an equal number of advance credits will be re-allocated for sale to fulfill new mitigation requirements.

**TABLE 1: Advance Credits and Credit Fees by Primary Service Area**

<b>HUC 8</b>		<b>Stream Advance Credits</b>	<b>Credit Fee</b>	<b>Wetland Advance Credits</b>	<b>Credit Fee</b>
04100001	Ottawa	10000	\$320	20	\$49000
04100002	Raisin River	10000	\$320	20	\$49000
04100003	St. Joseph River	10000	\$260	20	\$49000
04100004	St. Mary's River	10000	\$320	20	\$59000
04100005	Upper Maumee	20000	\$260	30	\$49000
04100006	Tiffin River	10000	\$260	20	\$49000
04100007	Auglaize River	10000	\$320	20	\$52000
04100008	Blanchard River	10000	\$390	20	\$56000
04100009	Lower Maumee	20000	\$350	20	\$49000
04100010	Cedar-Portage River	20000	\$390	20	\$52000
04100011	Sandusky	10000	\$330	20	\$53000
04100012	Huron-Vermilion	10000	\$280	20	\$57000
04110001	Black-Rocky Rivers	20000	\$320	20	\$59000
04110002	Cuyahoga River	30000	\$450	35	\$72000
04110003	Chagrin-Ashtabula	25000	\$450	25	\$72000
04110004	Grand River	20000	\$280	32	\$52000
04120101	Conneaut	10000	\$270	20	\$52000
05030101	Upper Ohio	20000	\$250	20	\$52000
05030102	Shenango River	20000	\$270	20	\$52000
05030103	Mahoning River	20000	\$320	20	\$52000
05030106	Upper Ohio-Wheeling	32000	\$240	20	\$52000
05030201	Little Muskingum River	20000	\$270	20	\$52000
05030202	Upper Ohio-Shade	20000	\$250	20	\$52000
05030204	Hocking River	50000	\$250	20	\$52000
05040001	Tuscarawas River	46000	\$280	60	\$50000
05040002	Mohican River	20000	\$320	20	\$59000
05040003	Walhonding,	20000	\$320	20	\$59000
05040004	Muskingum River	20000	\$270	20	\$52000
05040005	Wills Creek	20000	\$250	20	\$52000
05040006	Licking River	20000	\$320	20	\$59000
05060001	Upper Scioto River	43000	\$290	32	\$50000
05060002	Lower Scioto	20000	\$320	20	\$57000
05060003	Paint Creek	20000	\$320	20	\$53000
05080001	Upper Great Miami	20000	\$290	20	\$53000
05080002	Lower Great Miami	35000	\$270	20	\$59000
05080003	Whitewater River	20000	\$450	20	\$72000
05090101	Raccoon-Symmes Creeks	21000	\$240	20	\$52000
05090103	Little Scioto-Tygarts	20000	\$270	20	\$52000
05090201	Ohio Brush-Whiteoak	20000	\$290	20	\$57000
05090202	Little Miami River	33000	\$270	20	\$59000
05090203	Middle Ohio-Laughery	20000	\$450	20	\$72000
05120101	Upper Wabash	20000	\$380	20	\$56000
05120103	Mississinewa River	20000	\$320	20	\$57000

**B. TIMELINE**

After the first advance credit in a service area has been secured by a permittee, the Sponsor has until the third full growing season for the Program to have completed land acquisition and initial physical and biological improvements on a Mitigation Project(s), unless the relevant District Engineer determines that more time is needed to plan and implement a mitigation project in that service area. The Sponsor may, as appropriate and with the relevant District Engineers' approval: 1) delay the expenditure of funds until sufficient funds are available in the primary service area to implement an effective and sustainable project; 2) divide a specific project into phases to allow funding in phases; 3) seek to leverage monies with other appropriate sources of funds to expand and complement the scope of proposed projects; or 4) utilize fees to carry out compensation projects in secondary service areas (see Section II(f)). In any event, it will not be considered a default of the terms set forth in this Instrument if an insufficient number of credits are sold in a given service area to accrue enough funds to implement an environmentally sustainable project.

If the relevant District Engineer determines that there is a compensatory mitigation deficit in a specific service area by the third growing season after the first advance credit in that service area is sold, then the relevant District Engineer may direct the disbursement of funds from the Account to provide alternative compensatory mitigation to fulfill those mitigation obligations. In that case, the mitigation liability to the Account and under this Program shall be reduced accordingly and transferred to the party receiving the disbursed funds. If such compensatory mitigation will be accomplished by another organization, OWDA will transfer to the other organization funds from the Account in an amount as directed by the relevant District Engineer, but which shall not exceed the original amount paid into the Account for the impacts.

If, within any 8-digit HUC, there are insufficient credits sales to fully fund the implementation of a project, the Sponsor may submit an alternative proposal to the relevant District Engineer for review and approval. Such alternative proposals may seek to satisfy the mitigation obligation liability through the use of released credits or bank credits from within the same Primary Service Area, use of preservation, deferral of the mitigation liability to the next year, use of funds from primary service areas within the same secondary service area, transfer of funds from or to another ILFP that is operating in the primary service area, or use of other mitigation options as approved by the relevant District Engineer, in consultation with the IRT (see also Section III(A)). An alternative proposal may also be submitted after two years, if, despite the Sponsor's best efforts, appropriate mitigation project sites have not been identified within the primary service area.

**C. RELEASED CREDITS**

As the Mitigation Projects meet certain milestones (see Credit Release Schedule below), the associated credits will be released. These released credits will be used to fulfill any advance credits that have been already provided within the project's service area before any remaining released credits can be sold.

#### **D. CREDIT RELEASE SCHEDULE**

The release of credits associated with any Mitigation Project must be tied to project specific criteria such as permitting, site protection, construction, yearly milestones, etc. A Credit Release Schedule will be included in each Mitigation Plan to be approved by the IRT. When preparing the Credit Release Schedule, factors to be considered may include, but are not limited to, the type of mitigation project (restoration, enhancement, establishment, preservation etc.), the complexity of the project, its likelihood of success, and the aquatic resource type and function to be provided. A general framework for credit release related to stream restoration, enhancement, and establishment of projects is as follows (but at no time may more than 100% be released):

- i. 10% release upon approval of final stream and planting plans, financial assurances are in place, and the recording of the Site Protection Instrument,
- ii. 10% release upon completion of construction and submittal of as-built site drawings,
- iii. 10% release upon completion and inspection of all plantings and the submittal of as-built planting drawings
- iv. 20% release upon submission of 2<sup>nd</sup> year monitoring report and site inspection by the IRT,
- v. 15% release upon submission of 4<sup>th</sup> year monitoring report and site inspection by the IRT,
- vi. 15% release upon submission of 6<sup>th</sup> year monitoring report and site inspection by the IRT
- vii. 10% release upon submission of 8<sup>th</sup> year monitoring report and site inspection by the IRT
- viii. 10 % release upon submission of 10<sup>th</sup> year monitoring report, achievement of performance standards required in mitigation plan, and site inspection by the IRT

A general framework for credit release related to wetland restoration, enhancement, and establishment of projects is as follows:

- i. Up to 30% of the total anticipated credits and all preservation credits, minus any rehabilitation credits will be released once the mitigation plan has been approved, the site has been secured, appropriate financial assurances have been established, and any other requirements determined to be necessary by the District Engineer have been fulfilled,
- ii. Up to 25% additional credits can be released at any time if all the final performance goals of the mitigation plan are met,
- iii. Up to 15% release upon submission of 3<sup>rd</sup> year monitoring report and site inspection by the IRT,
- iv. Up to 15% release upon submission of 5<sup>th</sup> year monitoring report and site inspection by the IRT,
- v. Up to 15% release upon submission of 7<sup>th</sup> year monitoring report and site inspection by the IRT,

- vi. A minimum of 25 % released upon submission of the final monitoring report, achievement of performance standards required in mitigation plan, and evaluated by the IRT. Credits will not be released until a final wetland delineation acceptable to the Corps has been submitted and approved.

A general Credit Release Schedule for preservation projects may be:

- i. 100% release upon the approval of the preservation plan, financial assurances are in place, and a recorded site protection instrument.

Monitoring periods may be shortened if performance criteria are met before the end of the monitoring period or extended if all performance standards have not been met.

## **V. OTHER PROVISIONS**

### **A. MODIFICATIONS OF INSTRUMENT**

This Instrument may not be modified except in accordance with the procedures set forth in 33 CFR 332.8(g)(1) of the Compensatory Mitigation Rule. The District Engineers may use a streamlined modification review process for changes described in 33 CFR 332.8(g)(2) ), including the addition or subtraction of advance credits within a particular Primary Service Area. If a streamlined modification process is used the District Engineer will notify the IRT members of this and provide them with copies of the proposed modification. IRT members have 30 days to notify the District Engineer if they have concerns with the proposed modification. If IRT members notify the District Engineer of such concerns, the District Engineer will attempt to resolve those concerns. The District Engineer will notify the IRT members of their intent regarding the proposed modification within 60 days of providing the notice to the IRT members. If no IRT member objects, the District Engineer will notify the Sponsor of the final decision, and if approved, arrange for it to be signed by the appropriate parties per 33 CFR 332.8(g)(2).. Adjustments of credit fees will not constitute an Instrument modification.

### **B. DEFAULT**

Should the IRT determine, in its sole reasonable discretion, that Sponsor is in material default of any provision of this Instrument, the IRT shall provide Sponsor with written notice of such material default. If Sponsor fails to remedy such default within sixty (60) days after its receipt of such notice, or if such default cannot reasonably be cured within sixty (60) days and Sponsor fails to commence and diligently pursue remediation of such default during such period, then the IRT may, immediately upon written notice to Sponsor, suspend the sale or transfer of any credits and may suspend the expenditure or withdrawal of any funds from the Account until the appropriate deficiencies have been remedied to the satisfaction of the IRT. Upon notice of such suspension, Sponsor agrees to immediately cease all sales and transfers of credits until the IRT informs Sponsor that the deficiencies have been resolved and that



sales or transfers may be resumed. Should Sponsor remain in default, the IRT may terminate all future credit transactions from the mitigation site in question.

Notwithstanding the foregoing, any delay or failure of Sponsor to comply with the terms of this Instrument or any Mitigation Project shall not constitute a default if and to the extent that such delay or failure is primarily caused by any act, event or conditions beyond Sponsor's reasonable control which significantly adversely affect the Sponsor's ability to perform its obligations hereunder. Such acts, events or conditions may include: (i) acts of God, such as earthquake, fire, landslide, other natural disaster, or interference by third parties; (ii) condemnation or other taking by any governmental body or corporate entity with eminent domain authority (or voluntary sale under threat of eminent domain); (iii) change in applicable federal or state law, regulation or court decision affecting Corps and/or OEPA's jurisdiction which affects compensation for permitted impacts to waters of the U.S. and State Waters; or (iv) the suspension or revocation of any permit, license, consent, authorization or approval which renders fulfillment of obligations under this Instrument or any Mitigation Project impossible to perform. If the performance of, and compliance with, the terms of this Instrument or any Mitigation Project are affected to a material extent by any such act, event, or condition, Sponsor shall give written notice to the relevant District Engineer as soon as is reasonably practicable. The relevant District Engineer shall have sole reasonable discretion to determine whether such an act, event, or condition qualifies under this paragraph as being out of the Sponsor's control and whether or not it shall constitute a material default.

Although Sponsor shall not be responsible for events beyond Sponsor's reasonable control as described above, the relevant District Engineer may require that the Sponsor use remaining contingency funds to remediate or restore adverse impacts to a Mitigation Site resulting from such events.

### **C. TERMINATION**

The Corps, OEPA or Sponsor may terminate this Instrument by giving ninety (90) days written notice to the other parties. Prior to termination by Sponsor, it shall provide an accounting of funds and complete payment on existing contracts for approved Mitigation Projects and any expenses incurred on behalf of the Program. Upon termination, after payment of all outstanding obligations, any remaining funds in the Account shall be paid to any entities as specified by the IRT. In the event that the Program is terminated, Sponsor is responsible for fulfilling any remaining mitigation obligations, unless the obligation is specifically transferred to another entity as agreed upon by the Corps, OEPA and TNC. Appropriate funds will be provided through the Account to meet Sponsor's outstanding obligations. Where obligations are transferred to another entity, IRT will provide instruction to OWDA on the disbursement of funds from the Account to the other entity for fulfilling the transferred obligations to completion.

OWDA or the Sponsor may terminate OWDA's involvement in the Program by giving one hundred twenty (120) days written notice to the other parties. Such termination shall not constitute a termination of this Instrument. Upon receipt of OWDA's notice of termination, the Sponsor shall have sixty (60) days to elect to take over OWDA's responsibilities under

this Instrument. If Sponsor does elect to take over OWDA's responsibilities, Sponsor shall provide notice to the other parties and OWDA shall transfer all funds in the Account (including subaccounts) and any other funds held under this Instrument to Sponsor for management under this Instrument. If Sponsor does not elect to take over OWDA's responsibilities, the Corps, OEPA and Sponsor will meet to determine if there is a suitable replacement entity for OWDA, and if none is found agreeable to the parties within ninety (90) days after OWDA's notice of termination, then, unless the parties agree otherwise, this Instrument will terminate and the provisions in the preceding paragraph shall apply.

#### **D. DISPUTE RESOLUTION**

Resolution of disputes between Federal IRT agencies and the Corps regarding the planning, approval and other aspects of mitigation projects approved under this Instrument shall be in accordance with the Compensatory Mitigation Rule at 33 CFR §332.8(e), as well as any other applicable federal regulations.

Resolution of disputes between the Corps and OEPA regarding the planning, approval, and other aspects of plans approved under this Instrument shall be in accordance with current standard operating procedures developed for mitigation banks.

Resolution of disputes between Sponsor and the District Engineers, Chair, or the IRT, related to satisfaction of performance standards will be resolved between the Sponsor and the relevant District Engineers in consultation with the IRT. .

#### **E. APPROVALS**

Whenever this Instrument requires the approval of the District Engineer(s) or the IRT, then unless a different time period is stated, such approval or denial shall be provided as directed by 33 CFR Parts 325 and 332, or other reasonable period as determined by the District Engineer(s), after receipt of the request from the Sponsor in accordance with the terms of this Instrument. If the request is denied, the District Engineer(s) and/or the IRT, as the case may be, shall provide the reasons for the denial in their response.

#### **F. NOTICE**

Any notice required or permitted hereunder shall be deemed to have been received when delivered by hand, transmitted electronically with verified receipt, after three days following the date deposited in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, or after one business day following deposit with Federal Express or other similar next day nationwide delivery service, addressed as follows (or addressed in such other manner as the party being notified shall have requested by written notice to the other party):

U. S. Army Corps of Engineers  
Chief, Regulatory Division  
Huntington District Corps of Engineers  
502 Eighth Street  
Huntington, WV 25701-2070

U.S. Army Corps of Engineers  
Chief, Regulatory Division  
Buffalo District  
1776 Niagra Street  
Buffalo, NY 14207

U.S. Army Corps of Engineers  
Chief, Regulatory Division  
Pittsburgh District  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4186

The Nature Conservancy  
6375 Riverside Drive, Suite 100  
Dublin, OH 43017

Ohio Environmental Protection Agency  
50 West Town Street, Suite 700  
Columbus, Ohio 43215

Ohio Water Development Authority  
480 South High Street  
Columbus, Ohio 43215

*The addresses of all IRT members will be included in project Mitigation Plans as they may change.*

#### **G. ENTIRE INSTRUMENT**

This Instrument constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior agreements or undertakings.

#### **H. BINDING**

This Instrument shall be immediately binding on the parties and their respective successors and assigns upon execution by all the parties.

**I. SEVERABILITY**

The provisions hereof shall be deemed individual and severable and the invalidity or partial invalidity or unenforceability of any one provision or any portion thereof shall not affect the validity or enforceability of any other provision thereof.

**J. RIGHT TO REFUSE SERVICE**

Corps or OEPA approval of purchase or transfer of credits from the Program does not signify TNC's acceptance or confirmation of TNC's offer to sell or transfer credits. As the Sponsor, TNC may, but is not obligated to, sell mitigation credits.

IN WITNESS WHEREOF, the parties hereto have executed this Instrument to operate the Ohio Stream and Wetland In-Lieu Fee Mitigation Program operated by The Nature Conservancy pursuant to 33 CFR Parts 325 and 332 as revised effective November, 2014:

**The Nature Conservancy**By: Josh KnightsDate: 12/2/2014Print: Josh Knights**Ohio Water Development Authority**By: Steven J. GrossmanDate: 12/1/14Print: Steven J Grossman*for* **Huntington District Engineer**By: Erin MullerDate: 11-21-14

Print: \_\_\_\_\_

**Buffalo District Engineer**

METIVIER.STEVEN.V.122

Digitally signed by METIVIER.STEVEN.V.1228803185  
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ou=USA, cn=METIVIER.STEVEN.V.1228803185  
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*for* **Pittsburgh District Engineer**By: Scott A. HansDate: 11-25-14Print: Scott A. Hans for Col. Bernard R. Lindstrom

By: \_\_\_\_\_

Date: \_\_\_\_\_

*Optional IRT Agency Signatures*

**Natural Resource Conservation Service**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Print: \_\_\_\_\_

**Ohio Department of Natural Resources**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Print: \_\_\_\_\_

**Ohio Environmental Protection Agency**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Print: \_\_\_\_\_

**U.S. Environmental Protection Agency**

By: Wendy L Melgin Date: 12/2/14

Print: WENDY L MELGIN

**U.S. Fish and Wildlife Service**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Print: \_\_\_\_\_

## **Exhibit A: Compensation Planning Framework**

*(In order to reduce the file size, Exhibit A has been included as a separate document.)*

## **Exhibit B: Advance Credits**

### **A. Introduction**

This Exhibit B is attached to and made a part of “The Nature Conservancy’s Ohio Stream and Wetland In-Lieu Fee mitigation Program Instrument” (the “Instrument”). The purpose of this exhibit is to present the qualifications and methodology for issuance of Advance Credits to the Sponsor (TNC) as set forth in Section V.A. of the Instrument.

Advance credits are any credits that are available for sale prior to being in accordance with an approved mitigation plan. The number of advance credits available to an ILF program is to be approved by the District Engineer in which the watershed is located, in consultation with the IRT, and specified for each primary service area based on considerations provided in 33 CFR 332.8(n):

- iv. The compensation planning framework;
- v. TNC’s past performance for implementing aquatic resource restoration, establishment, enhancement, and/or preservation activities;
- vi. The mission of TNC; and
- vii. The projected financing necessary to begin planning and implementation of in-lieu fee projects.

The number of advance credits TNC will be permitted to sell is specified by primary service area (see Table 3) and is derived from methodology presented below.

### **B. Qualifications**

TNC is a tax-exempt 501(c)(3) organization managed from its worldwide office in Arlington, Virginia. TNC works in all 50 United States and in more than 30 countries. The organization has protected more than 119 million acres of land and 5,000 miles of rivers around the world — and operates more than 100 marine conservation projects globally. TNC is supported by more than 1 million members and employs about 3,200 staff worldwide. The Nature Conservancy has been named a "Top-Rated Charity" by the American Institute of Philanthropy.

The mission of TNC is to conserve the lands and waters on which all life depends. At global, national, regional and state scales, the organization employs a scientific, systematic analysis to identify places large enough and rich enough in plant and animal species to ensure meaningful conservation results. At each place, TNC employs a range of strategies tailored to local circumstances and communities, including: buying land and interests in land; helping



landowners, private and public, manage their properties; facilitating public-private partnerships; and collaborating with likeminded partners to seek pragmatic, cost-effective solutions to the most pressing conservation threats at the largest scale.

To achieve TNC's place-based mission, the worldwide Board of Directors has established chapters of TNC at the state and country level. Each state and country program is run by a director who manages the program's annual plan and budget in support of the TNC's mission and goals.

The Ohio Chapter has helped conserve over 60,000 acres of land in Ohio. Of these, almost 25,000 acres are owned and managed by TNC. The other 35,000 acres are now owned and managed by other natural resource management agencies, most prevalently the Ohio Department of Natural Resources, United States Forest Service, County Park Systems, and partner land trusts.

As of summer 2013, the Ohio Chapter consisted of 46 paid positions (34 long-term and 12 short-term staff). The Ohio Chapter is advised and assisted by a volunteer Board of Trustees which provides guidance on strategic, assists in setting goals and, most importantly, subjects the Chapter's work to additional critical thinking.

#### Wetland and Stream Restoration, Establishment, Enhancement and Preservation Experience

TNC has demonstrated considerable experience with wetland and stream restoration, protection and long-term stewardship. Through its land protection experience (outlined above), TNC has become a leading expert in real estate transactions that ensure strong protection and preservation. Because of these efforts, TNC has been awarded the national distinction of land trust accreditation from the Land Trust Alliance, which recognizes TNC for meeting national standards for excellence, upholding the public trust and ensuring that conservation efforts are permanent.

In addition, The Nature Conservancy has long recognized the role that mitigation – avoidance, minimization, and compensation for unavoidable impacts – can play in advancing our conservation mission. This commitment is reflected in the organization's Global Challenges, Global Solutions Conservation Framework. One of the Conservancy's strategies is to employ "effective mitigation options, in partnership with governments, corporations and private/communal landowners to balance development and conservation needs, avoid impacts to sensitive natural areas and wildlife, and identify opportunities to offset remaining impacts."

TNC is engaged in mitigation projects, programs, and policies across all operating units from state chapters, regions, and programs to U.S. and International Government Relations. Nationally 30 of TNC's 48 state chapters, including Ohio, are engaged in wetland and stream

mitigation. At least 8 TNC chapters have participated in wetland and stream mitigation banking and at least 11 of have participated in In-Lieu Fee programs. At least 17 TNC chapters play some role in long-term management for mitigation lands (e.g., hold fee title or a conservation easement on mitigation lands) and/or are responsible for long-term stewardship of a mitigation project. TNC's engagement in wetland and stream mitigation has helped to protect over 34,000 acres nationwide. In Ohio, one recent example of restoration accomplished by TNC included 10,500 linear feet of stream re-establishment and rehabilitation, and 4.7 acres of wetland establishment. This was completed at the Darby Headwaters Preserve in Logan County, Ohio.

The experience and expertise within TNC goes very deep. With over 550 scientists, and many other professionals who are dedicated to conservation initiatives, TNC is arguably the most effective conservation organization in the world. As part of TNC's commitment toward mitigation TNC hired Jessica Wilkinson in 2012 as a senior policy advisor. Wilkinson was a Senior Policy Analyst and Director of the Wetlands Program at the Environmental Law Institute (ELI) in Washington, DC. She joined ELI in 1994 after receiving her Masters of Environmental Management from Yale University, School of Forestry and Environmental Studies and a BA in Environmental Science from Barnard College, Columbia University. As director of ELI's Wetlands Program, Jessica oversaw the Institute's program of wetlands research and training. She has been the lead researcher on several of ELI's seminal wetlands publications including the 2006 publication "The Status and Character of In-Lieu Fee Mitigation in the United States". She has also designed and administered numerous training courses on compensatory mitigation, and has led policy dialogues on wetland protection, water quality trading, and the integration of biodiversity conservation and land use planning.

TNC has also developed robust databases and procedures to track and manage all aspects of compensatory mitigation projects and programs in other states. The Ohio Chapter is drawing upon these resources, particularly those from Virginia, West Virginia, and Maine to guide the tracking systems that the Ohio Program proposes to establish. These tracking systems range from those that track projects from permitted impacts, through the competitive proposal process, to the award and monitoring of compensation projects. TNC also has experience managing mitigation funds and carrying out restoration and protection projects from the collection of impact fees and the award of grants for compensation projects. In several states, such as Maine and West Virginia, TNC also works with partner agencies to administer competitive grant programs for compensation projects, undertake marketing and outreach for mitigation programs, provide support to prospective applicants, manage proposal review, develop project agreements for mitigation fund awards, and carry out transactional due diligence on all projects.

In addition to the many experienced and well trained staff at the Ohio Chapter the Mitigation Program Manager is responsible for setting up and running the ILF program. As the Mitigation Program Manager, Devin Schenk has over 14 years of experience working in the stream and wetland mitigation field. Schenk earned his Master of Environmental Science Degree from

Miami University in 2000. He also earned a Juris Doctor degree from Northern Kentucky University, where he worked for 10 years as an ecologist with the University's ILF program.

### **C. Advance Credit Considerations**

The Compensatory Mitigation Rule includes a hierarchy of preference for mitigation alternatives (33 CFR 332.3(b)(1-6)), although the Army Corps has considerable discretion in determining which compensatory mitigation option is most likely to successfully replace lost functions and services and take into account watershed-scale considerations. The preference hierarchy requires that when considering compensatory mitigation options the Corps must first determine whether there are available and appropriate credits from a wetland mitigation bank, followed by credits from an in-lieu fee program. In the state of Ohio, banks are focused almost exclusively on wetland mitigation and their service areas are focused on the watersheds with the most significant demand for credits. In order for an ILF program to be in a position to provide the appropriate type of credits and establish ecologically successful and sustainable projects that support the needs of the watershed it is important for the program to have an adequate amount of advance credits available in each primary service area. Without adequate advance credits the program would be limited in its ability to serve as an alternative and offset aquatic resource functions and services on a watershed-scale.

Determining how many advance credits are needed for each primary service area requires thoughtful analysis using past permitting and compensatory mitigation data. The Ohio Environmental Protection Agency (OEPA) publishes an annual report on isolated wetland permitting, 401 water quality certification activities, and the resulting compensatory mitigation. Wetland mitigation data are available from 2004 to 2012 and stream mitigation data are available from 2006 to 2012. Below are tables and figures that show the mitigation requirements over these time periods.

An analysis of the past compensatory mitigation demand in each primary service area makes evident significant differences between each watershed's compensatory mitigation needs. Statewide there is an annual average of 194,983 linear feet of stream compensatory mitigation and 340 acres of wetland compensatory mitigation provided in Ohio. Some watersheds, however, have had no compensatory mitigation demand over the past 9 years (e.g. St. Mary's River, 04100004). While on the high end, five watersheds have had average annual stream compensatory mitigation needs of greater than 10,000 linear feet and 10 watersheds have had average annual wetland mitigation needs of greater than 10 acres. Given these differences it is important to base the advance credits allocated for each primary service area watershed on its individual historic needs.

Additionally the requirements for site identification, project approvals, design, permitting, construction and monitoring, means that it may require three years before an initial partial credit release (30%) for new projects and eight years or more to achieve 100% credit release (see Section V(D) for a discussion of the credit release schedule). In order to accommodate mitigation credit needs for each watershed, the amount of advance credits allocated must be calculated based on an 8-year timespan and the temporal delays associated with the credit release schedule. The advance credits for each primary service area should, as a result, be based on potential demand over the entire timespan that would be required for full credit release.

The advance credit results provided in Tables B-1 and B-2 below were calculated based on this rationale. Section D of this exhibit provides an in-depth description of how the numbers were derived.

**Table B-1: Mitigation in Lake Erie Watersheds**

HUC 8		Stream Mitigation			Wetland Mitigation		
		Average Annual ('06-'12)	Highest Annual ('06-'12)	Advance Stream Credits	Average Annual ('04-'12)	Highest Annual ('04-'12)	Advance Wetland Credits
04100001	Ottawa	1288	2773	10000	0.56	5.00	20
04100002	Raisin River	0	0	10000	0.03	0.27	20
04100003	St. Joseph River	0	0	10000	3.20	16.55	20
04100004	St. Mary's River	0	0	10000	0.01	0.09	20
04100005	Upper Maumee	1700	11558	20000	5.23	47.05	30
04100006	Tiffin River	514	3600	10000	2.56	20.00	20
04100007	Auglaize River	1674	4595	10000	5.95	41.71	20
04100008	Blanchard River	0	9705	10000	0.10	0.90	20
04100009	Lower Maumee	3803	84480	20000	4.16	24.32	20
04100010	Cedar-Portage	1737	11237	20000	17.26	38.96	20
04100011	Sandusky	2287	5371	10000	11.96	43.11	20
04100012	Huron- Vermilion	92	647	10000	1.89	10.10	20
04110001	Black-Rocky Rivers	3228	12168	20000	23.08	80.46	20
04110002	Cuyahoga River	8311	34933	30000	28.75	87.22	35
04110003	Ashtabula-Chagrin	3532	14986	25000	19.80	80.82	25
04110004	Grand River	6739	16215	29000	37.26	153.51	32
04120101	Conneaut	0	0	10000	0.00	0.00	20
04120200	Lake Erie Islands	579	4056	20000	5.01	45.10	20

Historic mitigation data derived from available annual OEPA reports on Isolated Wetland Permits and 401 Water Quality Certifications in Ohio <http://epa.ohio.gov/dsw/401/permitting.aspx>

**Table B-2: Mitigation in Ohio River Watersheds**

HUC 8		Stream Mitigation			Wetland Mitigation		
		Average Annual ('06-'12)	Highest Annual ('06-'12)	Advance Stream Credits	Average Annual ('04-'12)	Highest Annual ('04-'12)	Advance Wetland Credits
5030101	Upper Ohio	4223	13723	20000	5.17	28.28	20
5030102	Shenango River	0	55	20000	0.58	1.73	20
5030103	Mahoning River	1576	4281	20000	14.72	58.18	20
5030106	Upper Ohio-Wheeling	14786	43456	32000	10.62	39.22	20
5030201	Little Muskingum River	2729	216172	20000	0.13	0.60	20
5030202	Upper Ohio-Shade	8793	29214	20000	1.54	11.53	20
5030204	Hocking River	23318	135792	50000	3.75	31.12	20
5040001	Tuscarawas River	21603	31250	46000	69.96	383.68	60
5040002	Mohican River	1334	5283	20000	0.99	7.11	20
5040003	Walhonding	514	1895	20000	1.25	6.91	20
5040004	Muskingum River	3560	16186	20000	2.88	11.00	20
5040005	Wills Creek	7541	22085	20000	2.58	10.14	20
5040006	Licking River	1799	12590	20000	2.63	15.00	20
5060001	Upper Scioto	19973	68726	43000	37.05	130.51	32
5060002	Lower Scioto	0	0	20000	0.30	2.68	20
5060003	Paint Creek	0	240	20000	0.70	4.90	20
5080001	Upper Great Miami	3590	10636	20000	2.43	12.96	20
5080002	Lower Great Miami	16172	36505	35000	2.81	9.22	20
5080003	Whitewater River	0	0	20000	0.00	0.00	20
5090101	Raccoon-Symmes	9549	17034	21000	2.87	11.00	20
5090103	Little Scioto-Tygarts	4741	18582	20000	0.61	5.52	20
5090201	Ohio Brush & Whiteoak	6612	31170	20000	4.51	22.04	20
5090202	Little Miami River	6510	19050	33000	4.21	10.00	20
5090203	Middle Ohio-Laughery	302	1592	20000	0.29	2.58	20
5120101	Upper Wabash	271	1900	20000	0.68	6.13	20
5120103	Mississinewa River	0	0	20000	0.03	0.28	20

Historic mitigation data derived from available annual OEPA reports on Isolated Wetland Permits and 401 Water Quality Certifications in Ohio <http://epa.ohio.gov/dsw/401/permitting.aspx>

## D. Advance Credit Calculations

Given the above considerations the advance credits were calculated using the following equation (results are presented in Tables B-1 and B-2 above):

$$\text{Advance Credits} = (\text{AAM} \times 3) + (\text{AAM} \times .15) + (\text{AAM} \times .30) + (\text{AAM} \times .40) + (\text{AAM} \times .50) + (\text{AAM} \times .60) + (\text{AAM} \times .70)$$

Where:

**3** = number of years allowed after credit sale for site identification

**AAM** = Average Annual Mitigation

**.15** = 15% credit release upon permit approval and recording of site protection instrument

**.30** = 15% credit release upon completion of construction and approval of as-built report  
+ 15% permit approval and recording of site protection instrument

**.40** = 10% 1<sup>st</sup> year performance standard credit release + 30% previous credit release

**.50** = 10% 2<sup>nd</sup> year performance standards credit release + 40% previous credit release

**.60** = 10% 3<sup>rd</sup> year performance standards credit release + 50% previous credit release

**.70** = 10% 4<sup>th</sup> year performance standards credit release + 60% previous credit release

Assuming that the majority of compensatory wetland mitigation needs will be accommodated by mitigation banks as per the mitigation hierarchy, the results of the above equation for wetland advance credits are multiplied by 20%. Also, assuming that permittee-responsible mitigation will likely continue to be important in the State, the results of the above equation for stream advance credits are multiplied by 50%.

In primary service areas where the calculated advance credits are low, a minimum of 20,000 advance stream credits and 20 advance wetland credits are provided to ensure that the ILF program meets potential demand and has sufficient financing for project delivery. In the Buffalo District the minimum stream credits were reduced to 10,000 in those watersheds with a highest annual compensatory mitigation need of less than ten thousand.

HUC 8	Average Annual Stream Mitigation ('06-'12)	Highest Annual Stream Mitigation ('06-'12)	Average Annual Wetland Mitigation ('04-'12)	Highest Wetland Mitigation ('04-'12)	Average Stream Mitigation ('04-'12)	Advanced Stream Credits for 8 years	round up 500	stream banks and permittee responsible minus 50%	average annual Wetland Mitigation	Advanced Wetland Credits for 8 years	round up 10	wetland bank minus 80%
4100001	1288	2773	0.56	5.00	1288	9929	10000	5000	1	15.69	20	4
4100002	0	0	0.03	0.27	0	0	0	0	0	0.85	10	2
4100003	0	0	3.20	16.55	0	0	0	0	3	53.65	60	12
4100004	0	0	0.01	0.09	0	0	0	0	0	0.28	10	2
4100005	1700	11558	5.23	47.05	1700	36800	37000	18500	5	147.68	150	30
4100006	514	3600	2.56	20.00	514	11443	11500	5750	3	63.19	70	14
4100007	1674	4595	5.95	41.71	1674	15878	16000	8000	6	132.57	140	28
4100008	0	9705	0.10	0.90	0	29115	29500	14750	0	2.83	10	2
4100009	3803	84480	4.16	24.32	3803	258194	258500	129250	4	78.16	80	16
4100010	1737	11237	17.26	38.96	1737	35882	36000	18000	17	138.45	140	28
4100011	2287	5371	11.96	43.11	2287	18972	19000	9500	12	144.28	150	30
4100012	92	647	1.89	10.10	92	2057	2500	1250	2	32.66	40	8
4110001	3228	12168	23.08	80.46	3228	40539	41000	20500	23	270.23	280	56
4110002	8311	34933	28.75	87.22	8311	115188	115500	57750	29	297.60	300	60
4110003	3532	14986	19.80	80.82	3532	49374	49500	24750	20	267.22	270	54
4110004	6739	16215	37.26	153.51	6739	57068	57500	28750	37	507.11	510	102
4120101	0	0	0.00	0.00	0	0	0	0	0	0.00	0	0
4120200	579	4056	5.01	45.10	579	12892	13000	6500	5	141.56	150	30
5030101	4223	13723	5.17	28.28	4223	46448	46500	22250	5	91.31	100	20
5030102	0	55	0.58	1.73	0	165	500	250	1	5.92	10	2
5030103	1576	4281	14.72	58.18	1576	14811	15000	7500	15	192.94	200	40
5030106	14786	48456	10.62	39.22	14786	148851	149000	74500	11	130.94	140	28
5030201	2729	216172	0.13	0.60	2729	651927	652000	326000	0	1.96	10	2
5030202	8793	29214	1.54	11.53	8793	98634	99000	49500	2	36.52	40	8
5030204	23318	135792	3.75	31.12	23318	436524	437000	218500	4	98.05	100	20
5040001	21603	31250	69.96	383.68	21603	120754	121000	60500	70	1238.49	1240	248
5040002	1334	5283	0.99	7.11	1334	17516	18000	9000	1	22.57	30	6
5040003	514	1895	1.25	6.91	514	6327	6500	3250	1	22.29	30	6
5040004	3560	16186	2.88	11.00	3560	53007	53500	26750	3	36.60	40	8
5040005	7541	22085	2.58	10.14	7541	75682	76000	38000	3	33.65	40	8
5040006	1799	12590	2.63	15.00	1799	40018	40500	20250	3	48.28	50	10
5060001	19973	68726	37.05	130.51	19973	231144	231500	115750	37	437.84	440	88
5060002	0	0	0.30	2.68	0	0	0	0	0	8.41	10	2
5060003	0	240	0.70	4.90	0	720	1000	500	1	15.58	20	4
5080001	3590	10636	2.43	12.96	3590	36396	36500	18250	2	41.92	50	10
5080002	16172	36505	2.81	9.22	16172	129730	130000	65000	3	31.17	40	8
5080003	0	0	0.00	0.00	0	0	0	0	0	0.00	0	0
5090101	9549	17034	2.87	11.00	9549	63038	63500	31750	3	36.58	40	8
5090103	4741	18582	0.61	5.52	4741	61672	62000	31000	1	17.33	20	4
5090201	6612	31170	4.51	22.04	6612	101775	102000	51000	5	71.76	80	16
5090202	6510	19050	4.21	10.00	6510	65287	65500	32750	4	35.26	40	8
5090203	302	1592	0.29	2.58	302	5154	5500	2750	0	8.10	10	2
5120101	271	1900	0.68	6.13	271	6039	6500	3250	1	19.24	20	4
5120103	0	0	0.03	0.28	0	0	0	0	0	0.88	10	2