



# INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue  
Room N758-ES  
Indianapolis, Indiana 46204

**Eric Holcomb, Governor**  
**Joe McGuinness, Commissioner**

**DATE:** April 9, 2021  
**TO:** INDOT Project Managers, Environmental Staff and Consultants  
**FROM:** Sandra Bowman, Manager, Ecology and Waterway Permitting *Sandra Bowman*  
**SUBJECT:** INDOT Use of In-lieu Fee Program for CIF Mitigation

## Introduction

The availability of the Department of Natural Resources (DNR) Division of Fish and Wildlife In-lieu Fee (ILF) Mitigation Program for Construction in a Floodway (CIF) mitigation has added an option to mitigate for floodway impacts. The program should be considered after the completion of the requirements in the Natural Resources Commission (NRC) Information Bulletin #17 (Fifth Amendment) Habitat Mitigation Guidelines. The use of this program will not apply to all circumstances. A project specific analysis will be required.

## Procedure

The following procedure should be used to determine if the CIF ILF mitigation is the appropriate option for a project.

- Step 1. Avoid and minimize impacts during project planning and design.
- Step 2. Finalize the type and quantity of unavoidable impacts that will require mitigation.
- Step 3. Finalize the amount and type of compensatory mitigation required.
- Step 4. Complete an alternatives assessment considering:
  - Availability of existing R/W.
  - Ability to obtain additional R/W if required to provide on-site mitigation.
  - Ability to incorporate mitigation into the project footprint.
  - Potential for future disturbance. For example, INDOT maintenance, utilities, or adjacent property owner mowing the planted area or removing trees or future road widening activity.
  - Availability of mitigation options within the watershed. For example, a community park in need of trees that has floodway availability and in the same watershed.

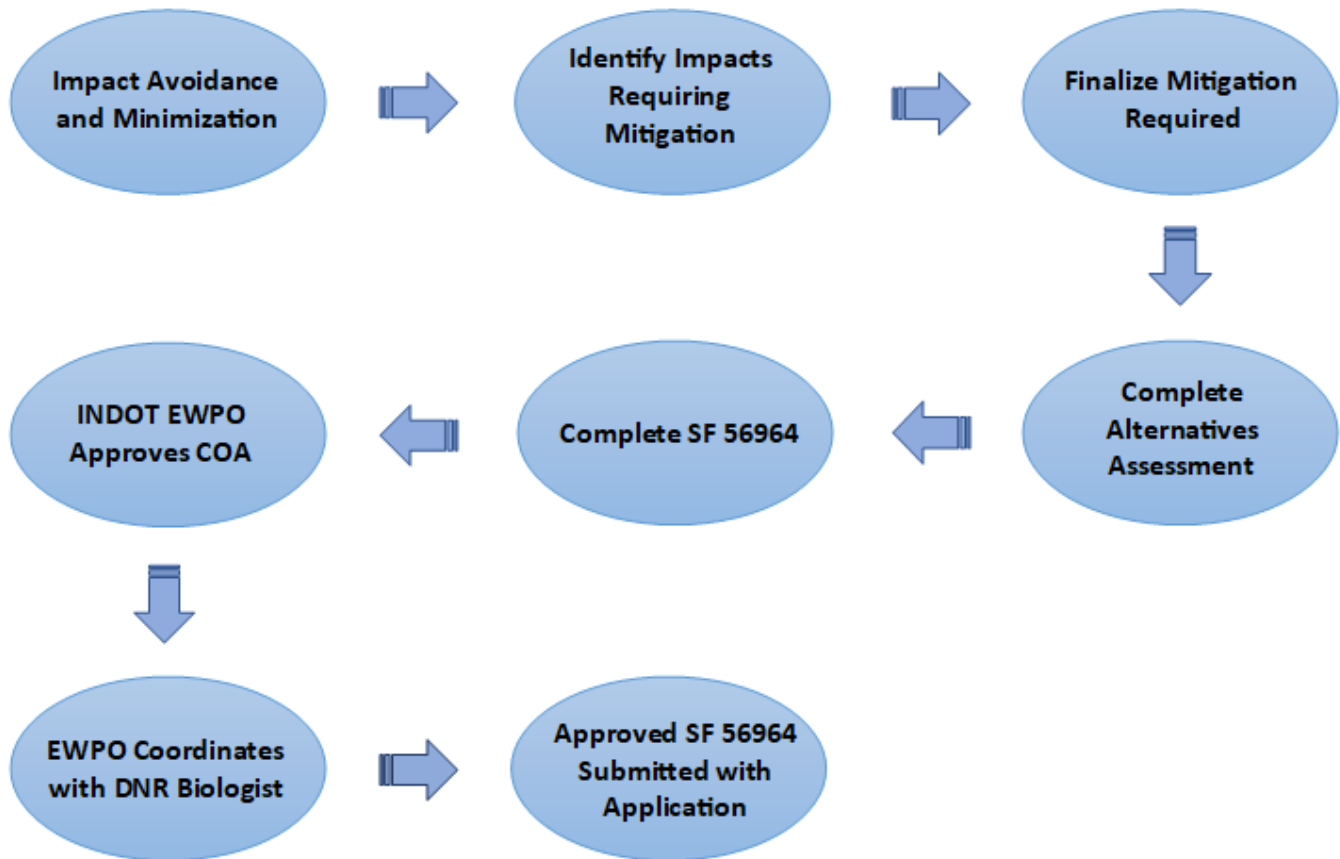
- Ability to overlap with or be located on the same site as mitigation for other permits or bat habitat impacts.
- Funds expended on mitigation site location and development activity to date and future costs.
- Proposed site property rights – INDOT own fee simple such as in right of way or easement with property owner.
- Past causes for failed CIF mitigation that in hindsight would justify use of in-lieu fee in current circumstances.

Step 5. Complete State Form 56964, Request for In-lieu Fee (ILF) Mitigation.

Step 6. Coordinate with EWPO Specialist.

Step 7. INDOT EWPO coordinates with DNR biologist to obtain approval for use of the ILF program.

Step 8. Approved mitigation plan/State Form 56964 is submitted with permit application to DNR.



**INDOT CIF In-lieu Fee Mitigation Analysis**

## References

Natural Resources Commission, Information Bulletin #17 (Fifth Amendment) Habitat Mitigation Guidelines <https://www.in.gov/nrc/2375.htm>

[State Form 56964](#) (5-20) Request for In-Lieu Fee (ILF) Mitigation

## Examples

### SR 55 Bridge Replacement, Warren County

Purpose: Replace bridge over Big Pine Creek, additional R/W required to provide access to creek bottom, construction of temporary access road required tree removal

Justification to not use ILF: Reforestation of R/W sufficient mitigation for floodway impacts, site disturbance for future work or by adjacent landowner minimal risk

### SR 156 Slide Correction, Switzerland County

Purpose: Bank stabilization between the Ohio River and SR 156. Approximately 0.16 acre of floodway tree clearing is required

Justification to use: No available R/W, high potential for future disturbance, location does not support tree planting based on stabilization requirements

Estimated ILF cost: Upper Ohio service area ( $\$80,000 \text{ acre} \times 0.16 = \$12,800$ )

### SR 167 Bridge Replacement, Delaware County

Purpose: Replace bridge, initial design reevaluated, ability to reduce slopes based on traffic volume from design standard, this reduced tree removal required to accommodate new slope, urban area required 5:1 replacement

Justification to not use: Town of Albany park located in same watershed, had sufficient area to plant all the required trees, very enthusiastic partner, ability to help community

### SR 256 Superstructure Replacement, DES 1701511, Jackson and Scott Counties

Purpose: Tree clearing within INDOT ROW required for access

Unanswered: Type and quantity of mitigation, site layout, other mitigation required, location of utility lines, etc.

### Heavy Haul Transportation Corridor, Clark County

Purpose: New terrain heavy haul transportation corridor

Justification to use/not use: Funds expended to date on site location, potential overlap with bat mitigation habitat, site ownership