



TNC's State-wide In-Lieu Fee Stream and Wetland Mitigation Program

Clean Water Act

Clean Water Act under § 401/404 requires permitting for all activities impacting “waters of the U.S.”

- The discharge of dredged or fill materials into waters of the United States, including wetlands is prohibited without a permit
 - *A permit generally requires offsetting mitigation in order to achieve “No Net Loss”*

Mitigation is a 3-Step Process

- **Requires**
 1. **Avoidance,**
 2. **Minimization,**
 3. **Compensatory Mitigation (as a last resort)**



Compensatory Mitigation

Replace or substitute resource functions and values that are unavoidably lost or adversely affected.



Anthony Sasson

Mitigation Hierarchy

BANKS – Restoration of streams and/or wetlands first in order to earn mitigation credits, which can then be sold to permittees.

IN-LIEU-FEE – The Sponsor sells mitigation credits to permittee and uses the funds to design and implement restoration projects within 3 years.

PERMITEE-RESPONSIBLE - The developer directs their own restoration project to meet their mitigation requirements.

Economic Advantages of Third-Party Mitigation

- Allows permittees to pay fee “in lieu of” performing their own mitigation and maintaining it for five – ten years.
- Reduced permitting time and costs.
- Transfers all mitigation obligations to 3rd party.

Mitigation Bank Coverage in Ohio

Wetland Mitigation Bank Coverage Area



Stream Mitigation Bank Coverage Areas



Why does TNC care...

There is an average of 194,000 feet of stream and 314 acres of wetlands mitigated each year in Ohio.

Research has identified a high rate of failure.

Restoration is difficult because:

- Small projects
- Scattered in landscape
- Located in substandard sites
- Inadequate watershed-based planning

When a project fails, there is a net loss of aquatic resources in Ohio.

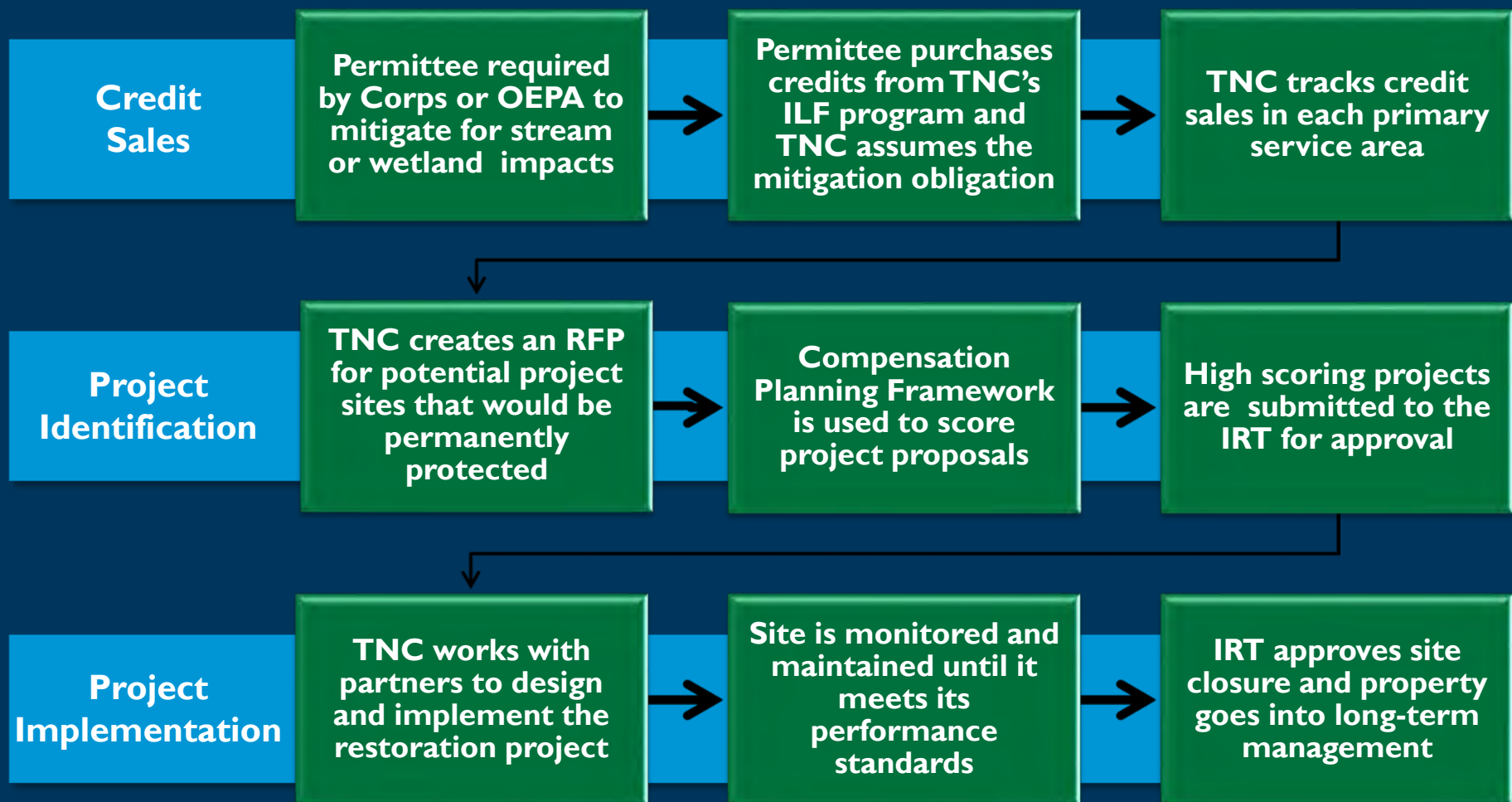
TNC's Mission

- To Conserve the Lands and Waters in which All Life Depends
 - humans as a part of the environment
- Operating Principals
 - Whole-system conservation
 - Non-confrontational
 - Science-based

TNC's State-wide Stream and Wetland In-Lieu Fee Mitigation Program

- Final Approval - December, 2014
- Purpose is to provide an effective form of compensatory mitigation to permit applicants for impacts outside of Mitigation Bank service areas.

In-Lieu-Fee Mitigation Process



Credit Sales

**Permittee required
by Corps or OEPA
to mitigate for
stream or wetland
impacts**



**Permittee
purchases credits
from TNC's ILF
program and TNC
assumes the
mitigation
obligation**



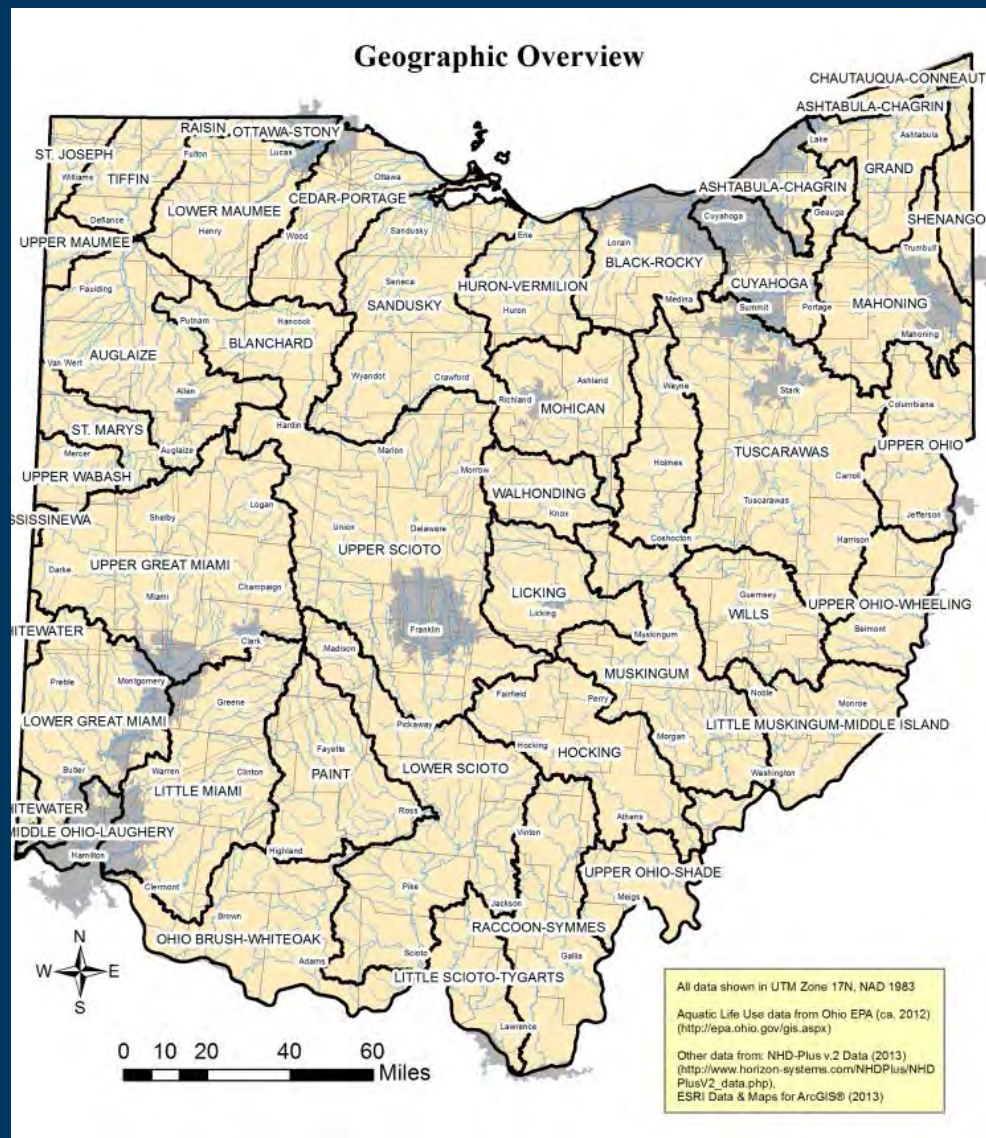
**TNC tracks credit
sales in each
primary service
area**

Credit Sales

- Fee is determined by TNC based on “full cost accounting”
 - Variations controlled by geography (property costs) and geology (density of streams and hydric soils)
- At time of purchase TNC takes on all of the mitigation responsibility and liability
- Sales must be tracked by geographic service area

Geographic Service Areas

- Primary Service Areas (8-digit HUCs)



Project Identification

**TNC issues an RFP
for potential
project sites that
would be
permanently
protected**

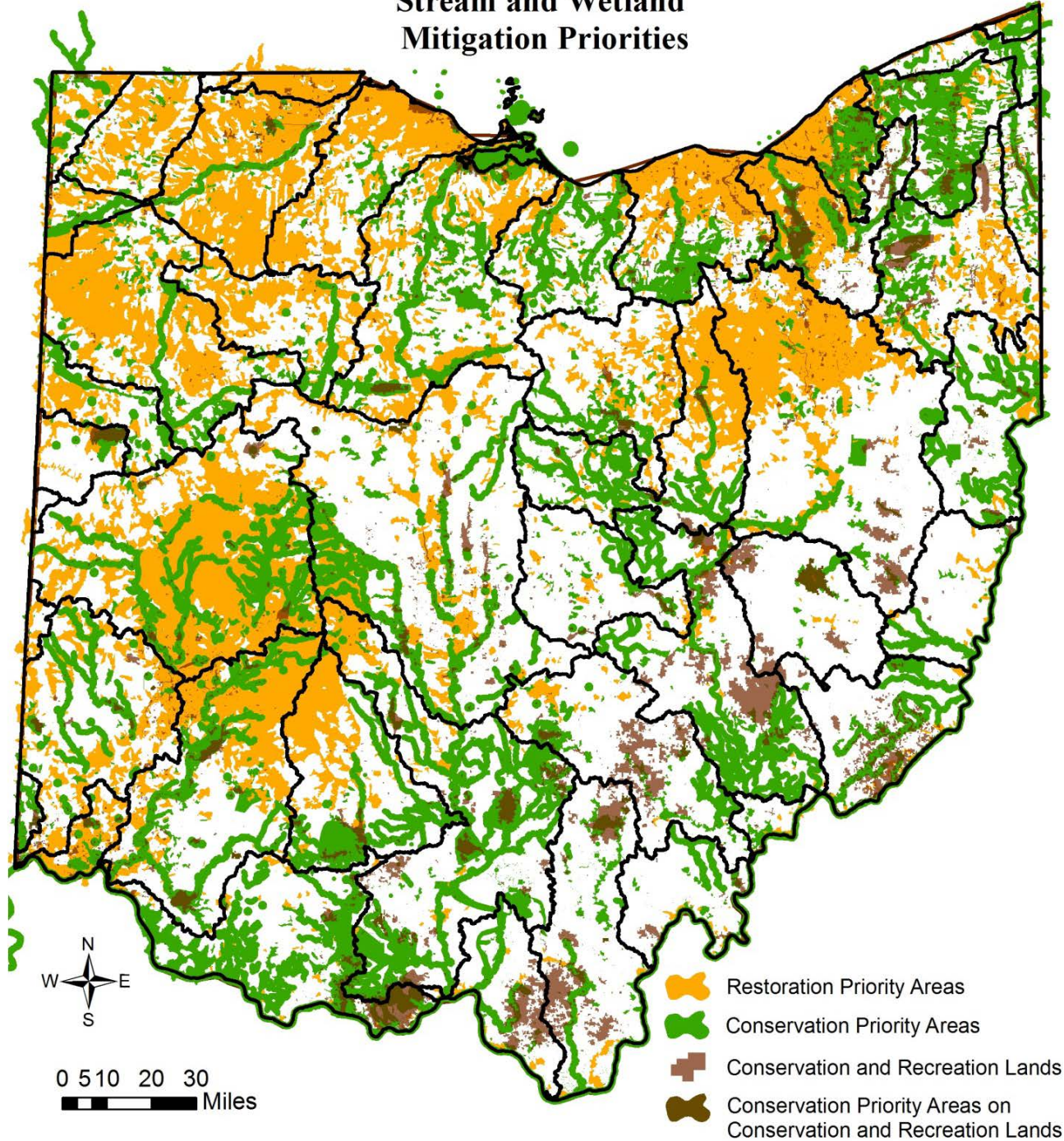


**Compensation
Planning
Framework is used
to score project
proposals**

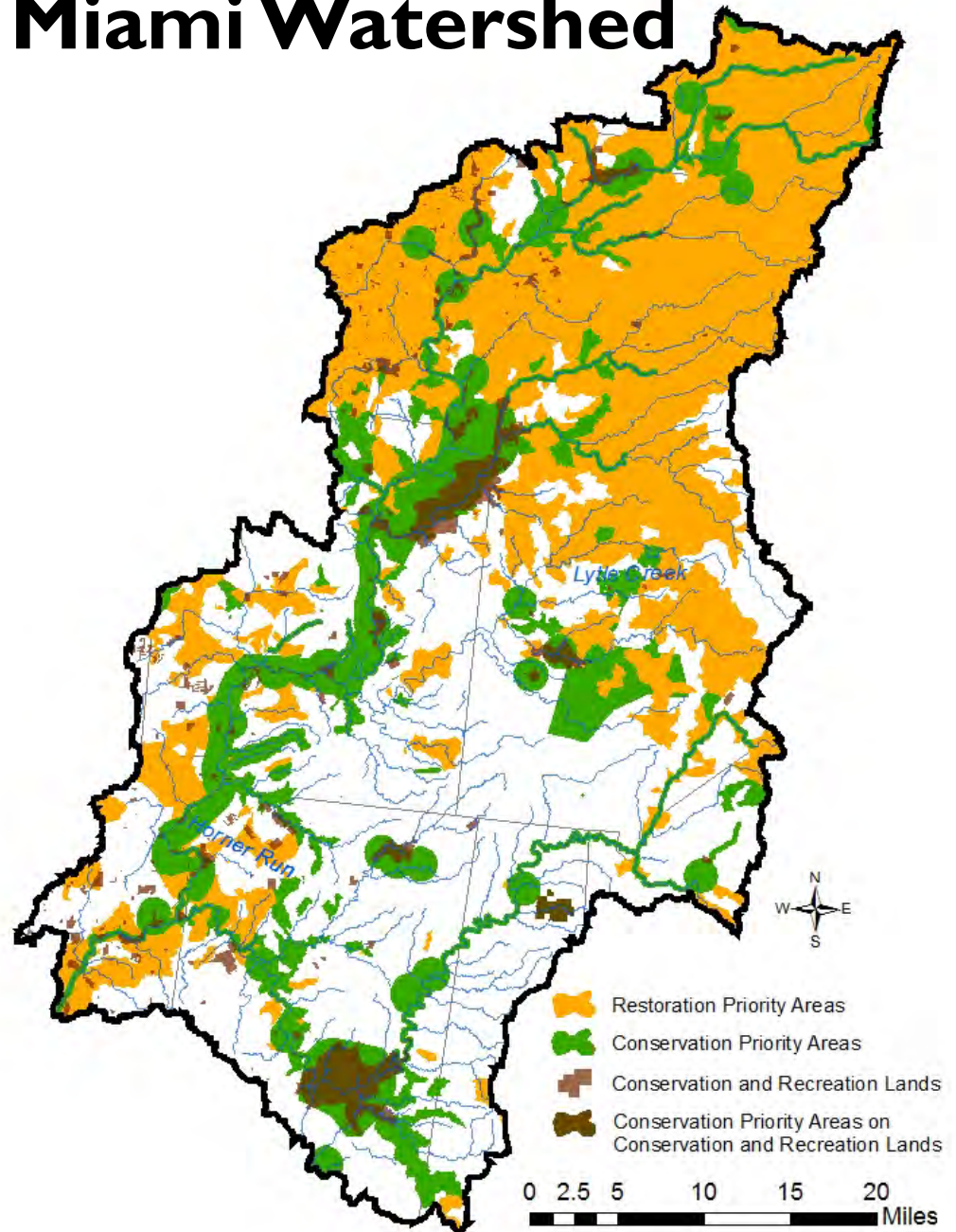
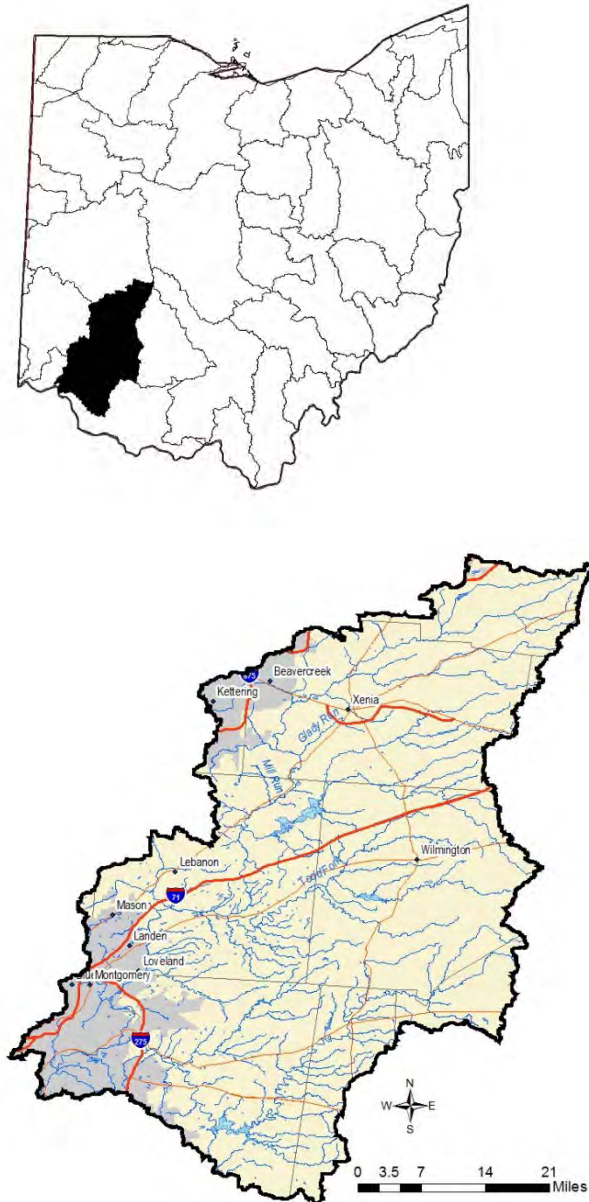


**High scoring
projects are
submitted to the
IRT for approval**

Stream and Wetland Mitigation Priorities



Little Miami Watershed



Project Implementation

**TNC contracts for
the design and
implementation of
the restoration
project**



**Site is monitored
and maintained
until it meets its
performance
standards**

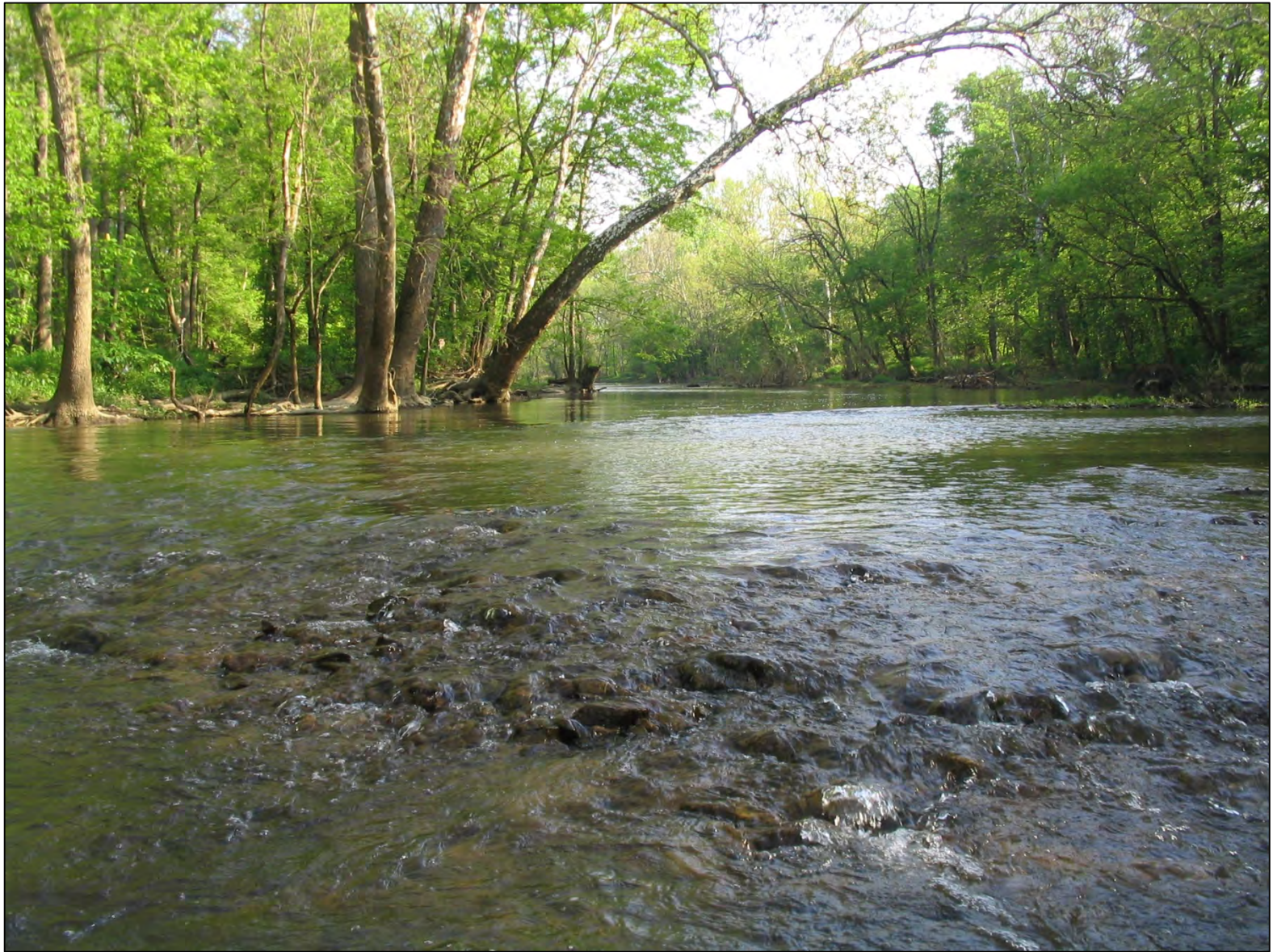


**Agencies approve
site closure and
property goes into
long-term
management**

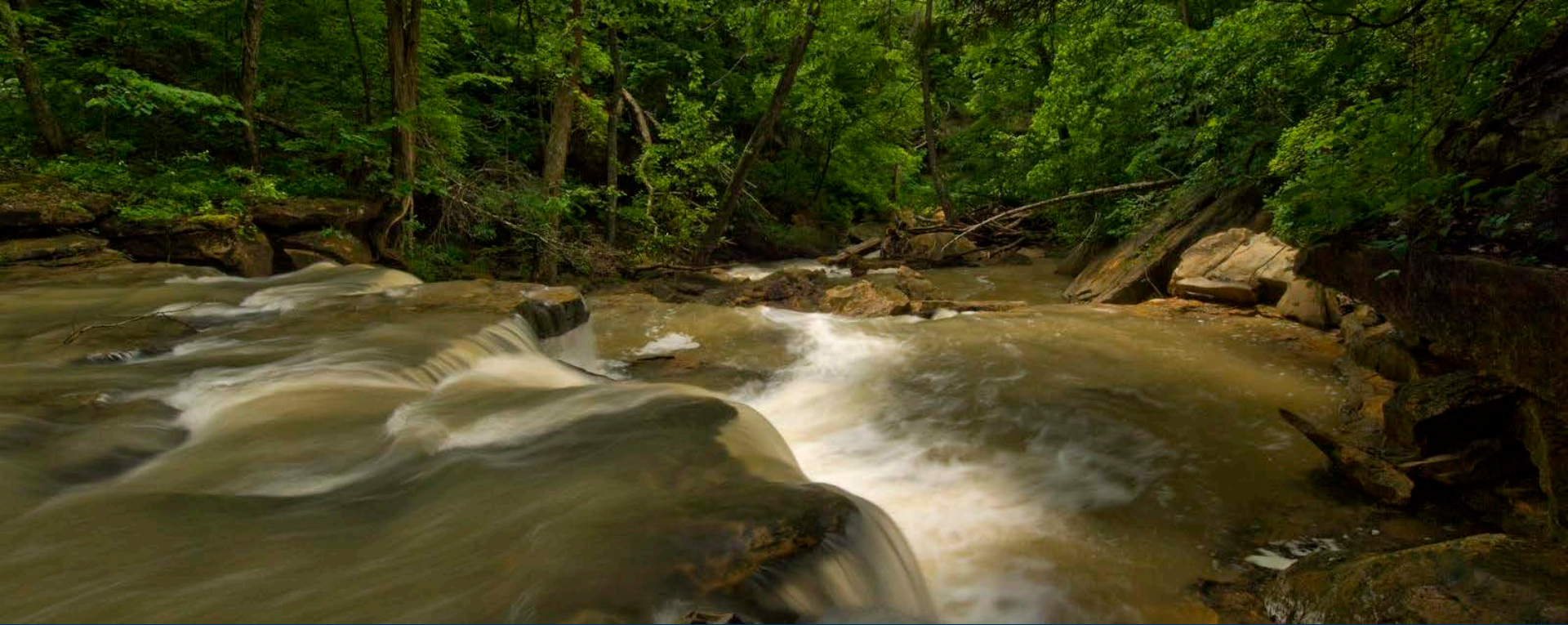
Project Implementation

- TNC will issue RFPs for the design and construction of projects.
 - Focus will be on design-build contracts.
 - 10 years of maintenance and monitoring.





For More Information



www.nature.org/ohiomitigationprogram

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