

# INDOT's Non-Marketable Property Program

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# Key Points

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- INDOT can transfer old mitigation sites to local governments, universities, etc.
- INDOT can also transfer old mitigation sites to non-profit land management organizations, such as land trusts.
- Some sites are large (>50 acres) but most are small (<10 acres).



# INDOT Real Estate

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- INDOT-acquired land or rights tracked in Land Records System (LRS) database
- Reported to Indiana Auditor of State
  - Infrastructure
    - Right-of-way (ROW)
  - Assets
    - Excess Land – Marketable
    - Mitigation Sites – Non-Marketable
  - Fixed Asset
    - Buildings and Grounds

# INDOT Real Estate--Example 1

- Infrastructure and Assets
  - ROW
  - Excess Property
  - Mitigation



# INDOT Real Estate—Example 2

- Infrastructure and Assets
  - ROW
  - Excess Property
  - Mitigation



# INDOT Real Estate—Example 3

- Infrastructure and Fixed Asset
  - ROW
  - Facility



# Disposing of Excess Land

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- Requirements
  - Research acquisition document
  - Request district approval
  - Ensure accurate legal description
  - Request environmental document
  - Determine fair market value via appraisal
- Excess valued >\$4,000
  - IDOA for disposition via auction following 30-day political notification
    - State agency
    - State educational institution
    - Political subdivision

# Disposing of Mitigation Sites

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- Initial requirements
  - Site must meet success criteria and be released by permitting agency
  - Site boundaries must be correctly defined relative to parcel boundaries
  - Conservation easement or deed restriction must be recorded on property
- Other considerations
  - Is the recipient capable of managing the mitigation site in perpetuity?
  - Ideally, we would want to transfer ownership to a land management non-profit, such as a land trust.

The standard excess property rules do not allow INDOT to consider future management.

INDOT's inability to select a non-governmental recipient for released mitigation sites has meant that we simply held on to mitigation sites.



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**But then something  
amazing happened!**

# House Enrolled Act 1422 (2017)

- Gives INDOT Commissioner authority to declare mitigation property non-marketable
- Allows for transfer of non-marketable property to non-profit land management organizations

STATE OF INDIANA  
INDIANA DEPARTMENT OF TRANSPORTATION  
INDIANAPOLIS, INDIANA

**ORDER OF COMMISSIONER**

FOR: AUTHORITY FOR DECLARATION OF PROPERTY AS NONMARKETABLE AS DIRECTED BY IC 8-23-7-13.5.

TO ALL WHOM THESE PRESENTS MAY COME, GREETING:

WHEREAS, Indiana Code 8-23-7-13.5 authorizes the transfer of nonmarketable real property by the Commissioner of the Indiana Department of Transportation ("INDOT"); and

WHEREAS, the real property at the subject location is nonmarketable due to environmental mitigation requirements imposed by federal or state regulations; and

WHEREAS, the nonmarketable real property at the subject location is not needed now or in the future; and

WHEREAS, the subject property is located in Noble County, described in Exhibit "A", has an area of 189.629 acres more or less; and

WHEREAS, the hereinafter-described property is owned by Fee Simple by the Department of Transportation and is more particularly described as follows:

SEE ATTACHED LEGAL DESCRIPTION EXHIBIT(s) "A" & "B"


INDOT  
Project: SR-3(WET)  
Des: 9610976  
Road: SR 3  
County: Noble  
Code: 3265  
Parcel: 1

Subject to all existing legal rights-of-way, easements, conditions, and restrictions of record.

NOW, THEREFORE, I, Joseph McGuinness, COMMISSIONER OF THE INDIANA DEPARTMENT OF TRANSPORTATION, by virtue of the authority vested in me by the 1990 Acts of the Indiana General Assembly do hereby determine that this land is nonmarketable, and shall be disposed of in accordance with IC 8-23-7-13.5.

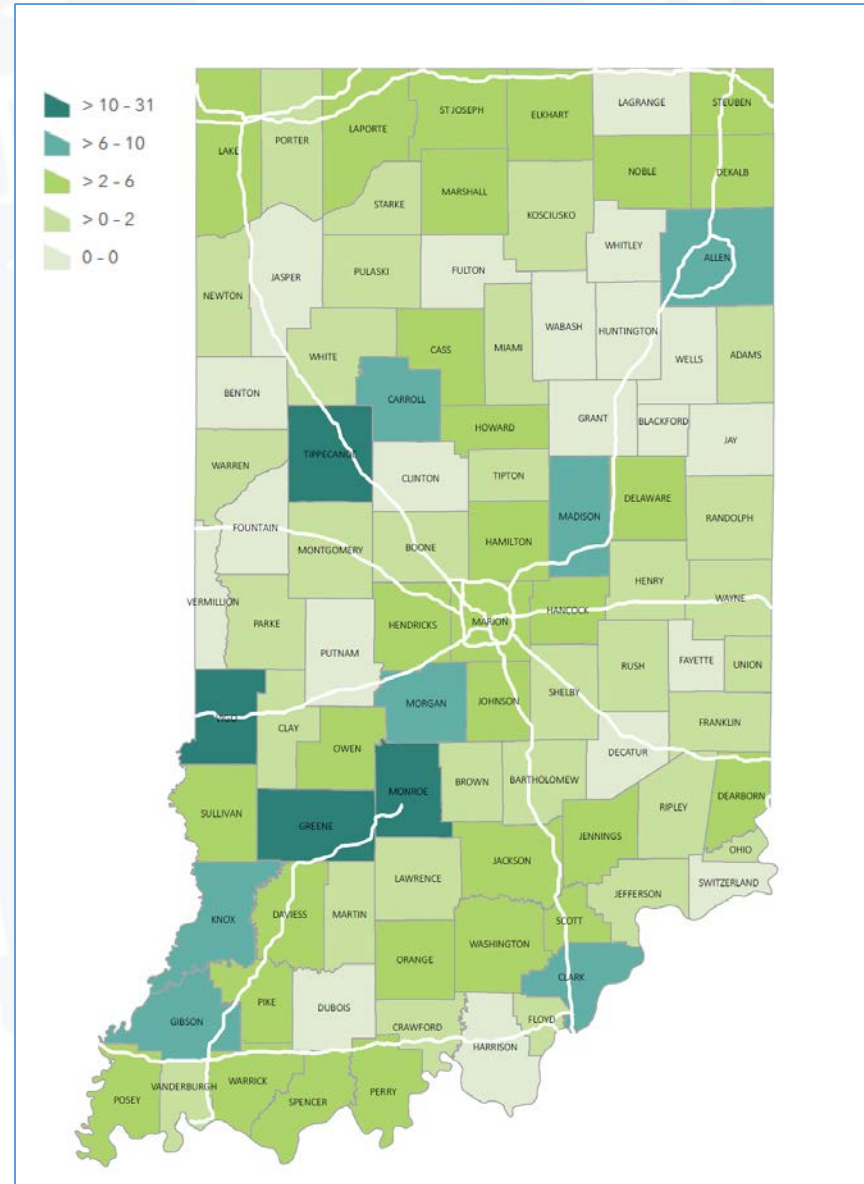
IN TESTIMONY WHERE OF, I have hereunto set my hand and caused to be affixed the seal of the Indiana Department of Transportation of the State of Indiana in the City of Indianapolis this 26th day of July, 2018.

INDIANA DEPARTMENT OF TRANSPORTATION

BY:   
Travis Underhill, Deputy Commissioner of Capital Program Management (for)  
Joseph McGuinness, Commissioner of the Indiana Department of Transportation

# INDOT Mitigation Sites

- Possible Uses
  - Open space/greenspace
  - Passive recreation
  - Wildlife habitat
  - Education
- Located Statewide
  - Most counties have at least one site
  - Counties with large past projects may have several sites



# Size Range of INDOT Mitigation Sites

Range	<i>Crawfordsville</i>	<i>Fort Wayne</i>	<i>Greenfield</i>	<i>LaPorte</i>	<i>Seymour</i>	<i>Vincennes</i>	Total
Very Small (<5 ac.)	5	8	5	4	2	3	27
Small (5 to 20 ac.)	2	3	2	5	10	6	28
Medium (20 to 50 ac.)	4		1	2	2	5	14
Large (>50 ac)	1	1			2	9	13
<b>Total</b>	<b>12</b>	<b>12</b>	<b>8</b>	<b>11</b>	<b>16</b>	<b>23</b>	<b>82</b>

# Transfer Process (Proposed)

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1. INDOT verifies that mitigation site is ready to be transferred
2. Commissioner declares property non-marketable
3. Property is offered through political notification

*If not taken during political notification:*

4. Property is offered to land management nonprofits through RFP
5. Proposals are evaluated by INDOT. Interviews may be held to clarify proposals.

*If suitable recipient is found:*

6. Property is transferred to selected recipient

# Property Management Proposal

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1. Proof of eligibility as non-profit land management organization
2. Property management plan
  - a. Financial assurances
  - b. Management goals
  - c. Proposed uses
  - d. Proposed access plan
  - e. Long-term management plan
  - f. Past 10 years of capital and operating statements
  - g. Performance measures
  - h. Recordkeeping and reporting
3. Evidence of likely success – Description of prior land management activities

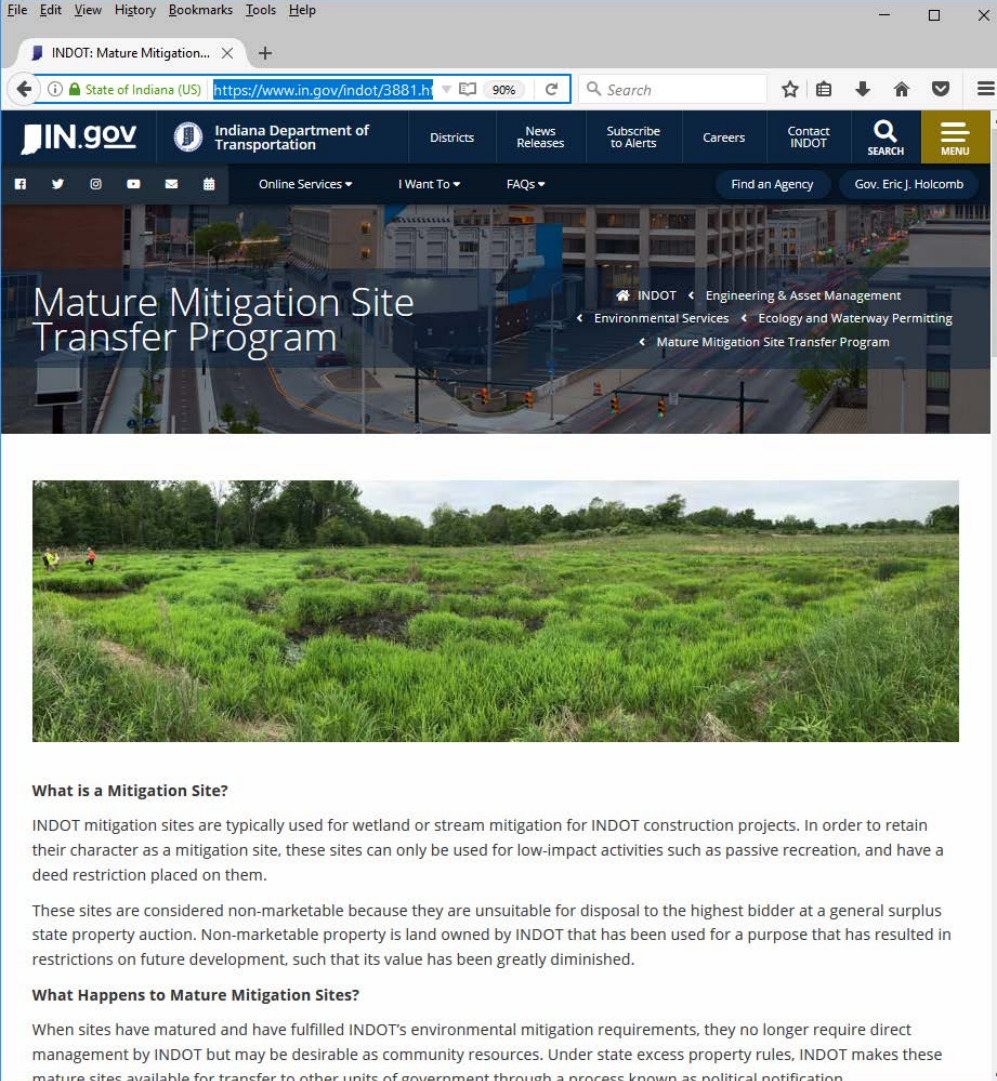
# Help Us Connect with Partners!

Program web page:

<https://www.in.gov/indot/3881.htm>

(Or search “INDOT mature mitigation”)

- Program description
- Program requirements
- Available sites
- Successful transfers
- Contact information



The screenshot shows a web browser window displaying the INDOT website. The address bar shows the URL <https://www.in.gov/indot/3881.htm>. The page header includes the IN.gov logo, the Indiana Department of Transportation name, and navigation links for Districts, News Releases, Subscribe to Alerts, Careers, and Contact INDOT. A search bar and a menu icon are also present. The main content area features a large image of a city street with the title "Mature Mitigation Site Transfer Program". Below the image is a smaller photograph of a lush green wetland area. The text below the image explains the program and provides contact information.

**What is a Mitigation Site?**

INDOT mitigation sites are typically used for wetland or stream mitigation for INDOT construction projects. In order to retain their character as a mitigation site, these sites can only be used for low-impact activities such as passive recreation, and have a deed restriction placed on them.

These sites are considered non-marketable because they are unsuitable for disposal to the highest bidder at a general surplus state property auction. Non-marketable property is land owned by INDOT that has been used for a purpose that has resulted in restrictions on future development, such that its value has been greatly diminished.

**What Happens to Mature Mitigation Sites?**

When sites have matured and have fulfilled INDOT's environmental mitigation requirements, they no longer require direct management by INDOT but may be desirable as community resources. Under state excess property rules, INDOT makes these mature sites available for transfer to other units of government through a process known as political notification.

# Questions?

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