



# Confessions of a Mitigation Implementing Entity (MIE): In the Context of a Programmatic HCP

National HCP Coalition Annual Meeting November 13-  
15, 2019 National Conservation Training Center  
Shepherdstown, WV

# Midwest Wind Energy MSHCP-MIE Selection Process

- April 9, 2015: Response to RFI for MIE role
- Feb 17, 2016: Comments on the January, 2016 version (Draft 3) of the MWE HCP
- Mar 1, 2016: REA Model comparison V4 vs. V6
- May 18, 2016: Notification letter of RES selection as MIE from AWEA
- June 28, 2016: MSHCP Review – Changes in Public Draft Version vs. Draft 3
- Oct 12, 2016: Response to MWE HCP Public Notice Comments
- Nov 14, 2016: Comments on REA V7 Credit Methodology Models
- Feb 7, 2017: Comments on MWE HCP Final Draft

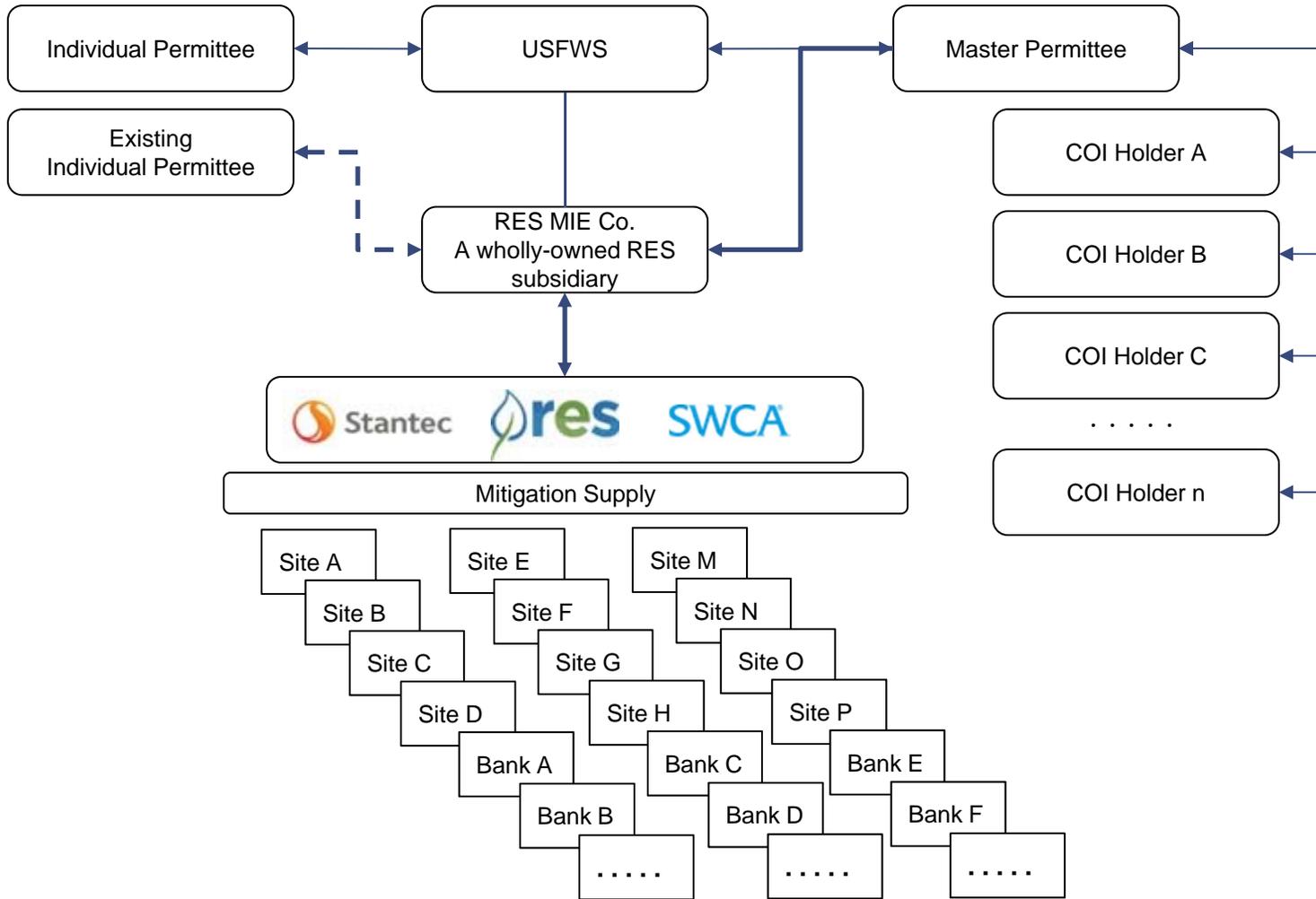
# Draft MWE MS HCP

- MSHCP 45-year duration
- Permittee projects in 8 states with 9 species including Bald Eagle
- New Permittee projects for initial 15 years
- Existing Permittee projects may opt-in in first 15 years
- Master-Permittee/COI Holders can use MIE
  - ITP Permittees use own solution delivery approach
- MIE approach intended to deliver programmatic mitigation at scale
- Impact Assessment methodologies used: REA for Direct impacts; HEA for Indirect impacts
- Mitigation fees set within 1 year of MIE selection (All-in fee: Price/Acre)
- Payment before on-the-ground disturbance, if occupied habitat, or before turbine commencement, if not-occupied habitat

# MIE Role Per Draft HCP

- Receive fees from Master Permittee, aggregate/manage/utilize fees
- Deliver results per MSHCP guidance augmented via guidance from USFWS Field Offices and State agencies
- Funding assurances by Permittee to FWS directly
- Funding assurances by Permittee via MIE TBD
- Mitigation habitat restoration plans
- Project elements: a) site identification; b) restoration and enhancement; c) monitoring and adaptive management; d) regulatory compliance; e) mitigation site management; f) changed circumstance/ remedial measures; g) contingency h) easement; i) stewardship; and j) financial assurance
- Annual Work Plan and Budget
- Annual Compliance Plan
- Report on Changed Circumstances
- Fee adjustment after 3-year review

# MIE Delivery Flow



# Supply Enabled by Agency-Approved Methods

## Components

- HCP Enabled Delivery
- HEA and REA Methodologies
- Work Together to Reduce Uncertainty
  - Address Methods in Development
  - Address State-specific needs
  - Mitigation Plan Templates
  - Apply HEA Ratios to enable consolidated restoration sites
  - Apply habitats suitable for multi-species credits

MWE MSHCP DRAFT April 2, 2015 Plan Implementation Guidance							
Species	Impacts	Mitigation Measures	Methodologies				
Indiana Bat	Total Estimated Take 7,352 adult and pup female I bats	1) Protection of existing summer habitat 2) Restoration of summer habitat 3) Protection of hibernaculum	RE A Model				
			Estimated offset acreage required per take of 1 bat				
			4.25 acres/bat for foraging habitat 1 acre/bat for summer maternity roost habitat	Estimated Mitigation Habitat Restoration Requirement (75% of mitigation needs) - 5,475 ac. foraging habitat			
	Total Estimated Habitat Loss 3,194 acres of I bat habitat	1) Restoration of grassland 2) Restoration of early successional forest 3) Restoration of mature forest 4) Restoration of grassland (60%), early successional forest (20%), mature forest (20%)	HE A Model				
			Estimated Habitat Restoration Replacement Ratio				
			0.1 1.6 2.3 0.84	Estimated Mitigation Habitat Restoration Requirement 319 5,111 7,346 2,683			
Northern Long-Eared Bat	Total Estimated Habitat Loss 5,652 acres of NLE habitat	1) Restoration of grassland 2) Restoration of early successional forest 3) Restoration of mature forest 4) Restoration of grassland (60%), early successional forest (20%), mature forest (20%)	Potential magnitude and types of mitigation to be included in next draft of the MWE MSHCP. The NLE REA model is currently under				
			HE A Model				
			Estimated Habitat Restoration Replacement Ratio				
			0.1 1.6 2.3 0.84	Estimated Mitigation Habitat Restoration Requirement 565 9,043 13,000 4,748			
			Little Brown Bat	Total Estimated Habitat Loss 5,652 acres of LBB habitat	1) Restoration of grassland 2) Restoration of early successional forest 3) Restoration of mature forest 4) Restoration of grassland (60%), early successional forest (20%), mature forest (20%)	Potential magnitude and types of mitigation to be included in next draft of the MWE MSHCP. The Little Brown Bat REA model is currently under development.	
						HE A Model	
Estimated Habitat Restoration Replacement Ratio							
0.1 1.6 2.3 0.84	Estimated Mitigation Habitat Restoration Requirement 565 9,043 13,000 4,748						
Kirtland's Warbler	Total Estimated Take 57 Kirtland's warblers	1) Restoration and management of breeding habitat				Estimated Habitat Restoration Replacement	
						2 warblers need at least 8 acres + 30 - 40 ac. to raise young	150
	Total Estimated Habitat Loss 30 acres of KW habitat	1) Restoration of early successional forest	HE A Model				
		Estimated Habitat Restoration Replacement Ratio					
		1.6	Estimated Mitigation Habitat Restoration Requirement	48			
Interior Least Tern	Total Estimated Take 3 interior least tern	1) Creation of nesting site.	Estimated Mitigation Habitat Restoration Requirement				
			30 ac. supports up to 87 nests	30			
Piping Plover	Total Estimated Take 11 piping plovers	1) Creation of 2 nesting sites	Estimated Mitigation Habitat Restoration Requirement				
			2 sites (30 ac. each) x 15 nests/site	60			

# Delivering as MIE

- Enabling Programmatic Agreement
- Demand Forecast
- Impact Analysis
  - Species / Locations / Volumes / Timetables
  - Apply HEA & REA
  - State-Specific Components
- Financial Model
- Mitigation Program Design
  - Solicitor Input
  - Land Search Parameters
  - Resource Allocation
- Master Instrument/State-Specific Mitigation Plans
- Fee Development
- Land Acquisition
- Mitigation Habitat Restoration Plan Development
- Agency Coordination and Approval
- Mitigation Site Operations
- Mitigation Site Monitoring
- Financial Assurances
- Long Term Steward/Third Party Easement Holder

# Issues

- **Mitigation required within the same state as impact**
- **5-year rolling mitigation is complicated versus a permanent, up front approach**
- **Tracking of mitigation projects**
- **Guidelines on habitat types appear to be strict and contrary to the HEA**
- **Restoration versus preservation?**
- **Metrics used to measure the success of a mitigation site**
- **NLE and Little Brown Bat in the MSHCP since they are not yet explicitly listed**

# Issues

- **Stacking ratios-LBB add significant cost**
- **Summer Habitat Restoration Fund (SHRF)**
- **REA Model mechanics**
- **Indirect Take from Habitat Impacts**
- **Clarity of mitigation funding required for Kirtland's Warbler, Interior Least Tern, and Piping Plover**
- **Mitigation site-related changed circumstances and alternative mitigation site acquisition**
- **Easement language changes to make them operational**