



**US Army Corps  
of Engineers**®  
New England District

696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

**Date:** January 11, 2011  
**File Number:** NAE-2009-1349  
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The District Engineer of the New England District, Corps of Engineers (“Corps”) announces the approval of Ducks Unlimited’s Vermont In-lieu Fee (“DU-VT ILF”) Program covering the State of Vermont.

**SPONSOR: Ducks Unlimited (“DU”), 1220 Eisenhower Place, Ann Arbor, MI 48108**

The DU-VT ILF program is established as a result of the January 2011 signing, by DU and the Corps, of an ILF instrument. The entire instrument is available on the Corps website (<http://www.nae.usace.army.mil/reg/index/htm>). The process to develop the instrument followed 33 CFR 332, Compensatory Mitigation for Losses of Aquatic Resources (“Mitigation Rule”). The Mitigation Rule was published in the Federal Register on April 10, 2008.

The goals and objectives of the DU-VT ILF program, as stated in the instrument, are:

- Provide an alternative to permittee-responsible compensatory mitigation that will effectively replace functions and services lost through permitted impacts.
- Provide a compensatory mitigation option for Corps Civil Works projects.
- Function as an option for resolution of enforcement cases.
- Minimize the temporal loss of wetland functions and services by gaining approval of mitigation sites in advance of mitigation needs as funds allow.
- Create a program that has a level of accountability commensurate with mitigation banks as specified in 33 CFR Part 332.
- Provide projects to meet current and expected demand for credits.
- Achieve ecological success on a watershed basis by providing wetland types and functions that are appropriate, (e.g., identification of vulnerable wetlands in the watershed, stressors, ecological restoration opportunities, and priority conservation areas) to the service area and by integrating ILF Program projects with other conservation goals and objectives, whenever possible.

This mechanism will help offset unavoidable impacts to wetlands and other protected natural resources at one site by preserving or restoring resources of a similar nature at another. This gives the Corps, in consultation with

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the federal resource agencies, the option of requiring a fee in lieu of on-the-ground mitigation provided by the permittee.

The primary purpose for the program is for use with Regulatory permit actions.

After all efforts have been made to avoid or minimize those impacts, this program will provide permit applicants an efficient and workable alternative while providing a better outcome for our wetland habitats. The fees will be used to restore, enhance, create, and/or preserve aquatic resources and their associated uplands.

**How the program works:** ILF funds are generated when an applicant seeks a permit for a construction project that impacts aquatic resources and the Corps approves the purchase of credits from the ILF. Before approving the purchase of credits, the Corps reviews the project to determine if the impact can be avoided. If the applicant proposes to purchase credits from the DU-VT ILF as the most appropriate means of addressing the lost resource functions and values, the Corps determines the number of credits needed, using the district's current Mitigation Guidance. The cost of the ILF credits will be based on the per acre price determined by DU which is subject to change on an annual basis. The specific fee paid for the ILF credit(s) is paid into DU's ILF account by the applicant and tracked by service area.

As Sponsor, DU's role is to identify priorities for wetland restoration, enhancement, creation and/or preservation in the same service area as the impacts. DU makes recommendations on where the ILF funds should be used, based on a scoring methodology, and presents proposals for funding to an Interagency Review Team ("IRT"). The IRT is made up of state and federal agencies and chaired by the Corps. Final decisions are made by the Corps in consultation with the IRT. Once the projects are chosen, DU is responsible for seeing that the projects are executed and that long term stewardship is assured.

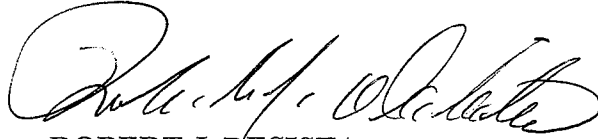
DU plays no role in any permitting decision or in determining appropriate mitigation for aquatic resource nor does DU participate on the IRT.

As this is a new program in Vermont, the Corps and DU are offering a workshop to introduce the public to the program and how it will operate. It will be given in conjunction with Vermont Agency of Natural Resources, Department of Environmental Conservation, presentations on new Wetland Rules and changes in Vermont's jurisdiction related to rivers and streams. The workshop will be held on **February 1, 2011, 10 am – 1 pm in the Hazens Notch Room, Osgood Building, 103 South Main Street, Waterbury, Vermont**. Seating is limited to 60. **Please RSVP to Mike Adams at [michael.s.adams@usace.army.mil](mailto:michael.s.adams@usace.army.mil) or (802) 879-9672.**  
**DIRECTIONS:** From 89 take exit 10, head toward Waterbury. Take left on to Route 2, at 2<sup>nd</sup> set of lights turn right onto Park Row. After the stop sign, go straight. The Summit Center is located in the Osgood Building, the first building on the left with parking available on the right. The Summit Center is on the Ground Floor with a front entrance for general public.

For more information on the New England District Corps of Engineers programs, visit our website at <http://www.nae.usace.army.mil>.

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**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK NOR DOES THE IN-LIEU FEE PROGRAM PREJUDGE FUTURE DEVELOPMENT PROJECTS WITHIN THE SERVICE AREA.**



**ROBERT J. DESISTA**  
Chief, Regulatory Division

If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil). You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

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ADDRESS: \_\_\_\_\_