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New England District

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PUBLIC NOTICE

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This public notice is to share with the public the **“Ducks Unlimited Vermont In-Lieu Fee Program Annual Report – January 1, 2020 – December 31, 2020” dated “March 31, 2021”**. The In-lieu Fee (ILF) program serves as an alternative form of compensation for impacts to aquatic resources authorized by the New England District Army Corps of Engineers (Corps) and/or the State of Vermont Department of Environmental Conservation.

Compensatory mitigation occurs in circumstances where a permittee is required to compensate for the functions and values of aquatic resources lost as a result of the authorization after all efforts are made to avoid and minimize impacts. ILF is an option available to the applicant instead of completing permittee-responsible mitigation. Use of the ILF program is contingent upon Corps and/or State approval.

All ILF agreements in New England are available on the Corps’ website:
<https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/In-Lieu-Fee-Programs/>

Frank J. DelGiudice
Chief, Permits and Enforcement Branch
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. 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.

NAME: _____

ADDRESS: _____

Ducks Unlimited Vermont In-Lieu Fee Program

Annual Report – January 1, 2020 – December 31, 2020



Three-mile bridge floodplain restoration, Middlebury Vermont 2020.



**GREAT LAKES &
ATLANTIC REGION**

March 31, 2021

1. Executive Summary

The Ducks Unlimited (DU) Vermont In-Lieu Fee Program (DU-VT-ILF) was established in 2011 as an option for compensatory mitigation in Vermont. The program has four Service Areas. The majority of payments received have been in the Richelieu Service Area. This trend continued in 2020, with the only payments received occurring in the Richelieu Service Area. DU has acquired and initiated projects in all Service Areas except for the Upper Hudson Service Area where only 1.08-credits have been sold. An instrument modification was approved to enable for the Interagency Review Team (IRT) to consider requests to transfer credits to an adjacent Service Area where they may be more readily satisfied. This modification will enable larger project budget to facilitate a project in the Upper Hudson Service Area. With approval of this amendment, DU has initiated a site search in the Upper Hudson. DU has been conducting outreach to area conservation partners to identify a suitable project. DU will continue to work with the Corps and the IRT to see that credit obligations are met. The following sections describe program mechanics, funds collected, and progress towards implementation in each Service Area. In sum DU has protected three properties in three service areas (Richelieu, Connecticut River, St. Francois) totaling 565.24-acres, and on these sites DU anticipates being able to deliver approximately 57.584-credits. Through 2020, a total of 38.3720-credits have been sold through the DU-VT-ILF Program.

2. Introduction

The Ducks Unlimited Vermont In-Lieu Fee Program (DU-VT-ILF) is an option for compensatory mitigation for unavoidable impacts to waters of the United States (U.S.) in the State of Vermont, and adjacent portions of New York. Permits are required by the U.S. Army Corps of Engineers (“Corps”) for the discharge of dredged or fill material into waters of the U.S. under Section 404 of the Clean Water Act (CWA); for work and structures in or affecting navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act; and by the Vermont Department of Environmental Conservation (DEC) under Section 9 of the Vermont Wetland Rules. These regulatory agencies require that aquatic resource functions and services lost due to impacts be replaced through compensatory mitigation after addressing avoidance and minimization of impacts. The DU-VT ILF program contains four service areas that cover the

entire state of Vermont, and three 8-digit Hydrologic Unit Code watersheds that extend into New York (Figure 1). This report outlines the DU-VT ILF program activities from January 1, 2020 to December 31, 2020.

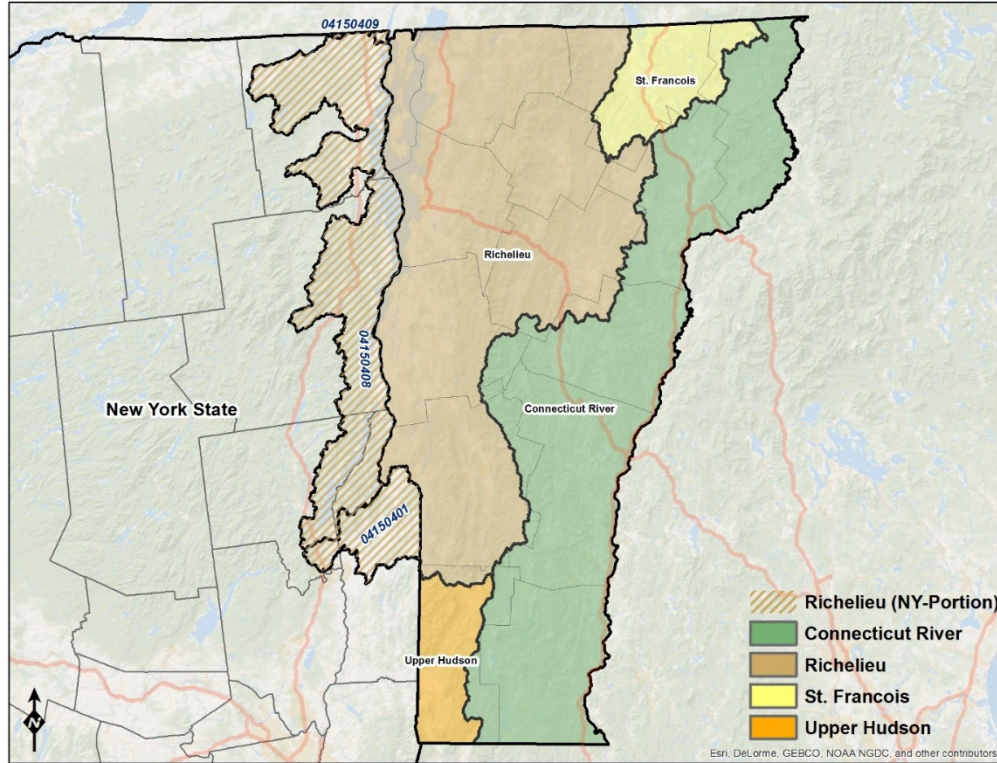


Figure 1. Service Area Map. The VT-ILF program consists of 4-services areas. The Richelieu Service Area extends into New York – payments into the VT-ILF program for New York Impacts must be satisfied in the Vermont portion of the Richelieu Service Area.

3. Impacts and Fees Received

During the period of this annual report, nine (9) In-Lieu Fee (ILF) payments were received in one (1) service area. The tables that follow provide information on ILF payments, impact types and amounts, and funds available for future ILF projects.

- Table 1 provides a full list of the permitted impacts that have generated ILF payments in 2020. Included in this table is the applicant, date the payment was received, project name, permit numbers, town of impact, habitat type impacted, required amount of compensatory mitigation and the amount of the payment. This table is sorted by service area.

- Table 2 shows the financial account ledger for the DU-VT ILF program. Included in this table is the starting balance, payments received, administration fees collected, interest earned, disbursements made and the remaining account balance. This table is broken down by service area.
- Table 3 is the credit ledger for the DU-VT ILF program. This table shows the authorized advance credits, advance credits sold, credits released, released credits sold (in excess of satisfied advance credits), and the total credits available, broken down by service area.

4. Project Implementation

Richelieu Service Area

Three Mile Bridge is the first ILF site in the Richelieu Service Area, it was constructed in 2018, and an as-built report was submitted on March 21, 2019. The site was planted with shrubs and trees in the spring of 2019. Based on site conditions at the as-built stage, the site is expected to produce approximately 22.81-wetland credits. The second monitoring report was submitted on December 29, 2020, and in revised form on March 22, 2021, indicating the site is generally progressing well towards performance standards. In 2021 DU submitted an interim credit release and performance standards approach for the site for consideration by the IRT.

The project at Three Mile Bridge Road adds flood storage to the Middlebury River floodplain through installation of ditch plugs and contouring along old swale features. Additionally, there is an extensive vegetation management component at the site, whereby DU is controlling reed canary grass and using a combination of tilling, herbicide application, and seeding/planting to steer the community toward a native wetland plant community. Herbicide applications were performed in 2019 and 2020 to control reed canary grass and narrow-leaf cattail at Three Mile Bridge Road. DU will continue invasive species management in 2021. Applications north of the road focused on reed-canary grass control, and areas to the south of the road focused on a combination of reed-canary grass control and narrow-leaf cattail.

DU donated the property to the State of Vermont into Cornwall Swamp Wildlife Management Area. DU provided funds for a long-term stewardship endowment for the site to be managed by the State of Vermont (\$100,000). A Corps approved long-term management plan was filed to the deed. DU retains a site access and management easement to monitor and adaptively manage the site during the active monitoring period.

Connecticut River Service Area

In 2018 DU closed on a 183.39-acre (+/-) property in the Connecticut River SA, called the Duren Mountain Swamp Site. DU submitted a final mitigation plan for the site in 2019 which was approved by the Corps on March 5, 2020. The site protects a rare plant community (northern white cedar swamp), big game species (moose, deer, bear), and a beaver ponded wetland provides habitat for waterfowl (e.g., mallard, black, wood duck). DU donated the property to the Northeast Wilderness Trust (NEWT) for long-term stewardship and management. A Corps approved long-term management plan was filed to the deed at the time of transfer to NEWT. DU provided \$56,371.00 in long-term stewardship endowment funds to NEWT which was placed in a non-wasting, interest bearing account managed by a third-party fiduciary. The site produced 11.11-credits. DU retained a conservation easement on the property and placed \$51,345 in an internal non-wasting endowment account to support CE monitoring and enforcement. All requirements of the mitigation plan have been fulfilled.

St. Francois Service Area

DU closed on the Willoughby Lake Road Site, a 243.90-acre property in the St. Francois SA in early 2019. Planning work completed in 2020 included a wetland delineation, topographic survey, soil data collection, and engineering design. A revised mitigation plan was submitted on August 24, 2020, and following discussion and response to comments from the IRT, a final mitigation plan for the site was submitted on March 10, 2021. The project will be phased as funding levels permit construction. DU estimates the site will produce 23.394-credits. NEWT is expected to serve as the long-term property owner, with DU retaining long-term management responsibilities.

Upper Hudson Service Area

Only two credit sales totaling 1.08-credits have occurred in the Upper Hudson River SA. In 2020 an Instrument Amendment was approved to enable the District Engineer to consider a DU request to transfer associated funds to an adjacent Service Area where they can be more readily satisfied. DU is currently evaluating candidate sites for protection activities. DU anticipates securing a site in 2021 in this Service Area. Top focal areas include the Battenkill and Walloomsac River floodplains.

Table 1: Payments Received in 2020 by Service Area

DU-VT ILF Service Area	Applicant	Date Payment Received	Project Name	Permit Numbers	Town	Acres of Impact	Habitat Type Impacted	Required Compensatory Mitigation (Acres)	Amount of Payment
Richelieu	Vermont Agency of Transportation	2/11/2020	VTrans Colchester Interchange Project HES NH 5600(14)	NAE-2012-01730	Colchester	0.40 permanent; 0.03 temporary	PSS and PEM	0.40	\$69,640.40
Richelieu	Vermont Agency of Transportation	2/14/2020	VTrans Highgate Airport	VT Agency of Natural Resources permit # 2017-551	Highgate, VT	0.7199	PFO	0.108	\$18,802.79
Richelieu	Suncap Property Group (Fedex)	3/2/2020	FedEx Ground Distribution Center, South Burlington, Vermont	NAE-2016-00884	South Burlington	0.42	PEM	0.42	\$73,122.42
Richelieu	Bear Pond Road-Monkton	3/4/2020	Bear Pond Road-Monkton	VT Agency of Natural Resources Permit # 2014-314	Monkton	0.0065	PSS	0.049	\$8,550.69
Richelieu	Pinewood Manor, Inc.	3/31/2020	Pinewood Manor, Phase H & Phase G	VT Agency of Natural Resources Permit # 2001-050	Essex Junction	0.12	PFO / SS1	0.12	\$20,892.12
Richelieu	Vermont Agency of Transportation	6/25/2020	VTrans Interstate 89 Stormwater Retrofit St. Albans IM SWFR (2)	NAE-2018-02600	St. Albans	0.86	PEM	0.42	\$75,681.71
Richelieu	US Forest Service	7/14/2020	U.S. Dept. of Agriculture – Forest Service (USDA-FS) Supervisor's Office, Mendon, Vermont	NAE-2018-02592	Mendon	0.30	0.365 PFO & 0.04 PEM	0.405	\$72,978.80
Richelieu	Champlain Valley Educational Services	10/2/2020	CVES Main Campus	NAN-2020-00055-UCO	Plattsburgh, New York	0.236	PFO	1.00	\$174,101.00 <i>(old rate based on permit issue date)</i>
Richelieu	Pop the Trunk, LLC	11/23/2020	Pop the Trunk, LLC	VT Agency of Natural	Charlotte	0.33	0.33 PSS	0.24	\$41,784.24

DU-VT ILF Service Area	Applicant	Date Payment Received	Project Name	Permit Numbers	Town	Acres of Impact	Habitat Type Impacted	Required Compensatory Mitigation (Acres)	Amount of Payment
			Residential Development	Resources Permit Number 2015-679					
Totals								3.16	\$555,554.17

Table 2: 2020 Financial Account Ledger

The 2019 Annual report inadvertently included expenses that were incurred in calendar year 2020; note the starting account balances for January 1, 2020 reflect corrections.

*A no-cost loan was provided by DU to the Connecticut River Service Area to fulfill project obligations at the Duren Mountain Mitigation Site beyond those which could be covered directly by credit sales. The \$136,431.54 loan will be credited back to DU from future credit sales in the Service Area.

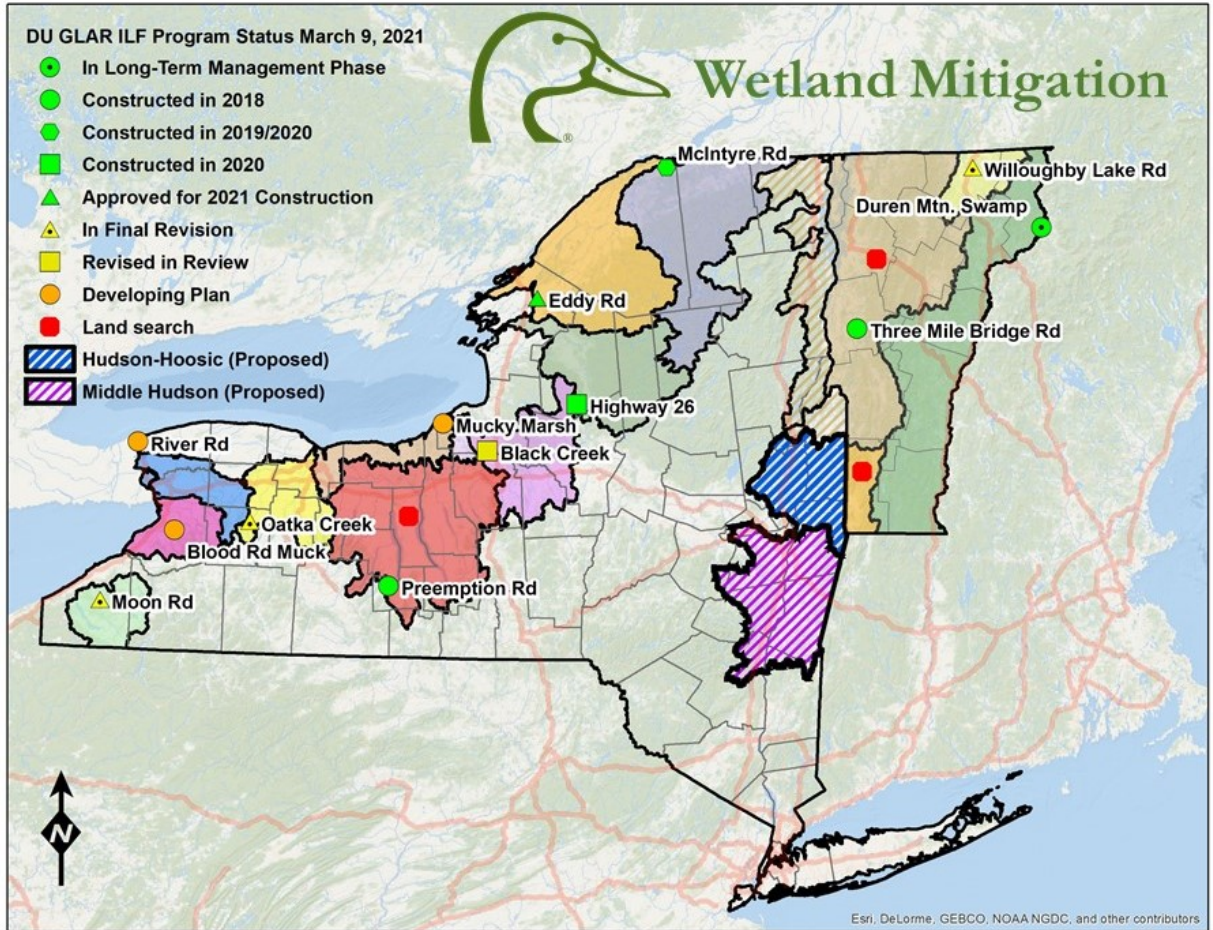
^The St. Francois Account Balance does not reflect a pending land acquisition expense \$320,606 that will clear in 2021.

DU-VT ILF Service Area	January 1, 2020 Account Balance	Payments	Administration Fee	Interest Earned	Disbursements	Remaining Account Balance December 31, 2020
*Connecticut River	\$169,321.43	\$0.00	\$0.00	\$0.00	\$305,752.97	-\$136,431.54
^St. Francois	\$545,358.89	\$0.00	\$0.00	\$5073.11	\$116,350.84	\$434,081.16
Richelieu	\$1,485,584.86	\$458,322.19	\$97,221.98	\$20,708.74	\$192,678.61	\$1,771,947.18
Upper Hudson	\$120,255.30	\$0.00	\$0.00	\$1,422.04	0.00	\$121,677.34
Totals	\$232,520.48	\$555,554.17	\$97,221.98	\$27,203.89	\$614,782.42	\$2,191,274.14

Table 3: 2020 Credit Ledger by Service Area

Service Area	Authorized Advance Credits	Previous Advance Credits Sold	Advance Credits Sold	Credits Released	Released Credits Sold	Credits Available
Connecticut River	25	3.3100	0.0000	11.11	3.31	25
St. Francois	25	8.0800	0.0000	0.0	0.0000	16.92
Richelieu	154	22.67	3.16	4.572	4.572	132.74
Upper Hudson	25	1.0800	0.0000	0.0	0.0000	23.92

Appendix B. Project Status Map



Graphic includes both the VT-ILF and the Sister New York ILF Program.