



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

PUBLIC NOTICE

11 Lincoln Street, Room 210
Essex Junction, Vermont 0545

Date: December 4, 2018
Comment Period Ends: January 4, 2019
File Number: NAE-2009-01349
In Reply Refer To: Michael S. Adams
Or by e-mail: michael.s.adams@usace.army.mil

The District Engineer is soliciting comments on the proposed Amendment #4 to the Ducks Unlimited, Inc. – Vermont In-lieu Fee Program Instrument (“DU-VT-ILF”). The Ducks Unlimited, Inc. (DU) is the sponsor of the Vermont ILF Program which serves as an alternative form of compensatory mitigation for aquatic resources impacts. The Vermont ILF program is authorized by the New England District, Army Corps of Engineers (the “Corps”). A copy of the signed ILF agreement entitled “Ducks Unlimited, Inc. – Vermont In-lieu Fee Program”, dated “12/07/10”, includes details about the ILF Program goals and objectives in general and can be found at the following link: <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/In-Lieu-Fee-Programs/VT/>

This Amendment modifies the instrument to:

- a) Delete the names and contact information on page 3 of the instrument and replace it with the address and phone number of DU’s main office.
- b) Modify the administrative fee for DU from 15% to 17.5%.
- c) Eliminate the pricing schedule in Appendix V so that no instrument modification is needed to adjust the pricing schedule. Any changes must be approved by the Corps.
- d) Change wording of two previous amendments (#1 and #2). It clarifies which 8-digit HUC watersheds within the Richelieu River service area that overlap the states of New York and Vermont are authorized for use in this instrument. Specifically, the Richelieu River service area includes the Mettawee River, Lake Champlain and Richelieu River watersheds and includes a revised map.

The entire Amendment #4 is attached.

The process for review of the request to modify the instrument will follow 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 Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposal. Any comments received will be considered by the Corps of Engineers to determine whether to amend the Instrument.

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In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact Michael Adams at (978) 318-8485 or (802) 872-2893.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the proposal. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice.

Robert J. DeSista
Deputy 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. 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: _____

AMENDMENT #4 TO THE
VERMONT IN-LIEU FEE PROGRAM INSTRUMENT

WHEREAS, the approved Ducks Unlimited, Inc. Vermont In-lieu Fee Program instrument was signed by Ducks Unlimited on January 6, 2011 and the Corps on January 4, 2011. Amendment #1 was signed by Ducks Unlimited on March 9, 2015 and the Corps on January 30, 2015. Amendment #2 was signed by Ducks Unlimited on June 10, 2015 and the Corps on June 29, 2015. Amendment #3 was signed by Ducks Unlimited on November 11, 2016, and the Corps of October 19, 2016.

NOW THEREFORE, the following changes shall be made to the Instrument:

Page 3 is modified with the new wording underlined and deleted wording crossed out:

~~*Ducks Unlimited, Inc. Administrative Contact*~~

~~*Chris Theriot
Manager of Conservation Programs
Ducks Unlimited, Inc.; Great Lakes/Atlantic Regional Office
1220 Eisenhower Place
Ann Arbor MI 48108
734.623.2000
etheriot@ducks.org*~~

~~*Ducks Unlimited, Inc. Biological Contact*~~

~~*Sarah Fleming
Regional Biologist/Mitigation Specialist
1220 Eisenhower Place
Ann Arbor MI 48108
734.623.2000
sfleming@ducks.org*~~

~~*Ducks Unlimited, Inc. Local Contacts*~~

~~*Ray Whittemore
Director of Conservation Programs—New England
122 Joe English Rd
New Boston, NH 03070
603.487.2175
rwhittemore@ducks.org*~~

~~*and*~~

~~*April Moulaert, PWS*~~

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~~*Waterscapes LLC—Contract Biologist with DU
36 Westminster Drive
Burlington, Vermont 05408*~~

*Ducks Unlimited, Inc.
Great Lakes/Atlantic Regional Office
7322 Newman Boulevard, Building 1
Dexter, Michigan 48130
(734) 623-2000*

In-Lieu Fee Program Account (p.17-18) is modified to change the administrative fee as follows with the new wording underlined and deleted wording crossed out:

DU will receive an administrative fee of ~~15%~~17.5% of the funds when funds are deposited into the DU Program account. The administrative fee will come from the deposited funds and is deemed to represent and reimburse reasonable overhead and related costs of administering the DU-VT ILF Program to accomplish the mitigation projects described herein.

Appendix V “2010 Credit Fee Schedule” is deleted so that no instrument modification is needed to adjust the pricing schedule.

ALSO, Amendments #1 and #2 modified the use of this instrument to include and exclude 8-digit Hydrologic Unit Code (HUC) watersheds of the Richelieu and Hudson River service areas within the State of New York that exist within the State of Vermont. This amendment clarifies the 8-digit HUC watersheds which are included in New York State. Therefore, the modified first sentence of the second paragraph under “Introduction and Statement of Need” in the instrument shall be modified as follows with new wording underlined and deleted wording crossed out:

The DU-VT ILF Program may be used for compensatory mitigation for unavoidable impacts to waters of the United States that are located within the State of Vermont; and ~~two~~three of the 8-digit Hydrologic Unit Code watersheds of the Richelieu River within the State of New York that exist within the State of Vermont but extend into New York. Specifically, this would include the 8-digit Hydrologic Unit Code watershed identified as Mettawee River, Lake Champlain and Richelieu River as identified on the attached map. However, all compensation projects will be in the State of Vermont.

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IN WITNESS WHEREOF, the undersigned have caused this amendment to be duly executed.

H. Dale Hall
CEO, Program Sponsor
Ducks Unlimited, Inc.

Date: _____

Jennifer L. McCarthy
Chief, Regulatory Division

Date: _____

