



PUBLIC NOTICE

Comment Period Begins: January 28, 2025

Comment Period Ends: February 27, 2025

File Number: NAE-2007-02926

In Reply Refer to: Ms. Erin Davis

Phone: (978) 856-5296

Email: Erin.B.Davis@usace.army.mil

SUBJECT:

This notice announces a request to modify the Commonwealth of Massachusetts In-Lieu Fee (ILF) Program Instrument for the addition of one project located in Stowe, Massachusetts.

ILF PROGRAM SPONSOR:

Massachusetts Department of Fish and Game
251 Causeway Street, Suite 400
Boston, Massachusetts 02114

BACKGROUND:

The Massachusetts Department of Fish and Game is the sponsor of the Massachusetts ILF Program which serves as an alternative form of compensatory mitigation for impacts to aquatic resources. The Massachusetts ILF program is authorized by the New England District, U.S. Army Corps of Engineers (USACE). A copy of the signed ILF agreement entitled "Commonwealth of Massachusetts Final In-Lieu Fee Program Instrument" dated "May 23, 2014," 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/Portals/74/docs/regulatory/Mitigation/MA/MAILFInstrument.pdf>

A project has been submitted as a proposed addition to the Massachusetts ILF Program Instrument pursuant to 33 CFR 332, Compensatory Mitigation for Losses of Aquatic Resources (Federal Register: April 10, 2008, effective June 9, 2008). Pursuant to 33 CFR 332.8(d), USACE provides public notice of proposed addition of ILF program mitigation sites.

The Massachusetts ILF Program accrued funds from the sale of compensatory mitigation credits resulting from USACE permitted impacts.

GENERAL INFORMATION:

An ILF program involves the restoration, establishment, re-establishment, enhancement, rehabilitation, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for Department of the Army permits. Similar to a mitigation bank, an ILF program sells compensatory mitigation credits to permittees whose

obligation to provide compensatory mitigation is then transferred to the ILF program sponsor. The operation and use of an ILF program is governed by an ILF program instrument. A group of federal and state regulatory and resource agency representatives known as the Interagency Review Team (IRT) oversees the establishment and management of the program. The IRT is chaired by the USACE and the primary role of the IRT is to facilitate the establishment of the ILF program through the development of an ILF Instrument. The IRT also reviews ILF mitigation proposals and provides comments to USACE. The approval of the use of the ILF program for specific projects is the decision of USACE pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act (CWA). USACE provides no guarantee that any individual or general permit proposing to use the ILF program for compensatory mitigation would be authorized.

PROJECT DESCRIPTION: See enclosed project narrative and overview map. A detailed project description consistent with a Prospectus is located here:
https://ribits.ops.usace.army.mil/ords/f?p=107:10:10638622690398::::P10_BANK_ID:7113

ESSENTIAL FISH HABITAT:

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). EFH describes waters and substrate necessary for fish to spawn, breed, feed, or grow to maturity.

The District Engineer has made a preliminary determination that site-specific adverse effects will not be substantial, if there is any impact at all. Further consultation with the National Marine Fisheries Service regarding EFH recommendations is being conducted and will be concluded prior to the final decision.

NATIONAL HISTORIC PRESERVATION ACT:

Based on USACE's initial review, the proposed activity would not affect historic properties. Additional review and consultation to fulfill requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the review process.

ENDANGERED SPECIES CONSULTATION:

The USACE is reviewing the applications for the potential impact on federally listed threatened or endangered species and their designated critical habitat pursuant to section 7 of the Endangered Species Act as amended. Our review will be concluded prior to the final decision.

OTHER GOVERNMENT AUTHORIZATIONS:

The states of Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island have approved Coastal Zone Management Programs. Where applicable, the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this public notice, we are requesting the state concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:

(X) Permit, license or assent from State.

(X) Permit from local wetland agency or conservation commission.

(X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

COMMENTS:

The USACE is soliciting comments from the public, federal, state, and local agencies and officials, Native Tribes, and other interested parties to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE to determine whether to issue, modify, condition, or deny a permit if needed for the proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act, and to determine the need for a public hearing and gauge the overall public interest of the proposed activity.

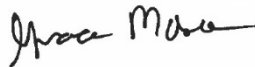
After the end of the comment period, the District Engineer will review all comments received and make a determination as to the potential of the proposed project to provide compensatory mitigation for activities authorized by DA permits. That determination will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

All comments received will be available for public review in their entirety and will be considered a matter of public record. 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 Ms. Erin Davis at Erin.B.Davis@usace.army.mil, (978) 856-5296.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the modification. Requests for a public hearing shall specifically state the reason(s) for holding a public hearing. The USACE 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. Copies of letters of objection will be forwarded to the applicant. Typically, the USACE will request that the applicant contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



Grace Moses
Chief, Technical Support Branch
Regulatory Division

Please contact Ms. Tina Chaisson at bettina.m.chaisson@usace.army.mil or (978) 318-8058 if you would like to be removed from our public notice mailing list.

Attachment C. Draft In-Lieu Fee (ILF) Project Prospectus

- (i) The objectives of the proposed ILF project.

The Town of Stow proposes to restore approximately 10-12 acres of an historically filled and altered wetland ecosystem that is part of a larger 111 acre property acquired from Stow Acres Country Club in 2023. The area proposed for restoration includes historically filled wetland (likely forested swamp), altered streams, and hydraulic connections. The relocation of fill will be designed to reestablish wetland hydrology on the driving range. It is anticipated that the driving range would support forested wetland and shrub swamp similar to the existing wetland to the west of the range. In addition to the wetland restoration, existing driving range infrastructure (fencing, tee pads, markers) located in the buffer zone to this wetland will be removed and the areas re-naturalized and enhanced by the removal of invasive species and planting of native species. Resource functions anticipated to be restored by the project include water storage and maintenance of characteristic plant community. It is anticipated that the project will also restore wildlife habitat, including habitat diversity and landscape connectivity, and restore biogeochemical cycling; however, it is not anticipated that these functions will be measured quantitatively as part of this project. The project is located adjacent to a forested wetland containing Atlantic White Cedar and coniferous swamp -- a locally unusual habitat -- and drains to the Assabet River via several small streams. Together these streams and channels afford approximately 6,000 linear feet of bank habitat on the site proposed for restoration. The project will restore natural wetland, increase flood storage, and improve water quality across the driving range area and in these tributary streams to the Assabet River.

- (ii) How the ILF project will be established and operated.

The driving range was constructed sometime in the late 1960s, by ditching new waterways and placing fill in the forested swamp. Prior to this work, the land was forested wetland with the front portion used for agriculture (the location of the existing driving range parking lot). In its current condition, the area targeted for wetland restoration is mapped as hydric soil but overlain with approximately 2' of sand and a manicured grass driving range. Soils surrounding the range are mapped as Swansea and Freetown muck. The project team will consider the potential to use the existing wetland to the west of the range to inform the final restoration design and performance standards.

The proposed project was initiated in 2020 when the town began negotiations with Stow Acres Country Club, the owners of the largest undeveloped area in Stow. Negotiations eventually led to the acquisition of the majority of the Stow Acres North Course by the Town of Stow in 2023, and the protection of 151 acres at the South Course from further development with a Conservation Restriction co-held by the Town and Stow Conservation Trust. This was the result of an innovative proactive partnership effort among the Town of Stow, Stow Conservation Trust, Stow Acres ownership, and a local developer. Stow Community Preservation Act Funds, a grant from the Municipal Vulnerability Preparedness (MVP) Program, and locally raised donations funded the

purchase. The town then completed a Climate Resilience Master Plan for the property in 2024, also with assistance from the MVP Program, which included a conceptual design for restoration of the filled wetlands at the driving range (<https://www.stow-ma.gov/stow-acres-open-space-recreation-and-housing-page/pages/final-north-course-climate-resilience-master>). This conceptual plan was prepared by BSC Group, Inc. for the Town of Stow. The Town has installed five monitoring wells with data loggers and is beginning to collect groundwater data for the site which will be used to inform the final design. The Town also plans to remove woody invasives surrounding the driving range between January and June 2025.

The next step in planning for the restoration will be hiring a qualified firm to complete design, engineering and permitting for the restoration and the site access road, and then selecting a qualified subcontractor to complete the work. The Town will work with the selected contractor to incorporate opportunities to remove and relocate historic fill and rework the design concepts that have been initially explored in a manner consistent with the requirements of the ILF program. An updated wetland delineation will be prepared as part of the design and permitting of the project. The Town has been in communication with the Massachusetts Division of Ecological Restoration and hopes to achieve Priority Project status in the next round of applications. The Town of Stow's Conservation Director is managing this project and coordinating with project partners and will engage additional subcontractors as needed to oversee and implement various aspects of the project. The Conservation Commission is strongly supportive of this effort and the implementation of the Stow Acres Climate Resilience Master Plan is the top community priority in its recently approved Open Space and Recreation Plan.

- (iii) The ILF service area (<https://www.mass.gov/info-details/ilfp-service-area-map>).

Quabbin/Worcester Plateau

- (iv) The general need for and technical feasibility of the proposed ILF project.

Upland, wetland and riverine habitats on the site have been degraded by its use as a golf course with a driving range, and by earlier farming activities. Surface and groundwater flows were altered by filling of wetlands and streams, excavation of a canal to direct flow to an irrigation pond, installation of now undersized culverts, sedimentation to streams, and ground compaction from decades of driving range use. Approximately 2' of sand have been placed on the site. Beavers have been trapped to maintain this altered system and invasive species have colonized edges along shrub swamps and forested wetlands.

The Stow Conservation Commission's acquisition of this area and commitment to increasing the climate resilience of the property offers an opportunity to restore altered areas and re-establish natural processes, improving habitat diversity, water quality, flood storage and overall ecological functioning of the area. The project team, working with BSC Group, Inc., has installed 5 groundwater monitoring wells and designed a concept-level wetland restoration plan for this area to restore a healthy mosaic of wetland and upland communities that will benefit diverse species. Next steps will include using the

groundwater monitoring data and observations from the adjacent wetland to finalize the restoration design and incorporate opportunities to relocate or reposition fill. Invasive species management is expected to begin prior to the restoration of the site. Public trails in this area, already constructed, and proposed observation areas, will allow the public to learn about habitat restoration and healthy wetlands.

The project is expected to be able to provide wetland mitigation credits from wetland restoration. It is expected that the stream mitigation owed in this service area will be provided by a previously approved project, and no other mitigation is currently owed in this service area. If USACE determines that the project is an acceptable use of in-lieu fee funds, performance standards for the project will be established in a draft mitigation plan that will be provided to USACE and the Interagency Review Team. It is expected that performance standards will include documenting wetland hydrology and native wetland vegetation within the wetland restoration area. If approved for in-lieu fee funding, the project plans to conduct post-construction monitoring over a period of no less than five years.

- (v) The proposed ownership arrangements and long-term management strategy for the in-lieu fee project site(s).

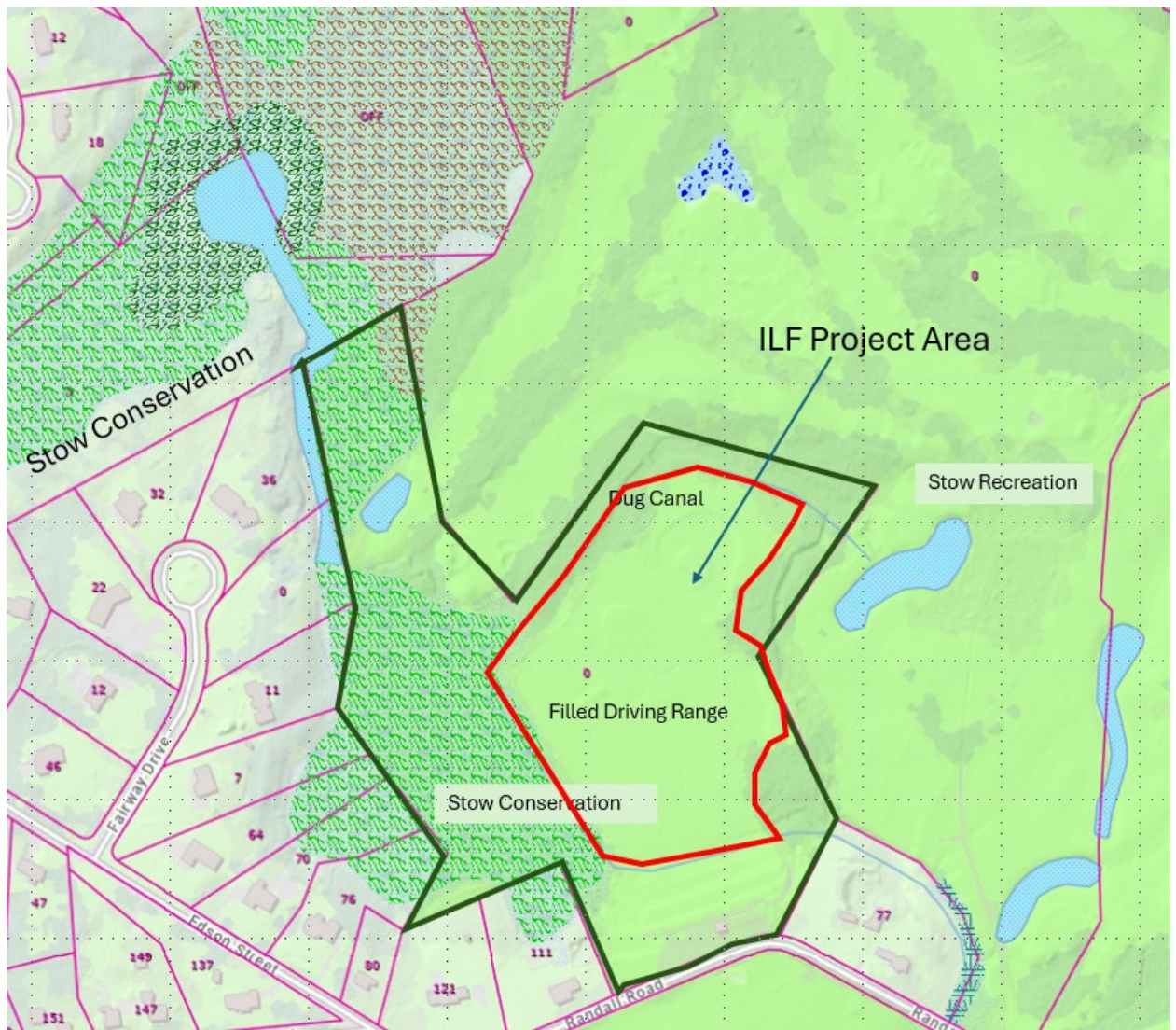
As noted, the project site is owned by the Town of Stow Conservation Commission in fee simple. The Commission expects to convey a conservation restriction on the site to Stow Conservation Trust or other third party holder in the coming year as required by the Community Preservation Act under the terms of the purchase. If USACE determines that the project is an acceptable use of in-lieu fee funds, the conservation restriction will meet the site protection requirements for mitigation sites including restricting activities such as vegetation clearing and maintenance and construction of recreational amenities such as trails and viewing platforms in areas that will be used to calculate mitigation credit following the model that conservation restrictions for previous projects of the Massachusetts In-Lieu Fee Program have used. The site is part of a larger priority conservation, restoration and community recreation area which includes an additional 90 acres owned by the Stow Recreation Commission. A formal MOU binds both landowners to collaborative management in accordance with the Climate Resilience Master Plan. In addition, 12 acres of adjacent wetland are owned by the Conservation Commission, including portions of the forested cedar swamp adjacent to the project site, and discussions about acquisition of additional portions of the swamp by the Conservation Commission are in process. As noted above, the Commission anticipates undertaking invasive species removal and monitoring beginning in January 2025 and is committed to the long-term management of the site using the Conservation Department's operating budget, supplemented by additional municipal funds as needed. It is not intended that the restoration design will rely on structures that require management, so invasive species

management and responding to any issues around trash dumping or trespass are expected to be the primary long-term management needs for the site.

- (vi) The qualifications of the Project Sponsor and any contractor/third-party to successfully complete the type of mitigation project proposed, including information describing any past such activities by the Project Sponsor and contractor/third-party.

The Stow Conservation Commission has a strong history of active land stewardship, and currently manages approximately 1600 acres of conservation land including six large public use properties and holds another 735 acres of Conservation Restrictions in Stow. Stow's Conservation Director has more than 40 years of experience in wetlands protection, permitting, and project management, as well as strong educational foundation in natural resources management and environmental education. Ingeborg Hegemann Clark, a 30+ year member of the Stow Conservation has extensive experience as a former Wetland Scientist at BSC Group, Inc., and serves as a member of the project team. She is also Past President of the Society of Wetland Scientists Professional Certification Committee, and current Chair of the Society of Wetland Scientists Wetland Restoration Section. She is also president of the local watershed association, OARS, and an adjunct professor at UMass/Lowell Francis College of Engineering, teaching courses including wetland ecology. It is anticipated that local expertise will be supplemented by the services of a qualified engineering firm with expertise in wetland restoration.

Stow Acres North Project Area



Forested Wetland – Deciduous



Forested Wetland – Mixed



Forested Wetland – Coniferous