



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 – July 1, 2023 – June 30, 2024”** dated **“November 8, 2024”**, last revised **“December 12, 2024”**. The In-lieu Fee (ILF) program serves as an alternative form of compensation for impacts to aquatic resources authorized by the United States Army Corps of Engineers (USACE) New England District 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 USACE 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/>

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Ducks Unlimited Vermont In-Lieu Fee Program

Annual Report – July 1, 2023– June 30, 2024



Three Mile Bridge, Middlebury, Vermont.



**GREAT LAKES &
ATLANTIC REGION**

First Submitted November 8, 2024 (within approved extension window)
Submitted in Revised Form December 12, 2024

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. In 2022 the program transitioned from a calendar year reporting to fiscal year reporting schedule (July 1 prior year to June 30 current year). Most payments received to date have been in the Richelieu Service Area. This trend continued in 2024, with 10 of 12 payments received occurring in the Richelieu Service Area, and 2 of the 12 occurring in the Connecticut River Service Area. In Fiscal Year 2024, the Program Instrument was amended to modernize and incorporate past amendments more seamlessly.

DU performed adaptive management at the Three Mile Bridge ILF site in the Richelieu Service Area. Work consisted of reed canary grass control and supplemental tree plantings to address mortality of past plantings. DU submitted a complete draft mitigation plan for the Twin Oaks Site in Brandon in the Richelieu Service Area, and is revising based on comments received by USACE and the IRT. DU is also exploring the possibility of working on lands owned by The Nature Conservancy in West Haven, VT along the Hubbardton River that may be a suitable restoration candidate at a site that if incorporated will be known as “Hubbardton River Clayplain Preserve” or HRCPP for short. In fiscal year 2024, DU acquired and initiated its first project in the Upper Hudson Service Area, at the Battenkill ILF Site.

The following sections describe program mechanics, funds collected, and progress towards implementation in each Service Area. In sum DU has protected four properties in three service areas (Richelieu, Connecticut River, St. Francois, and Upper Hudson) totaling 862.54 acres, and DU anticipates being able to deliver approximately 82 credits. Through June 30, 2024, a total of 52.70 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 portions of New York within the Lake Champlain watershed. 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 July 1, 2023 through June 30, 2024.

3. Impacts and Fees Received

During the period of this annual report, twelve (12) total In-Lieu Fee (ILF) payments were received across two (2) Service Areas. 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 from July 1, 2023 – June 30, 2024. 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.

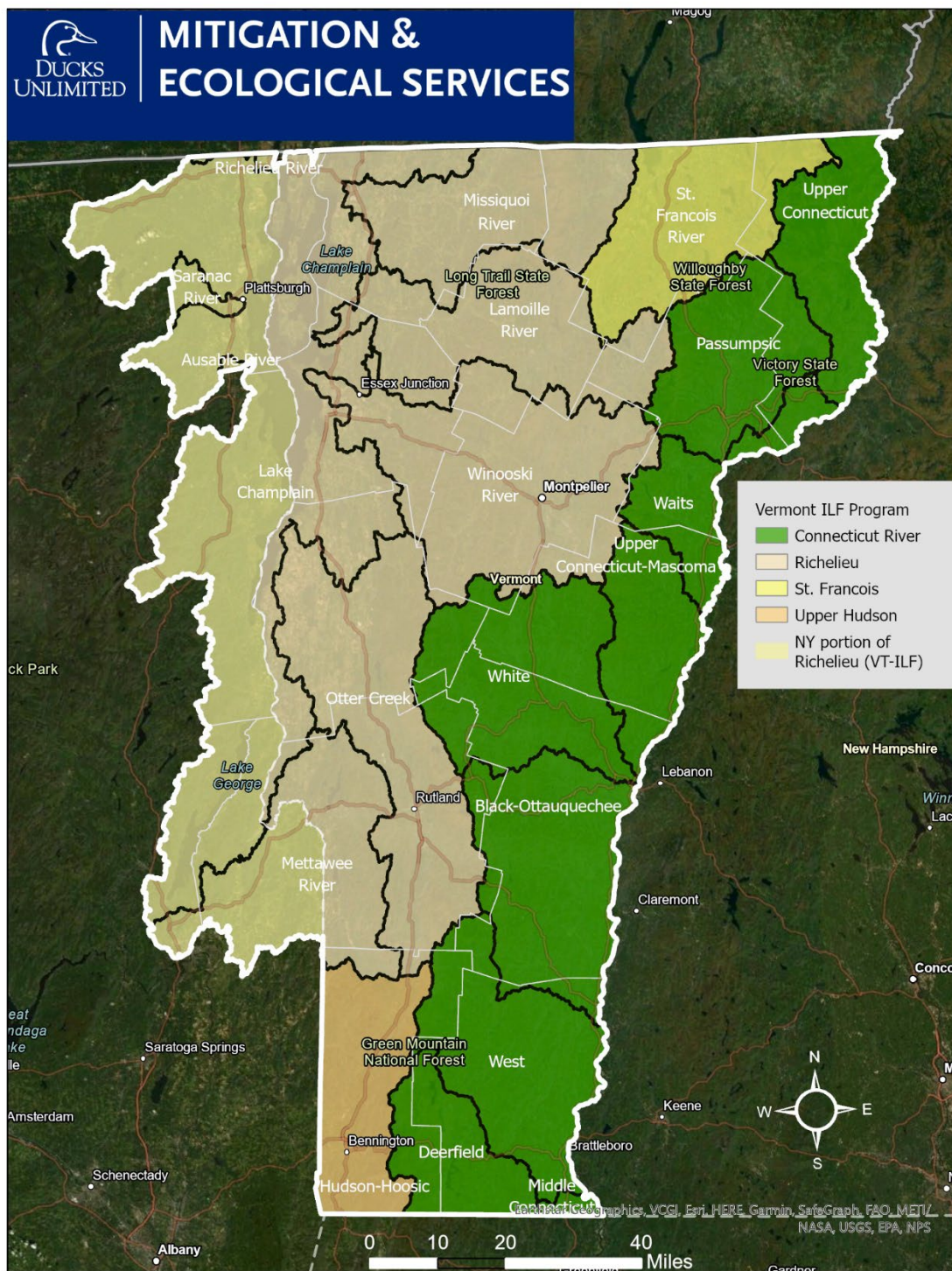


Figure 1. Service Area Map. The DU-VT-ILF program consists of 4 Service Areas. The Richelieu Service Area extends into New York – payments into the VT-ILF program for New York Impacts must be satisfied in the Vermont portion of the Richelieu Service Area. In 2024 portions of the Saranac River and Ausable River watersheds in NY were added to the NY portion of the Richelieu 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 and subsequent monitoring reports, the site is expected to produce approximately 20.81 wetland credits. The Fourth Monitoring Report was submitted on January 12, 2024.

DU donated the property to the State of Vermont as an addition to Cornwall Swamp Wildlife Management area in 2020. A Corps-approved long-term management plan was filed to the deed at the time of transfer to the State. DU provided \$100,000 in long-term stewardship endowment funds to the state for perpetual management of the site.

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, 2020, 2021, 2022, 2023 and 2024 to control reed canary grass, and DU will continue invasive species management in 2025. Since 2022 efforts have shifted to tree-replanting and maintenance mowing. A combination of drier than average conditions and competition from forbs and grasses hindered establishment of the trees planted at the site. A large-scale replanting was completed in November 2022 and 2023 and smaller scale replanting was completed in 2024 focusing on live stakes. DU performed semi-annual maintenance mowing around trees to help free them from competition.

DU submitted a draft mitigation plan for the proposed Twin Oaks site in March 2024. The proposed restoration work includes the removal of culverts, construction of several ditch plugs, disc plowing to reintroduce microtopography, control of invasive plants, and planting of native trees and shrubs. With Three Mile Bridge, this site is anticipated to meet current

credit obligations, but DU is pursuing the advancement of a third Richelieu site in anticipation of continued demand in this Service Area.

The proposed Hubbardton Clayplain Preserve Site in West Haven, VT will be a partnership between DU and The Nature Conservancy, who owns the site. The proposed project will not propose preservation credits as the site is already protected, but rather will focus on credit generation from wetland and stream restoration and rehabilitation through hydrologic improvements (floodplain lowering, ditch plugs, shallow depressions) and wetland and buffer enhancement via invasive species control and native tree and shrub planting. DU anticipates submitting a Prospectus-level concept document for the Hubbardton River Clayplain Preserve site for IRT consideration in fiscal year 2025. DU anticipates entering into a formal agreement with The Nature Conservancy following approval of the Prospectus.

Connecticut River Service Area

In 2018, DU closed on a 183.39-acre (+/-) property in the Connecticut River Service Area. DU submitted a final mitigation plan for the Connecticut River 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, and wood ducks). 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 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 funded an internal non-wasting endowment to support CE monitoring and enforcement. All requirements of the mitigation plan have been fulfilled. DU continues to monitor the easement on this property and the property was in compliance with the terms of the easement in 2024.

St. Francois Service Area

DU closed on a 243.90-acre property in the St. Francois Service Area in early 2019. Planning work included wetland delineation, topographic survey, soil data collection, and engineering design, which were completed in 2020. A revised mitigation plan was submitted on August 24, 2020, and following discussion and response to agency comments, a final mitigation plan for the site was submitted on March 10, 2021, and approved on April 9, 2021. The project will be phased as funding levels permit construction. DU estimates the site will produce 23.394-credits. DU identified a 501(c) 3 nonprofit, Trust for Wildlife, as a potentially suitable and interested long-term owner of the property and drafted a donation agreement and associated documents which are under review by the nonprofit. DU anticipates seeking formal concurrence from the IRT that TFW is a suitable long-term steward, and provide draft long-term management plan, donation agreements, and supporting contracts to the USACE prior to any transfer of ownership or filing of conservation easement. To save USACE review, we are gathering input from the Trust for Wildlife, prior to relaying documentation to the IRT. There have been no credit sales in this watershed in recent years, which hinders opportunities to fund construction. DU is exploring possibilities to implement a portion of the project on a prorated basis through grant funding opportunities; DU will again seek concurrence from the IRT before deploying any complementary funding sources at the project and understands credit generation will need to be reduced accordingly

Upper Hudson Service Area

In fiscal year 2024, the IRT approved the Prospectus for the proposed Battenkill ILF Site. DU subsequently closed on two adjacent properties comprising both banks of the Battenkill River and totaling approximately 128.30 acres, featuring a mix of existing wetlands to be preserved or enhanced and uplands with restoration potential. Only two credit sales totaling 1.081-credits have occurred in the Upper Hudson River Service Area. 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. Only 1.081 credits have been sold in that service area, which DU demonstrated was not sufficient to complete a wetland mitigation project at the site as shown by the proposed

project budget. To address this deficit, DU requested the transfer of 6.8 credits (\$1,011,695.35) from the Richelieu watershed to fund a complete budget that will address the restoration needs of the site and associated requirements through all project phases. The Army Corps approved the transfer and the funds have been transferred to the Upper Hudson Service Area sub-account (this transfer is reflected on the Transfer column of Table 2). Field data collection including wetland delineations and a preliminary IRT site visit were completed in fiscal year 2024. The mitigation plan will be developed in fiscal year 2025.

Table 1: Payments Received in Fiscal Year 2024 by Service Area

DU-VT ILF Service Area	Applicant / Permittee	Date Payment Received	Project Name	Permit Numbers	Town	Acres of Impact	Habitat Type Impacted	Required Compensatory Mitigation (Acres)	Amount of Payment
Connecticut River	New England Power - National Grid	1/4/2024	NEP E131 -Asset Condition Refurbishment Project	NAE-2023-00478	Readsboro	0.86	PFO	0.086	\$17,200.00
Connecticut River	Town of Killington	4/22/2024	Valley Wells Transmission Main Water Project	NAE-2024-00413	Killington	0.16	PFO	0.045	\$9,000.00
Richelieu	Vermont Agency of Transportation	8/30/2023	Vermont Agency of Transportation/Worcester BF 0241 (56) Bridge 87	NAE-2022-02157	Worcester	0.69	PSS	0.137	\$26,394.14
Richelieu	Joseph Laster	2/23/2024	Laster Subdivision	NAE-2023-00918	Hinesburg	0.14	PEM	0.14	\$28,000.00
Richelieu	Sugarbush Mountain Resort, Inc.	5/9/2024	Heaven's Gate Lift Replacement	NAE-2023-01588	Warren	0.26	PFO/PEM & Stream	0.155	\$31,000.00
Richelieu	City of South Burlington	3/4/2024	South Burlington RAIZ (1) (Pedestrian Bridge)	NAE-2023-02480	South Burlington	0.29	PEM	0.184	\$36,800.00
Richelieu	The Snyder Group, Inc.	11/5/2023	The Annex	NAE-2008-01754	Williston	0.197	PEM	0.197	\$39,400.00
Richelieu	CHPE, LLC, CHPE Properties, Inc.	7/19/2024	Champlain Power Express	NAN-2009-01087-M7	Along route from Canada to Queens	5.99 acres PFO to PEM; 0.01 acres of PEM fill, 131 acres of temp. impacts to PEM, PSS, PFO	PEM, PSS, PFO	0.26	\$50,091.08
Richelieu	Vermont Agency of Transportation	3/4/2024	Vtrans Interstate 89 and 189 (South Burlington IM SWFR(3))	NAE-2023-02393	South Burlington	0.66	PEM and Stream	0.291	\$58,200.00
Richelieu	Vermont Agency of Transportation	1/26/2024	Franklin County State Airport (Southern Runway Tree Cutting)	NAE-2018-02597; 2022-0888	Franklin County	213,723 sq ft	PFO	0.977	\$195,400.00
Richelieu	Vermont Agency of Transportation	3/4/2024	I-89 Exit 17 interchange Project - Colchester NH 028-1(31)	NAE-2017-00358	Colchester	2.03	PEM	1.243	\$248,600.00
Richelieu	ELP Ticonderoga Solar LLC	6/20/2024	Solar Field Layout for ELP Ticonderoga Solar	NAN-2020-01210-UPO	Ticonderoga NY	0.416	PSS, PEM	1.16	\$232,000.00
Totals								4.8750	\$972,085.22

Table 2: Fiscal Year 2024 Financial Account Ledger

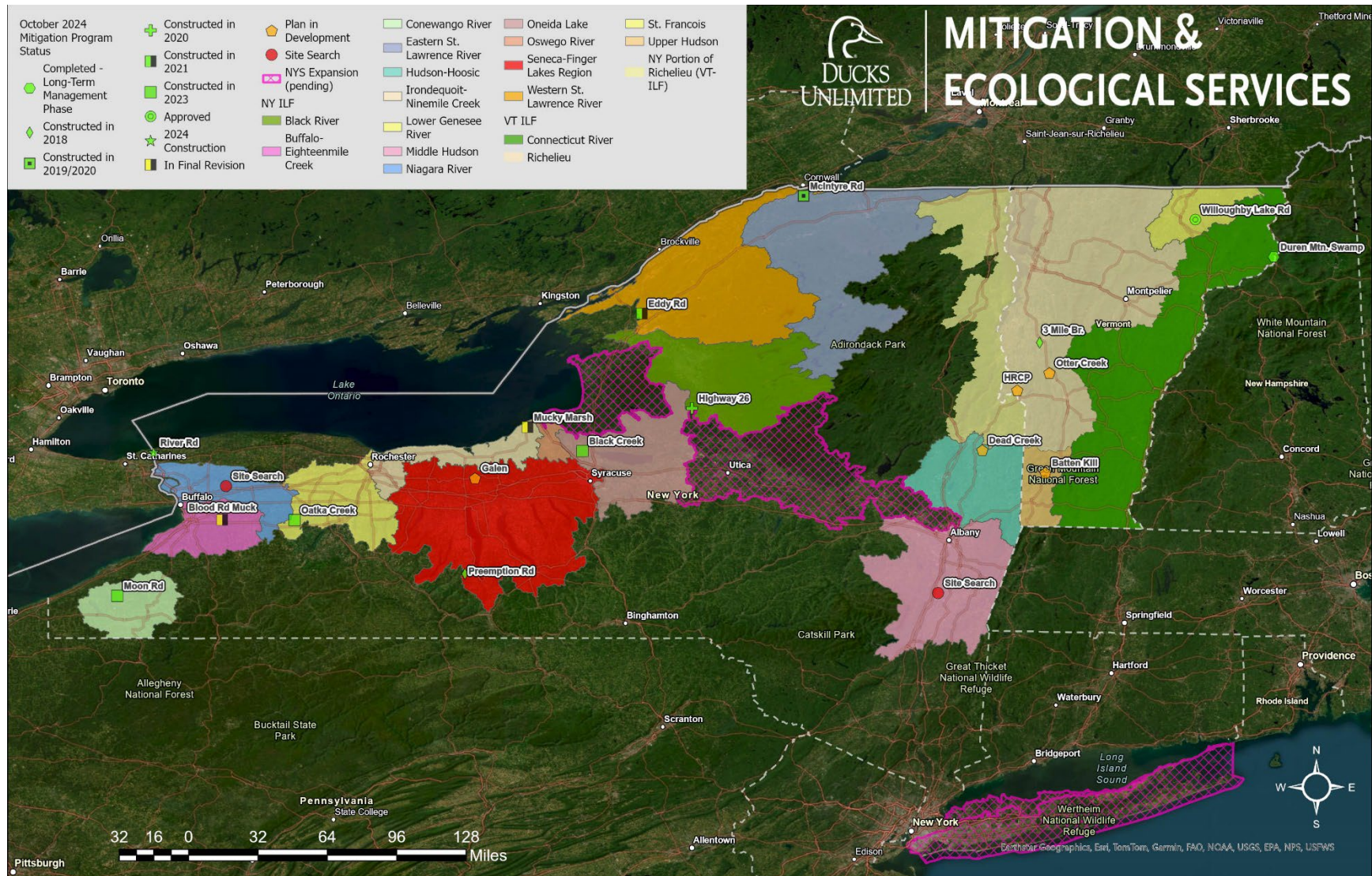
Richelieu watershed had mitigation planning, adaptive management, and site search expense. Expenses in the St. Francois were related to fee-title monitoring and identification of a suitable long-term owner. Expenses in the Upper Hudson were for site identification and securing properties to meet credit obligations. Attributable to temporary changes in staffing, and a transition from one accounting software program to another in the FY22 to 24 timeframe, a reexamination of expense and income statements was performed to ensure cross-validation and accuracy of records across our internal systems. The notes column provides information relating to corrections that were made.

DU-VT ILF Service Area	7/1/2023 Starting Balance	Payment (including admin)	Administration Fee (17.5%)	Interest Earned	Expenses	Transfer	June 30, 2024 Remaining Account Balance	Notes
Connecticut River	(\$19,150.05)	\$21,615.00	\$3,782.63	\$0.00	\$0.00	\$0.00	(\$1,317.68)	A payment received had not been transcribed from our software system into the multi-year subaccount tracking spreadsheet, this year's starting balance was adjusted accordingly.
Richelieu	\$2,212,260.26	\$780,355.31	\$136,562.18	\$28,717.17	\$206,440.83	(\$1,011,695.35)	\$1,666,634.38	The expense statement for FY23 report, last year's corrected expenses were \$831,021.81. The starting balance was further adjusted to correct for a prior error in reporting of deferred revenue balance. A change in accounting personnel in FY22-24 prompted a review of expense and revenue recordation across our systems, and a tie out with cross-referenced deferred revenue balance, resulting in an upward correction of starting balance.
St. Francois	\$49,908.41	\$0.00	\$0.00	\$729.32	\$8,121.85	\$0.00	\$42,515.88	The FY23 expense statement was updated to match our software system, last year's expenses should have totaled \$12,053.84. A payment received had not been transcribed from our software into the multi-year subaccount tracking spreadsheet, , this year's starting balance was adjusted accordingly.
Upper Hudson	\$88,225.16	\$0.00	\$0.00	\$10,190.73	\$518,371.10	\$1,011,695.35	\$591,740.14	Updated expense statement for FY23 report, last year's corrected expenses were \$19,547.43, this year's starting balance was adjusted accordingly.
Totals	\$2,331,243.78	\$801,970.31	\$140,344.80	\$39,637.22	\$732,933.78	\$0.00	\$2,299,572.73	

Table 3: Fiscal Year 2024 Credit Ledger by Service Area

Service Area	Authorized Advance Credits	Previous Advance Credits Sold	Advance Credits Sold	Cumulative Credits Sold	Credits Released	Fulfilled Over Time	Unfulfilled Credits	Available Credits	Advanced Credits Available
Connecticut River	25	4.023	0.131	4.154	11.110	4.154	0.000	6.956	25.000
Richelieu	154	34.640	4.744	39.384	17.345	17.345	22.039	0.000	131.961
St. Francois	25	8.080	0.000	8.080	5.092	5.092	2.988	0.000	22.012
Upper Hudson	25	1.081	0.000	1.081	0.000	0.000	1.081	0.000	23.919
Totals	229	47.824	4.875	52.699	33.547	26.591	26.108	6.956	202.892

Appendix B. Project Status Map



Graphic includes both the VT-ILF and the Sister New York ILF Program with current status as of October 2024.