



US Army Corps
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New England District

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PUBLIC NOTICE

Date: May 10, 2022

File Number: NAE-2009-1349

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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, 2021 – December 31, 2021” dated “March 31, 2022”**. 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, 2021– December 31, 2021



Otter Creek (Twin Oaks) Brandon, Vermont 2021.



**GREAT LAKES &
ATLANTIC REGION**

March 31, 2022

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 to date have been in the Richelieu Service Area. This trend continued in 2021, with only two small payments received in the Connecticut River and the bulk of credit sales again occurring in the Richelieu Service Area.

DU performed adaptive management at the first ILF site, Three Mile Bridge in the Richelieu Service Area, consisting of control of reed canary grass. In 2022, DU is planning to continue invasive species control and a supplemental tree planting to address attrition of planted stock under moderate drought conditions the last couple of years. DU also secured an agreement with a landowner to purchase approximately 170 acres at the Twin Oaks Site along Otter Creek in Brandon, Vermont. DU is expected to close in May of 2022 and will begin developing a mitigation plan for the restoration of the property shortly thereafter.

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. DU has been searching for potential projects in this Service Area and has vetted a number of concepts that have not come to fruition, but plans to advance one or more potential projects to the IRT in 2022. DU will continue to work with the Corps and the IRT to see that credit obligations are met, including utilizing a recent ILF program amendment that allows the transfer of funds from the Richelieu Service Area to the Upper Hudson Service Area.

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. It is anticipated the Twin Oaks property will enable another 15-20 credits to be generated. Through 2021, a total of 39.902 credits have been sold through the DU-VT-ILF Program.

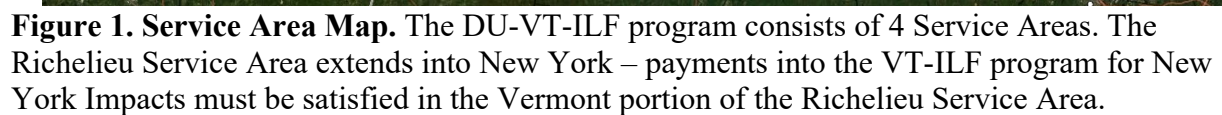
2. Introduction

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 January 1, 2021 to December 31, 2021.

3. Impacts and Fees Received

During the period of this annual report, ten (10) 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 in 2021. 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 22.809 wetland credits. The Third monitoring report was submitted on December 31, 2021.

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, and 2021 to control reed canary grass, and DU will continue invasive species management in 2022. DU will plant approximately 4 acres of the northern half of the site with trees and shrubs to help the site meet performance standards for PFO and PSS zones.

DU identified another site to produce additional credits in 2021 and secured a purchase agreement for the 170 property at the Twin Oaks Site in Brandon, Vermont in 2022. DU plans to close on the property in May 2022. The IRT approved the release of funds for acquisition and planning of the project following submittal of an initial project prospectus in 2021.

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 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. DU continues to monitor the easement on this property and the property was in compliance with the terms of the easement in 2021.

St. Francois Service Area

DU closed on a 243.90-acre property in the St. Francois Service Area in early 2019; planning work including: wetland delineation, topographic survey, soil data collection, engineering design, 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. Northeast Wilderness Trust who had initially been identified as the potential perpetual site owner has narrowed its organizational focus to protection properties and as a result is unable to serve as the long-term steward given the expectations of this entity. DU is vetting qualified land trusts to serve this role and plans to advance an alternative long-term owner/steward for the property in 2022 or 2023. There have been no credit sales in this watershed in recent years, which hinders opportunities to fund construction.

Upper Hudson Service Area

Only two credit sales totaling 1.08-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. DU is currently evaluating candidate sites for protection activities. DU anticipates advancing candidate projects this Service Area to the IRT in 2022. Top focal areas include the Battenkill and Walloomsac river floodplains. To date DU has expended its own funds from operating to support site identification in the Upper Hudson Service area, funds will only be moved from the Service Area Account when a site deemed suitable by the Corps to produce mitigation is advanced and disbursement approved by the Corps following consultation with the IRT.

Table 1: Payments Received in 2021 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
Connecticut	Vermont Agency of Transportation	9/28/2021	Lamaille Valley Rail Trail	VT ANR 2020-638.01; NAE-2008-03594	Barre	0.007	PFO	0.007	\$1,240.99
Connecticut	Vermont Agency of Transportation	9/28/2021	Lamaille Valley Rail Trail	NAE-2008-03594	Barre	0.024	PFO, PSS	0.009	\$1,595.56
Richelieu	Vermont Agency of Transportation	9/28/2021	Lamaille Valley Rail Trail	NAE-2008-03594; VT ANR 2020-638.01	Barre	0.271	PFO	0.271	\$48,832.72
Richelieu	St. Albans Town Industrial Park	12/28/2021	Franklin County Industrial Development	NAE-2020-01593	St. Albans	0.11	PEM	0.11	\$19,821.51
Richelieu	South Burlington Realty	1/28/2021	Booska Movers Lot 1G Meadowland Business Park	NAE-2020-03127	South Burlington	0.09	PEM	0.07	\$12,613.62
Richelieu	124 Technology Park Way LLC	6/14/2021	Parking for 124 Technology Park Way, LLC	NAE-2021-00852; VT ANR 2020-431	South Burlington	0.04	PEM	0.04	\$7,207.78
Richelieu	HSSA Realty, LLC	6/3/2021	HSSA Realty, LLC	NAE-2020-01790	St. Albans	0.28	PEM	0.28	\$50,454.47
Richelieu	Vermont Agency of Transportation	9/28/2021	Lamaille Valley Rail Trail	NAE-2008-03594	Barre	0.517	PFO, PSS, PEM	0.517	\$93,160.58
Richelieu	Kristen Rose	9/29/2021	Kevin Van Schaick Driveway	VT ANR 2020-198; NAE-2021-01265	Fayston	0.298	PFO	0.298	\$53,697.97
Totals								1.602	\$288,625.20

Table 2: 2021 Financial Account Ledger

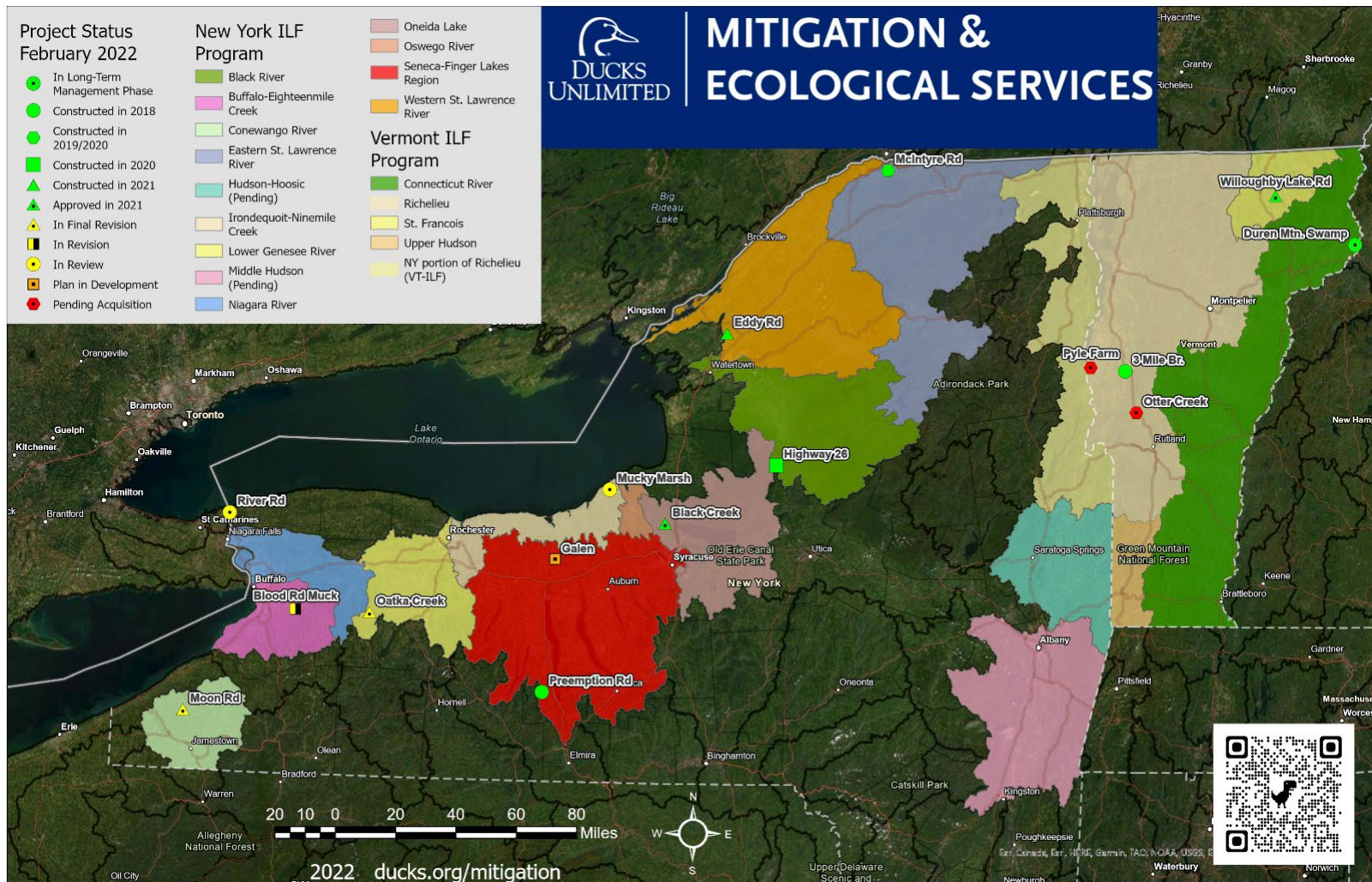
*A no-cost loan was provided by DU to the Connecticut River Service Area to fulfill project obligations at the Duren Mountain Mitigation Site beyond those which could be covered directly by credit sales. The \$136,431.54 loan will be credited back to DU from future credit sales in the Service Area.

DU-VT ILF Service Area	January 1, 2021 Account Balance	Payments	Administration Fee	Interest Earned	Disbursements	Remaining Account Balance
Connecticut River	(\$136,431.54)	\$2,836.55	\$496.40	\$0.00	\$0.00	-\$134,091.39
St. Francois	\$434,081.16	\$0.00	\$0.00	\$472.47	\$371,196.07	\$63,357.56
Richelieu	\$1,771,947.18	\$285,788.65	\$50,013.01	\$14,399.44	\$141,175.45	\$1,880,946.81
Upper Hudson	\$121,677.34	\$0.00	\$0.00	\$809.91	\$13,879.10	\$108,608.15
Totals		\$288,625.20	\$50,509.41	\$15,681.81	\$526,250.62	\$1,918,821.12

Table 3: 2021 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	0.0000	0.0160	21.674
St. Francois	25	8.0800	0.0000	0.0000	0.0000	16.920
Richelieu	154	25.8300	1.5860	9.0470	0.0000	137.217
Upper Hudson	25	1.0800	0.0000	0.0000	0.0000	23.920

Appendix B. Project Status Map



Graphic includes both the VT-ILF and the Sister New York ILF Program with current status as of February 2022. DU is working to secure both Otter Creek Twin Oaks and the Pyle Farm in the Richelieu Service Area.