PUBLIC NOTICE

US Army Corps
of Engineers ®
New England District

696 Virginia Road
Concord, MA 01742-2751

Date: 20 November 2018
Comment Period Ends: 20 December 2018
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 of the New England District, Corps of Engineers ("Corps") has received a request dated 31 October 2018 for an amendment to the Ducks Unlimited, Inc. – Vermont In-lieu Fee Program Instrument ("DU-VT-ILF") to establish the Willoughby Lake In-Lieu Fee Site to compensate for wetland impacts in the St. Francois Service Area off the north side of Willoughby Lake Road in Barton, Vermont (Latitude 44.788644 N, Longitude -72.113198 W). The Corps is soliciting comments on the Willoughby Lake Site Prospectus.

SPONSOR: Ducks Unlimited, Inc., ATTN: Patrick Raney, 159 Dwight Park Circle, Syracuse, New York 13209

ACTIVITY: The 243.18 acre Willoughby Lake Site includes the re-establishment, rehabilitation, and preservation of upland buffers to compensate for authorized impacts to waters of the United States in the St. Francois Service Area for which payments into the DU-VT-ILF program were made in lieu of the permittees doing their own mitigation. The Willoughby Lake Site includes the protection of a northern white cedar swamp, a tributary of the Willoughby River along the western side of the property, and ditched moist-soil areas currently in agricultural use that are suitable for basin development and recontouring. After construction on the property is completed, DU will transfer title to an acceptable third-party, and retain a perpetual conservation easement on the property to ensure the property is not developed. The proposed project is described in the attached prospectus entitled "Willoughby Lake Site Prospectus," and dated "31 October 2018".

The DU-VT-ILF was approved and signed on January 6, 2011. It can be viewed through the New England District's web site at
http://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/InLieuFeePrograms/VT.aspx

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.

If the mitigation plan is deemed sufficient, DU will be informed that they can finalize an amendment to the DU-VT-ILF Instrument which will be reviewed by the Interagency Review Team comprised of federal and state agency representatives. If the amendment is deemed acceptable, it will be authorized by the Corps. The decision whether to authorize the sponsor to proceed to a final mitigation plan will be based on the District Engineer's determination of the potential of the proposed site to provide compensatory mitigation for activities authorized by Department of the Army permits.

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 allow the sponsor to proceed to develop a final mitigation plan. Comments are also used to determine the need for a public hearing.

NATIONAL HISTORIC PRESERVATION ACT

Based on his initial review, the District Engineer has determined that the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfil requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

ENDANGERED SPECIES CONSULTATION

The New England District, Army Corps of Engineers has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, which might occur at the project site. It is our preliminary determination that the proposed activity for which authorization is being sought is designed, situated or will be operated/used in such a manner that it is not likely to adversely affect any Federally listed endangered or threatened species or their designated critical habitat because the project consists solely of preservation. By this Public Notice, we are requesting that the appropriate Federal Agency concur with our determination.

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.

All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the sponsor who will normally be requested to contact objectors directly in an effort to reach an understanding.

For more information on the New England District Corps of Engineers programs, visit our website at http://www.nae.usace.army.mil.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK NOR DOES THE IN-LIEU FEE PROJECT, IF APPROVED, PREJUDGE FUTURE DEVELOPMENT PROJECTS WITHIN THE SERVICE AREA.

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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: _____

Willoughby Lake Site Prospectus
St. Francois Service Area

Prepared by:
Ducks Unlimited Vermont In-Lieu Fee Program

DUCKS UNLIMITED | GREAT LAKES & ATLANTIC REGION

To be considered by:
United States Army Corps of Engineers and
The Interagency Review Team

New England District
11 Lincoln Street
Room 210
Essex Junction, VT 05452

New England District
Regulatory Division
696 Virginia Road
Concord, MA 01742-2751

DATE: 31 October 2018

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Willoughby Lake Road ILF Prospectus

Ducks Unlimited, Inc., (DU) as the sole sponsor of the Ducks Unlimited Vermont In-Lieu Fee Program, proposes to establish the Willoughby Lake Road In-Lieu Fee Site to compensate for wetland impacts in the St. Francois In-Lieu Fee (ILF) Service Area. The program was approved in 2011, and this prospectus is intended to describe a site for inclusion under the existing ILF program. This document provides the basis for initial public comment and IRT response to the site. DU intends to address concerns raised comments through direct communication, and in a full mitigation plan for the site following public notice.

The sponsor's mailing address is:

Ducks Unlimited, Inc.
159 Dwight Park Circle
Syracuse, New York
13209

The contact for Ducks Unlimited:

Patrick Raney, Ph.D.
(o) 315-453-8025
(c) 315-708-9614
praney@ducks.org

Per 33CFR 332.8(d)(2) the prospectus provides an overview of the proposed ILF site and is the basis for public and Interagency Review Team (IRT) initial comment. The prospectus must provide a summary of the information on a proposed ILF site at a sufficient level of detail to support informed public and IRT comment. Information required under 332.8(d)(6) will be submitted after evaluation of this prospectus is complete. This includes information concerning: the basis for the ILF sites proposed service area; accounting procedures; provisions stating that legal responsibility for providing the compensatory mitigation lies with the sponsor once a permittee secures credits from the sponsor; default and closure provisions; reporting protocols; and other information deemed necessary by the district engineer. In addition, a mitigation plan including the specific information required in 332.4(c)(2)-(14) will be provided along with a credit release schedule, which is tied to achievement of specific milestones.

1. Objectives

The primary goal of the **Willoughby Lake Road Prospectus** is to provide wetland mitigation on a watershed scale to compensate for wetland impacts. More specifically, it will provide an opportunity to:

- Mitigate for wetland impacts through wetland reestablishment, rehabilitation, and preservation
- Reestablish, rehabilitate, and preserve habitat for a wide range of species
- Preserve and improve flood attenuation capacity
- Preserve a wildlife connective corridor
- Preserve upland buffer on the site to preserve water quality in the watershed, specifically to a tributary to the nearby Willoughby River
- Potentially provide recreational opportunities for hunting
- Potentially provide educational and research opportunities for nearby universities

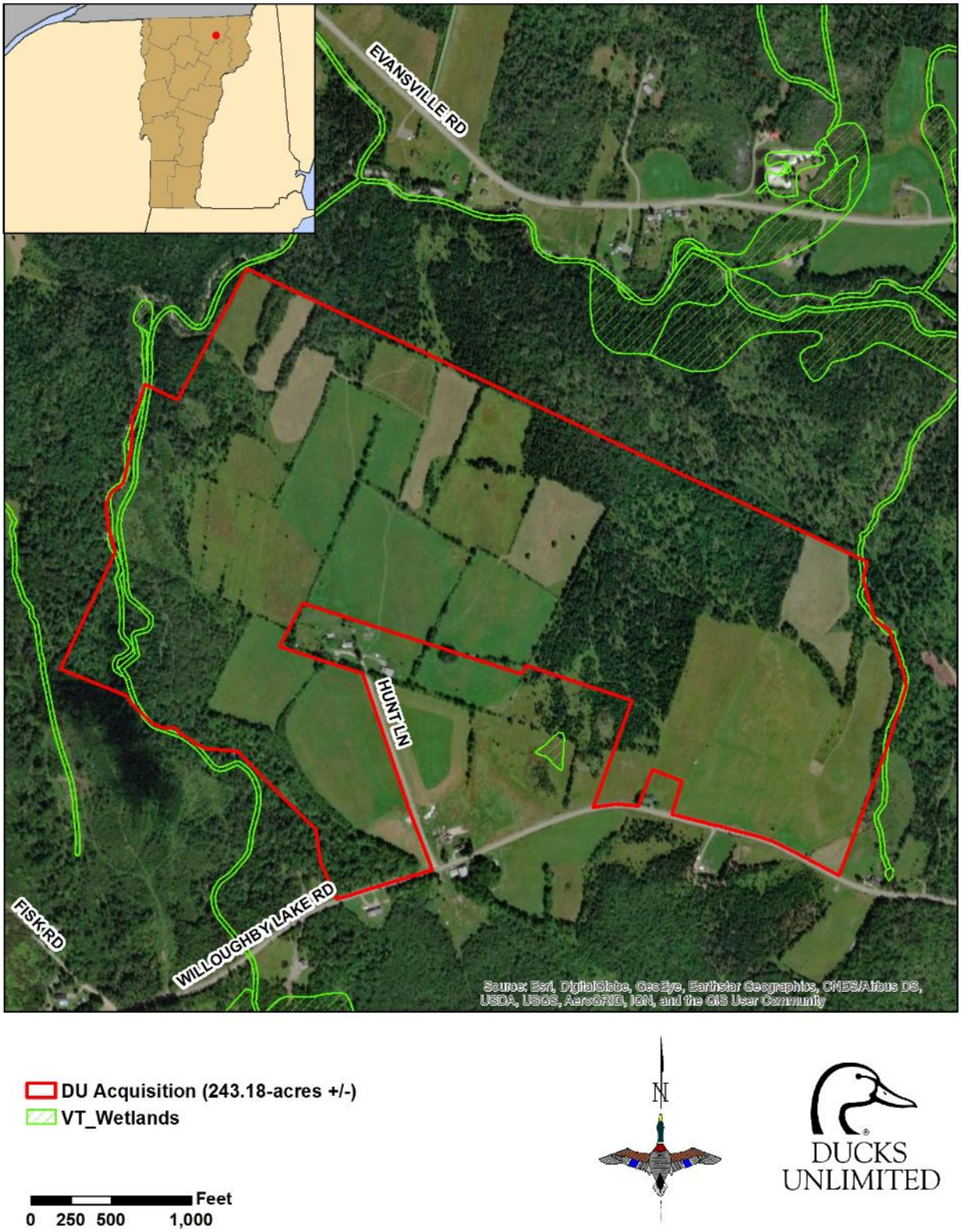

Figure 1. Proposed ILF Site. DU has a purchase agreement in place to obtain the property.

2. Establishment and Operation

Establishment

Ducks Unlimited (DU) is the administrator and sponsor of the Ducks Unlimited Inc. Vermont In-Lieu Fee Program, hereafter "ILF Program". The accounting including fund allocation, reporting procedure requirements, and default and closure provisions are described under the ILF Program Instrument.

3. Service Area

The proposed Willoughby Lake Road ILF site is located directly to the north of Willoughby Lake Road approximately 2 miles northwest of Lake Willoughby in Orleans County, Vermont as shown in Figure 1. The project site lies within the St. Francois ILF Service Area shown in Figure 2. The coordinates for the project entrance are: 44°47'16.84" N, 72°06'55.15" W. To date DU has only sold 8.07 credits in the St. Francois Service Area. DU will use these funds and future credit sales to purchase the property, develop a mitigation plan and reestablish, rehabilitate, and preserve wetlands on site.

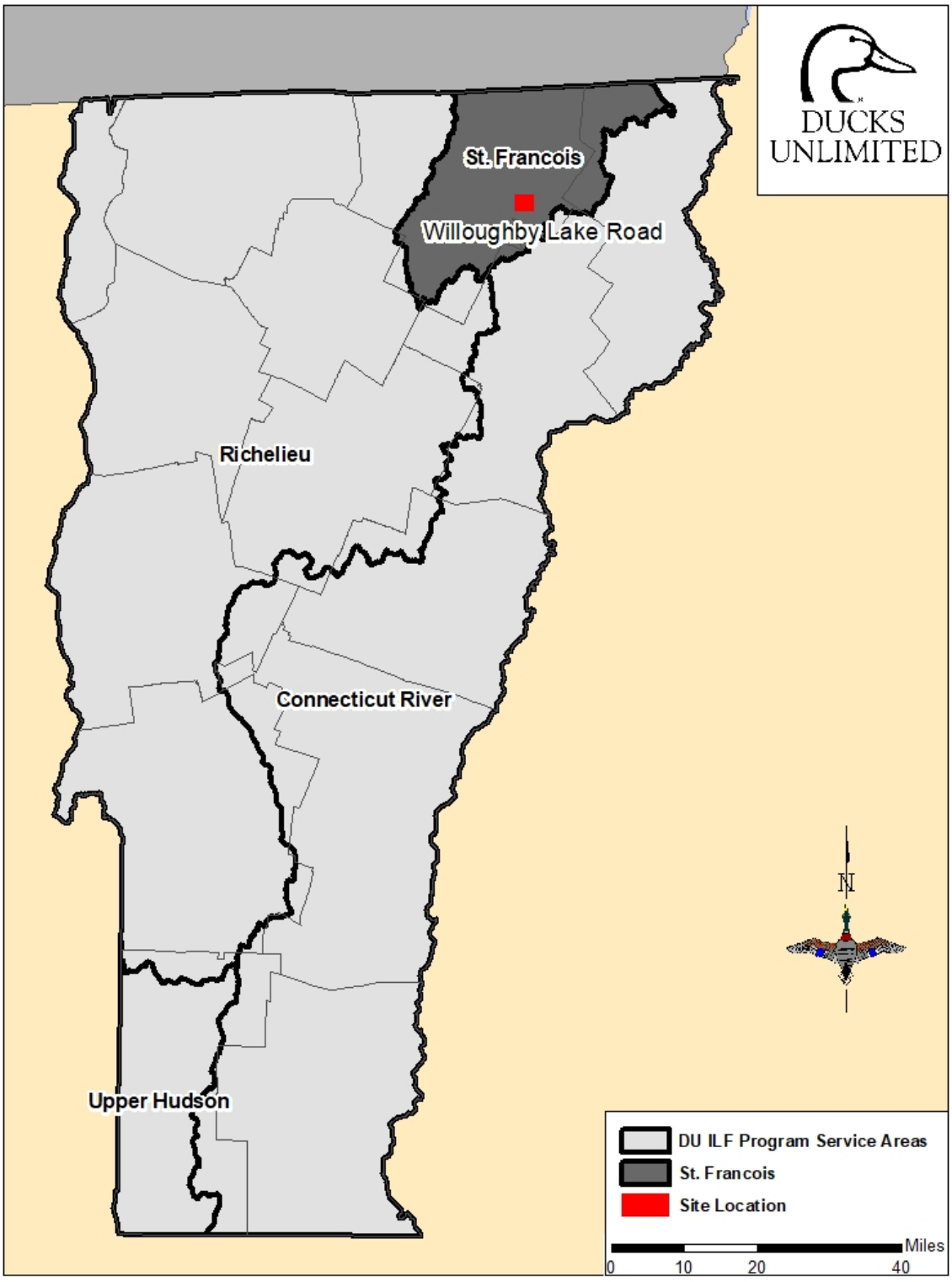

Figure 2. Service Area. The St. Francois ILF Service Area (HUC 011100) shown in dark gray.

4. General Need and Technical Feasibility

Need

The Service Areas established within the Vermont ILF Program are congruent with DEC's basin planning efforts and other resource conservation strategies within Vermont, such as The Nature Conservancy's (TNC) natural areas protection projects. This site has many of the features required for a suitable wetland mitigation project, these include: presence of moist-soil areas that have been degraded by past agricultural activities, drainage ditches, tile lines, and silt loam soils suitable for basin development and recontouring.

The site lies within the close proximity to other protected areas, such as the Willoughby Falls Wildlife Management Area, Willoughby State Forest, local recreational areas, and several Vermont Land Trust Easements (Figure 3). A tributary of the Willoughby River also flows through the western side of the property. The Willoughby River is clear, cold-water trout stream fed by nearby Lake Willoughby. Lake Willoughby is an important recreational area in NE Vermont and has an extensive trail system on protected lands in the area. The Barton Town Forest is located to the southwest of the property, immediately across the road from the property. The close proximity to other protected areas, as well as biologically significant aquatic resources emphasizes the importance of restoring and protecting this site. The site will protect an important buffer that maintains functioning of features including streams hydrologically connected to the Willoughby River.

Based on the proximity of this site to both the Willoughby River and Lake Willoughby, restoring wetlands on this site would likely support seasonal use by many waterfowl species including American black ducks, mallards, and wood ducks. This site also contains forested wetlands that are important resources worthy of protection, especially because these wetlands protect water quality in sensitive riparian areas. Additionally, a portion of wetland impacts that this site will mitigate for are forested wetland impacts, making protection of existing forested wetlands an important aspect of the site.

A Wet Field at Willoughby Lake Road. Areas such as this on lower slopes toward the northern end of the property provide wetland restoration and rehabilitation opportunities at the site.

Field Suitable for Wetland Restoration. Gradual grades and silt loam soils appear to be suitable for wetland restoration activities. DU plans to maintain a portion of the site as open habitat for species of conservation concern such as Bobolinks which were observed on site in July 2018.

Drainage features at Willoughby Lake Road. The presence of drainage ditches on site indicate that wetland hydrology can be rehabilitated.

Evidence of Degraded Wetland Habitat at Willoughby Lake Road. The wetlands found in the fields have been subjected to degradation from haying and other agricultural activities.

Northern White Cedar Swamp at Willoughby Lake Road. A portion of the wetlands on site include northern white cedar swamps – a wetland community of conservation concern in Vermont and the northeast (Raney et al. 2014, Podniesinski and Leopold 1998, Vermont Fish and Wildlife 2016).

The orchid species Platanthera lacera (pictured) and Cypripedium acuale were identified on site. DU staff identified P. psycodes on nearby properties in July 2018.

Tributary to the Willoughby River along the Western property boundary. Beaver had recently dammed up this channell.

View of Lake Willoughby from Pisgah Mountain. This is a popular recreational area. Lake Willoughby is the second largest lake in the St. Francois Watershed.

View of the Willoughby River near the outlet from Willoughby Lake. The Willoughby River lies just to the north of this parcel, tributaries to the Willoughby River pass through this property. The Willoughby River watershed would be further protected by this project. The river is a popular stream among trout anglers.

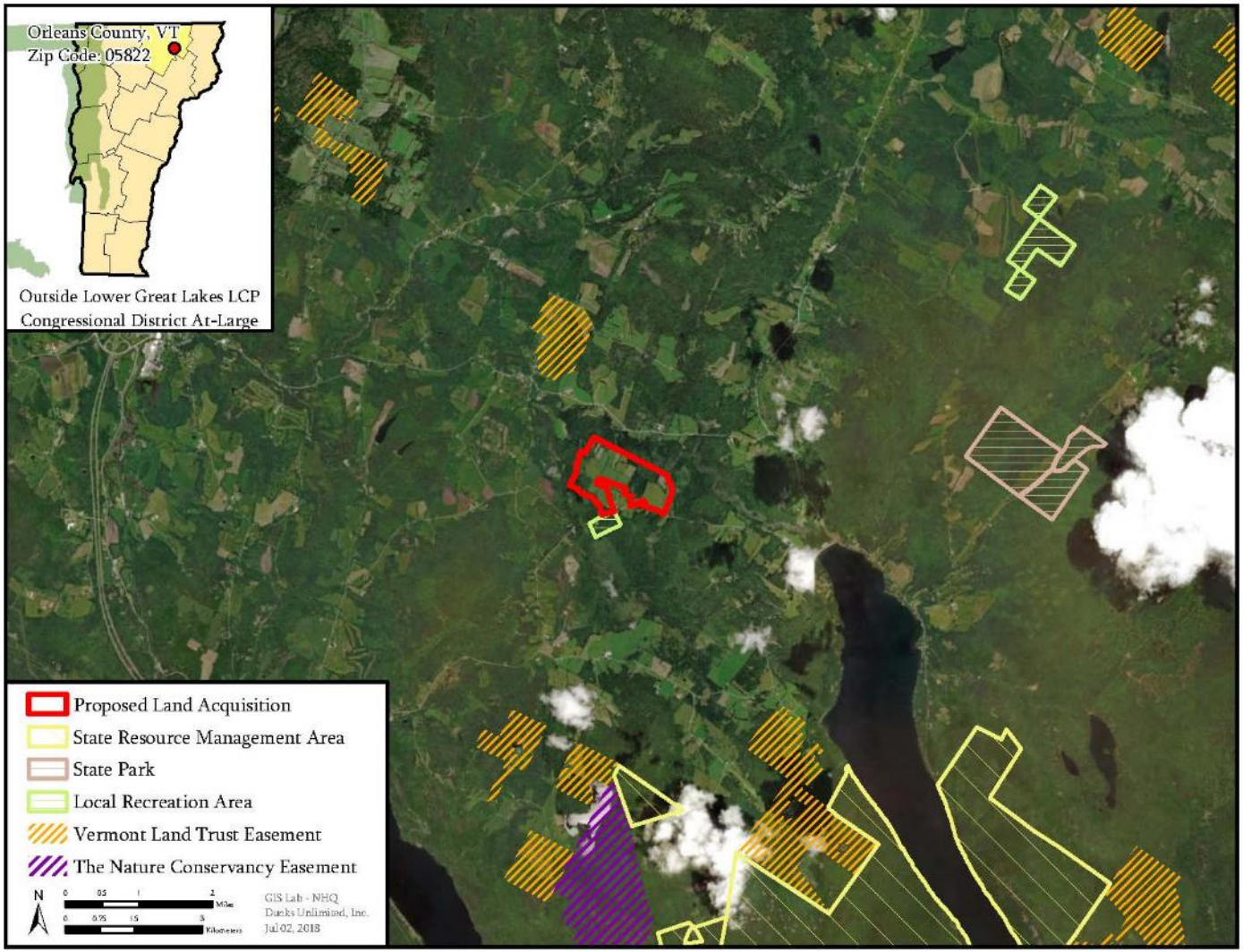

Figure 3. Site Conservation Context. The proposed ILF site is shown in red outline. It lies near an existing VLT easement, and a local recreation area, other preserved lands exist near Lake Willoughby.

Feasibility

To date DU's Vermont ILF Program has sold 8.07 credits in the St. Francois Service Area. Of each credit sold, 15% supports ILF Program administrative costs, meaning that a little over $767,000 from credit sales has been collected to support mitigation activities in this Service Area. This amount of funding along with future credit sales should be sufficient to provide for a full project incorporating reestablishment (i.e., securing a parcel, permitting and construction of wetland features, monitoring, in perpetuity protection). After construction of the property is completed, DU will transfer title to an acceptable third-party (e.g., land trust), and retain a perpetual conservation easement on the property to ensure that the property remains in an undeveloped state as consistent with the final mitigation plan for the site.

Based on credit-production ratios established in the instrument and used in the New England District, it is anticipated that the site will produce 20 to 30 credits (Figure 4). Relatively few opportunities exist in this watershed to undertake such a large wetland restoration opportunity. DU may propose to phase the project, phasing information will be included in a full mitigation plan. Funds produced in excess of direct costs to implement the project will remain in the St. Francois ILF Service Area account and can only be used for additional mitigation. DU takes the responsibility of assisting with no-net-loss of wetlands very seriously. DU will use surplus funds in the future to undertake additional wetland restoration projects.

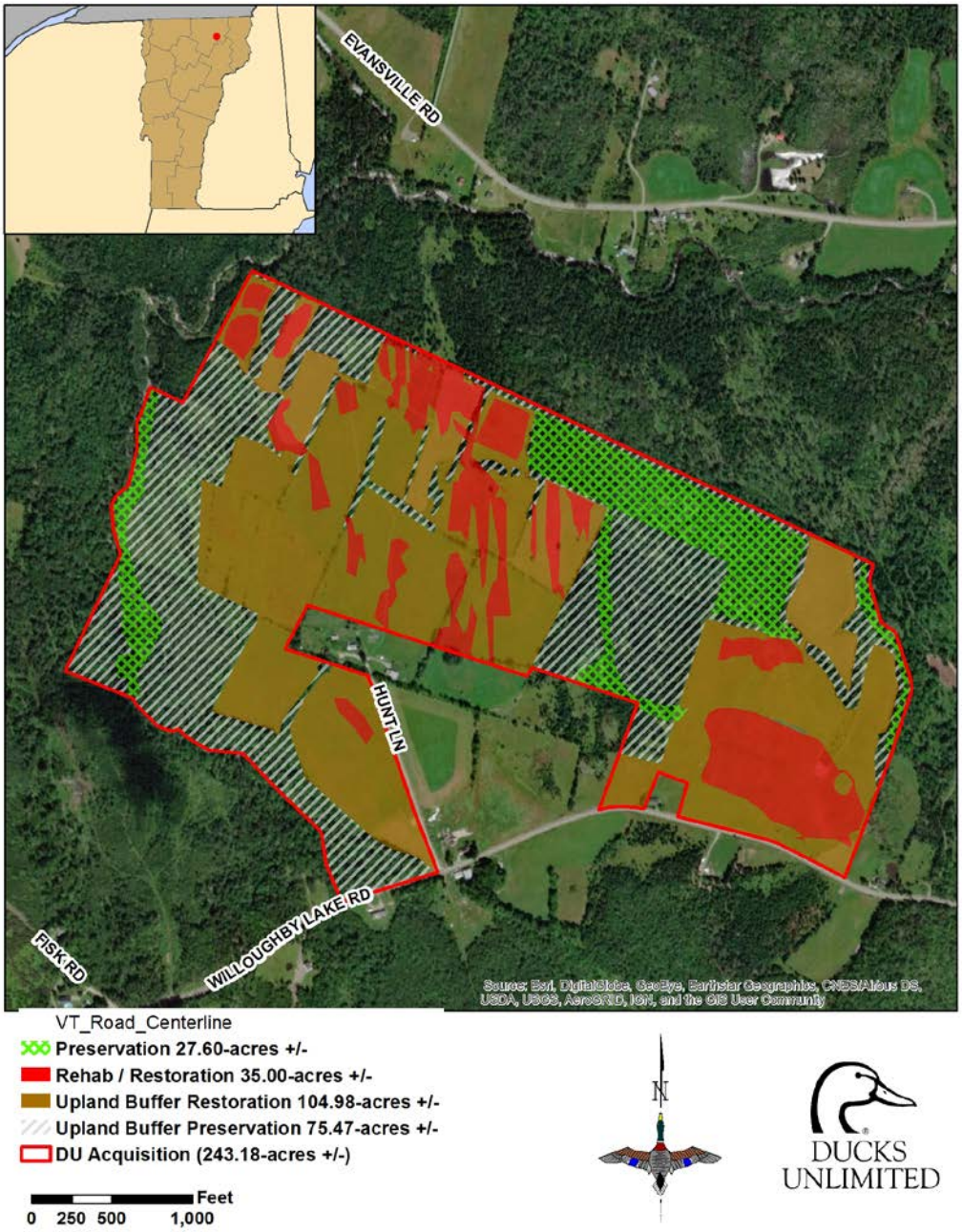

Figure 4. Initial Concept Plan.
DU staff have developed an initial sketch of areas of possible credit production. This does not constitute a wetland delineation, nor is intended to identify final zones of restoration activities, but rather to serve as s guide for where restoration activities appear to be possible based on initial site investigations. We estimate the site will produce between 20 to 25 credits when fully developed from wetland reestablishment, rehabilitation, rehabilitation and preservation of upland buffers, and wetland preservation. It may be necessary to phase this project depending on cash-flows from credit sales.

5. Ownership Arrangement and Long-Term Management Strategy

Ownership Arrangement

The site will be within a 243.18-acre parcel owned as fee simple property by DU including all surface and subsurface rights. DU will identify a long-term steward of the property, with DU planning to donate the property to this steward, while retaining a perpetual conservation easement on the property. DU plans to provide a stewardship endowment for perpetual management against unauthorized use.

Long Term Management Strategy

The site will be developed as outlined in this prospectus and described in further detail in the complete mitigation plan. The Long-term Management Strategy will be implemented once the site has successfully completed the mitigation requirements described in an approved plan, and long-term protections are in place. It will describe the specific needs for optimal conservation of the individual site and also provide a general discussion of positive and negative attributes of the surrounding watershed that should be taken into account for long-term site protection. The site will have funds set aside in an endowment for permanent long-term support.

References

Podniesinski GS, Leopold DJ (1998) Plant community development and peat stratigraphy in forested fens in response to ground-water flow systems. Wetlands 18:409–430.

Raney PA, Fridley JD, Leopold DJ (2014) Characterizing microclimate and plant community variation in wetlands. Wetlands. doi: 10.1007/s13157-013-0481-2

Vermont Fish and Wildlife Department (2016) Synonymy of Vermont Natural Community Types with National Vegetation Classification Associations Natural Heritage Inventory.