

DUCKS UNLIMITED



MITIGATION AND
ECOLOGICAL SERVICES



Ducks Unlimited and the Vermont In-Lieu-Fee Program

April Moulaert

Ducks Unlimited Vermont Representative



Presentation

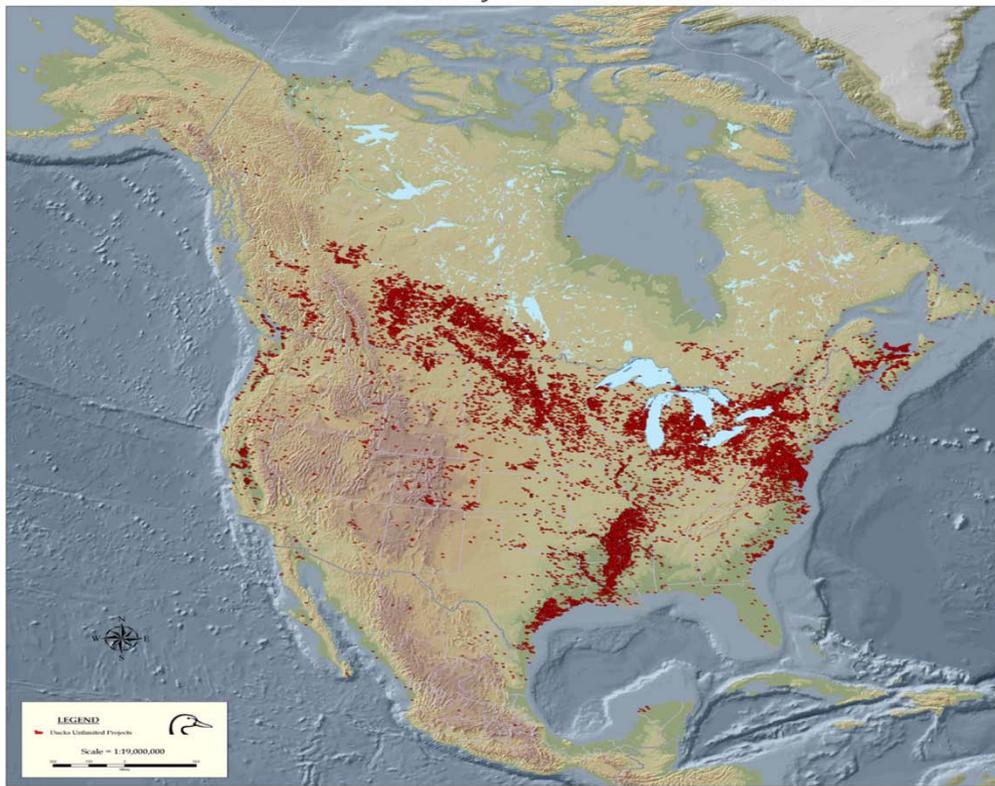
- Ducks Unlimited Background
- Mitigation Type Overview
 - Mitigation bank
 - In-lieu-fee program
 - Permittee – responsible mitigation
- In-Lieu-Fee Program Description



DU's Mission

Ducks Unlimited conserves, restores, and manages wetlands and associated habitats for North America's waterfowl. These habitats also benefit other wildlife and people.

DUCKS UNLIMITED PROJECTS IN NORTH AMERICA



DU has restored and protected 13 million acres.





Ducks Unlimited Today

- World's largest wetlands conservation organization
- Over 70 years restoring and protecting wetland habitat
- Over 20 years delivering conservation projects in New England
- 1 million supporters / 600 national staff





The Wetland “Regs”

Clean Water Act 1972 objective: “restore and maintain the chemical, physical, and biological integrity of the nation's waters” (including wetlands)

 404 created a permit program regulating discharge dredged or fill materials into waters of the US

 1989: “no net loss policy” established the sequence of AVOID, MINIMIZE, and then MITIGATE

 For unavoidable impacts, compensatory mitigation is required

 2008 New COE/ EPA Rule to improve the effectiveness of mitigation, expand public participation in mitigation decision making, and increase the efficiency of the mitigation project review process.



Compensatory Mitigation Definition

Compensatory mitigation means the restoration, establishment, enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.





Types of Mitigation

- Restoration
- Enhancement
- Establishment
- Preservation





Mitigation Options

Mitigation Banks

- Nationally used for 33% of projects* - watersheds/service areas
- A wetlands mitigation bank is a wetland area that has been restored, established, enhanced or preserved, which is then set aside to compensate for future conversions of wetlands for development activities.
- 33 States use wetland mitigation banks
- Prior to impacts
- There are no banks in Vermont

* Source: USACE Institute of Water Resources, 2005





Mitigation Options Cont.

In-Lieu-Fee Programs

- 7 %* - watershed/service areas
- Mitigation that occurs when a permittee provides funds to an in-lieu-fee sponsor (a public agency or non-profit organization). Usually, the sponsor collects funds from multiple permittees in order to pool the financial resources necessary to build and maintain the mitigation site.
- After impacts
- Spatial and temporal loss
- 20+ States use ILF programs



Mitigation Options Cont.

Permittee-Responsible Mitigation (PRM)

- 60% - on-site or off-site
- During or after impacts



2008 Corps/EPA 'New Rule' Hierarchy

1. Mitigation bank
2. In-lieu-fee program
3. Permittee responsible

Hierarchy guides decision-making preference but Army Corps project manager makes final decision based on ecological and other considerations





New Rule:

12 Components for all Mitigation Types

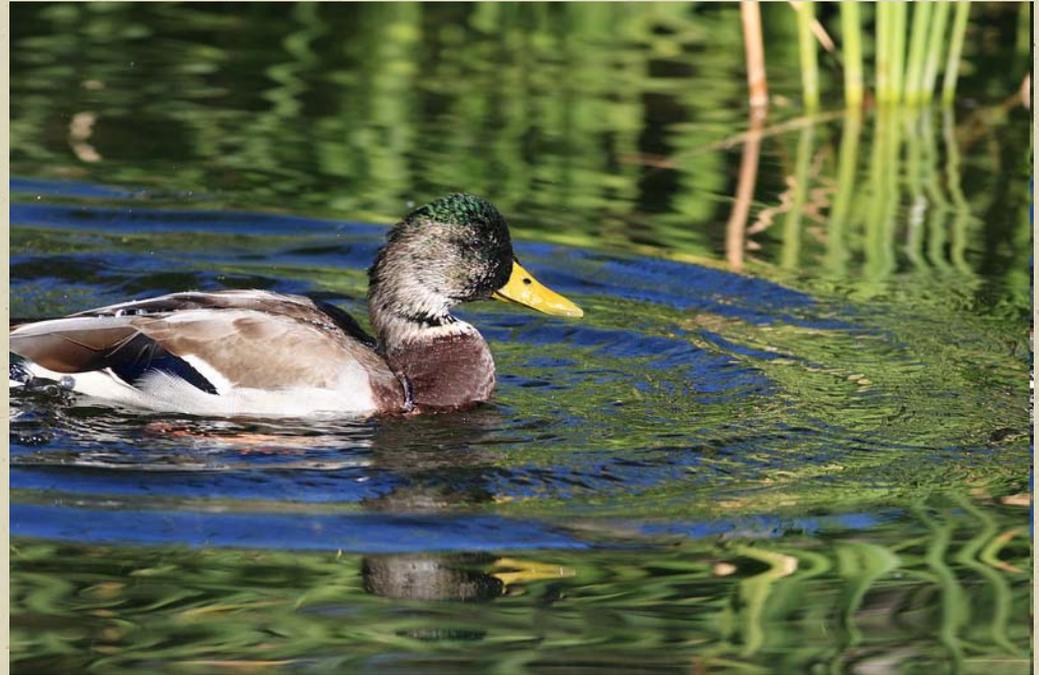
1. Objectives	7. Maintenance Plan
2. Site Selection	8. Performance Standards
3. Site Protection	9. Monitoring Requirements
4. Baseline Info	10. Long-term Management
5. Credit Determination	11. Adaptive Mgt Plan
6. Work Plan	12. Financial Assurances



Permittee-Responsible Mitigation

Key issues & challenges

- High failure rate
- Site identification
- Long-term liability
- Costs



The In-Lieu-Fee Alternative

- Permittee purchases wetland credits from ILF sponsor (governments, NGOs, universities)
- Sponsor identifies project in service area and seeks Interagency Review Team (IRT) approval
- Sponsor develops mitigation plan for IRT approval and public comment
- Sponsor designs and implements project w/in 3 years
- In Vermont, DU is ILF sponsor



DU's Mitigation Experience

- Portfolio of permittee-responsible projects
- In-lieu fee programs – Mississippi, Vermont, Western New York (pending)
- Turnkey mitigation services for all wetland types



DU's Unique Position: Turnkey Services

- Phase I – Site Identification
- Phase II – Wetland Design and Mitigation Plan
- Phase III – Site Construction
- Phase IV – Land Protection
- Phase V – Monitoring and Contingency Plans

Mission Driven!





Site Identification

- DU has been finding Vermont wetland restoration sites for past two years under Clean and Clear grant
- Use GIS resources
- Coordinate with conservation partners





Steps for Permit Holder

1. Applicant confirms credit availability
2. Applicant requests approval for purchase of ILF credits
3. Upon approval, Applicant provides DU with all the pertinent information prior to a credit sale
4. Applicant purchases credit and transfers funds
5. DU submits credit sale letter to USACE-New England District within 30 days of receiving payment
6. DU assumes responsibility for mitigation delivery



ILF Project Delivery

- 3 year timeline for project implementation from receipt of funds
- DU identifies project in service area and seeks Interagency Review Team (IRT) approval
- DU secures land and develops mitigation plan for IRT approval and public comment
- DU designs and implements project

All projects subject to approval by the Corps and IRT





Ongoing ILF Sponsor Requirements

- Manage financing related to ILF program
- Obtain Corps approval for project milestones
- Submit an annual report to the Corps and IRT
- Annual report will provide program accounting, activity & program status, and lessons learned



How ILF Credits are Priced

Credit pricing is based on the following factors

Project Costs	Program Costs
Site ID	Financial assurances
Land costs	Legal fees & taxes
Project construction	Endowment Fees
Wetland performance monitoring	Contingency funds for adaptive management
Site protection	Program administrative fees
Plan development	

Unspent funds remain in ILF program account for future projects





Benefits of ILF program

- Can involve larger, more ecologically valuable mitigation.
- Provides a better opportunity at mitigation success by having an ILF sponsor, experienced in completing wetland projects, implement the wetland mitigation plan.
- Walk away for permittee.





Contact information

Christopher Theriot

Ducks Unlimited – Manager of Conservation Programs - Mitigation

734-623-2000

ctheriot@ducks.org

April Moulaert, PWS

Vermont-based DU ILF representative

(802) 999-4823

april@waterscapesvt.com

Ray Whitemore

Ducks Unlimited – Director, Conservation Programs

(603) 487-2175

rwhitemore@ducks.org

Peter Wyckoff, PE, PWS

Ducks Unlimited – Engineer - Mitigation

734-623-2000

pwycckoff@ducks.org

