



**Ducks
Unlimited, Inc. –
Vermont In-lieu
Fee Program**

Mike Adams

Ruth Ladd

Agenda

- 10:00 Welcome Ruth Ladd
- 10:05 VT ILF Program:
Corps Perspective Ruth Ladd/
Mike Adams
- 10:45 VT ILF Program:
DU Perspective DU Staff
- 11:30 BREAK
- 11:45 Vermont Wetland Rules Julie Foley/
Alan Quackenbush
- 12:20 Vermont Jurisdiction over Streams/Rivers WQ staff

VT ILF Program: Corps Perspective

- ILF and the Mitigation Rule
- Benefits of ILF Programs
- Corps mitigation in New England
- Process of developing ILF Program for VT
- ILF and the Corps permitting program in VT

ILF and the Mitigation Rule

- Preference hierarchy for mitigation options
 - 1. Mitigation bank credits – no banks in NE
 - 2. ILF program credits
 - Permittee responsible mitigation
 - 3. Determined using watershed approach
 - 4. On-site and in-kind
 - Consider practicability and compatibility with proposed project
 - 5. Off-site and/or out-of-kind

Benefits of ILF Program

- Projects address high priority aquatic resource needs in watershed
- Compensation planning framework required
- Reduces risk and uncertainty
- Permittees pay fee (after avoid and minimize) and are 'off the hook' for compensation

Corps Mitigation in NE

- NH and ME have ILF programs run by state using an RFP approach (managed by TNC in ME)
- MA has ILF program run by state but for coastal impacts only
- Permittee responsible only option in CT, RI, and MA (inland)
 - General failure to replace lost functions through site location, failure to monitor & address problems, lack of longterm stewardship

Process of developing ILF

- Corps sets up IRT to review submissions
- 4/09 - DU submitted pre-prospectus
- 6/09 – DU submitted prospectus; Corps put out PN for public comment
- 8/09 – Corps authorized DU to develop draft instrument
- 2/10 – DU submitted draft instrument
- 3/10 – Corps comment ltr to DU: draft includes all required items but several items need additional work
- 6/10 – DU submitted revised draft instrument
- 7/10 – Corps ltr to DU: OK to proceed to final instrument
- 8/10 – DU submitted final instrument
- 9-12/10 – Informal comments provided to DU
- 12/10 – DU submitted revised final instrument
- 1/6/11 – Final ILF instrument signed by Corps and DU

ILF and the Corps Permitting Program

- Corps must document ecological benefit and long-term sustainability if ILF not selected as mitigation type
- Under nationwide permits (not used in New England), mitigation usually required for ≥ 0.1 ac wetland impact plus impacts to streams
- Interagency Review Team (IRT) will advise the Corps on the management of the program

ILF and the Corps Permitting Program

- ILF is available for IPs and GPs when written authorization is required
- Resource agencies will be consulted to determine which projects require mitigation under the GP
- Corps will generally use mitigation ratio for restoration to determine credits needed for direct/secondary impacts

ILF and the Corps Permitting Program

- Payment to ILF program ends permittee responsibility for mitigation
- Payment must be made for permit to be valid
- Can be used to resolve enforcement cases