



US Army Corps
of Engineers
Alaska District

Special Public Notice

Regulatory Division (1145)
CEPOA-RD
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Date: Thursday June 23, 2022

Identification No.: POA-2010-00123

Expiration date: July 25, 2022

Southeast Alaska Land Trust

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps), Alaska District is soliciting comments on an In-Lieu Fee (ILF) Compensatory Mitigation Program Instrument (Instrument) submitted by the Southeast Alaska Land Trust (SEALT) to modify the existing ILF Instrument. The ILF Instrument includes service areas located in Southeast Alaska. SEALT has submitted a modified instrument which describes and establishes the function and operation of the SEALT ILF Program and would replace the existing ILF Instrument approved in 2011.

You can download and view the referenced Instrument and associated exhibits on our Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS) website at: https://ribits.ops.usace.army.mil/ords/f?p=107:378:4916641147966:::P378_PROGRAM_ID:1061

The above link will take you to RIBITS Cyber Repository, then click on the small triangle to the left of the Program Instrument folder and then the 2022 Instrument folder to reveal the PDFs of the Instrument and Exhibits for downloading. Written comments referencing this notice must be submitted on or before July 25, 2022. Comments may be submitted via email to Emily Vullo at: Emily.N.Vullo@usace.army.mil or by mail to the address above.

Section 404 of the Clean Water Act (CWA) establishes a permit requirement, administered by the Corps, for projects that involve discharging dredged or fill material into waters of the United States (U.S.). The Corps requires compensatory mitigation as a permit condition for stream or wetland losses that are determined to have significant aquatic resource losses which are specifically identifiable, reasonably likely to occur, and of importance to the human or aquatic environment. The goal of compensatory mitigation is to replace the physical, chemical, and biological functions of these waters of the U.S.

The ILF concept was established to provide alternatives to applicants and ease the regulatory burden associated with permitted impacts. ILF programs involve consolidating compensatory mitigation projects to sites where ecologically appropriate and provide financial planning and scientific expertise.

An ILF site used to offset aquatic resource impacts through Section 404 CWA program must be developed and approved pursuant to the Compensatory Mitigation for Losses of Aquatic Resources; Final Rule, 33 CFR Parts 325 and 332, April 10, 2008 (Final Rule). In accordance with the Final Rule, the mitigation for a proposed ILF site includes the following information:

- (1) Objectives of the proposed site addition
- (2) Site Selection
- (3) Site Protection Instrument
- (4) Baseline Information
- (5) Determination of Credits
- (6) Mitigation Work Plan
- (7) Maintenance Plan
- (8) Performance Standards
- (9) Monitoring Requirements
- (10) Long-Term Management
- (11) Adaptive Management
- (12) Financial Assurances

The Corps will convene an Interagency Review Team (IRT) comprised of Federal and State agencies for the purpose of reviewing the Instrument governing the establishment, operation, and use of the proposed ILF program. Comments received during the comment period will be submitted to the IRT and the bank sponsor for consideration during the Federal review and approval process.

CULTURAL RESOURCES: Cultural Resource impacts will be analyzed when site modifications are submitted.

ENDANGERED SPECIES: Endangered species impacts will be analyzed when site modifications are submitted.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). EFH impacts will be analyzed when site modifications are submitted.

Any questions or requests for additional information should be directed to Emily Vullo, who may be reached by phone at (907) 753-2704, toll free from within Alaska at (800) 478-2712, or by email at Emily.N.Vullo@usace.army.mil.

District Commander
U.S. Army Corps of Engineers