



US Army Corps
of Engineers
Alaska District

Date: March 19, 2010

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SPN 2010-123

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SPECIAL PUBLIC NOTICE (SPN) 2010-123

**U.S. Army Corps of Engineers Regulatory Program
Modification of the Southeast Alaska Land Trust In-Lieu-Fee Agreement**

PROPOSED WORK AND PURPOSE: Interested parties are hereby notified that the U.S. Army Corps of Engineers, Alaska District (Corps) is seeking comments on a proposal to modify an existing regional in-lieu-fee program servicing Southeast Alaska. A draft compensation planning framework and accounting document describing the proposed program modification and outlining the purpose, structure, and financial management of the proposed program has been received from the program sponsor, the Southeast Alaska Land Trust (SEAL Trust) and are enclosed with this notice.

The term "in-lieu fee program" refers to a program involving restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu fee program sponsor. The operation and use of an in-lieu fee program are governed by an in-lieu fee program instrument.

Modification of the SEAL Trust's regional in-lieu fee program is being proposed as a means to meet the requirements for compensatory mitigation associated with projects, which may be permitted by the Corps. If the modified program is approved, it would provide an alternative to permittee-responsible mitigation. The modified program would be designed and administered in a manner consistent with the Final Rule for Compensatory Mitigation for Losses of Aquatic Resources, which was published in the Federal Register on April 10, 2008, (33 CFR Parts 325 and 332). This Public Notice is focused solely on the Federal review and approval process. Regardless of whether the proposed program is approved, the Corps is willing to consider other proposals from qualified entities to develop in-lieu fee mitigation programs.

The Corps has convened an Interagency Review Team (IRT) comprised of Federal and State agencies. This team will work with the SEAL Trust to create a regional instrument and legal agreement that specifies watershed-based aquatic resource objectives, procedures for defining service areas and accounting for credits, legal obligations, default and closure provisions, reporting protocols, and financial accounting requirements. If the regional instrument is approved, individual mitigation plans will be prepared as in-lieu fee project sites are identified. These plans would be incorporated as amendments to the regional instrument. Additional Tribal and local representatives may be invited to join the IRT during review of individual mitigation projects.

Comments regarding the following topics would be especially useful: priority service areas, priority aquatic resource types, and methods of accounting for credits generated by in-lieu fee projects that are undertaken in conjunction with, but supplemental to, other aquatic resource conservation activities. Comments received in response to this Notice will be provided to the SEAL Trust and the IRT.

Additional information about SEAL Trust may be obtained at
www.southeastalaskalandtrust.org

AUTHORITY: Issuance of a Public Notice regarding proposed in-lieu fee programs is required pursuant to the "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule," as published in the April 10, 2008, Federal Register, Vol. 73, No. 70, Pages 19594 - 19705 (33 CFR Parts 325 and 332).

COMMENT PERIOD: Comments on the described proposal, with the reference number, should be made in writing and reach this office no later than the expiration date of this Special Public Notice to become part of the record and be considered in the decision. Address comments to U.S. Army Corps of Engineers, Alaska District, Juneau Regulatory Field Office, (Attn: Randal P. Vigil), 8800 Glacier Highway, Suite 106, Juneau, Alaska 99801-8079.

If further information is desired concerning this notice, please contact **Randal P. Vigil** at (907) 790-4490, or email: **randal.p.vigil@usace.army.mil**.