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This public notice is to share with the public the **“Ducks Unlimited Vermont In-Lieu Fee Program Annual Report – July 1, 2022 – June 30, 2023”** dated **“November 13, 2023”**, last revised **“January 24, 2024”**. The In-lieu Fee (ILF) program serves as an alternative form of compensation for impacts to aquatic resources authorized by the United States Army Corps of Engineers (USACE) New England District and/or the State of Vermont Department of Environmental Conservation.

Compensatory mitigation occurs in circumstances where a permittee is required to compensate for the functions and values of aquatic resources lost as a result of the authorization after all efforts are made to avoid and minimize impacts. ILF is an option available to the applicant instead of completing permittee-responsible mitigation. Use of the ILF program is contingent upon USACE and/or State approval.

All ILF agreements in New England are available on the Corps’ website:

<https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/In-Lieu-Fee-Programs/>

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Ducks Unlimited Vermont In-Lieu Fee Program

Annual Report – July 1, 2022– June 30, 2023



Batten Kill River, Manchester, Vermont.



**GREAT LAKES &
ATLANTIC REGION**

Revised: January 24, 2024
Revised: January 12, 2024
Revised: January 3, 2024
Submitted November 13, 2023

1. Executive Summary

The Ducks Unlimited (DU) Vermont In-Lieu Fee Program (DU-VT-ILF) was established in 2011 as an option for compensatory mitigation in Vermont. The program has four Service Areas. In 2022 the program transitioned from a calendar year reporting to fiscal year reporting schedule (July 1 prior year to June 30 current year). Most payments received to date have been in the Richelieu Service Area. This trend continued in 2023, with all 4 payments received occurring in the Richelieu Service Area, and no sales in any of the other three service areas.

DU had a productive year with the program. DU hired a new Program Regional Biologist, located centrally to many of the projects. This addition is expected to improve outcomes on the ground and improve efficiencies. DU performed adaptive management at the Three Mile Bridge ILF site in the Richelieu Service Area. Work consisted of reed canary grass control and supplemental tree plantings to address mortality of past plantings. DU completed wetland delineation verification and made substantial progress with an engineering design for the Twin Oaks Site along Otter Creek accessed from Twin Oaks Drive in Brandon. The Otter Creek Twin Oaks draft Mitigation Plan is expected to be submitted in calendar year 2023. DU is also exploring the possibility of working on lands owned by The Nature Conservancy in Hubbardton that may be a suitable restoration candidate. DU anticipates advancing a project in Hubbardton for IRT consideration in 2024.

DU has acquired and initiated projects in all Service Areas except for the Upper Hudson Service Area where only 1.08 credits have been sold. In the fall of 2022, DU identified a potential project along the Batten Kill in the Upper Hudson Service Area and is under contract to close on two properties. Fortunately, both properties appear suitable for meeting DU's credit obligations independently or as a larger project. DU developed a prospectus for this project and is in the process of responding to comments received. This project is anticipated to cover credit obligations for a long time in the Upper Hudson Service Area. DU is proposing to fund the project with funds from the Richelieu Service Area.

DU submitted an update to the original program instrument to incorporate past program amendments, modernize the compensation planning framework, and incorporate a site selection flowchart among other edits. DU has responded to USACE-comments generated and resubmitted the instrument.

The following sections describe program mechanics, funds collected, and progress towards implementation in each Service Area. In sum DU has protected four properties in three service areas (Richelieu, Connecticut River, St. Francois) totaling 734.24 acres, and DU anticipates being able to deliver approximately 72 credits. Through June 2023, a total of 47.824 credits have been sold through the DU-VT-ILF Program.

2. Introduction

The Ducks Unlimited Vermont In-Lieu Fee Program (DU-VT-ILF) is an option for compensatory mitigation for unavoidable impacts to waters of the United States (U.S.) in the State of Vermont, and portions of New York within the Lake Champlain watershed. Permits are required by the U.S. Army Corps of Engineers (“Corps”) for the discharge of dredged or fill material into waters of the U.S. under Section 404 of the Clean Water Act (CWA); for work and structures in or affecting navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act; and by the Vermont Department of Environmental Conservation (DEC) under Section 9 of the Vermont Wetland Rules. These regulatory agencies require that aquatic resource functions and services lost due to impacts be replaced through compensatory mitigation after addressing avoidance and minimization of impacts. The DU-VT ILF program contains four service areas that cover the entire state of Vermont, and three 8-digit Hydrologic Unit Code watersheds that extend into New York (Figure 1). This report outlines the DU-VT ILF program activities from July 1, 2022 through June 30, 2023.

3. Impacts and Fees Received

During the period of this annual report, four (4) total In-Lieu Fee (ILF) payments were received across one (1) Service Areas. The tables that follow provide information on ILF payments, impact types and amounts, and funds available for future ILF projects.

- Table 1 provides a full list of the permitted impacts that have generated ILF payments from July 1, 2022 – June 30, 2023. Included in this table is the applicant, date the payment was received, project name, permit numbers, town of impact, habitat type impacted, required amount of compensatory mitigation and the amount of the payment. This table is sorted by service area.
- Table 2 shows the financial account ledger for the DU-VT-ILF program. Included in this table is the starting balance, payments received, administration fees collected, interest earned, disbursements made and the remaining account balance. This table is broken down by service area.
- Table 3 is the credit ledger for the DU-VT-ILF program. This table shows the authorized advance credits, advance credits sold, credits released, released credits sold (in-excess of satisfied advance credits), and the total credits available, broken down by service area.

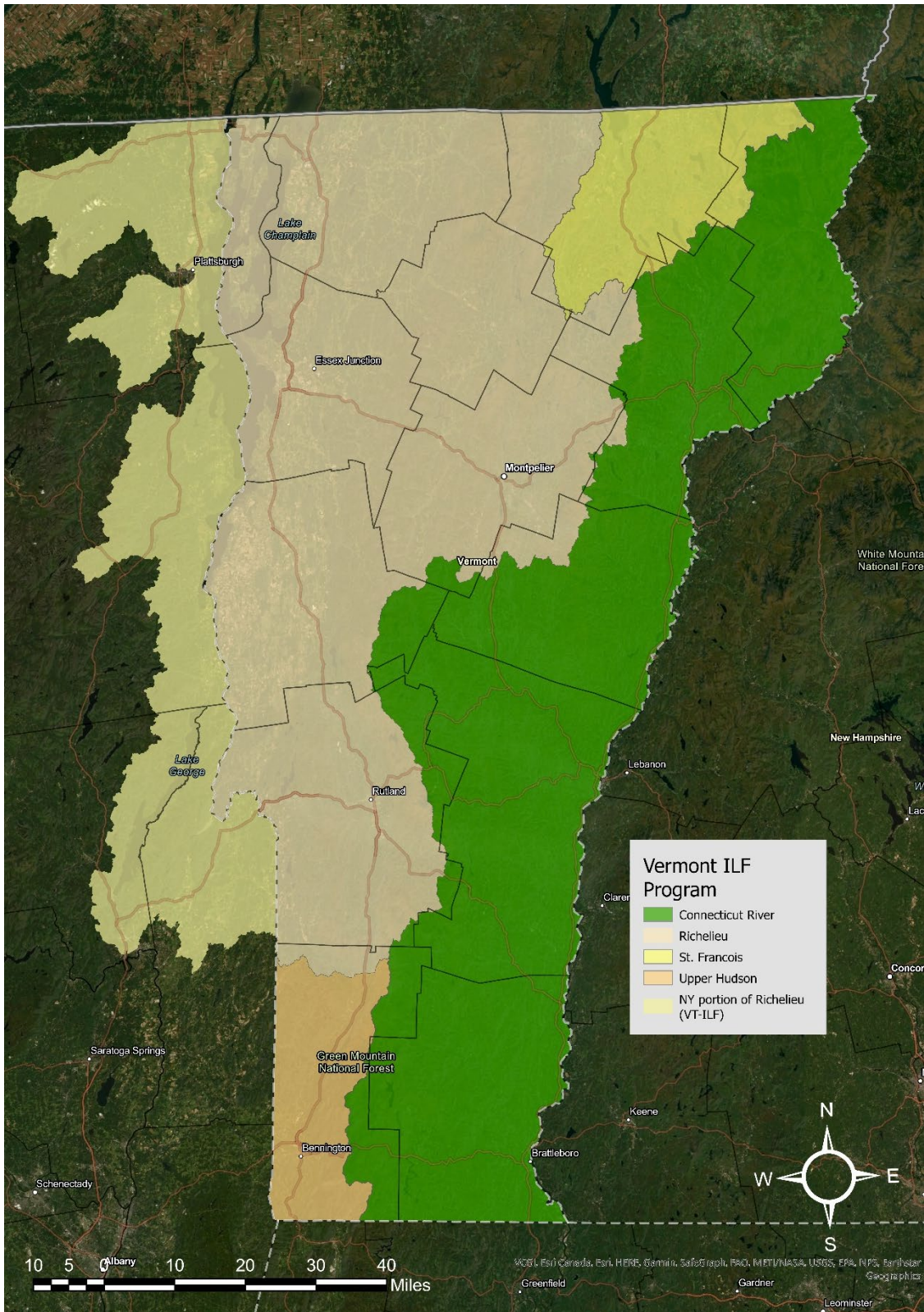


Figure 1. Service Area Map. The DU-VT-ILF program consists of 4 Service Areas. The Richelieu Service Area extends into New York – payments into the VT-ILF program for New York Impacts must be satisfied in the Vermont portion of the Richelieu Service Area.

4. Project Implementation

Richelieu Service Area

Three Mile Bridge is the first ILF site in the Richelieu Service Area. It was constructed in 2018, and an as-built report was submitted on March 21, 2019. The site was planted with shrubs and trees in the spring of 2019. Based on site conditions at the as-built stage, the site is expected to produce approximately 22.809 wetland credits. The Third monitoring report was submitted on December 31, 2021. The Fourth Monitoring Report will be submitted by December 31, 2023.

DU donated the property to the State of Vermont as an addition to Cornwall Swamp Wildlife Management area in 2020. A Corps-approved long-term management plan was filed to the deed at the time of transfer to the State. DU provided \$100,000 in long-term stewardship endowment funds to the state for perpetual management of the site.

The project at Three Mile Bridge Road adds flood storage to the Middlebury River floodplain through installation of ditch plugs and contouring along old swale features. Additionally, there is an extensive vegetation management component at the site, whereby DU is controlling reed canary grass and using a combination of tilling, herbicide application, and seeding/planting to steer the community toward a native wetland plant community. Herbicide applications were performed in 2019, 2020, 2021, 2022, and 2023 to control reed canary grass, and DU will continue invasive species management in 2024. Since 2022 efforts have shifted to tree-replanting and maintenance mowing. A combination of drier than average conditions and competition from forbs and grasses hindered establishment of the trees planted at the site. A large-scale replanting was completed in November 2022 and 2023. DU performed semi-annual maintenance mowing around trees to help free them from competition.

DU anticipates submittal of a draft mitigation plan for the Otter Creek Twin Oaks Property during the 2023/2024 fall-winter timeframe. This site, with 3 Mile Bridge, is anticipated to meet current credit obligations, but DU is pursuing opportunities to secure another site such that we have a means to continue to meet credit obligations in a timely manner.

Connecticut River Service Area

In 2018, DU closed on a 183.39-acre (+/-) property in the Connecticut River Service Area. DU submitted a final mitigation plan for the Connecticut River site in 2019 which was approved by the Corps on March 5, 2020. The site protects a rare plant community (northern white cedar swamp), big game species (moose, deer, bear), and a beaver ponded wetland provides habitat for waterfowl (e.g., mallard, black, and wood ducks). DU donated the property to the Northeast Wilderness Trust (NEWT) for long-term stewardship and management. A Corps-approved long-term management plan was filed to the deed at the time of transfer to NEWT. DU provided \$56,371.00 in long-term stewardship endowment funds to NEWT which was placed in a non-wasting, interest-bearing account managed by a third-party fiduciary. The site produced 11.11 credits. DU retained a conservation easement on the property and placed \$51,345 in an internal non-wasting endowment account to support CE monitoring and enforcement. All requirements of the mitigation plan have been fulfilled. DU continues to monitor the easement on this property and the property was in compliance with the terms of the easement in 2023.

St. Francois Service Area

DU closed on a 243.90-acre property in the St. Francois Service Area in early 2019. Planning work included wetland delineation, topographic survey, soil data collection, and engineering design, which were completed in 2020. A revised mitigation plan was submitted on August 24, 2020, and following discussion and response to agency comments, a final mitigation plan for the site was submitted on March 10, 2021, and approved on April 9, 2021. The project will be phased as funding levels permit construction. DU estimates the site will produce 23.394-credits. DU is exploring options to gain a long-term owner of the property. There have been no credit sales in this watershed in recent years, which hinders opportunities to fund construction.

Upper Hudson Service Area

Only two credit sales totaling 1.08-credits have occurred in the Upper Hudson River Service Area. In 2020 an Instrument Amendment was approved to enable the District Engineer to

consider a DU request to transfer associated funds to an adjacent Service Area where they can be more readily satisfied. DU closed on one property totaling 98 +/- acres on December 15, 2023, and is set to close on an adjacent tract along the Batten Kill in Manchester Vermont in February. DU is proposing to fund the project with funds from the Richelieu Service Area. DU recently responded to public notice comments received on a prospectus developed for the project.

Table 1: Payments Received in Fiscal Year 2023 by Service Area

DU-VT ILF Service Area	Applicant	Date Payment Received	Project Name	Permit Numbers	Town	Acres of Impact	Habitat Type Impacted	Required Compensatory Mitigation (Acres)	Amount of Payment
Richelieu	Vermont Agency of Transportation	11/11/2022	North Hero-Grand Isle Drawbridge	NAE-2016-00933	Barre	0.34	PFO, PSS	0.34	\$65,503.72
Richelieu	City of Burlington	8/3/2022	Stonehenge Stormwater	VT 2007-469.04	South Burlington	0.71	PSS	0.476	\$85,772.50
Richelieu	Winter Lane LLC	3/20/2023	Orchard View Subdivision	NAN-2019-00056-UCO	Peru, NY	0.32 permanent, 0.02 temp.	PSS	0.96	\$184,951.68
Richelieu	Omya Inc.	4/13/2023	Omya Inc.	NAE-2021--02695	Florence	1.05	PSS, PFO	1.05	\$202,290.90
Totals								2.8260	\$538,518.80

Table 2: Fiscal Year 2023 Financial Account Ledger

Richelieu watershed had mitigation planning, adaptive management, and site search expense. Expenses in the St. Francois were related to fee-title monitoring and identification of a suitable long-term owner. Expenses in the Upper Hudson were for site identification and securing property to meet credit obligations.

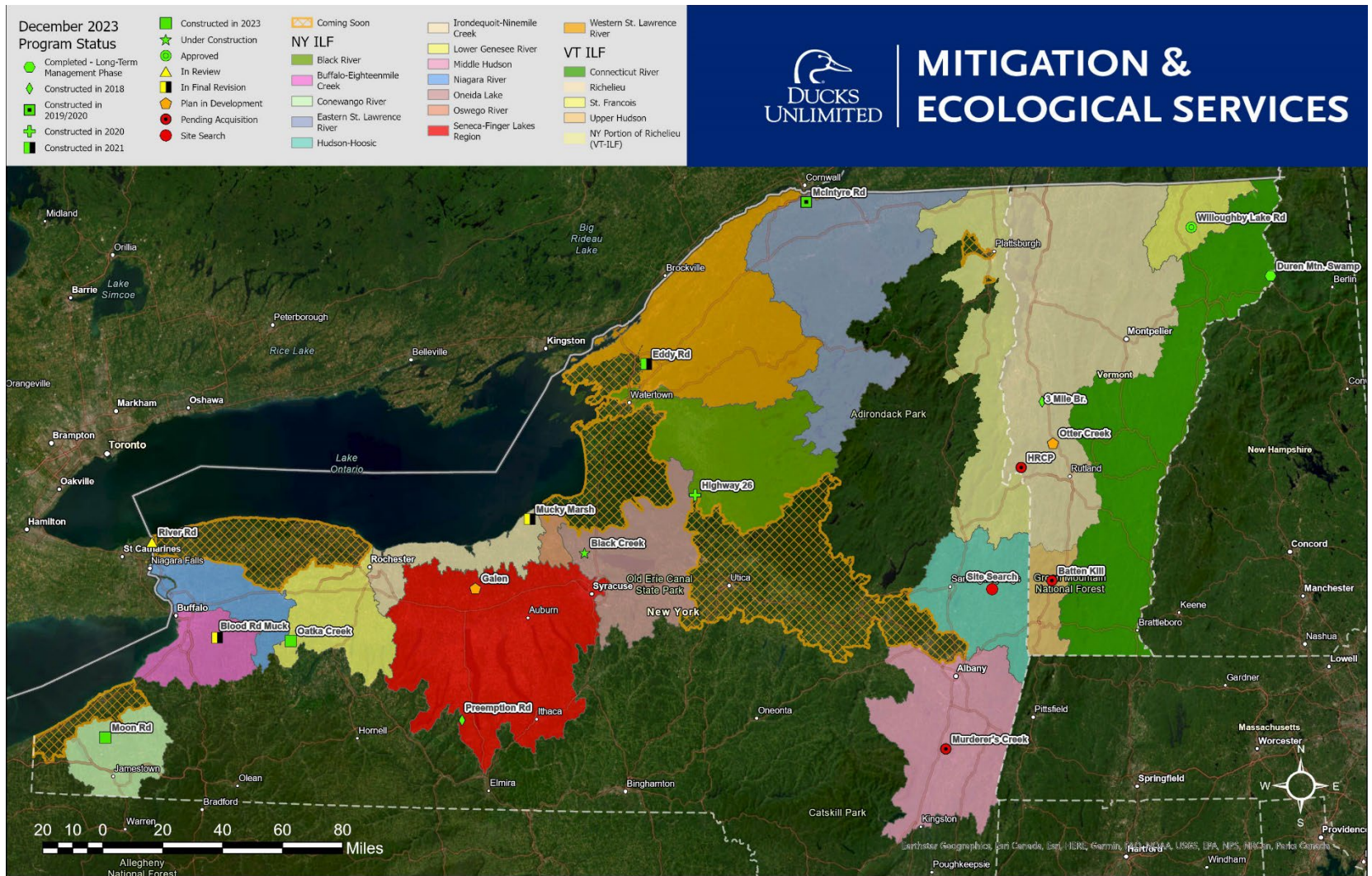
DU-VT ILF Service Area	7/1/2022 Starting Balance	Payments	Administration Fee	Interest Earned	Expenses	June 30, 2023 Remaining Account Balance
Connecticut River	(\$29,585.08)	\$0.00	\$0.00	\$0.00	\$0.00	(\$29,585.08)
St. Francois	\$61,480.61	\$0.00	\$0.00	\$481.63	\$11,777.83	\$50,184.41
Richelieu	\$2,446,134.59	\$538,518.80	\$94,240.79	\$19,979.86	\$828,562.74	\$2,081,829.72
Upper Hudson	\$106,923.65	\$0.00	\$0.00	\$848.94	\$19,316.43	\$88,456.16
Totals	\$2,584,953.77	\$538,518.80	\$94,240.79	\$21,310.43	\$859,657.00	\$2,190,885.20

Table 3: Fiscal Year 2023 Credit Ledger by Service Area

Columns were added to mirror fields included in RIBITS to enable easier cross-validation.

Service Area	Authorized Advance Credits	Previous Advance Credits Sold	Advance Credits Sold	Cumulative Credits Sold	Credits Released	Withdrawn Credits	Unfulfilled Credits	Available Credits	Advanced Credits Available
Connecticut River	25	4.023	0.000	4.023	11.110	4.023	0.000	7.087	25.000
St. Francois	25	8.080	0.000	8.080	5.092	5.092	2.988	0.000	22.012
Richelieu	154	31.814	2.826	34.640	14.669	14.669	19.971	0.000	134.029
Upper Hudson	25	1.081	0.000	1.081	0.000	0.000	1.081	0.000	23.919
Totals	229	44.998	2.826	47.824	30.871	23.784	16.953	7.087	204.960

Appendix B. Project Status Map



Graphic includes both the VT-ILF and the Sister New York ILF Program with current status as of December 2023.