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22 June 2017

RE: Amendment Request for Susquehanna Basin Headwaters and Adjacent Basins In-Lieu Fee Program Instrument

Dear Mr. Krakowiak and Mr. Casey,

This is a formal amendment request per Federal Register, 4-10-08, Vol. 73, No. 70, Pages 19389-19742. TWT Requests:

1. Combine Service Areas 02050101, 02050102, and 02050103 into a single Susquehanna River Service Area, and combine Service Areas 02050104 and 02050105 into a single Chemung River Service Area.
2. Combine Services Areas 04140202 and 04140203 into a single Oneida/Oswego River Service Area.

Note: The new Service Area Map, Credit Cost structure and development of additional Assurance Credits in the Susquehanna River Service Area are included in the discussion and attachments and are part of Amendment requests # 1 and # 2..

Relevant Background from the Federal Register, 4-10-08, Vol. 73, No. 70, Pages 19389-19742
Page 19681:“332.8 (c)(2) The compensation planning framework must contain the following elements: (i) The geographic service area(s), including a watershed-based rationale for the delineation of each service area;”

Page 19682:“332.8 (d)(6) (ii) (A) A description of the proposed geographic service area of the mitigation bank or in-lieu fee program. The service area is the watershed, ecoregion, physiographic province, and/or other geographic area within which the mitigation bank or in-lieu fee program is

authorized to provide compensatory mitigation required by DA permits. The service area must be appropriately sized to ensure that the aquatic resources provided will effectively compensate for adverse environmental impacts across the entire service area. For example, in urban areas, a U.S. Geological Survey 8-digit hydrologic unit code (HUC) watershed or a smaller watershed may be an appropriate service area. In rural areas, **several contiguous 8-digit HUCs or a 6-digit HUC watershed may be an appropriate service area.** Delineation of the service area must also consider any locally developed standards and criteria that may be applicable. The economic viability of the mitigation bank or in lieu fee program may also be considered in determining the size of the service area. The basis for the proposed service area must be documented in the instrument. An in-lieu fee program or umbrella mitigation banking instrument may have multiple service areas governed by its instrument (e.g., each watershed within a state or Corps district may be a separate service area under the instrument); however, all impacts and compensatory mitigation must be accounted for by service area;"

Request #1:

Combine the three eastern 8-digit HUA SAs into a "Susquehanna River SA" and the two western 8-digit HUA SAs into a "Chemung River SA".

Background and Justification

TWT began developing its original instrument in 2009, which covered only the 5 SAs in NY's Susquehanna River Basin; it was approved in October 2013. The Instrument was amended in October 2015 to include 10 additional Service Areas adjacent to and surrounding the original ILF footprint. TWT originally discussed with the IRT the possibility of developing larger Service Areas, specifically the ones now being proposed for combination. At the time without any TWT/USC history to review, the IRT was conservative in its SA delineations, namely limiting every SA to one 8-digit HUA. Now TWT has much firmer grasp of mitigation needs due to its robust conservation framework that analyzed all SA wetlands and wetland potential for quality and combining several SAs will result in it being more effective and efficient.

The entire NY Susquehanna River Basin is extremely rural and has steep topography. The Basin covers 4 million acres, 75% forest, 22% agriculture and 3% residential /other. The largest population center is the City of Binghamton with 60,000 residents; the entire basin's population is about 600,000. The Basin lies in Northern Allegheny Plateau, having similar geological and land use history. The ILF Instrument provides a more detailed watershed discussion. Multiple 8-digit SAs already has a precedent in NY since the only other NY ILF Program, sponsored by DU, already has two multiple 8-digit HUA Service Areas along the Saint Lawrence River. That area's rural nature and lack of large potential mitigation needs are similar to the Susquehanna's present and likely future conditions.

Because of recent changes in NY State politics, regulations, and philosophical issues it is doubtful that large-scale gas development will occur in the foreseeable future in NY's Susquehanna Basin, a very different view compared to expectations when the original Instrument was approved. This is born out by credit sales in the entire Susquehanna Basin, as only 2.35 credits have been sold since Instrument inception in 2013, resulting in a great lag in the ability to initiate a projects due to lack of sufficient funding for implementation.

Approach

TWT has a very robust watershed approach for prioritizing both potential and existing wetland sites for quality (size, location, sustainability, connectivity, lack of invasive issues) and will continue to use this tool, described in the amended ILF instrument, to locate sites throughout the new larger proposed SA to maximize functions and values. TWT's unique "Assurance Credit" approach for bonding provides for additional sites that can be dispersed throughout the new SA to provide for a more comprehensive Program. TWT targeting of quality sites and proactively using its own funds to ensure the Program progresses are examples of its commitment for making the ILF Program successful. This approach allows for more meaningful conservation projects to be implemented and overcomes the issue of permanent local net loss. TWT will select the best sites based on sound science to maximize function, services, connectivity, rare species preservation and other important conservation attributes. To the best of its ability TWT will select sites that are dispersed throughout all 8 digit HUAs.

For the new "Susquehanna River SA" TWT has one approved site ("The River Bend Golf Course" in 02050101); it will generate 52.02 credits if all success criteria are met. This will be the main mitigation site for the foreseeable future as only 1.53 credits have been sold, although there is a possibility of a 17-credit sale in 02050101 for a proposed pipeline that is in court trying to obtain approval. Note that TWT, on its own, funded the development of this site, an example of TWT being a very pro-active sponsor. An additional Site is in the final stages of approval ("Nine Mile Swamp" in 02050102). Its 4 credits are all based on preservation and these credits will become "Assurance Credits", raising that total to 20.86. TWT is in compliance with a site's financial assurances as long as the number of "Assurance Credits" exceeds the number of Advance Credits sold (see Section 9 in the TWT ILFP Instrument for a detailed discussion).

For the new "Chemung River Service Area" TWT is in the final stages of approval for small project that has a site in each 8 digit HUA composing that new SA. It will produce about 1.5 credits that will cover the credits sold and potential new credit sales. At present 0.82 credits were sold in 02050104 and there is a potential for 0.6 credits additional sale in 02050105.

Specific Details

Combine Service Areas 02050101, 02050102, and 02050103, the three eastern Susquehanna 8 digit HUAs into a single SA, "The Susquehanna River". The original number of advance credits for these three SAs was 100. TWT proposes the new SA to have 52 advance credits, which is the proposed number of credits generated at the approved Site ("River Bend Golf Course") in 02050101. Credit cost will be set at \$91,580.00 for all new inquiries and sales.

Combine Service Areas 02050104 and 02050105, the two western Susquehanna 8 digit HUAs into a single SA, "The Chemung River". The original number of advance credits for these two SAs was 24. TWT proposes the new SA to have 14 advance credits. Credit cost will be set at \$91,580.00 for all new inquiries and sales.

**Request #2:
Combine two 8-digit HUA SAs into an Oneida/Oswego River Service Area.**

Background and Justification

The original TWT ILF Instrument was amended in a request that was approved October 2015. It had the Oneida and Oswego watersheds combined as one Service Area in that request. The reason was that the Oswego watershed is extremely small and the size would limit the ILF Sponsor's ability to find mitigation sites. The IRT strongly suggested keeping them separate because Duck Unlimited ILFP was already approved with separate SAs. TWT at present has 1 credit set aside in the Oswego SA, with the potential for an additional 3.5 credits. The TWT Chair reviewed all 2,264 8- digit HUAs in the continental US. The Oswego Basin, at 145 square miles, was the seventh smallest in the nation, providing further proof that a combination of SAs would be helpful. The larger Oneida Watershed flows directly through the middle of the Oswego Watershed providing a high degree of connectivity between these two basins.

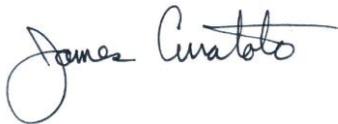
In order to further TWT did a complete computer analysis of the Oswego SA and located six potential wetland restoration sites. None of these properties were for sale, but TWT contacted the landowners and there was one parcel with an interested landowner. It may generate about 6 credits; this site will be secured, if possible. The larger Oneida Service Area has sufficient potential sites available for wetland restoration. Indeed, except for the current Oswego SA, TWT has never had a problem finding sites for wetland restoration.

Approach

TWT will secure, if possible, the one site that is potentially available in the current Oswego SA. It is large enough to meet the present anticipated needs in the Oswego Service Area (4.5 credits). After combining the Oswego and Oneida SAs, TWT will continue, to the degree possible, to locate sites within the 8 digit HUA where the impacts occur,

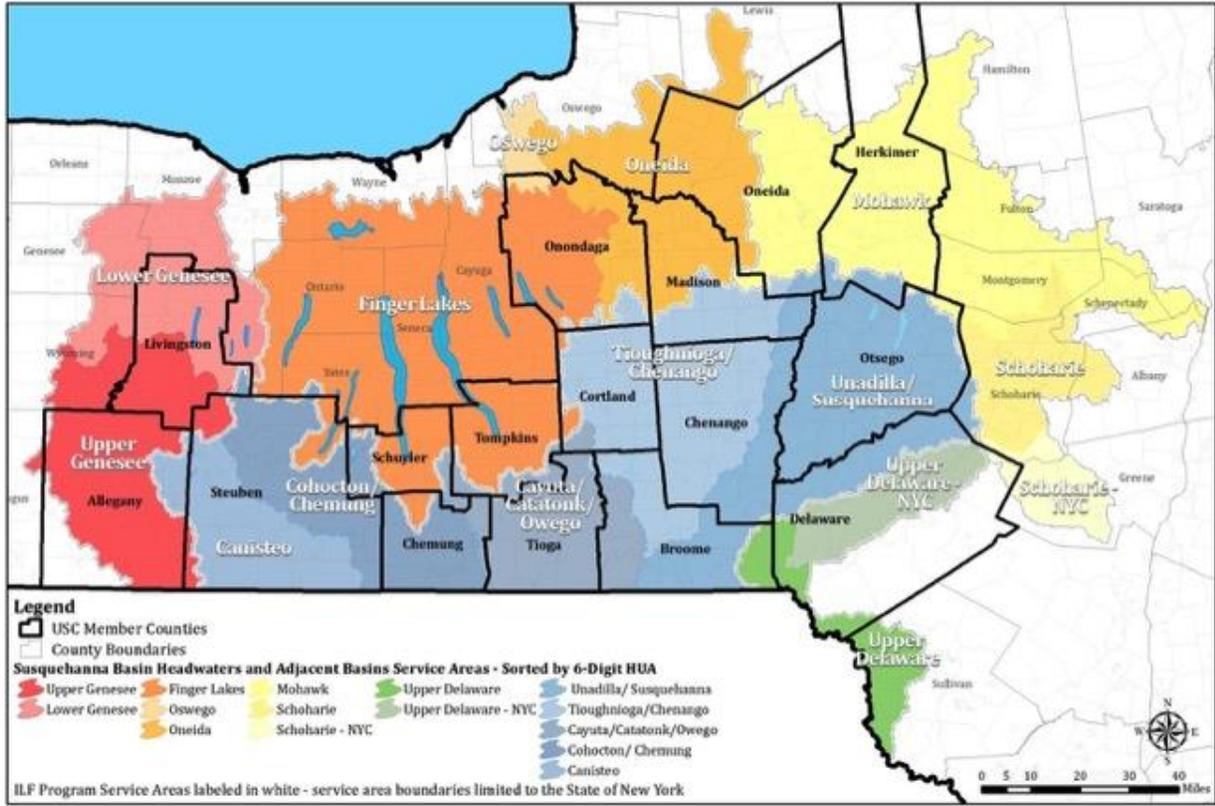
Specific Details

Combine Services Areas 04140202 and 04140203 into a single Oneida/Oswego River Service Area. The original number of advance credits for these two SAs was 26. TWT proposes the new SA to have the total advance credits to remain the same at 26. Credit cost will be set at \$77,843.00.

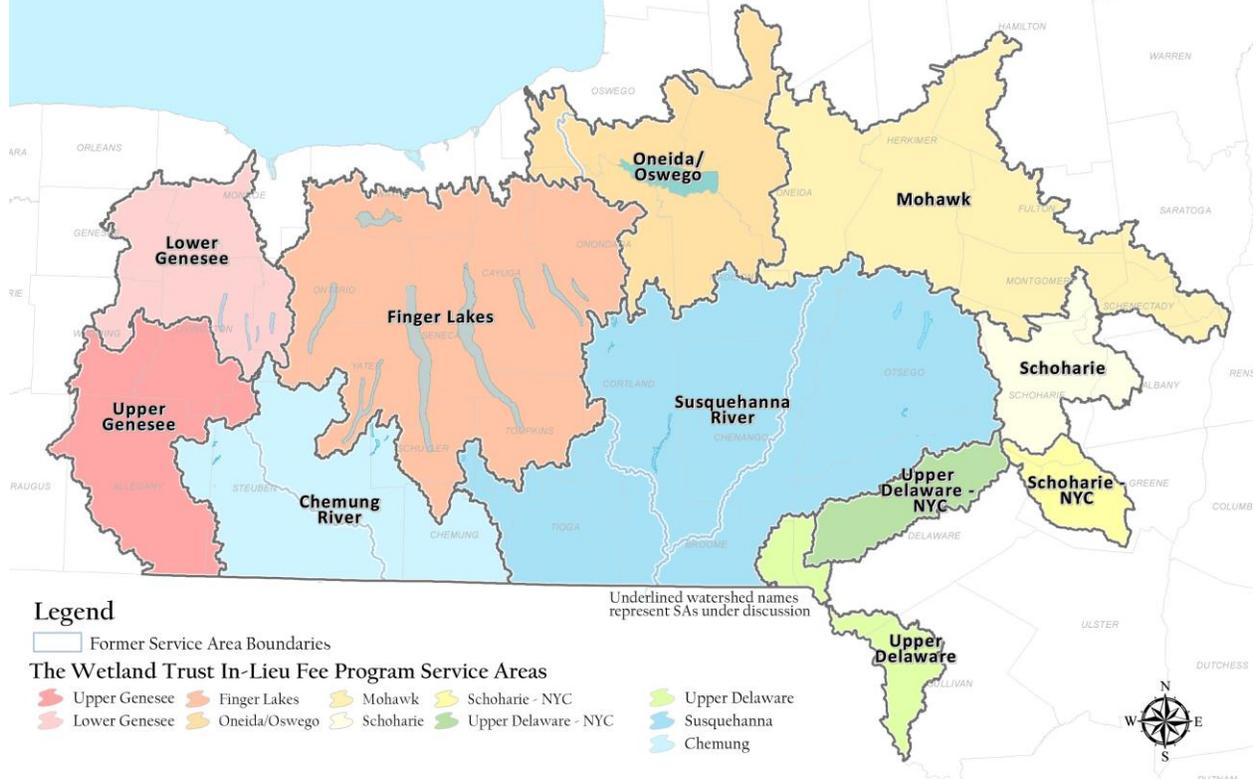


James Curatolo
TWT Chair

Attachment: Maps depicting Original and new Service Areas
Original Service Area Map



New Service Area Map
The Wetland Trust In-Lieu Fee Program Service Areas



Attachment: A summary of credit charges and changes from original ILFP Instrument costs
 The US Army Corps of Engineers added a new requirement for the Program (incorporate VIBI scores in the success criteria evaluation) after the TWT Instrument was approved. The Wetland Trust recently reviewed its ILF Program credit cost structure* and concluded that it must increase its credit charges in several Service Area to insure it has adequate funding to accomplish its mitigation tasks.

**Part 332.8, Federal Register Volume 73, Number 70, Page 525:(5) Credit costs. (i) The cost of compensatory mitigation credits provided by a mitigation bank or in-lieu fee program is determined by the sponsor.*

A synopsis of credits and costs with shaded areas depicting changes discussed in this Amendment Request							
Service Area	8 digit HUA Code	# of Original Advance Credits	# of New Advance Credits	Cost per credit <i>Part 332.8, Federal Register Volume 73, Number 70,(5) Credit costs. (i) The cost of ... in-lieu fee program is determined by the sponsor</i>	Discount		
1-Unadilla/ Susquehanna	02050101	52		\$91,580.00	5% reduction in sale price for credit sales over 15		
2-Tioughnioga/ Chenango	02050102	24					
3-Cayuta/Catatank/Owego Susquehanna River	02050103 All 3 above	24				52	
4-Canistota	02050104	10					
5-Cohocton/Chemung Chemung River	02050105 All 2 above	14				14	
6 Mohawk	02020004	20				\$77,843.00	
7 Schoharie	02020005	20					
8 Schoharie-NYC	02020005	5					
9 Upper Delaware	02040101	6					
10 Upper Delaware-NYC	02040101	14					
11 Lower Genesee	04130002	8					
12 Upper Genesee	04130003	10					
13 Finger Lakes	04140201	18					
14 Oneida	04140202	20					
15 Oswego	02050103	6					
Oswego/Oneida	All 2 above		26				