



Public Notice

U.S. Army Corps
of Engineers

Buffalo District
CELRB-OR-R
478 Main Street
Buffalo, NY 14202

New York District
CENAN-OP-RU
1 Buffington Street
Bldg. 10 3rd Fl. North
Watervliet, NY 12189-4000

Application No: LRB-2010-00673 (Buffalo District)
NAN-2020-01218 (New York District: Upstate Regulatory
Field Office)

Applicant: **Ducks Unlimited**
(ILFP Instrument Modification)

Published: June 25, 2024
Expires: July 25, 2024

All written comments should reference the above Application Nos. and be addressed to:

US Army Corps of Engineers Buffalo District (Attn: Susan L. Baker) 478 Main Street Buffalo, NY 14202	US Army Corps of Engineers New York District (Attn: George D. Casey) 1 Buffington Street, Bldg. 10 3 rd Floor North Watervliet NY 12189-4000
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INTERESTED PARTIES ARE HEREBY NOTIFIED THAT DUCKS UNLIMITED HAS PROPOSED TO MODIFY THEIR IN-LIEU FEE MITIGATION PROGRAM (ILFP) INSTRUMENT. A REVISED ILFP INSTRUMENT HAS BEEN RECEIVED PURSUANT TO 33 CFR 332.8. THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE PROPOSED ILFP INSTRUMENT MODIFICATIONS. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT THE PROPOSED MODIFICATIONS WILL BE APPROVED.

SPONSOR: Ducks Unlimited, 159 Dwight Park Circle, Syracuse, NY 13209

BACKGROUND: Under Section 404 of the Clean Water Act (CWA), applicants requesting Department of the Army permits to discharge dredged or fill material into

waters of the United States, including wetlands, are often required to mitigate for permitted wetland losses by establishing, restoring, enhancing, or in exceptional circumstances, preserving wetlands. One method of fulfilling this obligation can be to purchase advance credits from an approved ILFP. The establishment and use of an ILFP mitigation site must be in accordance with the ILFP instrument signed by the Interagency Review Team (IRT). The IRT is comprised of the U.S. Army Corp of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Natural Resources Conservation Service, the New York State Department of Environmental Conservation, and the New York City Department of Environmental Protection. The Ducks Unlimited ILFP was approved in September of 2012 and is authorized to provide wetland and stream mitigation via sale of advance credits in twelve service areas within the State of New York. To date, the ILFP Instrument has been modified 11 times including the addition of seven mitigation sites, two credit pricing schedule adjustments, addition of the Middle Hudson and Hudson Hoosic Service Areas, and modification of the advance credit allotment by service area.

DESCRIPTION OF PROPOSED MODIFICATIONS: The ILFP instrument modifications include the removal of advance stream credits, the addition of the Mohawk Service Area (U.S. Geological Service 8-digit Hydrologic Unit Code 02020004) and Salmon-Sandy Service Area (U.S. Geological Service 8-digit Hydrologic Unit Code 04140102), modification of the advance credit fee schedule, combination of the Oswego and Oneida Service Areas (U.S. Geological Survey 8-digit Hydrologic Unit Codes 04140203 and 04140202), and numerous textual changes.

As approved in 2012, the ILFP Instrument allowed Ducks Unlimited to sell advance stream credits in each approved service area. However, Ducks Unlimited is seeking to remove stream credits from the modified ILFP Instrument. To date, Ducks Unlimited has not sold any advance stream credits for any service area.

The modified ILFP Instrument would include the following service areas:

Service Area No.	Service Area
1	Black River (HUC 4150101) ¹
2	Buffalo-Eighteen Mile (HUC 04120103) ¹
3	Conewango-Creek (HUC 05010002) ¹
4	Hudson - Hudson-Hoosic (HUC 02020003) ²
5	Hudson - Middle Hudson (HUC 02020006) ²
6	Irondequoit-Ninemile Creek (HUC 04140101) ¹
7	Lower Genesee (HUC 04130003) ¹
8	Mohawk (HUC 02020004) ³
9	Niagara River (HUC 04120104) ¹
10	Oneida -Oswego (HUC 04140202 &04140203) ¹

11	Salmon-Sandy (HUC 04140102) ³
12	Seneca-Finger Lakes (HUC 04140201) ¹
13	St. Lawrence - Eastern (HUC 04150305-8) ¹
14	St. Lawrence - Western (HUC 04150301-4) ¹
¹ Approved in the original September 2012 ILFP Instrument ² Approved in the September 2022 ILFP Instrument modification ³ Proposed in the current ILFP Instrument modification	

The proposed modified advance credit fee schedule is as follows:

Service Area Name	Advanced Wetland Credits	Wetland Credit Pricing
Black River	30	\$145,000
Buffalo-Eighteen Mile Creek	50	\$152,000
Conewango-Pennsylvania River	30	\$152,000
Hudson: Hudson-Hoosic	30	\$152,000
Hudson: Middle Hudson	30	\$152,000
Irondequoit - Nine Mile Creek	40	\$145,000
Lower Genesee River	30	\$145,000
Mohawk River	30	\$145,000
Niagara River	50	\$152,000
Oneida-Oswego	50	\$152,000
Salmon-Sandy	30	\$145,000
Seneca-Finger Lakes Region	40	\$145,000
St. Lawrence Region	40	\$145,000
St. Lawrence Region	40	\$145,000

The entire proposed modified ILFP Instrument, may be found on the Buffalo District's website along with this Public Notice:

<https://www.lrd.usace.army.mil/Submit-ArticleCS/Regulatory-Notices/>

or the New York District's website at:

<https://www.nan.usace.army.mil/Missions/Regulatory/Non-Project-Specific-Special-Public-Notices/>

All portions of the ILFP Instrument are subject to review and approval by the IRT and U.S. Army Corps of Engineers (USACE).

Comments or questions pertaining to the work described in this notice should reference the Application Number and be directed to the attention of Susan Baker, of the Buffalo District, who can be contacted at the above address, by calling (716) 879-4474, or by email at Susan.L.Baker@usace.army.mil or George D. Casey, of the New York District, who can be contacted at the above address, by calling (518) 266-6361 or by email at George.D.Casey@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

As the proposed modifications are administrative in nature, the USACE has determined that no historic properties, including archaeological and/or historic resources, would be affected by this undertaking. The USACE will continue consult with the New York State Office of Parks, Recreation & Historic Preservation regarding proposed mitigation sites to determine compliance with Section 106 of the National Historic Preservation Act.

As the proposed modifications are administrative in nature, the USACE has determined that the proposed modifications would result in no effect to any listed threatened or endangered species. The USACE will continue consult with the U.S. Fish and Wildlife Service regarding proposed mitigation sites to determine compliance pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531).

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-332. Any interested party desiring to comment on the work described herein may do so by submitting their comments in writing, so they are received no later than 4:30pm on the expiration date of this notice.

Comments submitted in response to this notice will be fully considered during the review for this proposal. All written comments will be made part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record or portions thereof may also be posted on a USACE internet website. **Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment. Copies of comments received will be forwarded to the sponsor and to the members of the Interagency Review Team.**

/S/

Martin Wargo
Chief, Regulatory Branch
Buffalo District

/S/

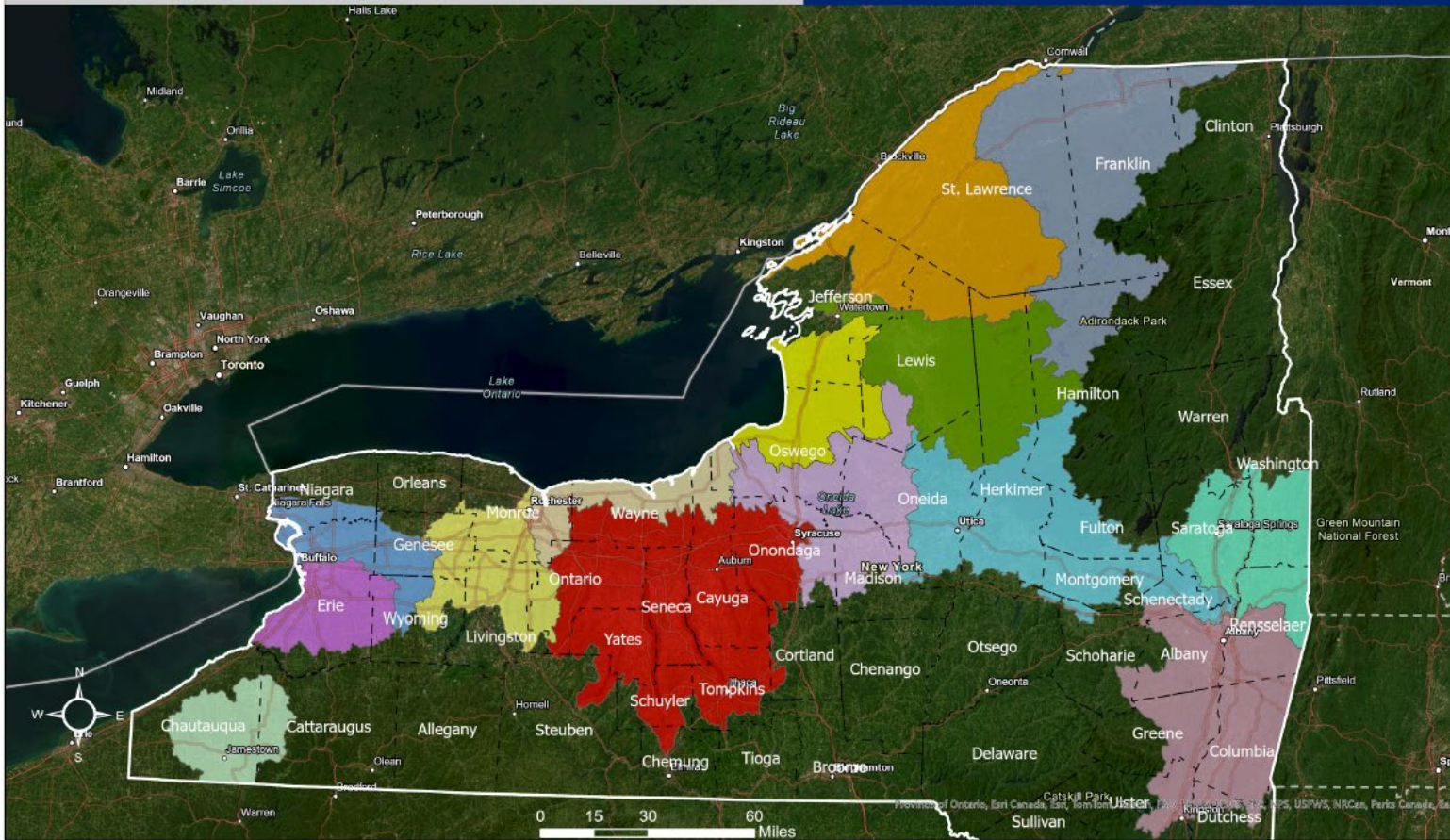
Stephan A. Ryba
Chief, Regulatory Branch
New York District

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance

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| New York ILF |  Lower Genesee |  Seneca-Finger Lakes |
|  Black River |  Middle Hudson |  Western St. Lawrence |
|  Buffalo-Eighteenmile |  Mohawk River |  Conewango-Pennsylvania |
|  Eastern St. Lawrence |  Niagara River | |
|  Hudson-Hoosic |  Oneida-Oswego | |
|  Irondequoit-Ninemile |  Salmon-Sandy | |



MITIGATION & ECOLOGICAL SERVICES



Ducks Unlimited
 Department of Army No.: LRB-2010-00673 & NAN-2020-01219
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