



US Army Corps  
of Engineers  
Seattle District



# Joint Public Notice

## Proposed Puget Sound Partnership In-lieu Fee Mitigation Program

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Name: Puget Sound Partnership ILF Mitigation Program

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Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) Seattle District and the Washington State Department of Ecology (Ecology) are seeking comments on a proposal to establish the Puget Sound Partnership In-lieu Fee (ILF) Mitigation Program. A prospectus describing the proposed program has been received from the program sponsor, the Puget Sound Partnership, dated May 6, 2010, and titled *In-Lieu Fee Prospectus Puget Sound Partnership*.

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### ILF PROGRAM OVERVIEW:

The term “in-lieu fee mitigation 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.

The Puget Sound Partnership ILF Mitigation Program is being proposed as a means to meet the requirements for compensatory mitigation associated with projects that may be permitted by the Corps, Ecology, and/or local jurisdictions. If the program is approved, it will serve as one of the options available to permit

applicants and permitting agencies to provide mitigation for unavoidable impacts to resources. Under the program, public and private applicants for environmental permits may be allowed to pay into a restoration fund instead of performing permittee-responsible mitigation for unavoidable environmental impacts from their development actions. The program will 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.

This prospectus proposes a pilot ILF program within portions of Pierce County. The Partnership intends to add a second pilot area, Thurston County, at a later date after the pilot ILF program in Pierce County is approved and operating. The ultimate goal of the Partnership's ILF program is to include all the watersheds draining into Puget Sound. The Partnership plans to add other interested counties or watersheds to the program via applicable public and agency review processes.

During or shortly after the 30-day comment period for this public notice, the Corps and Ecology will convene an Interagency Review Team (IRT) and invite the appropriate federal, state, local, and tribal entities to participate. This team will work with the Puget Sound Partnership to create an instrument that will serve as the legal agreement that specifies the terms and conditions of the ILF program. This document will include, but not be limited to, 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 instrument is approved, individual mitigation plans will be prepared as in-lieu fee project sites ("receiving sites") are identified. These plans would be incorporated as amendments to the instrument. Additional representatives may be invited to join the IRT during review of individual mitigation projects.

LOCATION – The proposed pilot of the Puget Sound Partnership ILF Mitigation Program would be applicable for aquatic resource impacts within the defined boundaries of Pierce County.

SERVICE AREA – The service area(s) of an ILF program is the geographic area(s) over which ILF credits may be used for compensatory mitigation. The Puget Sound Partnership ILF Mitigation Program prospectus identifies three service areas which align with the Water Resource Inventory Areas in the Pierce County pilot area:

- Puyallup/White Watershed – WRIA 10
- Chambers/Clover Watershed – WRIA 12
- Nisqually Watershed – WRIA 11

The proposed pilot ILF program is for aquatic resource impacts within these watersheds. ILF mitigation receiving sites would be located in each watershed to provide compensatory mitigation for impacts within the same watershed. The Partnership intends to develop a list or "inventory" of candidate sites that address watershed goals and objectives and have a high potential to improve conditions within the watershed, as well as meet future mitigation needs in each service area. The inventory for each service area will come from existing plans and other information that identify priority habitats needing particular attention, vulnerable locations within the watershed, and areas most likely to benefit from restoration, creation, enhancement, and preservation. A prioritization strategy for selecting compensatory mitigation project sites and activities is included in the comprehensive planning framework (CPF) in the prospectus.

PROPOSED ILF PROGRAM DESCRIPTION - The complete Puget Sound Partnership ILF Mitigation Program prospectus is available for inspection at the above-listed Corps office and may also be found at the following internet address:

[http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Public\\_Notices](http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Public_Notices)

EVALUATION – The Corps and Ecology are soliciting comments from interested parties, including the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to identify program aspects that need to be addressed during the ILF program review process and in the development of the ILF instrument. Public comments will assist in developing facts on which to base a decision by IRT member agencies and tribes as to whether or not to authorize the proposed ILF program. For accuracy and completeness of the record, all comments should be submitted in writing with sufficient detail to furnish a clear understanding of the reasons for support or opposition.

COMMENT AND REVIEW PERIOD – Conventional mail or e-mail comments on this proposal will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. All e-mail comments should be sent to [Kimberley.a.harper@usace.army.mil](mailto:Kimberley.a.harper@usace.army.mil) at the Corps and/or [Brad.murphy@ecy.wa.gov](mailto:Brad.murphy@ecy.wa.gov) at Ecology. Conventional mail comments should be sent to the Corps ATTN: Kim Harper, Regulatory Branch and/or to Ecology ATTN: Brad Murphy, SEA Program. Either conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commenter's name, address, and phone number. All comments, whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number in the e-mail title:

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