

Below are the **Advance Crediting** sections of three approved in-lieu fee programs (listed below).

1. Mississippi Delta In-Lieu Fee Program (*Sponsor: Ducks Unlimited, Inc.*)
2. Vermont In-lieu Fee Program (*Sponsor: Ducks Unlimited, Inc.*)
3. Virginia Aquatic Resources Trust Fund Program (*Sponsor: The Nature Conservancy, Virginia Chapter*)

Mississippi Delta In-Lieu Fee Program

Sponsor: Ducks Unlimited, Inc.

A. ADVANCE CREDITS

The MSDILFP [Mississippi Delta In-Lieu Fee Program] is permitted to sell or transfer advance credits. Based upon confidential supporting information provided to the Corps fifty (50) advance credits shall be available in the Delta Region program service area.

As milestones in an individual ILF project's credit release schedule are reached and credit releases occur, the released credits will first be used to satisfy the mitigation requirements represented by the sold or transferred advance credits. Once an advance credit is fulfilled it is again available for sale or transfer. Released credits in excess of those required to fulfill advance credits are also available for transfer or sale by the MSDILFP.

DU shall complete land acquisition and initial physical and biological improvements by the third full growing season after the sale of an advance credit in each program service area. If DU fails to meet these deadlines, the District Engineer must either make a determination that more time is needed to plan and implement an ILF project or, if doing so would not be in the public interest, direct DU to disburse funds from the MSDILFP program account to provide alternative compensatory mitigation to fulfill those compensation obligations.

Vermont In-lieu Fee Program

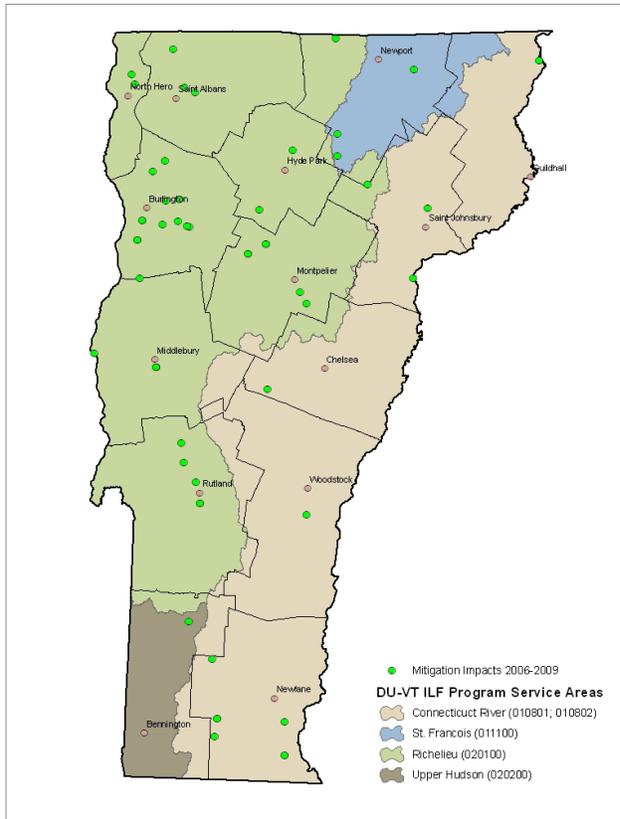
Sponsor: Ducks Unlimited, Inc.

Credit structure: Advanced Credits

Under this instrument, Ducks Unlimited, Inc. (DU) is permitted to sell advanced credits in the amount indicated in the table below. The number of advance credits available for sale varies, are specified by service area, and were determined based on the estimated credits needed to compensate for impacts permitted over the past four years (data provided by R. Ladd, New England District Corps of Engineers, see note on data below*). Acres are used as a stand-in for credits. The District has guidance that provides suggested ratios for various types of wetlands (e.g., palustrine forested). During the permitting process, the Corps will determine the appropriate ratio for each project. In service areas that have experienced relatively few impacts over the past four years, a minimum of 25 advanced credits are needed to finance the program.

Service Area	Advanced Credits* (% of total reported impact acres)
Connecticut River	25 (13%)
St. Francois	25 (5%)
Richelieu	154 (81%)
Upper Hudson	25 (1%)

*advanced credits were estimated using a multiplier because only approximately 50% of the data available from the Corps data base were referenced to lat/long, such that only 80.7 impact acres were attributable to specified service areas, yet 152.1 impact acres were permitted during a 4 year time period. Advanced credits above represent an estimated demand over a 5 year period assuming non-spatial data are distributed proportionately to reported spatial impact sites. See below for the distribution of known mitigation impact sites by service area.



Advanced credits will be converted to released credits as milestones specified in specific mitigation plans are achieved. Credit release schedules may vary by project and will vary between restoration/enhancement and preservation. For example, a typical credit release schedule for restoration/enhancement might include a 20% release at approval of the mitigation plan, further release of 20% at as-built production, 15% after the first year of successfully meeting the monitoring performance standards, 15% after the second year of successfully meeting the monitoring performance standards, 15% after the third year of successful monitoring, and the final 15% upon Corps sign-off. A typical release schedule for preservation

might be 75% credit release at the signing of the preservation documents and the final release of 25% once financial assurances are documented and in place.

Once DU has sold advance credits, additional advance credits may be sold when an equivalent number of credits have been released in accordance with the approved credit release schedule outlined in a project specific mitigation plan. Once advance credits are fulfilled, an equivalent number of advance credits may be made available for sale, at the discretion of the district engineer and IRT.

DU will complete land acquisition, land securement, and initial physical and biological improvements for a project by the end of the third full growing season after receipt of the first DU-VT ILF Program payment. If DU fails to meet this deadline, the district engineer must either make a determination that more time is needed to plan and implement an in-lieu fee project or, direct DU to disperse funds from the DU-VT ILF Program account to provide alternative compensatory mitigation to fulfill those compensation obligations.

Virginia Aquatic Resources Trust Fund Program

Sponsor: The Nature Conservancy, Virginia Chapter

ADVANCE CREDITS

“Advance Credits,” as used in this Agreement, are Credits that are not associated with a compensatory Mitigation Project and that are available for sale prior to initiation of a Mitigation Project in accordance with an approved Mitigation Site Development Plan. Specification of the amount of Advance Credits and the fee schedule for those Advance Credits is set out in Exhibit B. Advance Credits have been assigned to particular Service Areas as outlined in Exhibit B. These Advance Credits were based on the following considerations:

- (a) The compensation planning framework;
- (b) The Conservancy's past performance for implementing aquatic resource restoration, establishment, enhancement and/or preservation activities in the proposed service area or other areas;
- (c) The projected financing necessary to begin planning and implementation of in-lieu fee projects; and
- (d) The availability of mitigation bank credits in each service area.

Any debited Advance Credits must be fulfilled, or offset, by Released Credits associated with mitigation sites in a given service area before Released Credits are available for sale. Once the mitigation obligations associated with debited Advance Credits have been satisfied by Released Credits, that corresponding amount of Advance Credits is again available for use.

Because this Agreement modifies an existing in-lieu fee program, it is recognized that there may be Mitigation Projects that were approved or completed and funded by Program monies before the Effective Date of this Agreement that are not associated with a mitigation liability. Credits associated with that work may be released, if approved by the IRT, and may be available for sale, transfer or fulfillment of any Advance Credit Sales in the Service Area of the associated Mitigation Projects. These Credits may be released as milestones are achieved in the Credit Release schedule approved for each project. The Credit Release schedule is expected to follow that provided in the Mitigation Banking Instrument Template unless otherwise approved by the IRT. Released Credits may be sold once the mitigation obligation associated with Advance Credits has been met. Released Credits generated by preservation will only be sold in conjunction with an equal number of

Released Credits generated by restoration or creation unless otherwise approved by the IRT. Ratios shown in Exhibit C (“Standard Ratios”) were used to calculate the amount of Released Credits.

Land acquisition and the initial physical and biological improvements associated with a Mitigation Project must be completed by the third full growing season after the first Advance Credit in that Service Area is sold or debited, unless the IRT determines that more time is needed to plan and implement a Mitigation Project in that Service Area. If the IRT Chairs, in consultation with the members, determine that there is a compensatory mitigation deficit in a specific Service Area by the third growing season after the first Advance Credit was secured, then the IRT may direct the disbursement of funds from the Account to provide alternative compensatory mitigation to fulfill those mitigation obligations. In that case, the mitigation liability to the Account shall be reduced accordingly and transferred to the receiving party. If such project or proposal will be accomplished by another organization, the Conservancy will transfer from the Account an amount of funds not to exceed the original amount paid for the impacts as directed by the IRT to that other organization.

In Service Areas where the Conservancy has met all mitigation obligations, any remaining monies that were paid into the Account because of impacts in those Service Areas may be used to establish additional mitigation sites, as approved by the IRT Chairs, in consultation with the IRT members, in advance of a mitigation liability. Such remaining monies may also be used in the same or other watersheds for projects not typically acceptable as compensation, but that have an ecological benefit (e.g. oyster reef establishment or submerged aquatic vegetation restoration). Such projects require approval by the IRT.

Exhibit B

Advanced Credits River Basin	Advanced Credits (Non-tidal Wetlands)	Advance Credits (Streams)	Advance Credits (Tidal Wetlands)
Atlantic Ocean Basin	5	5,000	2
Big Sandy River Basin	0	0	0
Chesapeake Bay Basin	20	5,000	2
Chowan River Basin	0	5,000	2
Lower James River Basin	20	10,000	2
Middle James River Basin	10	5,000	0
Upper James River Basin	10	5,000	0
New River Basin	0	5,000	0
Potomac River Basin	5	10,000	2
Rappahannock River Basin	5	7,500	2
Roanoke River Basin	5	5,000	0
Shenandoah River Basin	5	10,000	0
Tennessee River Basin	5	5,000	0
York River Basin	10	5,000	2
All Basins	100	82,500	14

Exhibit C

Standard Wetland Compensation Acres to Compensation Credit Ratios Used by the Fund Proposed Mitigation Activity	Ratio
Wetland Restoration	1 : 1
Wetland Creation	1 : 1
Wetland Enhancement - Ratio ranges depending upon amount of enhancement.	3 : 1 to 5 : 1
Wetland Preservation	10 : 1
Upland Buffer Restoration	15 : 1
Upland Preservation - Ratio may be higher depending upon condition, location, or other factors.	20 : 1