



# Questions and Answers about the Proposed Puget Sound In-Lieu-Fee Mitigation Program

## **What is in lieu fee mitigation?**

In-lieu-fee mitigation is a tool that the Army Corps of Engineers has made available to governments and non-profit organizations to improve the performance of compensatory mitigation at the watershed level. Developers with permitted impacts to wetlands and other habitats may pay a fee to the sponsor of an approved in-lieu-fee program, rather than building a separate mitigation project, if an approved program exists in the same watershed as the impact. The Mitigation that Works Forum convened by the Department of Ecology recently issued their recommendations regarding how to improve mitigation in Washington State. They recommended that the state support the development of a pilot in-lieu-fee program in the Puget Sound region.

## **Why is the Puget Sound Partnership supporting development of in-lieu-fee programs?**

Studies of environmental mitigation in Washington and other states have shown that failure rates of mitigation projects to restore environmental damage are high. The principal reasons cited in these reports are inappropriate mitigation sites, poor design and construction standards, and inadequate maintenance. Achieving the mission of the Partnership – to restore Puget Sound by 2020 – will be very difficult if mitigation continues to perform at such a low level. In-lieu-fee programs that are professionally managed, focused on ecosystem improvement, and linked to the regional cleanup and restoration strategy have a greater chance of success.

## **Why is the Partnership supporting in-lieu-fee programs rather than mitigation banks?**

There have been several efforts to develop mitigation banks in the Puget Sound region over the past several years. Some banks have been approved and others are in the midst of the approval process. The private sector has been active in seeking and pursuing opportunities to establish mitigation banks. Additional effort is not needed in the mitigation banking sector at this time.

A non-profit entity or a government must sponsor in-lieu-fee programs. Only one program, developed by King County, currently exists in the region. In-lieu-fee programs are expensive and complicated to develop. The Puget Sound Partnership wants this tool to be widely available around the Sound and is in a unique position to leverage lessons learned in one area for the benefit of all areas.

## **What development projects will have their mitigation addressed through the program?**

Permitting agencies with jurisdiction over impacts make decisions regarding appropriate compensatory mitigation. This program will not change those agencies permitting authority. All agencies with permitting authority over a development impact will have to agree that the an in-lieu-fee program would be appropriate compensatory mitigation.

## **Where will mitigation projects be located?**

For impacts to freshwater resources, sites will be located as close to the impact as possible within the same watershed. For marine impacts, mitigation sites will occur within the same drift cell. Mitigation will occur on high-priority sites for ecological restoration as defined by watershed and regional plans.

## **Who will select mitigation sites?**

Candidate sites will be identified from watershed characterizations and studies by watershed resource experts from relevant agencies, tribes, and organizations. The ILF Program Sponsor will convene and facilitate meetings with local experts to identify and prioritize candidate sites. The ILF Program Sponsor will then select the highest priority projects from the list that will meet its mitigation obligations.

## **Who will acquire land, construct the restoration features, and manage the sites?**

Mitigation projects may be implemented directly by the ILF Program Sponsor or through contracts issued by the ILF Program Sponsor. Private firms, local governments, tribes, non-profit organizations and other qualified entities may compete for the contracts.

## **What happens if a mitigation project doesn't perform as proposed?**

Each mitigation site will have a monitoring program funded as part of the project budget. A performance bond will also be established for each project to ensure satisfactory compliance with permit requirements. In addition, permanent maintenance and management endowments will be created to ensure permanent site protection and ecological performance.

## **Who is eligible to be an ILF Program Sponsor?**

By federal rule, non-profit entities and governments are eligible to be program sponsors.

## **What is the role of the Partnership?**

The Partnership is uniquely situated to foster and support development of ILF Programs, which are complicated entities to create. With the Partnership's assistance, local entities will be better able to efficiently create and operate ILF Programs which could be key ingredients in assuring that future growth does not imperil the goal of cleaning up Puget Sound by 2020.

## **What if an ILF Sponsor wants assistance with fiscal management and project contracting for an ILF Program?**

The National Fish and Wildlife Foundation (NFWF) was chartered by the US Congress in 1984 to administer funding for restoration purposes and has managed over 10,000 grants and contracts in their twenty-five year history. They are also adept at raising matching funds. The program sponsor may elect to contract with NFWF for fiscal management and project contracting. NFWF currently provides this service to four other programs around the country.

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