



## IN-LIEU FEE MITIGATION PROGRAM

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### Frequently Asked Questions

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

When issuing permits that involve unavoidable adverse effects on waters of this state, the Department of State Lands (DSL) must show the functions and values lost have been restored or improved elsewhere. The replacement of comparable waters of the state is known as mitigation. In-lieu fee mitigation involves DSL's acceptance of money into the Oregon Removal-Fill Mitigation Fund and acceptance of the responsibility to conduct the mitigation required.

#### **What in-lieu fee options are available?**

There are two in-lieu fee programs available.

DSL In-Lieu Fee Program (FIL): The FIL program seeks to better serve our customers and water resource by establishing ecologically significant restoration projects in advance of mitigation needs in areas of the state that are not served by private mitigation banks. The In-Lieu Fee (FIL) program was approved by the US Army Corps of Engineers in 2009 and provides compensatory mitigation for both waters of this state **and** waters of the U.S. Currently, FIL is only available for areas where there is an approved project.

Payment In-Lieu (PIL): The Payment In-Lieu (PIL) program allows payment for compensatory mitigation for small impacts (generally <0.2 acres) to waters of this state when other methods of providing compensatory wetland mitigation are not available or will not produce adequate mitigation. The Corps of Engineers does not accept the PIL program as mitigation when impacts are to a water of the U.S.

#### **What happens to money paid into the Oregon Removal-Fill Mitigation Fund?**

The money in the fund is held in an interest-bearing account dedicated to the restoration, enhancement, creation, and preservation of waters of the state, with first priority going to projects in the same watershed as the permitted impacts.

Funds are disbursed through a grant program to construct mitigation sites that compensate for the lost functions and values.

**What sorts of projects are eligible to receive these funds?**

Projects must be for the primary purpose of producing an increase in functions and or acreage that will compensate for the permitted impacts. For wetlands, options include restoration of diked, drained or filled former wetlands, creation of new wetlands or enhancement of existing degraded wetlands<sup>1</sup>. For streams, options may be stream re-meandering, reconnection to floodplain habitats, placement of large wood, etc. Acquisition of land or easements is possible using these funds, but water resource improvements must be part of the package, or the site must meet DSL preservation criteria. Project sites must be protected from adverse future land uses with a permanent conservation easement or equivalent mechanism<sup>2</sup>.

**Where can I get more information if I would like to apply for funds for a project?**

Form and guidance materials can be found on our website at <http://oregonstatelands.us/>. Please contact Dana Hicks, Mitigation Specialist, for more information or to discuss a potential site.

**How do I buy credits from the FIL program for my proposed impact?**

FIL may only be used when there is not a private mitigation bank with appropriate credits available. Visit [http://oregonstatelands.us/DSL/PERMITS/mitbank\\_status.shtml](http://oregonstatelands.us/DSL/PERMITS/mitbank_status.shtml) for bank and FIL project locations and service areas, and contact information to determine whether credits are available.

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<sup>1</sup> "Degraded Wetland" refers to a wetland that has been hydrologically manipulated (ie, diked, drained or filled) interfering with the normal functioning of wetland processes.

<sup>2</sup> Equivalent mechanisms may include things such as programmatic restrictions on use of properties for publicly owned properties or properties owned by conservation organizations.