

EPA-REG8-09WPDG

Project Title:

Montana In Lieu Fee Aquatic Resource Mitigation Program Development.

Regional Priority Area/National Priority Area:

Wetland Protection and Restoration / Improving the Effectiveness of Compensatory Mitigation

Name of Applicant: **Montana Department of Environmental Quality (MDEQ)**

Key personnel and contact information:

**Lynda A. Saul, PWS, Wetland Program Coordinator
(406) 444-6652; lsaul@mt.gov**

Geographic Location: **Montana Statewide**

Total project cost and dollars requested:

\$110,834 Total project cost. \$83,126 EPA funds requested.

Abstract:

This proposal's main objective is to increase the amount of wetland, riparian, and stream restoration and protection in Montana through development of a new program to increase compensatory mitigation for 404-related impacts. More specifically, through this grant, we propose to create the Montana In Lieu Fee Aquatic Resource Mitigation Program (ILF) that will provide a viable third-party compensatory mitigation option for 404-permit applicants whose projects will impact not only wetlands, but also streams, riparian areas, and other regulated aquatic resources. Currently, the only umbrella mitigation bank in Montana offers credits in a limited service area of western Montana. The proposed ILF program will complement this and any future banks by consistently offering mitigation credits in watersheds where banks do not exist or where banked credits are not available. Overall, co-existence of banks and ILF in Montana will represent a healthy competition which will help to keep mitigation crediting affordable and reliable for those needing to purchase credits. In developing this ILF program, MDEQ will: 1.) identify an existing entity as sponsor or create a new 501c3 entity to administer the program; 2.) complete an ILF MOA with Army Corps of Engineers and other regulatory agencies; and, 3.) establish an Interagency Review Team to review and provide guidance for ILF projects once implementation begins following the close of this grant. The final product for this grant will be a statewide ILF program for Montana that in all aspects is ready for immediate implementation. An ancillary benefit expected from this project will be increased avoidance of aquatic impacts in Montana as a result of project sponsors interest in avoiding costly mitigation.

2. Project Description

a. **Description of Project** - This project involves creation of an In Lieu Fee (ILF) Aquatic Resource Mitigation Program that can provide third-party compensatory mitigation to qualifying 404-permit applicants in all Montana watersheds. The Methodology and Approach used will follow a 4-step process including: 1.) increasing understanding and engaging in the nature of and value of creating an ILF program in Montana; 2.) establishing the entity that will sponsor the ILF program; 3.) developing and ratifying the ILF MOA with appropriate regulatory agencies; and, 4.) establishing an Interagency Review Team (IRT) to provide oversight, review, and recommendations to the ILF sponsor for project development, implementation, and monitoring/assessment. All project methods will involve networking with government agencies, conservation organizations, land trusts and private business to ensure that all steps are completed efficiently and according to the Milestone Schedule below. Networking will essentially consist of email and voice communication and face-to-face and electronic conferencing. Writing, editing, collating comments, and maintaining working drafts of documents will be the working product(s) associated with this networking effort and will ultimately represent the completed project. All activities associated with this grant are development activities which will build the Montana wetland program's ability to ensure protection of its aquatic resources and increase markedly the effectiveness of the state's compensatory mitigation efforts. Because stream/riparian mitigation is currently not being required by the Army Corps of Engineers (ACOE) as a condition of its 404-regulatory program in Montana, completion of this project is outside the scope of existing regulatory requirements. Once the ILF agreement is ratified and put into force, the Helena ACOE office will have a third-party compensatory mitigation option available to applicants statewide and therein a vehicle to require mitigation for regulated impacts involving streams and riparian areas.

b. c. **Project Tasks and Milestone Schedule** – The steps necessary to reach the project's goals are:

Task 1. Increase ILF understanding and engagement. Review the Mitigation Rule, research different organizational approaches for establishing an ILF program. Network with regulatory agencies, land trust organizations, conservation districts, nonprofit conservation organizations, and others about the benefits and approaches of a Montana ILF program for third-party compensatory wetland and stream mitigation.

Roles and responsibilities: organizing meetings, disseminating information through internet, email distribution, listserves, interpersonal and electronic communication, formal presentation, and other educational opportunities.

Timeline: 6 months; January 2010 through June 2010

Anticipated products: increased level of understanding of ILF among wetland conservation partners in Montana and engagement, assistance, and level of commitment in collaborating to deliver ILF projects once fees are generated.

Task 2. Determine or create an ILF sponsor entity. Based on fact-finding, education, and outreach of Task 1, determine or establish an ILF sponsor entity.

This ILF sponsor could be an existing or new 501c3, a state agency, or some type of public-private partnership created specifically to sponsor the ILF program.

Roles and responsibilities: work with agencies, conservation organizations, and private consultants to establish an ILF sponsor.

Timeline: 18 months; January 2010 through June 2011

Anticipated products: ILF sponsor established.

Task 3. Develop and ratify ILF program agreement. Based on the Mitigation Rule, work with the ACOE to develop and ratify an ILF program agreement. Anticipated products: ILF MOA signed between ILF sponsor and COE and other regulatory entities that wish to sign on during the allotted timeframe.

Roles and responsibilities: meet with COE on a continuing basis to develop, edit, and finalize MOA and obtain necessary signatures in Montana and the ACOE District Office.

Timeline: 18 months; July 2010 through December 2011

Anticipated products: Ratified ILF MOA.

Task 4. Establish interagency review team (IRT). Invite agency representation on an IRT to bring expertise and to enhance collaboration in identification, planning, implementation, monitoring, and assessment of effective mitigation sites. Watershed context and other aspects of effective mitigation program will be the priority as described in the Mitigation Rule. Ensure that the ILF program is ready for implementation by grant closing date.

Roles and responsibilities: networking, securing agreements for IRT participation (both formal and informal) as needed.

Timeline: 6 months; July 2011 through December 2011

Anticipated products: meetings/communication with DEQ, ACOE, Montana Fish, Wildlife and Parks, USFWS, and EPA staffs in Montana to get agreement on IRT membership and draft process for conducting IRT activities once ILF project implementation begins. An established ILF Interagency Review Team.

d. Project Need

Montana wetlands, streams, and riparian areas are experiencing impacts that are similar to those in other parts of the region and nationally. While wetland conservation agencies and organizations in Montana will continue to encourage avoidance and minimization as the first response to 404 permit applicants to proposed impacts, in some cases compensatory mitigation will be unavoidable. Unfortunately, unlike many other states, Montana does not have a consistent mitigation program that requires compensatory mitigation for many of these impacts, especially those occurring in streams and riparian areas. Even for wetlands, most impacts have no associated mitigation with notable exceptions being for highway infrastructure projects sponsored by Montana Department of Transportation and/or Federal Highway Administration. One impediment to the Army Corps of Engineers more consistently requiring compensatory mitigation for wetland, stream, and riparian impacts is the lack of a program/sponsor who offers mitigation credits to offset impacts for those applicants needing access to third-party mitigation. As a result, successful completion of this grant will not only ensure that more compensatory mitigation for wetland and other aquatic resource impacts occurs in

Montana annually, but it will also ensure that Stream Mitigation Program guidelines currently under development by the ACOE Helena Regulatory Office are implemented once the ILF program is operating. In addition, avoidance of impacts to aquatic resources would remain a goal in the development of a Montana in-lieu fee program. Increased avoidance is expected as a result of the additional choice of an ILF program. In other words some project proponents may choose to redesign, downsize, or moth ball the plan as a result of a successful the ILF program.

e. National Priority Area:

1.a.b.: Wetland Program Planning based on the Four Core Elements; including core element 2) Regulatory Activities.

1.b: Regulation (Enhancing Wetland Protection); including, (i) Improving the effectiveness of compensatory mitigation. This project will improve Montana's capacity to ensure ecologically effective compensatory mitigation for unavoidable impacts to aquatic resources. Of particular note in this regard is that the Corps's Helena Regulatory Office has yet to implement guidelines for a Stream Mitigation Program (SMP). Creating an ILF program statewide will give the Corps complete landscape coverage for the SMP, i.e. in every watershed of the state, so that they may begin to require compensatory mitigation for all stream-related impacts created by 404 activities. Further, as stated in the April 10, 2008 Final Rule regarding compensatory mitigation for losses of aquatic resources, the proposed Montana ILF program will represent a follow-up option for the Corps where if no mitigation credits or banks exist in a watershed, the ILF program as the second in line for providing mitigation credits for 404 impacts, may step forward and do so.

Regional Priority Area:

Evaluation and planning of mitigation in a watershed context. Since 2002, EPA and the Army Corps of Engineers have consistently issued guidance regarding the value and need to address compensatory mitigation for aquatic resource impacts based on a "watershed approach" or "watershed context" (See for example *ACOE Regulatory Guidance Letter 02-2 December 24, 2002*). EPA Region 8 in its RFP for 09WPDG explicitly recommends that applicants respond with proposals to ensure effective compensatory mitigation strategies using a watershed approach. This proposal, in concert with a companion MDEQ proposal, "*Developing a Framework for Integrating Wetland Considerations into Watershed Restoration Plans*", creates the opportunity to integrate compensatory mitigation projects into the wetland/watershed restoration framework ensuring sustainability and aquatic resource improvement in pilot watersheds.

Montana's Strategic Framework:

This proposal directly contributes to the development of tools to increase restoration and protection of wetlands, streams, and riparian areas in Montana and enhances the effectiveness of compensatory mitigation. Montana's *Strategic Framework for Wetland and Riparian Area Conservation and Restoration in Montana 2008 –2012* (see <http://deq.mt.gov/wqinfo/Wetlands/StrategicPlan0812.pdf>) is a proactive, focused, and strategic approach to wetland protection and includes **Strategic Direction #4: Restoration**. This strategy includes a commitment to create an aquatic resource mitigation-crediting program to provide a new source of funding for wetland protection, restoration, and enhancement projects. The *Strategic Framework* is

supported by Montana's Governor and has been endorsed the three primary state land and water management agencies.

f. Project Goals and Objectives including National and/or Regional Priorities:

Objective One: Develop a statewide In Lieu Fee Aquatic Resource Mitigation Program for Montana

i. Link to EPA Strategic Plan - Objective One supports EPA's 2006-2011 Strategic Plan, specifically Goal 4: Healthy Communities, Objective 4.3: Restore and Protect Ecosystems, Sub-Objective 4.3.1: Increase Wetlands – by 2011, working with partners, achieve a net increase in wetland acres, etc. by working to ensure that projects causing a net loss of wetlands and wetland functions and services and fully mitigated to offset those impacts. Objective One addresses National Wetland Program Planning based on the Four Core Elements, including Regulation (Enhancing Wetland Protection). The primary Regional Priority addressed in this Objective includes evaluation and planning of mitigation in a watershed context.

ii. Results of Activities (Outputs): The output of this objective will be development of an In Lieu Fee Aquatic Resource Mitigation Program that at the time this grant closes, will be fully ready for implementation to begin to offer third-party compensatory mitigation credits for 404-related impacts to wetlands, streams, and riparian areas statewide in Montana. Specific outputs include: increased understanding and engagement in ILF program idea and need; establishment of ILF program sponsor; development and ratification of ILF Program agreement; and, establishment of IRT. Tracking progress toward producing the stated Outputs is very straightforward, largely sequential, and highly objective based on **Project Tasks** and **Milestone Schedule** outlined above in the **Project Description**. Each task and resultant outcome builds upon successful completion of that preceding. Successful progress toward producing the Outputs is then, a linear progression of successful accomplishment of each of the four tasks.

iii. Anticipated Environmental Improvement (Outcomes): Accomplishing “no-net-loss” of wetland function and acreage through targeted protection, restoration and effectively using compensatory mitigation within all watersheds where ILF projects eventually are implemented following implementation of this program post-grant period. By integrating this mitigation in watershed context with watershed restoration planning, there will also be a reduction in the current levels of pollutant loading as identified in TMDLs, and an increased understanding of the importance wetlands in maintaining watershed health.

iv. Established Baseline for Measurement – At the current time, there is one umbrella mitigation-banking instrument in Montana (Todd Tillinger, personal communication). This bank offers credits in a limited service area in western Montana. With completion of this 2009 WPDG, the ILF sponsor will be positioned to begin offering advanced credits in all watersheds. MT DEQ, the Montana Wetlands Council, Montana Natural Heritage Program, Montana Wetlands Legacy Partnership, and other organizations and individuals working toward net-gains in wetland restoration, enhancement, and protection in Montana are striving to determine the current condition of the state's wetlands, including determining

amount and location of drained or impaired wetlands. Much work in this regard remains to be done in order to ensure that successful implementation of the ILF program clearly demonstrates a net increase from this baseline condition of Montana's wetlands that exists today.

g. Restoration Demonstration Project Information – Not applicable

h. Planning Project Information

The final product of this demonstration would be an implementation-ready ILF program between the ILF sponsor, the ACOE, and possibly other regulatory agency co-signers. Once implemented, the ILF program will be available to watershed and wetland restoration partners throughout Montana who are positioned to identify specific environmental outcomes that go beyond the purposes of this grant. It is our intent as grant sponsor to ensure that the ILF program is integrated into watershed restoration planning and produces improvements in water quality in watersheds where ILF fees are collected and projects implemented. At this time, it is not known what the geographic extent of the restoration, enhancement, and protection activities associated with ILF mitigation projects will be or where these projects will be located.

i. Staffing Information

Principal Investigator for this project would be Tom Hinz. Hinz is currently with Montana Department of Fish, Wildlife and Parks (MFWP) and staffs the Montana Wetlands Legacy Partnership. The Montana Department of Environmental Quality's Wetland Program intends to either contract directly with Tom Hinz as an independent contractor or job share with Hinz as a ½ FTE DEQ employee to complete this two-year project. It is not anticipated that either MFWP or the Legacy will sponsor the proposed ILF program. However, the Legacy Partnership includes wetland restoration professionals from federal, state, and tribal governments, nonprofit conservation organizations, land trust representatives, and others and will provide varying levels of staffing assistance and IRT involvement to advance the purposes of the ILF program. Project and grant oversight will be performed by DEQ Wetland Program Coordinator Lynda Saul, PWS. Please see annotated resumes for experience and qualifications.

j. Applicant's Experience

MDEQ, MFWP, and the Montana Wetlands Legacy Partnership collaborated in developing an ILF program which was implemented by DEQ, ACOE, and MFWP in March 2004. Since that time, continuing fact-finding, literature and internet searches, meeting with ILF and banking program administrators from a number of states, as well as discussions with ACOE, EPA, and Environmental Law Institute Legal Counsel in regard to the new Mitigation Rules have been ongoing. As sponsors of this proposal, MDEQ and the above-mentioned Montana partners feel they are very well informed and preeminently qualified to develop and implement a new ILF program for Montana.

k. Partnership Information

The MEQ Wetland Program will be partnering with agencies, conservation organizations, and land trusts, most of which are members of the Montana Wetlands Legacy Partnership to facilitate grant activities. Specifically, Task 1 will involve organizing meetings, disseminating information, and networking with these partners. Task 2 partnership activities will involve meeting with agencies, conservation organizations, land trusts, and possibly contracting with private contractors in order to establish an ILF sponsor. Tasks 3 and 4 will involve partnering with ACOE, Legacy Partners, and others to complete and ratify the ILF agreement and to create an IRT of regulatory agency partners. IRT meetings will be open to the public. Partners will be encouraged to participate in implementation of the program to optimize watershed restoration potential of ILF projects and to maximize expertise brought to project planning, implementation, and monitoring.

1. Transfer of Results and Outreach

Beginning with Task 1 and continuing through Task 4 and the successful completion of this grant, MDEQ, the Montana Wetlands Legacy Partnership, the Montana Wetlands Council, and other partners active in wetland restoration in Montana will be kept informed about the need for the ILF program, the steps being undertaken to develop it, and finally, its implementation. The avenues for providing this information to Montana partners, regulatory agencies, and to those outside Montana who wish to learn from the Montana experience will include the Montana Wetlands Clearinghouse website, the Montana Wetlands Legacy Partnership website, the Association of State Wetlands Managers newsletters, website, and regional trainings; meetings with ILF and banking program managers at regional and national conferences, and in other similar forums.

m. Quality Assurance/Quality Control

All Wetland Program Development Grant projects administered by Montana DEQ include QA/QC by the MDEQ Technical and Financial Assistance Bureau, Wetland Program Coordinator. In regard to development of the ILF MOA and IRT, continual involvement by ACOE, EPA, and other regulatory agency personnel working with MT DEQ will ensure an additional level of QA/QC.

3. Budget Narrative:

MDEQ is requesting \$86,450 in funding from EPA for completion of “Montana In Lieu Fee Aquatic Resource Mitigation Program Development” project. MDEQ is requesting this funding from EPA for 0.50 FTE/year for DEQ Wetland Program staff or to be use as consultant fees as well as operations expenses for a 2-year period starting January 1, 2010 to complete the four tasks identified in this proposal. Non-federal match contributions of \$28,817 will be documented by MFWP as match for this project. Total project costs are \$115,267. In the detailed budget presented below, “other” includes printing, data network, phone, postage and fiscal unit assistance. “Consultants” include contractual expenses for assistance in developing a nonprofit as part of this project and for In Lieu Fee document review and Memorandum of Agreement development.

Detailed budget and estimated funding amount for each year and task

ILF Year 1			ILF Year 2		
	EPA Request	Match		EPA Request	Match
Personal Services	29,417	9,806	Personal Services	29,417	9,806
Consultant	3,750	1,250	Consultant	3,750	1,250
Supplies	251	84	Supplies	251	84
Travel	1,168	389	Travel	779	260
Other	764	254	Other	764	254
Indirect	6,415	2,138	Indirect	6,400	2,133
Total	41,765	13,921	Total	41,361	13,787

Task 1. Increase ILF understanding and engagement. (20% of time) Year 1

Task 2. Determine or create an ILF sponsor entity. (30% of time) Year1

Task 3. Develop and ratify ILF program agreement. (35% of time) Year 2

Task 4. Establish interagency review team. (15% of time) Year 2

4. Programmatic Past Performance and Environmental Results Past Performance

Montana DEQ manages numerous EPA Region 8 grants. Specific to 104(b)3 Wetland Program Development Grants, MDEQ has successfully received and completed these grants since 1995 with the aim of building a comprehensive Wetland Program for the State of Montana. Montana DEQ Wetland Program was recognized with a 2007 ELI National Wetland Award for Program Development which occurred largely as a result of assistance agreement funding. As recipient of the proposed grant, DEQ intends to employ, or contract with, or otherwise retain Tom Hinz, Coordinator of the Montana Wetlands Legacy Partnership to serve as Principal Investigator for this grant. As an employee of MFWP and working on behalf of the Montana Wetlands Legacy Partnership, Mr. Hinz has served as co-investigator on two EPA WPDGs in the past nine years. During that period, DEQ and MFWP have also collaborated on a three-year EPA Pilot Implementation Grant. The Montana Wetlands Council recognized the Montana Wetlands Legacy Partnership with the 2005 Montana Wetland Stewardship Award. The Montana Wetlands Legacy was also nominated for the 2005 ELI National Wetland Award for Program Development. DEQ and MFWP, through their collaboration, have met or exceeded grant management expectations, reporting requirements, and results from these three assistance agreements. A list of assistance agreements and the details requested in the RFP are available upon request from DEQ.

5.c. **Support letters.** Please see attached.

8. Documentation

Montana Department of Environmental Quality certifies that the proposed activities are development activities that are outside the scope of existing regulatory requirements.

Annotated Resume

Thomas C. Hinz

Tom Hinz is Coordinator for the Montana Wetlands Legacy Partnership and past coordinator of an In Lieu Fee Program administered by Montana Department of Fish, Wildlife and Parks. He leads this statewide wetland conservation network to increase collaboration between partners in restoration and enhancement of Montana's wetlands/riparian areas. The Montana Wetland Council's *Strategic Framework for Wetland and Riparian Area Conservation and Restoration in Montana 2008-2012* provides the overarching authority for the Legacy's work as endorsed by Montana's Governor and resource agency heads. Hinz has led the Legacy Partnership since its beginning in May 2000 as a voluntary, incentive-based network of agencies, conservation organizations, and land trusts with resources dedicated to on-the-ground wetland restoration.

Legacy Partnership activity highlights in the nine years since its formation include: creation of a statewide database for tracking net-gain wetland restoration projects by all partners; building a network of over thirty state and federal agencies, nonprofit conservation organizations, and land trusts who actively participate in wetland/riparian protection, restoration, and enhancement activities on a continuing basis; and, serving as the primary contact for landowners, public land managers, tribes, community governments, and interested citizens to get in touch with Legacy Partners who assist with financial, personnel, technical, and data resources for completing priority projects. In 2005, Hinz was selected by the Montana Wetland Council to receive the Montana Wetland Stewardship Award for innovation in organizing and leading the Legacy Partnership. This same year, review of the Legacy database showed over 800,000 acres of Montana lands had been entered into the database as having gone into conservation status, with over 27,000 acres of wetlands included as protected, restored, or enhanced and over one thousand miles of riparian corridors likewise conserved. Hinz has also served on the Greater Gallatin Watershed Council for the past three years and is current chair. In July 2008, Hinz testified before a U.S. Senate Subcommittee regarding S.3085, the Cooperative Watershed Management Act at the request of Montana Senators Baucus and Tester. On March 30, 2009, President Obama signed the bill authorizing the program. Hinz has worked with river, wetland, and wetland/wildlife conservation in Montana since 1974 after completing B.S. and M.S. degrees in Fish and Wildlife Management at Montana State University in 1972 and 1974.

In addition to developing the Legacy Partnership, other statewide work includes serving on a multi-agency technical advisory board that oversees expenditure of funds to meet performance, mitigation, and enhancement activities required of PPL Montana by FERC as a result of PPL's operation of its 9 mainstem dams on the Madison and Missouri Rivers; represents Montana on the Prairie Pothole Joint Venture Management Board, a 5-state coalition that directs North American Wetlands Conservation Act expenditures and other partner efforts to conserve wetlands and prairie in northern and eastern Montana; and, coordinates the Migratory Bird Stamp Program for the Montana Department of Fish, Wildlife and Parks which dedicates \$750,000 biennial to wetland protection, conservation, and development projects across Montana. Tom served for most of 27 years as Montana's representative on councils and committees charged with migratory bird management in the Pacific and Central Flyways and also represented Montana on the tri-national North American Waterfowl Management Plan Committee for a 6-year period in the mid to late 90's. He was also consultant to the U.S. Department of Interior's Fish and Wildlife Service on migratory bird conservation from 1989 through 1999.

Annotated Resume

Lynda A. Saul

Lynda Saul, PWS, is the State of Montana's Wetland Program Coordinator housed at the Department of Environmental Quality. She leads the state-wide Montana Wetland Council to increase the protection of Montana's wetlands through EPA's core elements of comprehensive state wetlands programs and enhanced coordination. She has built the Wetland Council into an action oriented network involving over 700 participants representing all interests in wetlands issues in Montana. Wetland Program highlights include: mapping, inventory, assessment and net change tracking; coordinated statewide Wetland Program involving federal, state, local, and tribal governments, NGO's and private individuals and businesses; targeted education and outreach to landowners, local decision makers and Realtors; and voluntary and incentive based wetland protection. In 2007, she led the citizens of Montana and the Wetland Council in a year-long strategic planning process to develop a Conservation Strategy for Montana Wetlands. The plan "Priceless Resources: A Strategic Framework for Wetland and Riparian Area Conservation and Restoration in Montana 2008-2012" is supported by the Governor of Montana and the Directors of DNRC, DEQ and DFWP and is being actively implemented in Montana.

In 2006, Saul was appointed to the Governor's Task Force on Riparian Protection and currently serves as Chair. She is the current Vice Chair of the Association of State Wetland Managers and brings a rural western state's perspective to the ASWM board. She serves as MDEQ's representative on the NRCS State Technical Committee, the DFWP Conservation and Restoration Partnership, and numerous other state boards and councils. In 2007 she was a recipient of the Environmental Law Institute National Wetland Award for State, Tribal and Local Program Development for her 10 years of work in building an award winning program in Montana and traveled to Washington DC to receive the award. When in Washington, she discusses wetland protection and management issues with all three of Montana's Congressional Delegation and continues to be active in national policy issues affecting wetlands.

Saul has worked on water issues in Montana since 1986 after completing a B.S. in Geology from Tulane University and a M.S. in Forest Hydrology from the University of Montana. In addition to developing a wetland protection program for Montana, other state-wide work included coordinating the FERC hydropower relicensing of 9 dams on the Madison and Missouri Rivers; negotiating Federal Reserved Water Rights for both Tribal and Federal lands, modeling irrigation use for water supply management, and state-wide watershed planning.

Saul spent 2004 at the EPA Headquarters in Washington, D.C. on a year long job exchange in the Wetland State Strategies and Programs Branch of the Wetlands Division. She returned to her state position in Montana in 2005 as a more effective leader for statewide wetland protection and has doubled the program funding for Montana's Wetland Program.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
HELENA REGULATORY OFFICE
10 WEST 15TH STREET, SUITE 2200
HELENA, MONTANA 59626-9705

June 24, 2009

Regulatory Branch
Montana State Program

Subject: In-Lieu Fee Proposal

Lynda Saul, Wetland Program Coordinator
Montana Department of Environmental Quality
1520 East Sixth Avenue
Helena MT 59620-0901

Dear Ms. Saul,

Reference is made to your application for EPA Wetland Program Development Grant funding for an In-Lieu Fee (ILF) aquatic resource mitigation program for Montana. Guidance published in the Federal Register on April 10, 2008 identifies ILF programs as an option for providing compensatory mitigation required as part of Clean Water Act Section 404 activities. The Montana Regulatory Program of the Corps office provided comment in support of retaining the ILF option in response to the proposed rule and continues to support development of ILF programs to add to the range of aquatic resource mitigation alternatives available in Montana.

Development of effective ILF programs can provide reasonable mitigation alternatives where none previously existed, and allows improvements within watersheds that serve the needs of the Public and the environment. The Corps supports development of an ILF mitigation option in Montana and looks forward to working with proponents of such programs.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd N. Tillinger", with a long horizontal line extending to the right.

Todd N. Tillinger
Montana Program Manager

PPL Montana, 45 Basin Creek Road, Butte, Montana 59701



PPL MONTANA, LLC

June 18, 2009

Lynda Saul, Wetland Program Coordinator
MT Department of Environmental Quality
1520 East 6th Avenue
Helena MT 59620-0901

RECEIVED

JUN 22 2009

DEQ
Planning Division

Re: Support for Montana In-Lieu Fee Aquatic Resource Mitigation Program
Development 104(b)3 Wetland Program Development Grant Application.

Dear Lynda,

On behalf of PPL Montana, I'm writing in support of DEQ's proposal entitled *Montana In Lieu Fee Aquatic Resource Mitigation Program Development*. Although a statewide mitigation bank exists, the role of In Lieu Fee programs nationwide as an alternative and complementary form of third-party compensatory mitigation for aquatic resource impacts associated with Section 404 permits is important. As a hydro generation and conservation entity in Montana, PPL Montana supports DEQ's efforts to develop an ILF program via an appropriate sponsor as a vital step in implementing Montana's 5-Year Strategic Framework for conservation of wetlands, streams and riparian areas.

Stream Mitigation Program (SMP) guidelines that are under development by the Corps of Engineers in Helena are likely to be released for public comment this year. Once the SMP is implemented, it will create a solid foundation for the ILF program in concert with the Corps' Wetland Mitigation guidelines.

Thanks for your efforts in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Jourdonnais", written over a white background.

Jon Jourdonnais
Director Hydro Licensing and Compliance

Granger Ranches

BOX 691
ENNIS, MONTANA 59729

6/21/2009

Lynda Saul, Wetland Program Coordinator
MT Department of Environmental Quality
1520 East 6th Avenue
Helena MT 59620-0901

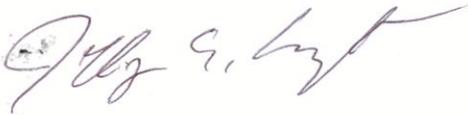
Dear Lynda,

On behalf of Granger Ranches I'm writing in support of DEQ's proposal entitled Montana In Lieu Fee Aquatic Resource Mitigation Program Development. Programs to fund wetland and other aquatic resource restoration are essential to Montana's environment and economy. Although a statewide mitigation bank exists, federal rules now make clear the complementary and additional role In Lieu Fee can play as a form of third-party compensatory mitigation for aquatic resource impacts associated with Section 404 permits. As Montana's landscape continues to be developed it is crucial that this program be established to offset the impacts that growth and development will have on wetlands and other water related resources. I have witnessed firsthand the power In Lieu Fee possesses to re-establish important wetlands and riparian areas. In 2008 In Lieu Fee Funding was used to restore a degraded wetland on a portion of our ranch. In just one year's time this area has become an important public resource providing habitat to numerous wetland dependant species and sending greater volumes of cleaner and colder water downstream to The Madison and Missouri River systems. Without In Lieu Fee this accomplishment would not have been possible

I am also pleased to learn that Stream Mitigation Program (SMP) guidelines under development by the Corps of Engineers Helena staff will be released for public comment this year. Once the SMP is implemented, it will create a solid foundation for the ILF program in concert with the Corps' Wetland Mitigation guidelines and will move Montana further toward no-net-loss of wetlands.

Please feel free to call on me if there is anything I can do to help this vital aspect of Montana's wetland conservation program. I feel very strongly that it is a critical program that must be established as soon as possible.

Sincerely,



Jeffrey A. Laszlo
Granger Ranches
Ennis, MT