FOUNTAIN CREEK WATERSHED DISTRICT

In-Lieu Fee Program

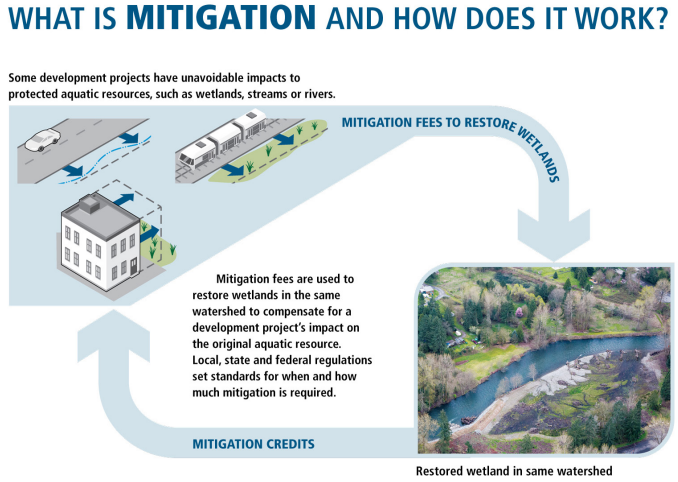
Enhancing Ecosystems Through Collaborative Mitigation

Program Objectives

- Enable high-impact restoration and flood-mitigation projects that advance regional environmental goals and deliver long-term ecological and community benefits.
- Restore and preserve streams, wetlands, riparian areas, and wildlife habitat through scientifically sound, watershed-scale planning.
- Provide a streamlined, predictable permitting pathway for eligible projects.
- Ensure long-term stewardship, monitoring, and land management of mitigation sites. (Interim and long-term land management plans are included for each site restored. Interim: annual monitoring by FCWD for 5 years or more. Long-term: annual monitoring for compliance and long-term sustainability, third party implemented.)
- Offer a local, cost-effective regulatory compliance option that all permittees can use in place of complex, difficult, or impractical on-site federal and state environmental permitting requirements.

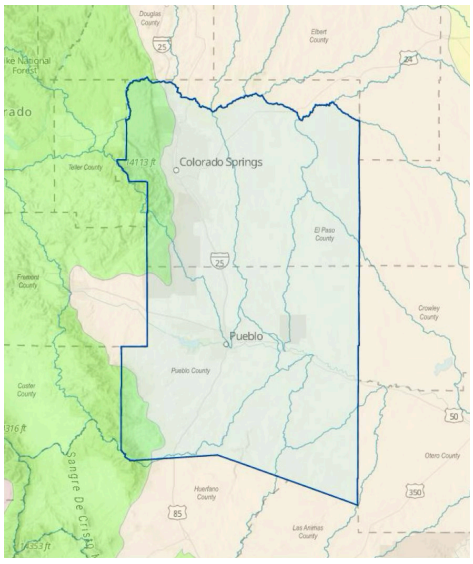
Why is Mitigation Important?

The FCWD In-Lieu Fee Program provides mitigation credits for unavoidable impacts to wetlands, streams, and species.



Adapted with permission from King County Design and Civic Engagement.

Program Area



Map of FCWD In-Lieu Fee Program Area.

The FCWD In-Lieu Fee Program Area covers most of El Paso County and all of Pueblo County. This geographic scope specifies the areas which In-Lieu Fee payments will be accepted and the mitigation projects will be implemented.

What is Being Protected?

Federally Regulated Habitat & Sensitive Species

Federal and state wetlands and streams and endangered or sensitive species habitat that may be improved or protected through the In-Lieu Fee Program includes but is not limited to:

- Eastern Black Rail
- Preble's Meadow Jumping Mouse
- Tricolored Bat
- Ute Ladies-Tresses

Ute Ladies'-Tresses
© U.S. Fish & Wildlife Service

Tricolored Bat
© U.S. Fish & Wildlife Service

Eastern Black Rail
© Brian Tang
www.hardrain.me

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How the ILF Program Works

- When a proposed project results in unavoidable impacts to wetlands and wildlife, project sponsors must offset - or mitigate - the environmental impacts associated with the project.
- In a Federal Rule published in April 2008, the U.S. Army Corps of Engineers (the Corps) and the U.S. Environmental Protection Agency (EPA) define an In-Lieu Fee (ILF) program as: "A program involving the 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."
- Under an ILF agreement, the ILF sponsor (FCWD) collects funds from permittees in lieu of permittees providing their own compensatory mitigation required by the Corps, state, or local resource regulatory program.
- This program compensates for authorized impacts to federally and state-regulated aquatic resources under Section 404 of the Clean Water Act and the Dredge and Fill program under Colorado Regulation 87 as well as selected riparian-based species protected under the Endangered Species Act.
- The ILF Sponsor uses the funds pooled from multiple permittees to create one or more sites under the authority of the agreement to compensate for aquatic resource functions or selected species habitat lost as a result of the permits issued.

Benefits of the ILF Program

- Streamlines the development process. Permittees are ensured compliance and avoid costly, time-consuming mitigation work.
- Maximizes environmental impact. FCWD can implement larger, more effective projects that also provide flood and property protection.
- Supports regulatory compliance. FCWD takes on the risks and state and federal requirements with transparency and accountability.
- Supports resiliency at the watershed scale. Well-maintained creeks and restored floodplains reduce flooding risks, enhance wildlife habitat, increase greenspace, and improve water quality.

A Watershed Approach

A watershed approach is a comprehensive program to:

- Evaluate threats and losses to wetlands within the Program Area,
- Develop and prioritize restoration objectives in the Program Area,
- Create a collaborative and strategic approach to selecting, siting, and implementing mitigation projects,
- And apply the proceeds of Mitigation Credits to pay for the implementation, completion, monitoring and maintenance of those projects.

To learn more, contact:

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