



US Army Corps  
of Engineers  
Alaska District

ANCHORAGE FIELD OFFICE  
Regulatory Division (1145)  
CEPOA-RD  
1600 A Street, Suite 110  
Anchorage, AK 99501-5146

# Public Notice of Application for In-Lieu Fee Program

PUBLIC NOTICE DATE: July 30, 2010

EXPIRATION DATE: August 30, 2010

REFERENCE NUMBER: POA-2006-545

Interested parties are hereby notified that the U.S. Army Corps of Engineers, Alaska District (Corps) under the authority of Section 404 of the Clean Water Act (CWA) (Public Law 95-217, 33 U.S.C. 1344 et. seq.) and Section 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. 403) is soliciting comments on the proposed Great Land Trust In-Lieu Fee Program.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact **Mary Lee Plumb-Mentjes** at 753-2789, by fax at 279-0064, or by email at [Mary.Plumb-Mentjes@usace.army.mil](mailto:Mary.Plumb-Mentjes@usace.army.mil) if further information is desired concerning this notice.

**SPONSOR:** Great Land Trust (GLT), 619 East Ship Creek Avenue, Ste. 321, Anchorage, Alaska 99501, ATTN: David Mitchell or Phil Shephard Phone: (907) 278-4998. E-mail: [dmitchell@greatlandtrust.org](mailto:dmitchell@greatlandtrust.org) or [pshephard@greatlandtrust.org](mailto:pshephard@greatlandtrust.org). Website: [www.greatlandtrust.org](http://www.greatlandtrust.org)

**LOCATION:** Municipality of Anchorage (MOA) and Matanuska-Susitna Borough (MSB), Alaska. Two service areas would be established with two separate instruments under the umbrella agreement in the draft prospectus that is under consideration. The locations of the two service areas are shown on Figure 1 in Attachment 1.

**PURPOSE:** To continue providing effective compensatory mitigation for the functions and services of waters of the U.S., within the MOA and MSB, that are lost through actions permitted by the Corps in these areas.

**PROPOSED ACTION:** Provide an alternative to permittee-responsible compensatory mitigation where on-site compensation is not ecologically preferable and/or feasible or there are no opportunities for performance of more ecologically appropriate compensatory mitigation. Achieve ecologically significant preservation, restoration, establishment, and/or enhancement projects that sustain aquatic resource functions and services consistent with a watershed approach. Credits are made available to permittees through these projects by payment of a fee in lieu of other mitigation.

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The Great Land Trust is Southcentral Alaska's regional land trust; it was founded as an independent, non-profit land conservation organization in 1995. It has had an in-lieu fee (ILF) agreement with the Alaska District of the Corps of Engineers since 1998; at this time GLT is updating its agreement with the Corps, as required under the regulations on Compensatory Mitigation for Losses of Aquatic Resources (33 CFR Part 332/40 CFR Part 230, effective June 9, 2008, referred to as the Final Mitigation Rule).

The up-dated ILF agreement would be established in accordance with the enclosed Prospectus (sheets 1-18, not including cover sheet), Attachment A, all dated July 2010.

#### GENERAL INFORMATION:

The objective of the CWA is "to restore and maintain the physical, chemical and biological integrity of the Nation's waters." The CWA prohibits the discharge of dredged or fill material into wetlands, lakes, streams and other waters of the U.S. without a permit from the Corps.

Permit applicants are required to take appropriate and practicable steps to avoid and minimize impacts to aquatic resources from proposed discharges associated with projects. For unavoidable impacts, compensatory mitigation may be required to replace the loss of wetlands, streams, and/ or other aquatic resources. The Corps is responsible for determining the appropriate form and amount of compensatory mitigation required.

Compensatory mitigation may be accomplished in the following ways:

1. Mitigation Banks: A Mitigation Bank is an area containing wetlands, streams, or other aquatic resources, held in reserve to compensate for impacts to aquatic resources resulting from DA permit activities. A bank may support a variety of activities including restoration, establishment, enhancement, or preservation of aquatic resources. The value of a bank is determined by evaluating the aquatic resource functions present on the parcel in units of available "credits". Permit applicants within the service area of a bank may purchase "credits" from the bank to offset "debits" from the unavoidable impacts of their projects. The legal document which sets the rules for how the Mitigation Bank is to be established and operated is known as a Mitigation Banking Instrument.
2. In-lieu fee mitigation: An ILF is a payment made by a Corps permittee to an approved sponsor of the Corps ILF Program, in compensation for unavoidable losses of aquatic resources. The payment is based upon a "debit" evaluation of the unavoidable impacts, against a purchase of "credits". The ILF Program is generally administered by a public or private resource management entity which then applies the "credit" monies to conduct restoration, establishment, enhancement and/ or preservation of wetlands, streams, or other aquatic resources in a location different from the permit site. Responsibility for the implementation and success of the mitigation project shifts from the permittee to the sponsor of the ILF Program.
3. Permittee responsible mitigation: An applicant may be required to provide a ~~compensatory mitigation activity that may include restoration, establishment,~~ enhancement and/ or preservation of aquatic resources. The mitigation may be provided on or close to the impact site (i.e. on-site mitigation) or at another location, usually within the same watershed as the permitted impact (i.e, off-site mitigation). The permittee retains the responsibility for the implementation and success of the mitigation project.

Land preservation may be used as the basis of a mitigation bank when five specific criteria are met (Corps, 2008).

1. The property must provide important physical, chemical, and biological functions for the watershed.
2. Preservation of the property must contribute to the sustainability of the watershed.
3. Preservation must be determined by the Corps to be appropriate and practicable.
4. The land available in the proposed bank must be under threat.
5. The site must be permanently protected with a legal instrument.

The U.S. Environmental Protection Agency and the Corps announced the release of new compensatory mitigation standards (Final Mitigation Rule) on March 31, 2008. More information on the Final Mitigation Rule and mitigation banks may be found at the following links:

Final Mitigation Rule: <http://www.usace.army.mil/cw/cecwo/reg/Mitigation>

#### ADDITIONAL PROJECT INFORMATION:

This prospectus is an umbrella agreement that would authorize the GLT ILF Program to provide credits for compensatory mitigation for permits issued by the Corps under Section 404 of the CWA and Section 10 of the RHA. Ownership and long-term management of each approved project under the GLT ILF Program would follow the three ownership arrangements currently employed by GLT for wetland preservation and restoration projects. The most common ownership arrangement occurs when GLT purchases a wetland property and donates it to a public agency, e.g., MOA Parks and Recreation Department, Alaska State Parks. GLT retains a conservation easement on the property and establishes a stewardship endowment that provides funds for annual monitoring of the conservation easement to assure the property is conserved in perpetuity. The public agency assumes long-term property management responsibility. The second ownership arrangement is where GLT holds a conservation easement on privately-owned property. As in the first ownership arrangement, GLT establishes a long-term management endowment that provides for annual monitoring of the conservation easement to assure the property is conserved in perpetuity. The private property owner is the long-term property manager. Long-term property management funding is identified. The third ownership arrangement is to purchase a property outright and donate fee simple title to a public entity to be incorporated into an existing park or refuge. Management funds come from the existing park or refuge.

Once the prospectus with its umbrella agreement is approved by the Corps assisted by an Interagency Review Team (IRT) with representatives from local, State, and Federal agencies from both the MOA and the MSB, then GLT will submit two proposed instruments, one for the MOA and one for the MSB, and each will have its own IRT, composed of agency representatives from that area.

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The proposed ILF compensatory mitigation program would be established for general public use to produce "credits" to purchase in exchange for "debits" resulting from wetland development projects authorized by the Corps within the two proposed service areas.

Potential ILF program users may include individuals, commercial developers, construction companies, government agencies, or other entities needing mitigation credits.

WATER QUALITY CERTIFICATION: A DA Permit is not required for the proposed ILF compensatory mitigation program. Therefore, a 401 Water Quality Certification is not required.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. The proposed ILF compensatory mitigation program would not require a DA permit, therefore consistency with the ACMP is not required in order for the Corps to approve the agreement.

CULTURAL RESOURCES: Establishment of an ILF compensatory mitigation program would not result in adverse impact to listed or eligible historic properties. This application is being coordinated with the State Historic Preservation Office.

ENDANGERED SPECIES: The proposed ILF compensatory mitigation program would not result in land modifications, and is not anticipated to affect threatened or endangered species, or modify their designated critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Preliminarily, the described activity will not affect EFH in the project area. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. ~~Requests for public hearings shall state, with particularity,~~  
reasons for holding a public hearing.

EVALUATION: The decision whether to issue an ILF compensatory mitigation program approval will be based on an evaluation of the proposed activity and its intended use on the public interest.

Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed ILF compensatory mitigation program. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny approval for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: Issuance of a Public Notice regarding proposed ILF programs is required pursuant to the "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule," as published in the April 10, 2008, Federal Register, Vol. 73, No. 70, Pages 19594 - 19705 (33 CFR Parts 325 and 332).

District Commander  
U.S. Army, Corps of Engineers

Enclosures

**A Prospectus to Establish and Administer the  
In-Lieu Fee Compensatory Mitigation Program for the  
Municipality of Anchorage and Matanuska-Susitna Borough**

**Prepared by  
Great Land Trust  
July 2010**



**APPLICANT INFORMATION:**

Organization:	Great Land Trust
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Website:	<a href="http://www.greatlandtrust.org">www.greatlandtrust.org</a>

**Project Contacts**

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Telephone:	(907) 278-4992
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Tax Status: 501(c)(3)

Tax ID#: 92-0155014

Fiscal Year End: 9/30

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## 1.0 Need for and Technical Feasibility

Permits are required by the United States Army Corps of Engineers (USACE) under the Clean Water Act Section 404 (33 U.S. Code [U.S.C.] 1344) and the Rivers and Harbors Act of 1899 Section 10 (33 U.S.C. 403) for discharge of dredged or fill materials into waters of the U.S. The USACE and U.S.

Environmental Protection Agency (EPA) have jointly issued final regulations on Compensatory Mitigation for Losses of Aquatic Resources (Final Rule) that establish requirements for compensating for unavoidable adverse impacts to or losses of aquatic resources that are subject to federal authority. The Final Rule at 33 Code of Federal Regulations (CFR) Parts 325 and 332 and 40 CFR Part 230 authorizes USACE to approve in-lieu fee (ILF) compensatory mitigation programs with non-profit or governmental natural resources management entities to satisfy compensatory mitigation requirements.

The Great Land Trust (GLT) is updating their existing ILF Program agreement with the USACE as required under the Final Rule to meet the new requirements for compensatory mitigation associated with projects issued permits by USACE under the Clean Water Act Section 404 and the Rivers and Harbors Act Section 10. If the program is approved, it will serve as one of the options available to permit applicants and permitting agencies to provide mitigation for unavoidable impacts to wetland and aquatic resources.

This prospectus provides a framework for the circumstances in which an ILF program sponsored by GLT may serve to satisfy compensatory mitigation requirements of USACE. The ILF instrument will update and replace GLT's existing ILF agreement, as required by the Final Rule.

## 2.0 Sponsor Qualifications

GLT is Southcentral Alaska's regional land trust. It is an independent non-profit land conservation organization founded by and for Alaskans in 1995. Our organization's focus area includes more than 50 percent of Alaska's total population. GLT works in partnership with willing private and public landowners to permanently conserve special lands, signature landscapes and waters essential to the quality of life and of communities in the region. We seek to protect the integrity of the natural ecosystems, access to recreational lands, wetlands and streams, and preserve important open space near towns and cities. As a non-profit organization, GLT satisfies the Final Rule requirement that an ILF sponsor be either a non-profit or governmental agency.



Fish Creek Estuary Conservation Easement, 2004

Since 1998, GLT has had an agreement with USACE establishing an ILF program with a service area of the Municipality of Anchorage. During the past 12 years GLT has provided USACE and permittees a mitigation option critical to the local success of the 404 compensatory mitigation program and the preservation and restoration of Anchorage's wetlands. Since the inception of the program, GLT has received over \$3 million dollars of ILF payments derived from over 130

permits in the Municipality of Anchorage (MOA).

With these funds, GLT has completed critical wetland preservation and restoration projects including the preservation of the Fish Creek Estuary in west Anchorage, Waldron Homestead wetlands in midtown Anchorage, and Tanglewood Park in south Anchorage. These wetland preservation projects and others have protected 269 acres of wetlands within the MOA securing nearly 65 wetland credits (Anchorage Debit-Credit Methodology, (ADCM) 2000, 2010). Attachment A provides a table summarizing all wetland preservation projects to date. In addition, restoration successes include contributions to the Little Campbell Creek Alcove Project and the Muldoon



Town Center Chester Creek Restoration Project. Currently, GLT is using ILF funds to assist with the preservation of the Campbell Creek Estuary, a 60-acre parcel containing Campbell Creek, Campbell Creek Estuary and a wetland buffer.

In the Matanuska Susitna Borough (MSB), the GLT has a strong conservation presence. The GLT recently opened a Palmer Field office and has one full-time staff dedicated to MSB Projects. Anchorage-based staff also work on MSB projects. The GLT is involved in multiple MSB wetland mitigation projects including holding a conservation easement on the 800-acre Su-Knik Mitigation Bank Fish Creek parcel (in operation) and is expecting to hold the easement for the Pioneer Reserve Mitigation Bank, now being reviewed by the Corps. The GLT also owns conservation lands and holds conservation easements throughout the MSB from Palmer to Talkeetna.



Tanglewood Park Conservation Easement, 2004

GLT is recognized as an organization with demonstrated knowledge and qualified expertise in wetland preservation and restoration. The GLT has extensive experience with wetland preservation projects. Since 1995, the GLT has completed 25 land conservation projects of which six included transferring title to the MOA and retaining a conservation easement. The GLT has professional staff skilled at carrying out complex land transactions. The GLT has been nationally recognized for wetland conservation successes including the Land Trust Alliance Living Lands Publication, Coastal America 2007 Partnership Award, and the U.S. Department of Interior Cooperative Conservation Award 2008. The GLT has been a key partner in the successful Alaska Sustainable Salmon Fund project: "Salmon in the City." The GLT is on the Steering Committee for the nationally recognized Mat-Su Salmon Habitat Partnership [authorized under the National Fish Habitat Action Plan (NFHAP)].

As a qualified entity, as defined by the Alaska Uniform Conservation Easement Act (Alaska Statute 34.17), the GLT can hold conservation easements, which serve as one of the tools used for wetland preservation. Currently, the GLT holds conservation easements for the only two operational wetland mitigation banks in Alaska: the 800-acre Su Knik Mitigation Bank in the MSB and the 100-acre Harmany Ranch Mitigation Bank in Eagle River.

### 3.0 Objectives

The goal of the GLT ILF Program is to provide effective compensatory mitigation for the functions and services of waters of the U.S. within the MOA and MSB that are lost through permitted actions. To achieve this goal, the GLT has the following objectives:

- Provide an alternative to permittee-responsible compensatory mitigation where on-site compensation is not ecologically preferable and/or feasible or there are no other opportunities for performance of more ecologically appropriate compensatory mitigation;
- Maintain a level of accountability such that mitigation obligations assumed by the ILF Sponsor are met in a timely and effective manner;
- Provide compensatory mitigation to meet current and expected demand for credits in two separate service areas: Matanuska-Susitna Borough and the Municipality of Anchorage; and
- Achieve ecologically significant preservation, restoration, establishment, and/or enhancement projects that sustain aquatic resource functions and services consistent with a watershed approach.

## 4.0 Establishment and Operation

By way of this prospectus, GLT proposes to continue conducting itself as a qualified ILF compensatory mitigation sponsor for the USACE Alaska District. Following approval of this prospectus, the GLT ILF Program will be detailed in two ILF instruments (Instruments) in accordance with the Final Rule. There will be separate instruments for the MOA and the MSB. Each Instrument will provide the framework for the GLT ILF Program and identify how projects will be identified, funded, operated, maintained, and managed. Each Instrument will include and detail the following 12 elements of the ILF Program:

- Service area;
- Accounting procedure;
- Provision stating legal responsibility to provide compensatory mitigation;
- Default and closure provisions;
- Reporting protocols;
- Compensation planning framework;
- Advance credits;
- Method for determining project-specific credits and fees and draft fee schedule;
- ILF program account;
- Transfer of long-term management responsibilities;
- Financial arrangements for long-term management; and
- Additional information deemed necessary by the District Engineer.

The prospectus is an umbrella agreement that will authorize the GLT ILF Program to provide credits for compensatory mitigation for approved permits and activities. ILF projects will have mitigation plans reviewed and approved by the GLT, an Interagency Review Team (IRT), and the USACE. The mitigation plans would be considered modifications to the Instrument and would be added as amendments. Mitigation plans would be developed in accordance with the Final Rule.

When allowed by the District Engineer, the GLT will use a streamlined review process to include newly-identified specific projects in the Instrument. The USACE and the GLT will make every effort to use the streamlined process recognizing the time-sensitive nature of land transactions. All initial requests for Instrument modification considerations, regardless of whether the review process follows the procedures outlined in 33 CFR 332.8(d) or the streamlined review process, shall include the following information, if applicable for the project:

- The river-basin and/or watershed of the site;
- The goals and objectives of the site related to the ILF Program compensation planning framework;
- Proposed service area;
- Ownership of the site lands and status of protection;
- Current zoning of the parcel and zoning for adjacent properties;
- Site conditions and location;
- Proposed preliminary concept plan and/or feasibility study (if complete/available);

- Estimate of proposed acreage/linear footage and type of mitigation; and
- Other information as needed.

The USACE will establish an IRT that may include representatives from federal, state, and/or local regulatory and resource agency representatives and tribal government entities. The IRT will review documentation for, and advise the District Engineer on, the establishment and management of the GLT's ILF Program. There will be separate IRTs for the MSB Service Area and the MOA Service Area.

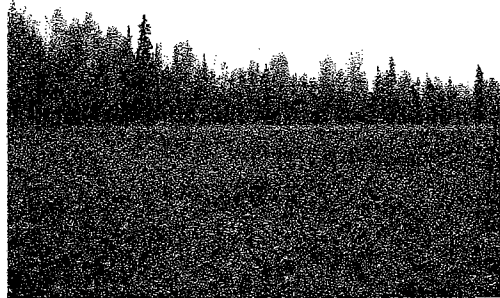
Any stakeholder may suggest a project to GLT, which will then scrutinize the project for consistency with GLT ILF Program Instrument. The GLT will bring potential projects to the IRT for consideration and approval. The GLT will be responsible for implementation, performance, and long-term management of compensatory mitigation projects.

In the 12 years that the GLT ILF Program has been operating under the original agreement, the program has been successful with conserving and mitigating wetlands within the MOA. The program has been operated in a manner that emphasizes communication and cooperation from the government representatives, who help oversee the program currently sitting on the "Wetland Advisory Group (WAG)." The GLT will continue to maintain and promote the communication and cooperation from these representatives and any new representatives who join the IRT.

Staff, who will manage the GLT ILF Program, include:

*David Mitchell, MESC, Conservation Director.* Dave is responsible for directing the acquisition of conservation lands and conservation easements, due diligence, stewardship plans and monitoring of conservation easements for GLT. He directs our wetland mitigation work and has extensive experience working with agencies and developers to find solutions that benefit all parties. Dave has been our Conservation Director since 2005. He graduated with a BA in geography from the University of Colorado and received his Masters in Environmental Science from the Yale School of Forestry and Environmental Studies where he focused on land management and conservation.

*Phil Shephard, Executive Director.* Phil is responsible for general program direction, board relations, partnership development, fundraising and financial management for GLT. He has 23 years of experience working in the non-profit conservation world, and has a degree in geology from Whitman College in Walla Walla, WA. Most recently, he worked for 17 years for the Nature Conservancy managing programs in northeast Oregon and northcentral Wyoming. Phil has been leading the GLT since December 2008.

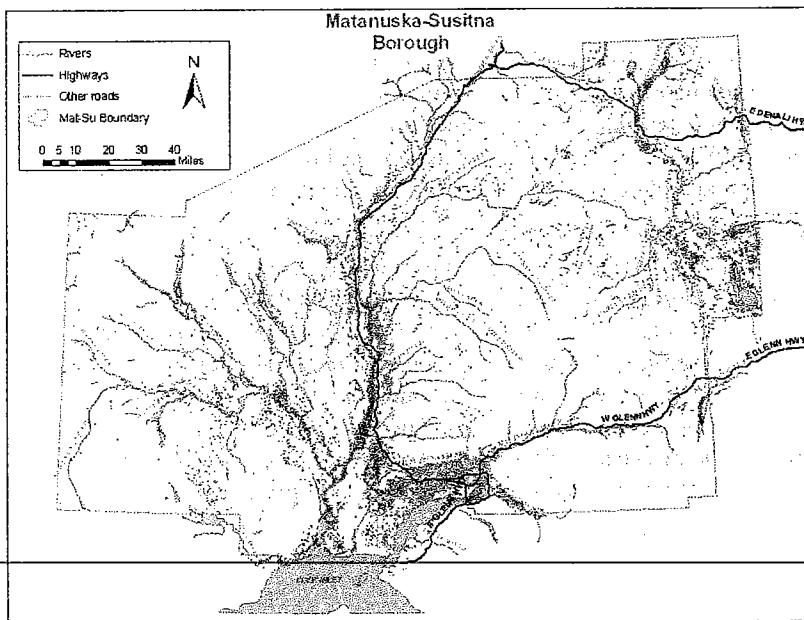
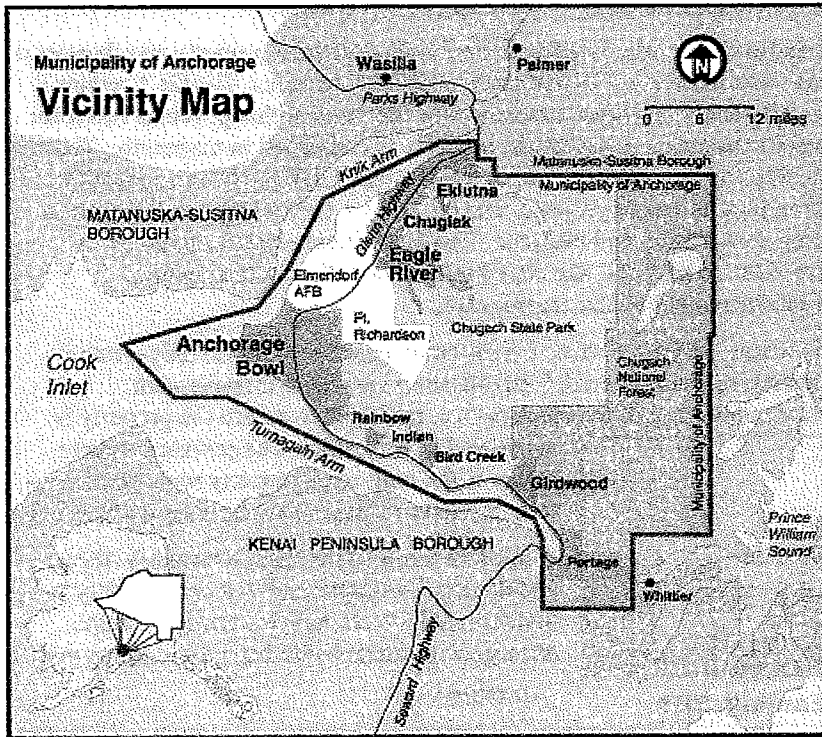


Wetland Harvested Conservation Easement, 2004

## 5.0 Proposed Service Area

The maps below show the GLT's two proposed ILF service areas (Figure 1.0). The two service areas will be 1) the MOA and 2) the MSB.

Figure 1.0

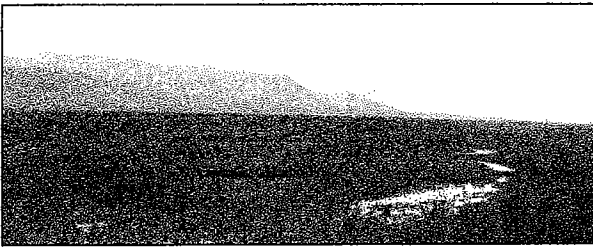


## 6.0 Ownership Arrangements and Long-Term Management Strategy

Ownership and long-term management of each approved project under the GLT ILF Program will follow the models the GLT currently uses. There are three ownership arrangements the GLT commonly employs for wetland preservation and restoration projects; each is described in this section.

The most common ownership scenario occurs when the GLT purchases a wetland property and donates it to a public agency, e.g. MOA Parks and Recreation Department, Alaska State Parks. The GLT retains a conservation easement on the property and establishes a stewardship endowment that provides funds for annual monitoring of the conservation easement to assure the property is conserved in perpetuity. The public agency assumes long-term property management responsibility. The GLT proposes to identify long-term property management funding for future projects. The GLT has a very strong track record in calculating, securing, and managing stewardship endowments. This is a critical piece to long-term management of wetland mitigation sites. In addition, the GLT has staff dedicated to the annual monitoring of each conservation easement held by the organization.

The second ownership scenario is where the GLT holds a conservation easement on privately-owned property. As in the previous ownership scenario, the GLT establishes a long-term management endowment that provides for annual monitoring of the conservation easement to assure the property is



Goodman Property Conservation Easement, 2008

conserved in perpetuity. The private property owner is the long-term property manager. Long-term property management funding is identified.

A third option is to purchase a property outright and donate fee simple title to a public entity to be incorporated into an existing park or refuge. Management funds come from the existing park or refuge.

## 7.0 Compensation Planning Framework

The GLT's compensation planning framework closely follows the guidance in 33 CFR 332.8(c)/40 CFR 230.98(c) and includes the following ten elements: geographic service area(s); description of threats; analysis of historic resource loss; analysis of current resource conditions; goals and objectives; prioritization strategy; preservation justification; description of stakeholder involvement; and long-term protection and management strategies; and strategy for periodic evaluation and reporting.

The GLT will use a watershed approach for establishing ILF projects within the MOA and the MSB. This approach considers watershed needs, and how locations and types of mitigation projects address those needs. A landscape perspective is used to identify the types and locations of ILF projects that will benefit the watershed and offset losses of aquatic resource functions and services caused by activities authorized by USACE permits. This compensatory planning framework will consider landscape scale, historic and potential aquatic resource conditions, past and projected aquatic resource impacts in the watershed, and terrestrial connections between aquatic resources and key habitats. The level of detail necessary for the compensation planning framework is at the discretion of the District Engineer, and will take into account the characteristics of the MOA and the MSB and the scope of the GLT ILF Program.

The compensation planning framework contains the following elements:

## **7.1 The geographic service areas:**

### MOA Service Area

The MOA Service Area will include the entire Municipality of Anchorage. This area is grouped together because it is under consistent regulatory oversight, uses the Anchorage Debit/Credit Methodology (2000, 2010) and has a wetland parcels prioritization model covering the entire service area. GLT's recent 2010 wetland prioritization model is split into three distinct regions 1) Eagle River- Eklutna, 2) the Anchorage Bowl, 3) Indian-Girdwood.

### MSB Service Area

The MSB Service Area will also reflect a watershed-based rationale and include the Matanuska and Susitna watersheds within the MSB. This MSB service area will have a consistent wetland parcel prioritization, property values, and regulatory oversight. Currently, the USACE (Contract Division) is working to determine the functional value of the wetland types within the MSB. This assessment will be used to determine the relative ecological value of wetland types and used by the GLT to account for and characterize the wetland types being filled and preserved, enhanced, restored, or created.

## **7.2 A description of the threats to aquatic resources in the service areas, including how the in-lieu fee program will help offset impacts resulting from those threats:**

### MOA Service Area

In the MOA Service Area, threats to aquatic resources are described in the Anchorage Wetlands Management Plan (AWMP, 1996) and the Anchorage Coastal Management Plan (ACMP). These threats have been incorporated into the Anchorage Debit/Credit Methodology (2000, 2010) which is the basis for GLT's wetland parcel prioritization. Parcels preserved by the GLT will be parcels that ranked high in the prioritization, signifying that they are the parcels that would best help to offset threats to aquatic resources.

According to the AWMP, "concern was originally expressed in the early 1980's that the growing demand for human development was causing the alteration of local wetland areas at an alarming rate." The plan also expresses the need to "balance existing wetland values and functions with expanding human development needs".

The Plan goes on to highlight the fact that the only large tracts of land available for residential and commercial infilling development are wetland areas. As Anchorage expands and becomes further bounded by mountains to the east and Cook Inlet to the west, development on these large wetland areas in the Anchorage Bowl becomes much more likely. This potential threat is also addressed in the ACMP which states "there is competition for the few, and quickly declining, remaining undeveloped or under-developed lands, which results in an increased pressure on marginally suitable and unsuitable lands including those areas with wetlands, intertidal and mudflat conditions, and seismic and avalanche hazard areas."

Development in the Anchorage area has been and continues to be the main threat to local aquatic resources. As stated in the ACMP, "encroachment into sensitive wetlands, into the upper reaches of the watersheds, improper development within floodplains, and inadequate construction setbacks from shorelines and stream banks can pose direct and significant

cumulative and secondary impacts to the water quality of the marine waters, streams and lakes thereby negatively impacting habitats and recreation areas.” The plan also states “there is a natural link between development activities in upland habitats and the effect these uses and activities can potentially have on riparian habitat and important wetlands located downstream.”

#### MSB Service Area

In the MSB Service Area the threats to aquatic resources have been less studied. The Nature Conservancy as part of the NFHAP partnership has gathered information on threats and watershed vulnerability. This criteria is used to assess threat in GLT’s wetland parcel prioritization. Parcels under greater threat rank higher in the prioritization.

According to the Alaska Department of Labor, the population of the MSB between 1990 and 2000 increased by 70%, compared to an 18% increase for the state. This rapid population growth in the Borough is expected to continue with a current population of 63,475 projected to rise to 161,860 people by 2025, with the possibility of even larger growth depending on the possible construction of the Knik Arm Crossing. This rapid population growth will clearly have a huge impact on the wetland and coastal areas of the MSB as more and more land, including wetlands, is delegated for residential, commercial, and industrial uses. Coastal lands will be particularly impacted as the population centers of Wasilla and Palmer expand pushing development southward toward Anchorage. This threat is amplified by the possibility of a Knik Arm Crossing connecting the MSB Core directly to Anchorage, as the crossing would provide increased access for development in the wetland-rich Port Mackenzie area.

Furthermore, many of the local watersheds and anadromous streams face serious threats from potential development in the MSB. The NFHAP publication, *Conserving Salmon in the Mat-Su Basin Executive Summary* (2008) stresses the link between human activity and the health of our waterways and local species. The report stresses how critical wetland preservation is in maintaining salmon populations and highlights the prevention of wetland loss as a key objective with the goal that “by 2015, loss of wetlands that are important for salmon either as spawning or rearing habitat, re-charge of streams, or filtration of streams, will be avoided, minimized, or mitigated with protection, management, and enhancement.”

The Mat-Su Coastal Zone Management Plan also addresses the threats posed by future development in the MSB. As stated in the Plan, “development poses serious threats to water quality through improper timing of activities, wastewater disposal, improper development within floodplains, wetland encroachment, destruction of watersheds, and inadequate construction setbacks from shorelines and stream banks.”

Through the use of the ILF program and the results of GLT’s prioritization efforts in the MSB, critical parcels with high wetland and ecological values will be identified and targeted for future preservation.

### **7.3 An analysis of historic aquatic resource losses in the service areas:**

#### MOA Service Area

According to the U.S. Fish and Wildlife *Anchorage Wetland Trends Study* (1993), and as outlined in the AWMP (1996), approximately 9,958 acres of wetlands were filled in the

Anchorage Bowl between 1950 and 1990. After the inception of the AWMP in 1982, approximately 965 acres of wetlands were filled between 1983 and 1990.

Water quality has also been adversely affected since statehood. According to the ACMP “Anchorage has experienced local water quality problems due, in part, to historical connections between non-point source runoff from construction sites and septic systems and the stream systems.”

#### MSB Service Area

As stated previously, the MSB has experienced extremely rapid population growth over the last few decades. In addition, development in much of the MSB core area, including the cities of Palmer and Wasilla, is not guided by zoning restrictions. The result is unplanned, sprawling development, with little account for effects on wetlands and other critical water bodies. However, this has changed recently with community preference indicating the need “to maintain the rural character, agricultural activities and history, and feeling of open space” found in the MSB, based on a survey recently completed called the Friends of Mat-Su Community Preference survey). This rapid growth has resulted in the recent EPA listing of numerous stream and lakes in the MSB as impaired water bodies.

### **7.4 An analysis of current aquatic resource conditions in the service areas**

#### MOA Service Area

Through its various management plans, the MOA has stressed the critical connection between the health of the local waterways and the quality of life of its residents and economic vitality of the Municipality. As stated in the ACMP, one of the main goals of the Municipality is “to encourage the protection of important fish and wildlife habitats, high value wetlands, and riparian zones”, as well as “to encourage development and construction practices that minimize adverse impacts to the recreation areas and habitats within the MOA coastal zone.”

All seven of the anadromous streams in the Anchorage Bowl have been exposed to substantial development in recent years infringing upon critical wetland habitat. Various area management plans target these critical waterways and address the need for conservation measures along these stream corridors.

#### MSB Service Area

According to the MSB Coastal Zone Management Plan (2006) the MSB contains roughly 4,000 square miles of valuable watersheds, wetlands, uplands, rivers, streams, and lakes. However, these valuable resources are currently threatened as “there is increasing pressure on rivers, streams, and lakes for shoreline development with residential, commercial, and industrial uses.” The MSB acknowledges this impending threat and seeks “to ensure the long-term viability of the valuable watersheds, wetlands uplands, rivers, streams, and lakes that contribute to the quality-of-life experience and economic prosperity found in the MSB.”

### **7.5 A statement of aquatic resource goals and objectives for each service area, including a description of the general amounts, types and locations of aquatic resources that the program will seek to provide:**



The GLT is a private, non-profit land conservation organization. Our mission is to work with willing landowners and other partners to conserve Southcentral Alaska's lands and waterways. The GLT permanently and directly conserves lands and waterways essential to the quality of life of our communities. Through the ILF program the GLT will continue to protect wetlands and waterways in the MOA and the MSB. The GLT has the ability to use ILF funds as matching funds for grants and other fundraising efforts. By doing this the GLT can double the ILF money, thus accomplishing larger, more expensive conservation projects. This aspect of GLT's mitigation program is uniquely different from for-profit wetland mitigation operations.

The GLT will continue to keep a detailed account of all Department of Army permits paying ILF funds to GLT. This ledger will include permit location, impacts, size and relative ecological value of wetlands filled. In turn, GLT will also keep a ledger of wetland projects completed which offset wetland impacts by permittees. The GLT will use our Anchorage wetlands prioritization model and our MSB conservation prioritization model to select the most appropriate projects for the use of ILF funds.

#### **7.6 A prioritization strategy for selecting and implementing compensatory mitigation activities:**

##### MOA Service Area

The GLT has identified and prioritized Anchorage wetlands for preservation and mitigation within the MOA (draft of the model completed in March 2010). The prioritization used a geographic information system (GIS) and the following criteria:

1. Parcels were first filtered based on the following criteria:
  - a. Parcel must be greater than 1 acre; and
  - b. Parcel must include wetlands.
2. Parcels were then ranked based on a score, which considered the following:
  - a. Adjacency to protected land;
  - b. Expert opinion (GLT staff and current GLT ILF Program Wetland Advisory Group members); and
  - c. Area of each type of wetland classification (i.e. relative ecological value [REV]).

The current GLT ILF Program Wetland Advisory Group and other wetland experts have provided comments throughout the prioritization process for the MOA.

##### MSB Service Area

The GLT is currently undergoing a similar prioritization process within the MSB and expects to complete the process by fall 2010. Criteria used for parcel prioritization were vetted by an advisory committee including members from the MSB, US Fish and Wildlife Service (USFWS), EPA, GLT, and The Nature Conservancy (TNC).

1. Parcels were first filtered based on the following criteria:
  - a. Greater than 5 acres
  - b. Lower than 1500 feet in elevation + 1-mile buffer around any roads above 1500 feet
  - c. Within the MSB Boundaries
  - d. Exclude State (other than Public University and Mental Health) and Federal lands

2. Parcels were then ranked based on a score, which considered the following):
  - a. Adjacency and Connectivity to Protected Areas
  - b. Threatened and Impaired Waters
  - c. Presence/Absence of All Types of Wetlands
  - d. Normalized Area of Wetlands
  - e. Presence/Absence of Anadromous Streams
  - f. Presence/Absence of All Streams
  - g. Normalized Area of All Streams' Riparian Area
  - h. Densely Developed Area (including road density, converted and impervious land, and subdivisions)
  - i. Anadromous Fish Diversity
  - j. In or Adjacent to Important Bird Areas (IBA's)
  - k. Moose Habitat
  - l. In or Adjacent to Community Infrastructure

**7.7 An explanation of how any preservation objectives identified in paragraph (c)(2)(v) of Section 332.8 of the Final Rule and addressed in the prioritization strategy in paragraph (c)(2)(vi) satisfy the criteria for use of preservation in Section 332.3(h);**

The criteria for the use of preservation as a mitigation option in § 332.3(h) are as follows:

- a. Provides important functions
- b. Contributes to watershed sustainability
- c. Appropriate and practicable
- d. Permanently protected
- e. Under threat of destruction or adverse modification

GLT's preservation objectives and prioritization strategy, as outlined in sections 7.5, 7.6, and 7.9, are consistent with the above criteria.

**7.8 A description of any public and private stakeholder involvement in plan development and implementation, including, where appropriate, coordination with federal, state, tribal and local aquatic resource management and regulatory authorities;**

The GLT partners closely with resource agencies, non-profits, and local, state and federal governments. The GLT's wetland mitigation program in the MOA is currently overseen by a wetland advisory group made up of members from the MOA, EPA, USACE and others. This group oversaw and contributed to the GLT's MOA wetland parcel prioritization. In the MSB, the GLT has an advisory committee assisting with the MSB parcel prioritization. Members of the USFWS, EPA, MSB planning department, TNC, are all part of the partnership. In addition, experts throughout the service area were contacted for their input on the prioritization.

**7.9 A description of the long-term protection and management strategies for activities conducted by the in-lieu fee program sponsor;**

Ownership and long-term management of each approved project under the GLT ILF Program will follow the models GLT currently uses. There are three ownership arrangements GLT commonly employs for wetland preservation and restoration projects.

The most common ownership scenario occurs when GLT purchases a wetland property and donates it to a public agency, e.g. MOA Parks and Recreation Department, Alaska State Parks, MSB. GLT retains a conservation easement on the property which serves to protect the conservation values of the land, while an endowment is established that provides funds for annual monitoring of the conservation easement to assure the property is conserved in perpetuity. The public agency assumes long-term property management responsibility. The GLT proposes to identify long-term property management funding for future projects.

The second ownership scenario is where the GLT holds a conservation easement on privately-owned property. As in the previous ownership scenario, GLT establishes a long-term management endowment that provides for annual monitoring of the conservation easement to assure the property is conserved in perpetuity. The private property owner is the long-term property manager. Long-term property management funding is identified.

A third option is to purchase a property outright and donate fee simple title to a public entity to be incorporated into an existing park or refuge. Management funds come from the existing park or refuge.

Monitoring of the properties is conducted through the GLT stewardship program. Properties are monitored on at least an annual basis to ensure that the land is being maintained pursuant to the easement. Any violations of the conservation easement are documented, and the property managers are notified and asked to remediate the violation in due time. Should a land owner refuse to remedy the violation or neglect their duties as property manager, legal counsel is sought on an appropriate course of action. The endowment associated with each property serves to cover all costs accrued during the monitoring process as well as to cover any litigation fees should legal action be necessary.

#### **7.10 A strategy for periodic evaluation and reporting on the progress of the program in achieving the goals and objectives in paragraph (c)(2)(v) of Section 332.8 of the Final Rule, including a process for revising the planning framework as necessary**

The GLT will provide annual reporting on all aspects of the ILF program including funds received and wetlands preserved to the USACE. In addition, GLT will attend IRT meetings as scheduled by the USACE. GLT will work with the USACE to revise the planning framework as necessary.

## **8.0 Description of Program Account**

Currently, the GLT ILF Program funds are deposited into a separate account managed under the GLT's financial management plan. The GLT ILF funds are currently managed in a low-risk investment (a grouping of certificates of deposit managed by Charles Schwab) and are insured by the Federal Deposit Insurance Corporation. GLT would continue to deposit and manage funds through this or other similar account. All interest and earnings accrued in this account remain in the account and are used for the GLT ILF Program purposes. The GLT would continue to provide an annual accounting report to the District Engineer and IRT in accordance with the Final Rule.

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The success of the GLT's ILF Program as it is currently formed has been recognized by the Land Trust Alliance in its journal "exchange" (*Taking on the Long-Term Stewardship of Wetlands Mitigation Sites*, by Rebecca L. Kihlsinger, Jessica Wilkinson, Palmer Hough and Sherry Teresa. Land Trust Alliance

Exchange, Spring 2007, pg 18-24). GLT's ILF Program accounting system and long-term management funding strategy have been used as a model for other ILF programs throughout the U.S. and in an EPA-sponsored training course organized by the Environmental Law Institute titled "Land Trust Training Course: Taking on Long-Term Stewardship Responsibilities of Wetland Mitigation Sites".

The GLT proposes to continue to use ILF funds for costs associated with mitigation and conservation of wetlands and waters of the U.S. These costs include the selection, design, acquisition (e.g. purchase price, appraisals, surveys, due diligence, title insurance, negotiation, etc.), implementation, and management of the ILF compensatory mitigation projects. This may include fees associated with land acquisitions and conservation easements, securing a permit for conducting mitigation activities, activities related to the restoration, enhancement, creation, and/or preservation of aquatic resources, maintenance, and monitoring of mitigation sites, including land acquisition and conservation easement, long-term management costs and long-term monitoring.

Ten percent of funds paid to the program account may be used for administrative costs. These costs may include bank charges associated with the establishment and operation of the program, staff time for carrying out program responsibilities, expenses for day-to-day management of the program, such as bookkeeping, mailing expenses, printing, office supplies, computer hardware or software, training, travel, and hiring private contractors or consultants. Project-specific staff costs are not included in administrative costs.

The GLT would obtain the District Engineer's approval for the expenditure of ILF funds for an ILF project. The request would be made in writing, and the District Engineer would consult with the IRT on the proposed use of funds. With approval from the District Engineer, GLT would use the streamlined review process. Administrative costs for the GLT ILF Program would be evaluated for modification and updated as needed.

### Citations

Matanuska-Susitna Borough (MSB). 2006. *MSB Coastal Management Plan*. Effective March 1, 2007. Palmer, Alaska.

MOA. 2007. *Anchorage Coastal Management Plan*. Adopted August 28, 2007 by Assembly Ordinance 2007-107. Prepared by Bristol Environmental & Engineering Services Corporation and LaRoche & Associates. Anchorage, Alaska.

MOA. 1996. *Anchorage Wetlands Management Plan*. Adopted March 12, 1996 by Assembly Ordinance 95-129. Adopted April 1996 by Alaska Coastal Policy Council. Anchorage, Alaska.

Mat-Su Salmon Partnership Strategic Action Plan (National Fish Habitat Action Plan) can be viewed online at:  
<http://conserveonline.org/workspaces/MatSuSalmon/documents/strategic-action-plan-0/view.html>

U.S. Army Corps of Engineers (USACE) et al. 2010. *Anchorage Debit-Credit Method (ADCM)*. Developed by Representatives of the USACE, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and Municipality of Anchorage (MOA). Originally developed in 2000. Anchorage, Alaska.

**Attachment A**  
**Properties Acquired with GLT ILF Program Funds**

Wetland Credits Secured by GLT ILF Program

Project / Property Name	Acres	REV 1 Credits	REV 2 Credits	REV 3 Credits	Wetland Unit #
Andover	3.5	0.0184	1.3245	0	80
Moose Meadows	41	3.9217	14.5065	3.5353	66
Pioneer	19.8	0	3.0518	4.1450	63
LaHonda	1.1	0.6869	0.0705	0	24
Sanctuary	14.4	2.2557	5.2436	0.2170	42
Cope/Benson	160	*	*	*	*
Waldron Homestead	12	3.0504	2.6319	0.3047	45
Fish Creek Estuary	31.7	11.8500	6.4600	0.2100	24
Baillo	2.55	0.9800	0.4300	0	51
Goodman	10	*	*	*	*
<b>TOTALS</b>	<b>269.19</b>	<b>22.7630</b>	<b>33.7188</b>	<b>8.4120</b>	<b>*</b>

Note:

All properties located within the Municipality of Anchorage except Goodman and Cope/ Benson which are in the MSB

\* These parcels are within the MSB and are not evaluated using the Anchorage Debit Credit Methodology.

Totals current as of June 2010.

**Municipality of Anchorage GLT ILF Program Comparison of Debits and Credits 1997-2009. Debits and Credits in MOA are calculated according to the ADCM (2000, 2010)**

	DEBITS			CREDITS				In-Lieu Fee	Acres Protected
	REV 1	REV 2	REV 3	REV 1	REV 2	REV 3			
BY YEAR							BY YEAR		
1997	0	0	5.8	0	0	0	1997	\$10,500.00	0
1999	3.27	0.74	4.43	0.02	1.32	0	1999	\$486,207.00	3.5
2000	2.19	3.18	15.21	3.92	14.51	3.54	2000	\$382,252.22	41
2001	0.08	2.68	30.9	0	3.05	4.15	2001	\$318,624.00	19.86
2002	0.14	1.98	9.95	0.69	0.07	0	2002	\$171,735.00	1.12
2003	0	0.97	5.69	2.26	5.24	0.22	2003	\$36,530.39	14.4
2004	0.47	5.58	1.62	14.9	9.09	0.51	2004	\$346,943.63	12.05
2005	0.17	0.11	9.93	0	0	0	2005	\$258,328.44	0
2006	0.21	1.08	5.43	0	0	0	2006	\$226,068.69	0
2007	0.35	0.56	4.23	0.98	0.43	0	2007	\$230,977.72	2.55
2008	0.02	4.12	0.13	0	0	0	2008	\$581,530.77	0
2009	0.03	0	1.98	0	0	0	2009	\$86,637.31	0
<b>Totals</b>	<b>6.9</b>	<b>20.99</b>	<b>93.32</b>	<b>22.76</b>	<b>33.72</b>	<b>8.41</b>	<b>Totals</b>	<b>\$3,049,697.86</b>	<b>94.48</b>

## Conservation Parcels for Wetland Credits Secured by GLT ILF Program (1997-2009)

