



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
The Nature Conservancy in
South Carolina

Published: November 24, 2025
Expires: December 26, 2025

**Charleston District
Permit Application No. SAC-2022-01316**

TO WHOM IT MAY CONCERN: Pursuant to the Final Rule on Compensatory Mitigation for Losses of Aquatic Resources (33 CFR Parts 325 and 332 and 40 CFR Part 230), the South Carolina Coastal Zone Management Act (48-39-10 et.seq.), and Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1341) a Draft Instrument for a proposed In-Lieu Fee Compensatory Mitigation Program (ILF) has been submitted to the Department of the Army and the South Carolina Interagency Review Team.

**APPLICANT: The Nature Conservancy in South Carolina
1417 Stuart Engals Boulevard
Mount Pleasant, South Carolina 29464**

Note, this proposed project was originally submitted and put on Notice on December 30, 2022. This Public Notice supersedes the Public Notice published December 30, 2022 with updated information.

As proposed the ILF would provide third party compensatory mitigation options for unavoidable impacts to aquatic resources in the following sub-basins within the state of South Carolina: Black River (HUC 03040205), Broad River (HUC 03050208), Calibogue Sound/Wright River (HUC 03060110), Congaree River (HUC 03050110), Cooper River (HUC 03050201), Edisto River (HUC 03050206), Enoree River (HUC 03050108), Lower Broad River (HUC 03050106), Lower Pee Dee River (HUC 03040207), Lower Savannah River (HUC 03060109), Lynches River (HUC 03040202), Middle Savannah River (HUC 03060106), North Fork Edisto River (HUC 03050203), Salkehatchie River/Combahee River (HUC 03050207), Saluda River (HUC 03050109), South Fork Edisto River (HUC 03050204), Stevens Creek (HUC 03060107), Tyger River (HUC 03050107), Upper Broad River (HUC 03050105), Upper Savannah River (HUC 03060103), Waccamaw River (HUC 03040206), and Wateree River (HUC 03050104). A map of the proposed service areas is attached to this public notice.

APPLICANT'S STATED PROJECT PURPOSE:

Basic: Establish and operate an In-Lieu Fee Compensatory Mitigation Program entitled The Nature Conservancy of South Carolina In-Lieu Fee Program (TNC-SC ILF)

Overall: As stated by the Program Sponsor, the proposed TNC-SC ILF program seeks to:

1. Provide compensatory mitigation options for impacts to rivers, streams, and wetlands by designing and implementing high-quality mitigation projects with high potential success.
2. Provide ecologically significant river, stream, and wetland projects that are consistent with a watershed-based mitigation approach.
3. Provide benefits to the natural environment in South Carolina consistent with overall TNC-SC goals and objectives.

Oversight of the ILF program would be by an existing group of Federal and State agency representatives collectively referred to as the South Carolina Interagency Review Team (IRT). This IRT shall be chaired by the Charleston District, Corps.

Under the proposed ILF program, TNC-SC would develop a site-specific Mitigation Plan for each proposed ILF mitigation project site in accordance with the 2008 Compensatory Mitigation Rule (§332.4 (c)(2) through (c)(14)). Plans would be submitted to the IRT for review and approval prior to development and/or implementation of the mitigation project. Specific projects would be treated as modifications to the program instrument and processed in accordance with the provisions at 33 CFR 332.8 (g). Each specific project would require a public notice and site-specific assessments of compliance with all applicable laws and regulations including the Magnuson-Stevens Fishery Conservation and Management Act, Section 7 of the Endangered Species Act of 1973 (as amended), and Section 106 of the National Historic Preservation Act.

Mitigation requirements associated with permitted impacts to aquatic resources could be met by a permittee paying fees into an established TNC-SC ILF program account. Fees would be based on the number of credits needed to compensate for permitted aquatic resource losses; credits would be calculated using the current version of the Charleston District Guidelines for Preparing a Compensatory Mitigation Plan. Mitigation fees paid into the ILF Program Account may only be used for the direct replacement and management of aquatic resources. This means selection, design, acquisition (e.g., appraisals, surveys, title insurance), implementation, management and monitoring of ILF compensatory mitigation projects. Use of fees is explicitly prohibited for activities such as upland preservation (other than buffers), research, or education and outreach programs. The IRT has the authority to audit the program account records at any time.

Mitigation sites would be selected based on a pre-determined prioritization strategy as outlined in the attached Compensation Planning Framework. As stated by the sponsor, the goal of the ILF is to provide compensatory mitigation within the primary service area of the impacted aquatic resource. Should a secondary service area become necessary the TNC-SC would seek projects within the secondary service areas prescribed by the USACE Charleston District. Corps and IRT approval for use of secondary service areas would be required on a case-by-case basis.

PROPOSED WORK: Approval of an ILF instrument does not provide DA authorization for specific projects impacting waters of the United States; nor does it exclude such future projects from any applicable statutory or regulatory requirements; or preauthorize the use of credits from the ILF program for any particular project. If approved the work required to complete the proposed activities on specific mitigation sites may be authorized under Nationwide Permit #27 after review by the Corps, the South Carolina Department of Health and Environmental Control, and the Interagency Review Team.

Use of this ILF for a specific project would be at the discretion of the Corps pursuant to Section 404 of the Clean Water Act and the 2008 Rule. The Corps provides no guarantee that any particular individual or general permit would be granted authorization to use the ILF program to compensate for unavoidable impacts to aquatic resources, even though compensatory mitigation from the ILF may be available within the defined service area. While the 2008 Rule allows for the use of ILF to provide compensatory mitigation for impacts to waters of the U.S., the Rule also establishes a mitigation hierarchy. If approved the TNC ILF program could be used to provide mitigation for unavoidable impacts to waters of the U.S. in accordance with the mitigation hierarchy as outlined in the 2008 rule.

CULTURAL RESOURCES: In accordance with the National Historic Preservation Act (NHPA), the District Engineer's final eligibility and effects determination for individual site development plans would be based upon coordination with the SHPO and/or THPO, as appropriate and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area. Each mitigation site proposed under the ILF would be placed on public notice and consultation requirements of the NHPA would be met prior to any Corps authorizations, or approvals.

ENDANGERED SPECIES: Pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended), the District Engineer's final determination relative to site specific project impacts associated with individual site development plans would be subject to review by and coordination with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS), as appropriate. Consultation with USFWS and/or NMFS would be conducted for each individual site development plan prior to any Corps authorizations, or approvals. Each mitigation site proposed under the ILF would be placed on public notice and consultation requirements of Section 7(c) of the Endangered Species Act of 1973 (as amended) would be met prior to any Corps authorizations, or approvals.

ESSENTIAL FISH HABITAT: In accordance with the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer's final determination relative to site specific project impacts and the need for mitigation measures associated with individual site development plans would be subject to review by and consultation with the National Marine Fisheries Service (NMFS). Each mitigation site proposed under the ILF would be

placed on public notice and consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act would be met prior to any Corps authorizations, or approvals.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps 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 activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Charleston District will receive written comments on the proposed work, as outlined above, until December 26, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Tom Daniel at Newell.T.Daniel@usace.army.mil. Alternatively, you may submit comments in writing to the District Engineer, U.S. Army Corps of Engineers, Charleston District, Attention:

Tom Daniel, 1519 Taylor Street Columbia, South Carolina 29201. Please refer to the permit application number in your comments.

A complete copy of the proposal can be provided for review upon request.

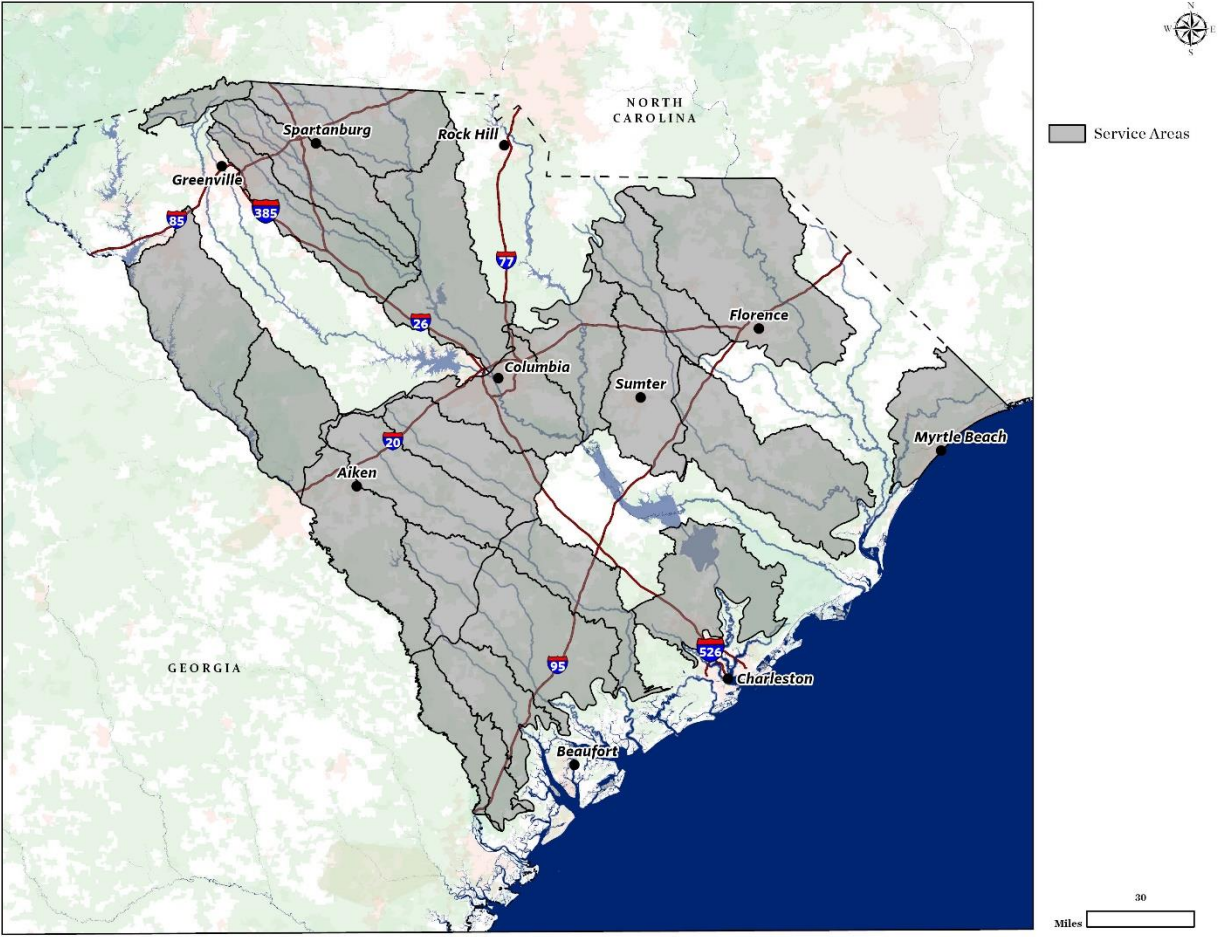


Figure 1: TNC SC ILF Service Areas