



US Army Corps  
of Engineers  
Seattle District

# Public Notice

## Of In-Lieu Fee Program Addendum

US Army Corps of Engineers  
Regulatory Branch  
4735 E. Marginal Way S., Building 1202  
Seattle, Washington 98134-2388  
Telephone (206) 316-3094  
Attention: Mae Ancheta, Project Manager

Public Notice Date: September 18, 2024  
Expiration Date: October 18, 2024

Reference No.: NWS-2009-495  
Name: King County Mitigation Reserves In-Lieu Fee Program (Rainbow Bend Mitigation Project)

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Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) is soliciting comments and information necessary to evaluate any impacts on the public interest from the proposed inclusion of the Rainbow Bend Mitigation Project (RBB Mitigation Project) as an In-Lieu Fee (ILF) mitigation receiving site that has been selected for funding through the King County Mitigation Reserves Program In-Lieu Fee Program (KC ILF). King County is the program sponsor, and the KC ILF Program Instrument was authorized on March 12, 2012.

King County is proposing to modify their ILF Program Instrument by adding the **Rainbow Bend Mitigation Plan** (Mitigation Plan). The Mitigation Plan has been developed in accordance with 33 CFR Parts 325 and 332.2, and it describes project elements, performance measures, and maintenance and monitoring plans for implementation, and long-term management of the RBB Mitigation Project.

**ILF PROGRAM SPONSOR CONTACT:** King County Mitigation Reserves Program, In-Lieu Fee Program  
Attention: Megan Webb, Mitigation Reserves Program Manager  
King County Water and Land Resources Division  
Department of Natural Resources and Parks  
King Street Center, KSC-NR-5600  
201 South Jackson Street, Room 5600  
Seattle, Washington 98104-3855  
Telephone: (206) 477-3865  
Email: [Megan.Webb@Kingcounty.gov](mailto:Megan.Webb@Kingcounty.gov)

**LOCATION:** The proposed RBB Mitigation Project site is located within the KC ILF's Cedar River/Lake Washington Service Area. It is located in the Lower Cedar River drainage basin within WRIA 8 north of the City of Maple Valley; latitude 47.4431° North, longitude -122.0693° West. The property is accessed from a King County Road Right of Way (SE 179th Street) (see enclosed **Figure 1**. Rainbow Bend Vicinity Map). The 19.78-acre site is located on the right (northeast) bank of the Cedar River at river mile (RM) 11. The property is owned by King County and available for use by the KC ILF.

The location for the RBB Mitigation Project was chosen based on criteria identified in the Compensation Planning Framework in the KC ILF Program Instrument. The proposed RBB Mitigation Project site would be applicable for aquatic resource impacts within the Cedar River/Lake Washington Service Area.

**IN-LIEU FEE PROGRAMS:** ILF Programs provide an alternative to traditional permittee-responsible compensatory mitigation and offer an opportunity to implement compensatory mitigation at a regional scale. ILF projects typically involve larger, more ecologically valuable parcels, and more rigorous scientific and technical analysis, planning and implementation than permittee-responsible mitigation. ILF Programs establish “credits” through re-establishing, rehabilitating, establishing, enhancing, and/or preserving wetlands and other aquatic resources at designated mitigation sites. ILF Programs sell compensatory mitigation credits to permittees who need to offset their projects’ adverse impacts to wetland and aquatic resources located within the ILF Program’s designated “Service Area”. The Service Area (or Areas) of an ILF Program is the geographic area over which its credits may be used for compensatory mitigation. Once mitigation credits are sold to a permittee, the obligation to provide compensatory mitigation is then transferred to the ILF Program Sponsor (a governmental or non-profit natural resources management entity).

The establishment, operation, and use of an ILF Program are governed by its authorized ILF Program Instrument, and approved mitigation plans are added (appended) to the ILF Program Instrument. A group of representatives from Tribal, federal, state, and local regulatory and/or resource agencies, known as the Interagency Review Team (IRT), oversee the establishment and management of ILF Programs, including approval of mitigation receiving sites.

**SUMMARY OF MITIGATION PLAN:** This proposal is to modify the KC ILF Program Instrument to add the Rainbow Bend Mitigation Plan; it is not an application for work in waters of the United States (U.S.). For informational purposes, we are providing the public a summary of the Mitigation Plan being reviewed by the Corps and the KC ILF IRT.

The Rainbow Bend Mitigation Project is located in a reach of the Cedar River that is important for salmon recovery, restoration, and floodplain reconnection. The property consists of one parcel totaling 19.78 acres adjacent to 15 parcels owned by King County that comprise the Larry Phillips Natural Area. Together, the parcels total 39.83 acres. The properties, located behind the Rainbow Bend Levee, that historically endured severe and repeated flooding, were acquired by King County from 2002-2012. After acquisitions were completed, King County proceeded with the Rainbow Bend Levee Removal and Floodplain Reconnection Project in 2013. When the RBB Mitigation Project site was selected by the KC ILF, the mobile home park had been removed and portions of the site were restored as part of the Rainbow Bend Levee Removal and Floodplain Reconnection Project. The Rainbow Bend Mitigation Project complements and improves on the successful Rainbow Bend Levee Removal and Floodplain Reconnection Project, adding additional ecological lift to the area.

The Rainbow Bend Mitigation Project would re-establish, rehabilitate, and enhance riparian wetland and floodplain habitats to preserve large trees; add floodplain roughness and fish and wildlife habitats through the installation of large wood and snags; and restore natural functions and processes to the Cedar River floodplain. This project adds to the Rainbow Bend Levee Removal and Floodplain Reconnection Project that was constructed in 2013. 11.23 acres of the 19.78-acre site would be credit-generating (see enclosed **Figure 2**. Mitigation Credit Areas). As described in the *In-Lieu Fee Mitigation Plan, Rainbow Bend Mitigation Project*, dated June 10, 2024, the project proposes to:

- Re-establish 0.24 acre of deep emergent wetland;
- Re-establish 0.29 acre of palustrine emergent wetland;
- Re-establish 0.45 acre of scrub-shrub wetland;
- Re-establish 4.90 acres of forested wetland, including 0.33 acre of mosaic hummocks;
- Enhance or rehabilitate 0.67 acre of existing wetland;

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- Enhance 4.68 acres of riparian upland and tree retention islands; and
- Install woody habitat features (e.g., floodplain jams, habitat wood piles, and snags).

King County would monitor and maintain the RBB Mitigation Project according to the terms of the Mitigation Plan, which would be appended to the KC ILF Program Instrument in accordance with the Federal Mitigation Rule, 33 CFR Parts 325 and 332, and 40 CFR Part 230, *Compensatory Mitigation for Losses of Aquatic Resources*.

**PURPOSE:** The purpose of the KC ILF Rainbow Bend Mitigation Plan and receiving site is to provide compensatory mitigation for adverse aquatic ecosystem impacts associated with activities authorized by the Corps, Ecology, and other regulatory entities that occur within the Cedar River/Lake Washington Service Area where the receiving site is located. The use of KC ILF credits as compensatory mitigation depends on case-by-case approval by the involved regulatory agencies after determining that the use of KC ILF credits would be consistent with all applicable rules and policies of the agencies.

**MITIGATION PLAN AVAILABILITY:** The *In-Lieu Fee Mitigation Plan, Rainbow Bend Mitigation Project* dated June 10, 2024, is available for review at the above-listed Corps office.

The Rainbow Bend Mitigation Plan can be downloaded at the following internet address:

<https://kingcounty.gov/legacy/services/environment/water-and-land/wetlands/mitigation-credit-program/Public-Notice.aspx>

**AUTHORITY:** Issuance of a Public Notice regarding proposed ILF receiving sites is required pursuant to: “*Compensatory Mitigation for Losses of Aquatic Resources; Final Rule*,” (Federal Mitigation Rule) as published in the April 10, 2008, Federal Register, Vol. 73, No. 70, Pages 19594-19705 (33 CFR Parts 325 and 332). As stated previously, this is not an application for work in waters of the U.S. An application for Nationwide Permit (NWP) 27 for construction activities on the Rainbow Bend Mitigation Project site was verified December 30, 2022 and re-verified on January 10, 2023 by the Corps (Corps Reference NWS-2022-515).

**COMPLIANCE WITH OTHER FEDERAL LAWS:** During the processing of the *Rainbow Bend Mitigation Project* NWP 27 verified on December 30, 2022 and re-verified on January 10, 2023, the proposed work to construct the mitigation site was reviewed under the *Endangered Species Act*, Section 7; the *Magnuson-Stevens Fishery Conservation and Management Act - Essential Fish Habitat*; and the *National Historic Preservation Act*, Section 106. The project was determined to be in compliance with these laws, so no further action is required for the Rainbow Bend Mitigation Project.

**EVALUATION:** The Corps is soliciting comments from the public; Native American Nations or Tribal governments; federal, state, and local agencies and officials; and other interested parties in order to consider and evaluate the incorporation of this proposed mitigation plan and receiving site into the KC ILF Program. This proposal is to modify the KC ILF Program Instrument to add the Rainbow Bend Mitigation Plan; it is not an application for work in waters of the U.S. In evaluating this proposal, the Corps will consider any comments received. For accuracy and completeness of the record, all comments should be submitted in writing with sufficient detail to furnish a clear understanding of the reasons for support or opposition.

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**COMMENT AND REVIEW PERIOD:** Conventional mail or e-mail comments will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this addendum to the KC ILF Program Instrument. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message: the ILF Program name, Mitigation Plan name, and reference number as shown below. Either conventional mail or e-mail comments must include the ILF Program name, Mitigation Plan name, and reference number, as shown below, and the commentator's name, address, and phone number. All comments, whether conventional mail or e-mail, must reach the Corps no later than the expiration date of this public notice to ensure consideration.

**COMMENTS:** All e-mail comments should be sent to mae.p.ancheta@usace.army.mil. Conventional mail comments should be sent to:

U.S. Army Corps of Engineers  
Regulatory Branch, Attention: Mae Ancheta  
4735 E. Marginal Way S., Building 1202  
Seattle, Washington 98134-2388

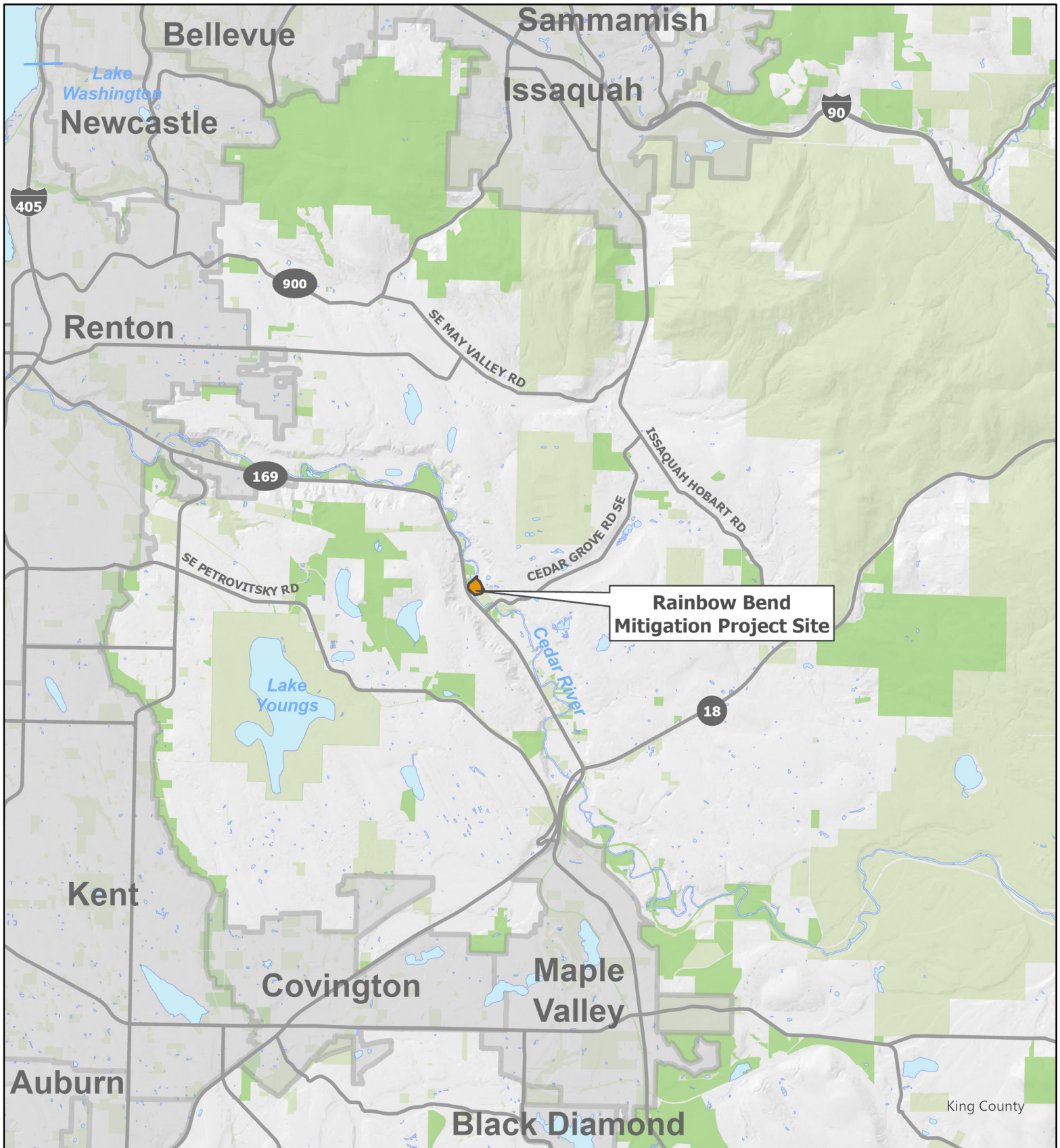
All comments received will become part of the administrative record and are subject to public release under the *Freedom of Information Act*, including any personally identifiable information such as names, phone numbers, and addresses.

**IN LIEU FEE PROGRAM NAME, MITIGATION PLAN NAME, AND REFERENCE NUMBER:**

To ensure proper consideration of all comments, responders must include the following In-Lieu Fee Program name, Mitigation Plan name, and reference number in the text of their comments:

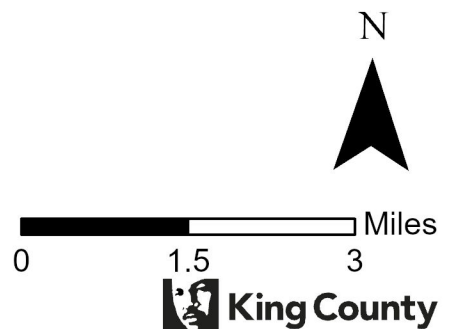
**King County Mitigation Reserves ILF Program (Rainbow Bend Mitigation Plan); NWS-2009-495**

Encl: Figures (2)



## Rainbow Bend Mitigation Project Vicinity Map

-  Rainbow Bend Mitigation Project Site
-  Open Water
-  Incorporated Cities
-  Public Land in King County
-  Major Roads
-  Parks in King County







## Rainbow Bend Mitigation Project Mitigation Credit Areas

2021 Aerial Image

- ▬ Rainbow Bend Mitigation Project Area
 ▬ Wetland Rehabilitation (0.07 ac)
 ▬ Wetland Re-establishment
 ▬ Tree Retention Islands (1.87 ac)
 ▬ Mosaic Hummocks (Approx. locations)
- ▬ Site Parcel
 ▬ Wetland Enhancement (0.60 ac)
 ▬ Deep Emergent (0.24 ac)
 ▬ Upland Enhancement (2.81 ac)
 ▬ Floodplain Jams
- ▬ Existing OHW
 ▬ Palustrine Emergent (0.29 ac)
 ▬ Scrub Shrub (0.45 ac)
 ▬ Forested (4.90 ac)\*
 ▬ Habitat Wood
- ▬ Existing Floodplain Flowpaths
 ▬ Channel/Swale Centerlines
 ▬ Snags

\*Forested wetland acreage includes 0.33 ac of mosaic hummocks, topographic diversity/structures within the forested wetland.

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Feet

