



US Army Corps
of Engineers
Seattle District

Joint Public Notice



Proposed Pierce County In-lieu Fee Mitigation Program

US Army Corps of Engineers
Regulatory Branch
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Attention: Mr. David L. Shaeffer, Project Manager

WA Department of Ecology
Shorelands and Environmental Assistance Program
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Email: bmur461@ecy.wa.gov
Attention: Mr. Brad Murphy

Public Notice Date: January 6, 2012
Expiration Date: February 5, 2012

Reference No.: NWS-2012-33
Name: Pierce County Surface Water Management ILF

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) and the Washington Department of Ecology (Ecology) have received a proposal to establish the Pierce County In-lieu Fee Mitigation Program. The Corps will evaluate the program in accordance with 33 CFR Part 332, *Compensatory Mitigation for Losses of Aquatic Resources*. Compensatory Mitigation, including in-lieu fee programs, is authorized under Section 404 of the Clean Water Act (33 U.S.C. 1344), Section 9 or 10 of the Rivers and Harbors Act of 1899 (33 USC 401 et. Seq.) and Public Law no. 108-136.

APPLICANT – Pierce County Surface Water Management (PCSWM)
2702 South 42nd Street, Suite 201
Tacoma, Washington 98409
Attention: Mr. Scott D. Brewer, Executive Director
Telephone: (360) 394-7999

IN-LIEU FEE PROGRAM OVERVIEW – The term “in-lieu fee program” refers to a program involving 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 (ILF) program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu fee program sponsor. The operation and use of an ILF program are governed by an ILF program instrument.

The program sponsor, PCSWM, has submitted a program prospectus dated November 2011, entitled *Revised Pierce County In-Lieu Fee Prospectus*. The Pierce County ILF Mitigation Program is an ILF program being proposed as a means to meet the requirements for compensatory mitigation associated with projects, which may be permitted by the Corps, Ecology, and/or local governments. If the program is approved, it would provide an alternative to permittee-responsible mitigation.

During or shortly after the 30-day comment period for this public notice, the Corps and Ecology will convene an Interagency Review Team (IRT) and invite the appropriate federal, state, local and Tribal entities to participate. This team will work with PCSWM to create a watershed-based instrument and legal agreement that specifies the terms and conditions of the ILF instrument, such as, but not limited to, watershed-based aquatic resource

objectives, procedures for defining service areas and accounting for credits, legal obligations, default and closure provisions, reporting protocols, and financial accounting requirements. If the instrument is approved, individual mitigation plans will be prepared as ILF project sites are identified. These plans would be incorporated as amendments to the Pierce County ILF Mitigation Program instrument. Additional representatives may be invited to join the IRT during review of individual mitigation projects.

LOCATION – The proposed Pierce County ILF Mitigation Program would be applicable for aquatic resource impacts within the Chambers-Clover Creek and Nisqually River watersheds (Figure 1).

SERVICE AREA – The service area(s) of an ILF program is the geographic area(s) within which impacts can be mitigated by the ILF program as designated in its instrument. The service areas identified in the prospectus for the Pierce County ILF Mitigation Program include portions of Water Resource Inventory Areas (WRIA) 11 (Nisqually River) located within Pierce County and WRIA 12 (Chambers-Clover Creek). The Chambers-Clover Creek watershed flows into Puget Sound and extends from Puget Sound east to Graham and from Point Defiance on the north to DuPont at the southern boundary. The Nisqually River watershed within Pierce County extends from the Nisqually Glacier south to the Pierce County line and as far northwest as Graham, eventually terminating in the Nisqually Estuary where it discharges into Puget Sound. These are the proposed service areas in which the ILF would be operated and administered (Figures 1-3). The PCSWM will develop a project portfolio that identifies potential mitigation projects. A prioritization strategy for selecting compensatory mitigation sites (called ILF-receiving sites) and activities is included in the comprehensive planning framework and discussed in Section 11 of the prospectus.

PROPOSED ILF PROGRAM DESCRIPTION – The complete Pierce County ILF Mitigation Program prospectus is available for review at the above-listed Corps and Ecology offices and may also be found at the following internet addresses:

<http://www.ecy.wa.gov/mitigation/ilf.html>

<http://www.nws.usace.army.mil/> (select Regulatory/Permits, then select Public Notices)

EVALUATION – The Corps and Ecology are 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 identify program aspects that need to be addressed during the ILF program review process and in the development of the ILF instrument. Public comments will assist in developing facts upon which to base a decision by IRT member agencies and Tribes as to whether or not to authorize the proposed ILF program. For accuracy and completeness of the record, all comments should be submitted in writing with sufficient detail to furnish a clear understanding of the comment.

The Corps' decision as to whether or not to authorize the proposed ILF program 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 the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic 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.

COMMENT AND REVIEW PERIOD – Conventional mail or e-mail comments on this proposed ILF program 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 proposal. In order to be accepted, e-mail comments must originate from the author's

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e-mail account and must include on the subject line of the e-mail message the ILF sponsor's name and reference number as shown below. All e-mail comments should be sent to david.l.shaeffer@usace.army.mil at the Corps and bmur461@ecy.wa.gov at Ecology.

Conventional mail comments should be sent to the U.S. Army Corps of Engineers, Regulatory Branch, Attention: Mr. David L. Shaeffer, Post Office Box 3755, Seattle, Washington 98124-3755 and/or to the Department of Ecology, Attention: Mr. Brad Murphy, Post Office Box 47600, Olympia, Washington 98504-7600.

Either conventional mail or e-mail comments must include the sponsor's name and reference number, as shown below, and the commenter's name, address, and phone number. All comments, whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number with any comments:

Pierce County ILF; NWS-2012-33

Enclosure: Figures (3)

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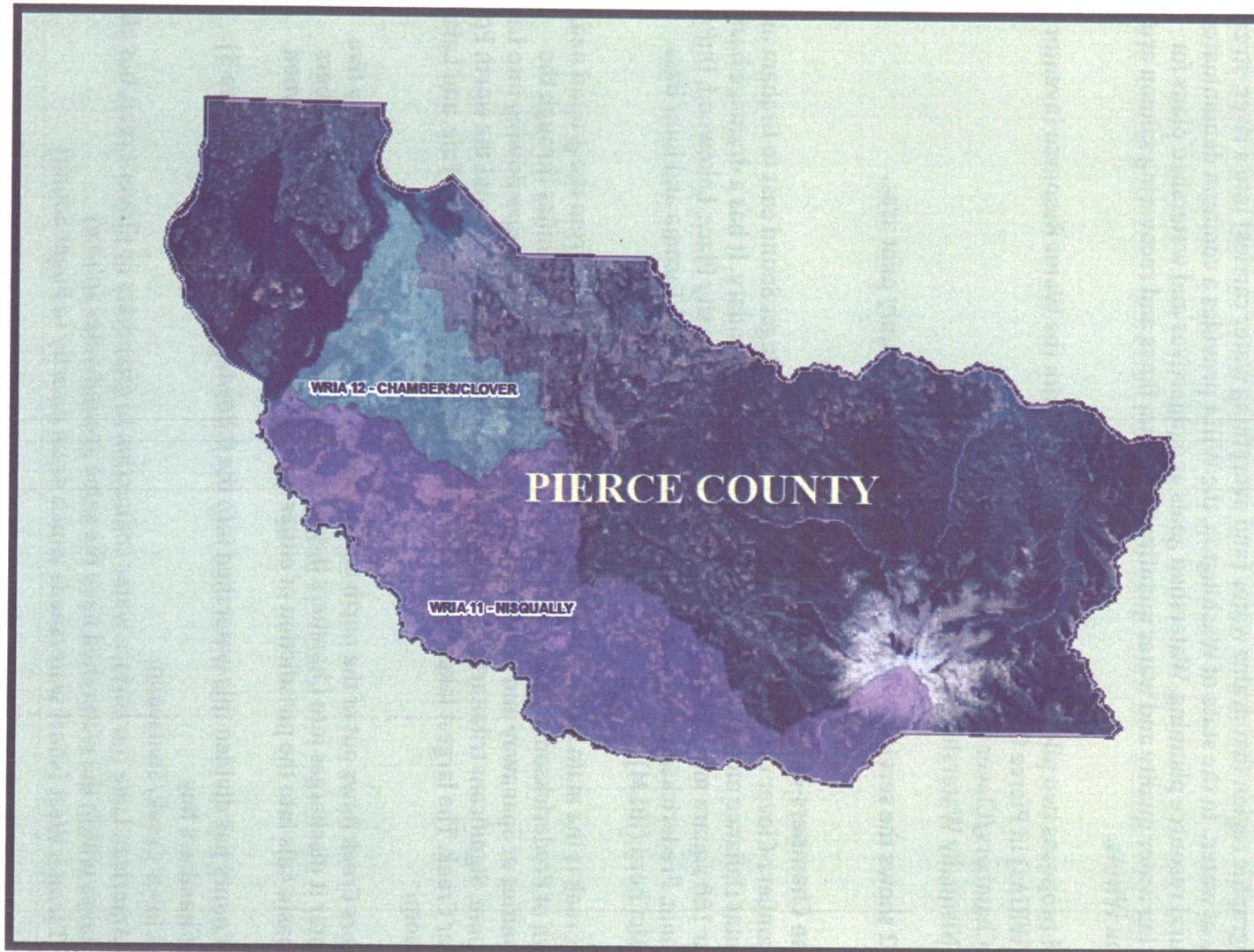


Figure 1. Pierce County In-lieu Fee Mitigation Program Proposed Service Areas

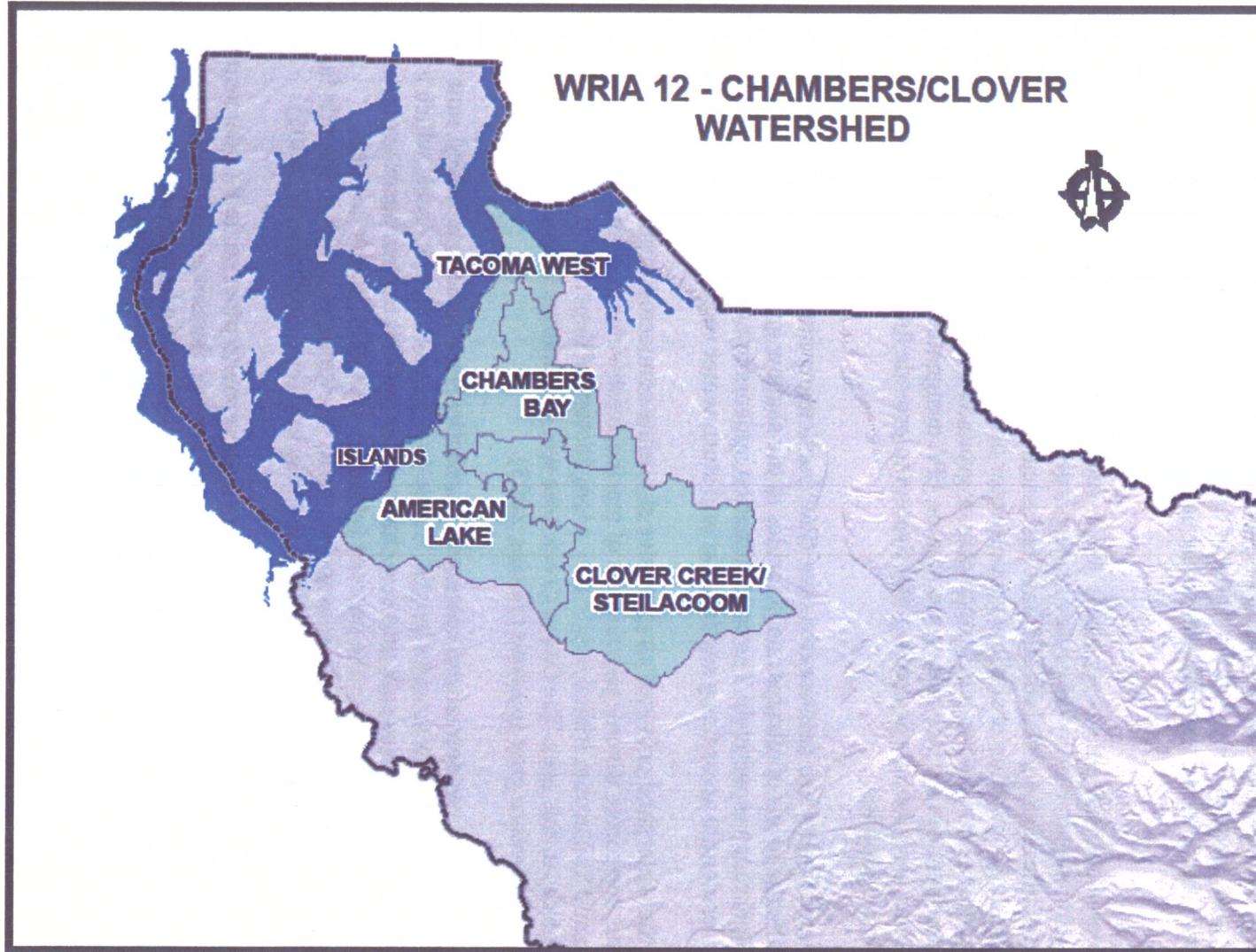


Figure 2. Pierce County In-lieu Fee Mitigation Program - Chambers/Clover Creek Watershed

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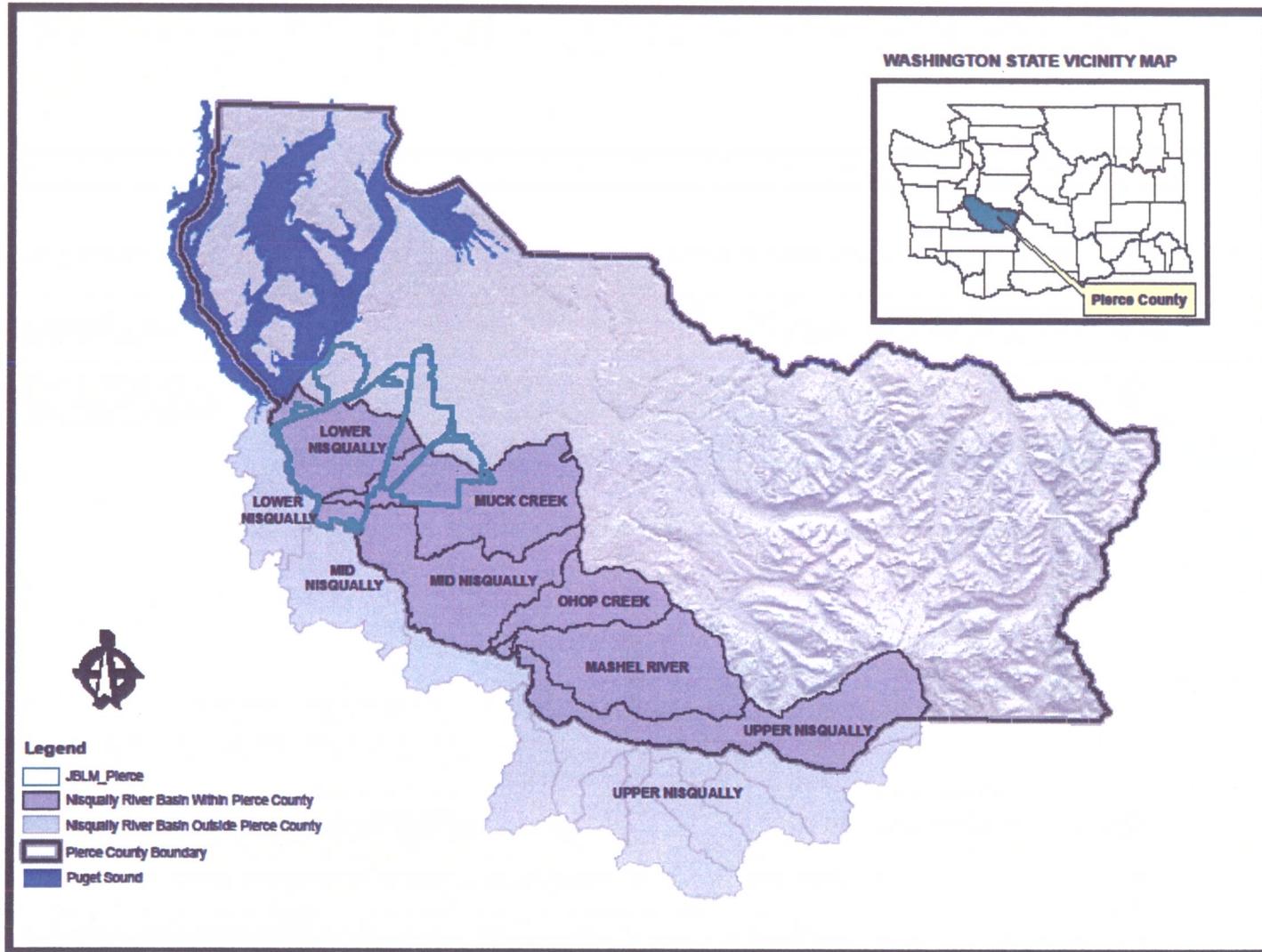


Figure 3. Pierce County In-lieu Fee Mitigation Program - Nisqually Watershed