National Fish Habitat Board
June 25, 2014
Tab 3

Title: Mitigating Impacts to Waters and Wetlands: In-Lieu Fee Programs

Desired Outcome(s): Board familiarity with EPA Section 404 program and commitment to identify potential synergies between NFHP/FHPs and EPA.

Background:

At a Federal Leadership Meeting held in Washington, DC on April 3, potential collaboration between the Environmental Protection Agency and the National Fish Habitat Partnership, under Section 404 of the Clean Water Act (CWA), was discussed. On a May 22 conference call amongst Fish Habitat Partnership representatives, an overview presentation of the Section 404 program, with a focus on In-Lieu Fee programs, was provided by the EPA.

The primary goal of the CWA of 1972 is to restore and protect the chemical, physical and biological integrity of the nation's waters. To help achieve this goal, Section 404 of the CWA regulates discharges of dredged or fill material in waters of the US. A central requirement of the 404 program's regulations is that impacts must be avoided and minimized. For remaining unavoidable impacts, compensatory mitigation to offset or replace lost aquatic resource functions is required. Compensation can be provided by a mitigation bank, In-Lieu Fee (ILF) programs, and Permittee-Responsible Mitigation. Potential opportunities with FHPs include informing ILF project site selection, implementing ILF projects, and sponsoring an ILF program.

Staff Recommendation/Proposal: FHPs continue discussions with EPA to identify where there might be a mutually beneficial partnership through the ILF programs or alternatives.

Reference Material: EPA presentation provided to the FHPs (Tab 3)