



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OPR

Public Notice

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| Public Notice No. | Date |
| CENAP-OPR-2020-00684-85 | November 30, 2021 |

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| Application No. | File No. |
| CENAP-OPR-2020-00684-85 | DelDOT Umbrella Mitigation Bank |

In Reply Refer to:
REGULATORY BRANCH

The Philadelphia District Corps of Engineers (Corps) has received a Prospectus to establish an Umbrella Mitigation Banking Instrument (UMBI) for future umbrella mitigation bank sites (Bank Sites) and Department of the Army permits in accordance with the Federal Rules; "Compensatory Mitigation for Losses of Aquatic Resources"; Final Rule (33 CFR Parts 332 and 40 CFR Part 230) of April 10, 2008.

The purpose of this notice is to solicit comments and recommendations from the public concerning the Prospectus as described below. A full copy of the Prospectus is available for review at <https://www.nap.usace.army.mil/Missions/Regulatory/Public-Notices/>.

APPLICANT: Delaware Department of Transportation
800 Bay Road
Dover, Delaware 19901

PROJECT NAME: DelDOT Umbrella Mitigation Bank

WATERWAY: To be determined

LOCATION: Throughout the entire State

ACTIVITY: The Delaware Department of Transportation (DelDOT) has completed a mitigation needs assessment for New Castle County and is working towards completing an assessment for Kent and Sussex Counties. The needs assessment shows that there are 54 proposed projects in New Castle County from 2020-2024. Of those projects, 42 are anticipated to have wetland impacts. As a result of the New Castle County needs assessment, DelDOT is anticipating a significant future need for mitigation to compensate for impacts.

The DelDOT is proposing to create an UMBI within the State of Delaware for the exclusive use of the DelDOT to aid in compensating for future impacts. The goal of the UMBI is to establish the framework for restoring, enhancing, establishing and/or preserving tidal and non-tidal wetlands, riparian systems, streams and contiguous buffer corridors, as well as uplands and/or other aquatic resources, and their functions and values to compensate for unavoidable and permitted wetland and stream impacts. The DelDOT proposes to develop wetland and stream mitigation projects throughout the State of Delaware to be included as addenda to UMBI in accordance with 33 CFR Part 332.

The prospectus provides a summary of how the proposed Umbrella Mitigation Bank will be established, used, operated and maintained in accordance with the "Compensatory Mitigation for Losses of Aquatic Resources"; Final Rule (33 CFR Part 332 and 40 CFR Part 230) of April 10, 2008. Documentation for the establishment and management of this UMBI and any subsequent Bank Sites will be reviewed by an Interagency Review Team (IRT), consisting of Federal and State agency

representatives and chaired by the Corps. The Bank Sites would be used to comply with the special condition mitigation requirements of permitted projects by providing compensatory mitigation for authorized impacts to aquatic resources, i.e., wetlands, streams, etc. The Bank Sites may only be used for future projects after all appropriate and practical steps to avoid and minimize adverse impacts to aquatic resources have been taken. The DeIDOT will be responsible for the establishment, maintenance and ownership of the mitigation sites until all credits are released and a third-party organization adopts the long-term site management responsibilities.

The decision whether to approve any future Department of the Army permits for Bank Sites under the UMBI will be based on an evaluation of the probable impacts including cumulative impacts of the proposed bank on the public interest. Bank Sites will be evaluated, as appropriate, based on the criteria established in the UMBI and any individual site proposals. Bank Sites under this UMBI would also be subject to public notice. The decision to approve any future Department of the Army permit will reflect the national concern for both protection and utilization of important resources. The benefit 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, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, State and local agencies and officials; and other interested parties in order to consider and evaluate the implications for approval of the proposed umbrella mitigation bank. Any comments received will be considered by the IRT.

Comments on the proposed bank should be submitted, in writing, within 30 days of the date of this Public Notice to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390 or via electronic mail to naregulatory@usace.army.mil.

Additional information concerning this application may be obtained by emailing Mr. Michael D. Yost at michael.d.yost@usace.army.mil or writing to this office at the above address.

Todd A. Schaible
Chief, Regulatory Branch