



**US Army Corps
of Engineers**
Philadelphia District
1650 Arch Street
Philadelphia, PA 19103-2004
Attn: CENAP-OPR

Public Notice

Comment Period Begins: July 10, 2024
Comment Period Ends: August 9, 2024
File Number: NAP-2023-01197-101
File Name: Clay Creek Mitigation Bank CH
Contact: Mr. Justin M. Decker, Biologist
Email: Justin.M.Decker@usace.army.mil

The Philadelphia District has received a proposal to establish a new wetland and stream compensatory mitigation bank for federal and state permits. The purpose of this notice is to solicit comments and recommendations from the public concerning the work as described below.

SPONSOR:

Water and Land Solutions, LLC
Attn: Ms. Amber Snavelly
P.O. Box 98116
Pittsburgh, Pennsylvania 15227

WATERWAY AND LOCATION:

The proposed bank site ("site") is located at the intersection of Clay Creek Road and Friendship Lane in Avondale, Pennsylvania 19311. The site is entirely within London Grove Township, Chester County. The site is approximately 16.40 acres in size and comprises ephemeral, intermittent, and perennial streams (including Clay Creek); palustrine forested, scrub-shrub, and emergent wetlands; and upland forests. The adjacent land use is primarily residential. The site is located within the Delaware River basin.

LATITUDE AND LONGITUDE:

39.808001, -75.790581

PURPOSE AND PROPOSED WORK:

The sponsor proposes to design, construct, and operate the Clay Creek Mitigation Bank ("bank"). The purpose of the bank is to provide off-site, third-party compensatory mitigation for projects that result in unavoidable impacts to waters of the United States, including wetlands and streams, within the bank's specified service area.

The site has a history of man-made disturbance. Aerial imagery from the late 1930s shows that since at least then the activities leading to aquatic resource degradation comprised draining, erosion and sedimentation, aquatic habitat fragmentation, stream incision and floodplain disconnection, and destruction of riparian buffers.

To address these aquatic resource degradations, the sponsor proposes to undertake the re-establishment, rehabilitation, and enhancement of wetlands and streams on-site. To re-establish wetlands, the sponsor would remove legacy sediments, lower floodplain

elevations, create topographic depressions, and raise the groundwater table. Re-establishment activities would occur in areas that were formerly wetlands. To rehabilitate wetlands, the sponsor would re-grade existing wetlands to improve hydrologic connections to Clay Creek's floodplain and introduce microtopographical relief. To enhance wetlands, the sponsor would improve habitat by abating invasive, nuisance, and undesirable species of vegetation and plant native wetland species.

The sponsor proposes to utilize floodplain restoration to re-establish streams. This would include re-establishment of floodplain wetlands to manage erosion-derived sediment. Site investigations would identify historical floodplains using bank profile indicators, test pits, soil probes, and other techniques. Floodplain connectivity would be restored by excavating legacy sediments and re-establishing groundwater and surface water interactions. Where present, legacy sediments would be removed from the floodplain, and in areas where the channel is incised down to bedrock, the channel would be raised. Both approaches may occur in the same location. Floodplain depressions would be added to establish additional wetlands, and deep instream pools may be provided to increase exchange of groundwater and surface water, as well as provide refugia for aquatic life during dry periods. Riparian buffers would be re-established and re-vegetated to control and filter stormwater runoff, further reducing erosion and sedimentation. Two-dimensional hydraulic and hydrologic modeling would be used to verify that the proposed design will achieve floodplain access as desired.

The sponsor does not yet know the impacts to waters of the United States to achieve the proposed compensation activities.

The proposed bank is within U.S. Geological Survey hydrologic unit code 02040205, Brandywine-Christina. The proposed bank's primary geographic service area (GSA) is the Pennsylvania Department of Environmental Protection's (PADEP) subbasin 03 south. The sponsor does not propose a secondary GSA. Refer to the enclosed service area map, *Figure 2 Service Area Map*.

The sponsor proposes the following credit breakdown:

Wetland Credits

15.10 credits will be generated through 15.10 acres of wetland re-establishment.

0.27 credit will be generated through 0.40 acre of wetland rehabilitation.

1.68 credits will be generated through 4.20 acres of wetland enhancement.

The wetland credit total is 17.05 credits. This is an areal-based derivation for wetland credit generation.

Stream Credits

5,466 credits will be generated through 5,466 linear feet of stream re-establishment.

The proposed stream credit total is 5,466 credits. This is a linear-footage-based derivation for stream credit generation.

Oversight of the bank would be by the Pennsylvania Interagency Review Team (PA-IRT). This is an existing group of federal and state agency representatives. The Baltimore, Philadelphia, and Pittsburgh Districts of the U.S. Army Corps of Engineers and PADEP co-chair the PA-IRT.

The review and use of the bank for a specific project requiring compensatory mitigation is the decision of the Corps pursuant to Section 404 of the Clean Water Act and/or by PADEP pursuant to Chapter 105 of the Pennsylvania Code. The Corps and PADEP provide no guarantee that any individual or general permit will be granted authorization to use the bank to compensate for unavoidable wetland and stream projects associated with a proposed project.

AUTHORITY:

Issuance of public notices regarding proposed compensatory mitigation sites is required pursuant to *Compensatory Mitigation for Losses of Aquatic Resources; Final Rule* as published April 10, 2008, in the Federal Register, Vol. 73, No. 70, pages 19,594-19,705 (33 CFR 325 and 332 and 40 CFR 230).

CORPS EVALUATION FACTORS:

The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Tribes; and other interested parties to consider and evaluate the proposed bank. The Corps will consider any comments received.

Endangered Species

A preliminary review of this application indicates that species pursuant to Section 7 of the Endangered Species Act (ESA) may be present in the action area. This office will forward the public notice to the U.S. Fish and Wildlife Service (USFWS) with a request for technical assistance on whether the proposed activity may affect ESA-listed species. After consulting with USFWS, this office will evaluate the potential effects of the proposed actions on ESA-listed species. The Corps will not approve the bank prior to the conclusion of ESA consultation.

Cultural Resources and Tribal Trust

Philadelphia District's Cultural Resource Specialist and Tribal Liaison is currently reviewing the proposed activity for potential impacts to historic properties eligible for or listed on the National Register of Historic Places and for potential issues concerning the Tribes. A determination of effects will be coordinated with the State Historic Preservation Office, the Tribes, and other consulting parties as necessary.

COMMENT SUBMITTAL:

Any comments received will be considered by this office to determine whether to approve, modify, condition, or deny the proposed bank. Comments on this proposal must be submitted, in writing (hardcopy or electronic), to the project manager and within the comment period indicated in the header above. Hardcopy comments must be sent to the following address:

USACE Pocono Area Field Office
Attn. Mr. Justin M. Decker
253 State Route 435, Suite 4
Clifton Township, Pennsylvania 18424
Justin.M.Decker@usace.army.mil

You may request additional information concerning this proposed bank by calling the above-listed project manager between the hours of 2 and 4pm at (570) 960-7370.

This public notice as well as the prospectus are available on our website:

<https://www.nap.usace.army.mil/Missions/Regulatory/Public-Notices/>

FOR: Todd A. Schaible
Chief, Regulatory Branch