



**US Army Corps
of Engineers**
Philadelphia District

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

Public Notice

Public Notice No.	Date
CENAP-OP-R-2006-06393-84	July 29, 2020
Application No.	File No.

In Reply Refer to:
REGULATORY BRANCH

The Philadelphia District Corps of Engineers (Corps) has received a request to amend the Mitigation Banking Instrument (MBI) for the Stipson's Island wetland mitigation bank. The Stipson's Island mitigation bank was first approved by the U.S. Army Corps of Engineers, Philadelphia District on October 3, 2008. The Stipson's Island wetland mitigation bank is approved to provide compensatory mitigation credits for 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 requested amendment as described below. A full copy of the proposed amendment is available for review upon request.

APPLICANT: Evergreen Environmental, LLC 709
Natures Way
Franklin Lakes, New Jersey 07417

PROJECT NAME: Evergreen Stipson's Island Mitigation Bank

WATERWAY: West Creek

LOCATION: Latitude 39.19207°, Longitude -74.91150°, 475 Stipson's Island Road, Block 4,
Lot 23, in Dennis Township, Cape May County, New Jersey (see attachment E-1).

ACTIVITY: The Evergreen Environmental, LLC (Evergreen) Stipson's Island Mitigation Bank has been monitored for performance over a period of 11 growing seasons, with credit releases corresponding to demonstrated performance over that period. Evergreen has requested that this office adjust the released credit which was based on the following negotiated ratios:

	Ratio	Tidal		Freshwater	
		Acres	Credits	Acres	Credits
Freshwater Creation	2:1	0.00	0.000	2.58	1.290
Tidal Creation	1:1	3.97	3.970	0.00	0.000
Tidal Enhancement	3:1	1.07	0.357	0.00	0.000
Freshwater Enhancement	4:1	0.00	0.000	8.41	2.103
Preservation	27:1	3.29	0.122	15.72	0.582
Total		8.33	4.449	26.71	3.975
Wetland Mitigation Credit Totals		Acres	35.04	Credits	8.42

The decision to request a 4:1 ratio for the Freshwater Enhancement was driven by the anticipation of risk with limited hydrologic separation of those areas from potential tidal inundation. Any infiltration of excess salt and extended water pooling was anticipated to stress and potentially kill vegetation not adapted to survive those conditions. Expectations of vegetative survival and density were to achieve only 85% of 320 woody stems per acre or 272 woody stems per acre. Evergreen has demonstrated that the mitigation bank has achieved density and survival rates of more than 1000 woody stems per acre, heights exceeding 5 feet and vegetative cover of 100% with invasive species below 1 percent. Typically, such achievement of performance metrics is assessed at a functional value mitigation rate based on a 3:1 ratio. Evergreen has requested a reversal of this specific ratio, proposing the following table to replace the currently authorized ratio:

	Ratio	Tidal		Freshwater	
		Acres	Credits	Acres	Credits
Freshwater Creation	2:1	0.00	0.000	2.58	1.290
Tidal Creation	1:1	3.97	3.970	0.00	0.000
Tidal Enhancement	3:1	1.07	0.357	0.00	0.000
Freshwater Enhancement	3:1	0.00	0.000	8.41	2.803
Preservation	27:1	3.29	0.122	15.72	0.582
Total		8.33	4.449	26.71	4.676
Wetland Mitigation Credit Totals		Acres	35.04	Credits	9.12

Additionally, the Stipson’s Island Mitigation Bank was originally processed during the time period immediately before the Compensatory Mitigation for Losses of Aquatic Resources”; Final Rule of April 10, 2008 (the Rule) became effective. As such, much of the negotiation for this instrument was allowed to be considered grandfathered once the Rule was published. Some of the required sections specified by the rule were allowed to be omitted due to this accommodation. This office is requiring that as part of this amendment the MBI satisfy all aspects of the Rule. Provisions to address the qualifications of the sponsor and the transfer of legal obligation to provide compensatory mitigation upon the sale of credits are proposed to include:

Exhibit L Sponsor Qualifications & Exhibit M Transfer of Legal Obligation which serve to address requirements detailed at 33 CFR 332.8 (d)(2)(vi) and 33 CFR 332.8 (d)(6)(ii)(C) respectively.

This public notice is issued pursuant to the “Compensatory Mitigation for Losses of Aquatic Resources”; Final Rule (33 CFR Part 332 and 40 CFR Part 230) of April 10, 2008.

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 this proposed amendment. Any comments received will be considered by the New Jersey Interagency Review Team (NJ-IRT).

Comments 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 PhiladelphiaDistrictRegulatory@usace.army.mil and referencing the project name and/or public notice number.

Additional information concerning this proposed instrument modification may be obtained by leaving a message for Mr. Brian Anthony at (215) 656-0542 or writing this office at the above address.

Todd A. Schaible
Chief, Regulatory Branch