



PUBLIC NOTICE

U.S. Army Corps
of Engineers

New York District, CENAN-OP-RU

Upstate Regulatory Field Office

1 Buffington Street, Bldg. 10, 3rd Fl. North

Watervliet, New York 12189-4000

In replying refer to:

Public Notice Number: NAN-2018-00619-UCA

Issue Date: April 23, 2019

Expiration Date: May 23, 2019

To Whom It May Concern:

The New York District, U. S. Army Corps of Engineers (Corps) has received a proposal pursuant to Title 33 Code of Federal Regulations, Section 332 requesting the initiation of an umbrella mitigation bank sponsored by the Wetland Trust (TWT) in four service areas encompassing parts of five 8 digit hydrologic units (HUC). The Wetland Trust currently provides mitigation for unavoidable impacts to waters of the United States associated with Department of the Army permits issued under Section 404 of the Clean Water Act through a federally approved In-lieu fee program that encompasses fifteen separate 8-digit HUC service areas within the state of New York. The purpose of this notice is to solicit comments and recommendations from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties so that we may consider and evaluate the impacts for the work described below and determine whether to issue, modify, condition, or deny a Department of the Army permit.

This is not an application for work in federally regulated waters; however, authorization under Section 404 of the Clean Water Act may be required for implementation of particular mitigation sites later proposed under the umbrella mitigation banking instrument, if approved. Such sites would be advertised under separate public notices. No decision has been made as to whether this proposed umbrella mitigation bank will be approved.

APPLICANT: The Wetland Trust
4729 State Route 414
Burdett, New York 14818

ACTIVITY: Umbrella Mitigation Banking Instrument Prospectus

WATERWAY: Hudson River

LOCATION: The proposed service areas encompass parts of five 8-digit HUC (Hydrologic Unit Code, a designation for the watershed drainage area) watersheds within the New York District of the U.S. Army Corps of Engineers as follows:

The Mid-Hudson Basin (HUC 02020006), includes parts of Schenectady, Albany, Rensselaer, Schoharie, Greene, Columbia, Dutchess and Ulster Counties. There is also an approximately 35 square mile section of the Housatonic River Basin (HUC 01100005) that occurs within the political border of Columbia County that TWT is requesting to include within this service area due to this area being located within the New York District Regulatory boundary, and the potential for habitat creation that may benefit several rare and one endangered species of reptiles and amphibians that may occur within this proposed service area. TWT has chosen to exclude sections of the Mid-Hudson 8 digit HUC 02020006, due to it being within the New York City Water Supply Watershed. These areas are within the Esopus Creek watershed that contribute to the Ashokan Reservoir (020200060905, 020200060904, 020200060903, 020200060902 and 020200060901).

The Hudson-Wappinger Basin (HUC 02020008) within parts of Dutchess, Ulster, Orange, Rockland and Putnam Counties. There is also an approximately 180 square mile section of the Housatonic River Basin (HUC 01100005) that occurs within the political border of Columbia and Dutchess County that TWT is requesting to include within this service area due to this area being located within the New York District Regulatory boundary, and the potential for habitat creation that may benefit several rare and one endangered species of reptiles and amphibians that may occur within this proposed service area.

The West of Hudson (Roundout- Walkkill) Basin (HUC 02020007) within the area of regulatory responsibility of the New York District, includes parts of Sullivan, Ulster and Orange Counties. The TWT has chosen to exclude sections of the West of Hudson (Roundout-Walkkill) Basin (HUC 02020007), as it is within the New York City Water Supply Watershed. These areas are within the Roundout Creek watershed and contribute to the Rondout Reservoir (020200070501 and 020200070502).

The Lower Hudson Basin (HUC 02030101) is within parts of Dutchess, Putnam, Westchester, Rockland and Orange Counties.

DESCRIPTION OF PROPOSED ACTIVITY: Under Section 404 of the Clean Water Act (CWA), applicants applying for the Department of the Army permits to discharge dredge or fill material into waters of the United States, including wetlands, are often required to provide compensatory mitigation for permitted unavoidable wetland losses by creating, restoring, enhancing and preserving wetlands or streams. Authorized Mitigation Banks provide the Corps and the regulated public with additional options for compensatory mitigation of aquatic resource losses. The establishment, management, and use of a Mitigation Bank must be in accordance with a Mitigation Banking Instrument approved by the Interagency Review Team (IRT). The IRT is presently comprised of the Corps (Buffalo and New York Districts), the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, New York City Department of Environmental Protection, the U. S. Department of Agriculture--Natural Resource Conservation Service and the New York State Department of Environmental Conservation.

The proposed Umbrella Mitigation Bank prospectus, along with a proposed site specific plan for the Hudson-Wappinger Basin (HUC 02020008), are described in the documents entitled “**A Prospectus for the TWT NY Hudson River Wetland Mitigation Umbrella Bank**”, dated November 2018, and “**Overlook Wetland Preserve**”, dated October 2018. These documents contain all the information normally included in a prospectus plus additional detail to place one service area within the Umbrella Bank into operation.

A detailed description and plans of the applicant's proposed Umbrella Mitigation Bank activities are enclosed to assist in your review.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision 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, 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.

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials;

Indian Tribes; and other interested parties in order to consider and evaluate the impacts of these proposed activities. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activities.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO THE ATTENTION OF George D. Casey AT THE ABOVE ADDRESS, OR SENT VIA ELECTRONIC MAIL TO george.d.casey@usace.army.mil, TO REACH THIS OFFICE BY THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity.

Comments submitted in response to this notice will be fully considered during the public interest review for the request to develop the Hudson River Wetland Mitigation Umbrella Bank and the proposed Overlook Wetland Preserve site. Comments provided will become part of the public record for this permit application. All written comments, including contact information, will be made a part of the administrative record, available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination for the Overlook Wetland Preserve site is that the activity for which authorization is sought herein is not likely to affect any federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area for the Overlook Wetland Preserve site. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

Reviews of activities pursuant to Section 404 of the Clean Water Act will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

In addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorization for the activity under consideration from the New York State Department of Environmental Conservation

In order for us to better serve you, please complete our Customer Service Survey located at:

<http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact George D. Casey of this office at (518) 266-6361.

For more information on New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>



For and in behalf of

Stephan A. Ryba
Chief, Regulatory Branch

Enclosures