



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 (M2)

Issue Date: **March 15, 2021**

Expiration Date: **April 14, 2021**

To Whom It May Concern:

The New York District, U. S. Army Corps of Engineers (Corps) has received a proposal pursuant to 33 CFR 332 requesting the modification of the existing Hudson River Umbrella Wetland Mitigation Banking Instrument (UMBI) sponsored by The Wetland Trust (TWT) in the Mid-Hudson service area encompassing the 02020006 8-digit hydrologic unit. This modification request includes a plan for the construction of a new 87-acre wetland mitigation bank site known as the Mud Creek Mitigation Site. TWT currently provides mitigation for impacts to waters of the United States under Section 404 of the clean water act through the Hudson River UMBI program in the Hudson Wappingers Service area. 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 the request to modify the UMBI.

This is an application for work in federally regulated waters; authorization under Section 404 of the Clean Water Act is required for implementation of this particular mitigation site that is proposed under the modification of the UMBI, if approved. No decision has been made as to whether this proposed modification will be approved.

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

ACTIVITY: Construction of the Mud Creek Mitigation Bank Site to provide compensatory mitigation for section 404 impacts to wetlands. This action would involve amending the Umbrella Mitigation Banking Instrument by adding one new mitigation site to open the Mid-Hudson Service Area.

WATERSHED AREA: Hudson River

LOCATION: The proposed project site is located at 109 Fish and Game Road in the Town of Claverack, Columbia County NY. The service area for this site would encompass parts of two 8-digit HUC (Hydrologic Unit Code is a designation for the watershed drainage area encompassed) watersheds within the U.S. Army Corps of Engineers New York District as follows:

Mid-Hudson Basin (02020006), within portions of Schenectady, Albany, Rensselaer, Schoharie, Greene, Columbia, Dutchess and Ulster Counties and an approximately 35 square section of the Housatonic River 8-digit HUC 01100005 that occurs within the political border of Columbia County. TWT has chosen to exclude sections of the Mid-Hudson 8-digit HUC 02020006, due to it being within the New York City Watershed. These areas include portions of Greene and Ulster Counties within the Esopus Creek watershed that contribute to the Ashokan Reservoir.

DESCRIPTION OF PROPOSED ACTIVITY: Under Section 404 of the Clean Water Act (CWA), applicants requesting Department of the Army permits to discharge dredged or fill material into waters of the United States, including wetlands and streams, are often required to mitigate for permitted wetland and stream losses by creating, restoring, enhancing, or in exceptional circumstances, preserving wetlands and streams. Authorized Mitigation Banking programs provide the Corps and the regulated public with an additional option for compensatory mitigation using a watershed approach, instead of permittee-responsible mitigation. The January 2021 Wetland Trust Hudson River UMBI was previously approved by the Interagency Review Team (IRT) and this proposed modification of the instrument would be in accordance with the process described in 33 CFR 332. The IRT is 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, the National Oceanic and Atmospheric Administration-National Marine Fisheries Service and the New York State Department of Environmental Conservation.

The proposed Umbrella Mitigation Bank expansion plan, is described in the document “**A Wetland Mitigation Plan for the Mud Creek Preserve, Hudson, NY—A Site in the TWT NY Hudson River Wetland Mitigation Umbrella Bank’s Mid-Hudson Service Area HUC 02020006**”, attached to this Public Notice. This document contains all the information normally contained in a plan to allow for the for the modification of the UMBI. If approved this modification would be incorporated as an amendment to the 2021 TWT Umbrella Mitigation Bank program instrument.

The decision whether to modify the TWT UMBI 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 of Engineers 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 this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether modify the DU ILF Instrument for this proposed expansion. 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 activity.

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. Due to COVID-19, and limited in-office mail processing

procedures, it is highly recommended that comments be sent by Electronic Mail only to prevent delays.

Comments submitted in response to this notice will be fully considered during the public interest review for this instrument modification. Comments provided will become part of the public record for this instrument modification. 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.

If the TWT UMBI is modified for this expansion, the Corps expects that the activities associated with this modification are 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 will consult with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

If the TWT UMBI is modified for this expansion, the Corps expects that the activities associated with this modification would avoid areas where known sites eligible for, or included in, the National Register of Historic Places. However, pursuant to Section 106 of the National Historic Preservation Act (36 CFR Part 800), the Corps will consult with the appropriate Federal, State and Tribal Historic Preservation Officers to determine the presence of and potential impacts to known or eligible sites. Any authorization for work would include provisions for unknown archeological, scientific, prehistorical, or historical data that may be lost by work accomplished under the required permit.

If the TWT UMBI is modified, the review of the proposed activities at the Mud Creek Preserve mitigation site 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.

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>

A handwritten signature in black ink, reading "Amy L. Gitchell". The signature is fluid and cursive, with the first name "Amy" and last name "Gitchell" clearly legible.

FOR AND ON BEHALF OF
Stephan A. Ryba
Chief, Regulatory Branch

Enclosures

NY HUDSON WETLAND MITIGATION UMBRELLA BANK



