



PUBLIC NOTICE

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

In replying refer to:
Public Notice Number: NAN-2025-00048
Issue Date: August 1, 2025
Expiration Date: August 31, 2025

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 the proposed "Hudson Reefs Mitigation Bank", sponsored by Billion Oyster Project. 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 concerning the work as described below.

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). **This is not an application for work in federally regulated waters;** however, authorization under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act may be required for implementation of the proposed 12-acre site, if approved. No decision has been made as to whether this proposed mitigation bank will be approved.

SPONSOR: Billion Oyster Project
10 South Street, Slip 7
New York, NY 10004

ACTIVITY: Hudson Reefs Mitigation Bank Prospectus

WATERWAY: Hudson River

LOCATION: Subtidal areas south of the Tappan Zee Bridge on the Hudson River, South Nyack, Rockland County, New York

LATITUDE AND LONGITUDE: approximately 41.050733°, -73.900155°

PURPOSE AND PROPOSED WORK: The sponsor proposes to design, construct, establish, and operate the Hudson Reefs 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, within the Bank's specified service areas. 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 are often required to provide compensatory mitigation for permitted unavoidable losses by creating, restoring, enhancing, and preserving aquatic resources. Authorized Mitigation Banks provide the Corps and the regulated public with additional options for compensatory mitigation of aquatic resource losses. As per the Final Mitigation Rule (33 CFR Parts 325 and 332), there are three mechanisms for providing compensatory mitigation (listed in order of preference as established by the regulations): mitigation banks, in-lieu fee programs, and permittee-responsible mitigation.

The proposed Hudson Reefs Mitigation Bank Prospectus is described in the documents entitled **“Billion Oyster Project – Hudson Reefs Mitigation Bank Prospectus”**, dated June 2025. These documents contain all the information required in a prospectus. A detailed description and plans of the Sponsor's proposed Mitigation Bank activities have been published on the New York District, Corps website.

The sponsor proposes to create approximately 12-acres of oyster reef restoration located in subtidal areas of the Hudson River near the Tappan Zee region. The Bank proposes to provide compensatory mitigation credits for permitted impacts to aquatic resources, especially within the littoral zone as defined by New York State tidal wetland regulations. The Bank will support ecological recovery in the Hudson River estuary by restoring a native foundation species and enhancing aquatic habitat and biodiversity.

PROPOSED SERVICE AREA: The sponsor proposes one geographic service area in the Lower Hudson River watershed (HUC-8: 02030101). The proposed service area is depicted in the enclosed prospectus Figure 6: Proposed Service Area Map.

Decisions authoring use of credits within the proposed service area from the Bank will be made on a case-by-case basis by the Corps and/or the New York State Department of Environmental Conservation (NYSDEC).

INTERAGENCY REVIEW TEAM: 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) in the New York District. The IRT is presently comprised of the Corps (New York District), the U.S. Environmental Protection Agency (USEPA), the U.S. Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration (NOAA), the New York State Department of State (NYSDOS), and the NYSDEC.

ASSESSMENT METHODOLOGY: The credits will be determined by the Corps and/or NYSDEC, in consultation with the IRT, and informed using a credit ratio that the Corps and NYSDEC, in consultation with the IRT, determine to be appropriate, and will be provided in the future Mitigation Banking Instrument (MBI). Pursuant to 33 CFR 332, the 12.0 acres of habitat restored in the establishment of the proposed mitigation bank will be categorized as restoration.

ENDANGERED SPECIES CONSULTATION: Our preliminary determination for the Hudson Reefs Mitigation Bank is that the proposed activity may affect but is not likely to adversely 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.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act (Public Law 104-267), requires all Federal agencies to consult with the NOAA Fisheries Service (NOAA/FS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed work, fully described in the enclosed prospectus, could cause the disruption of habitat for various life stages of some EFH-designated species as a result of a temporary increase in turbidity during construction. However, the New York District has made the preliminary determination that the site-specific adverse effects are not likely to be substantial because it is expected that fish populations would avoid the small area of disturbance. Further

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consultation with NOAA/FS regarding EFH impacts and conservation recommendations is being conducted and will be concluded prior to the final decision.

NATIONAL HISTORIC PRESERVATION ACT: 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 Hudson Reefs Mitigation Bank. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

COASTAL ZONE MANAGEMENT ACT: Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. For activities within the coastal zone of New York State, the applicant's certification and accompanying information is available from the NYSDOS, Division of Coastal Resources and Waterfront Revitalization, Coastal Zone Management Program, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231, Telephone (518) 474-6000. Comments regarding the applicant's certification, and copies of any letters to this office commenting upon this proposal, should be so addressed.

WATER QUALITY CERTIFICATION: Reviews of activities pursuant to Section 404 of the CWA will include application of the guidelines promulgated by the Administrator, USEPA, under authority of Section 404 (b) of the CWA and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the CWA prior to a permit decision.

SUBMITAL OF COMMENTS: 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 this proposed activity. Any comments received will be considered by the Corps 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 activity.

All comments regarding the prospectus should be submitted via electronic mail to KIMBERLY.T.ISENHOUR@USACE.ARMY.MIL and CHRISTOPHER.W.MINCK@USACE.ARMY.MIL by the expiration date listed at the top 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 Reefs Mitigation Bank Prospectus". 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 (FOIA). The Administrative Record, or portions thereof, may also be posted on a Corps internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

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Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing. The decision whether to approve or deny the proposed Mitigation Bank will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project 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, 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.

This public notice and associated plans are available on the Corps' website at:
<https://www.nan.usace.army.mil/Missions/Regulatory/Regulatory-Public-Notices/>
and on the Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS) website, located under the New York District's drop-down menu, and Public Notices tab:
https://ribits.ops.usace.army.mil/ords/f?p=107:10:15020661284520::::P10_BANK_ID:7171

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>.

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

Jon T. Coleman
FOR AND IN BEHALF OF
Stephan A. Ryba
Chief, Regulatory Branch

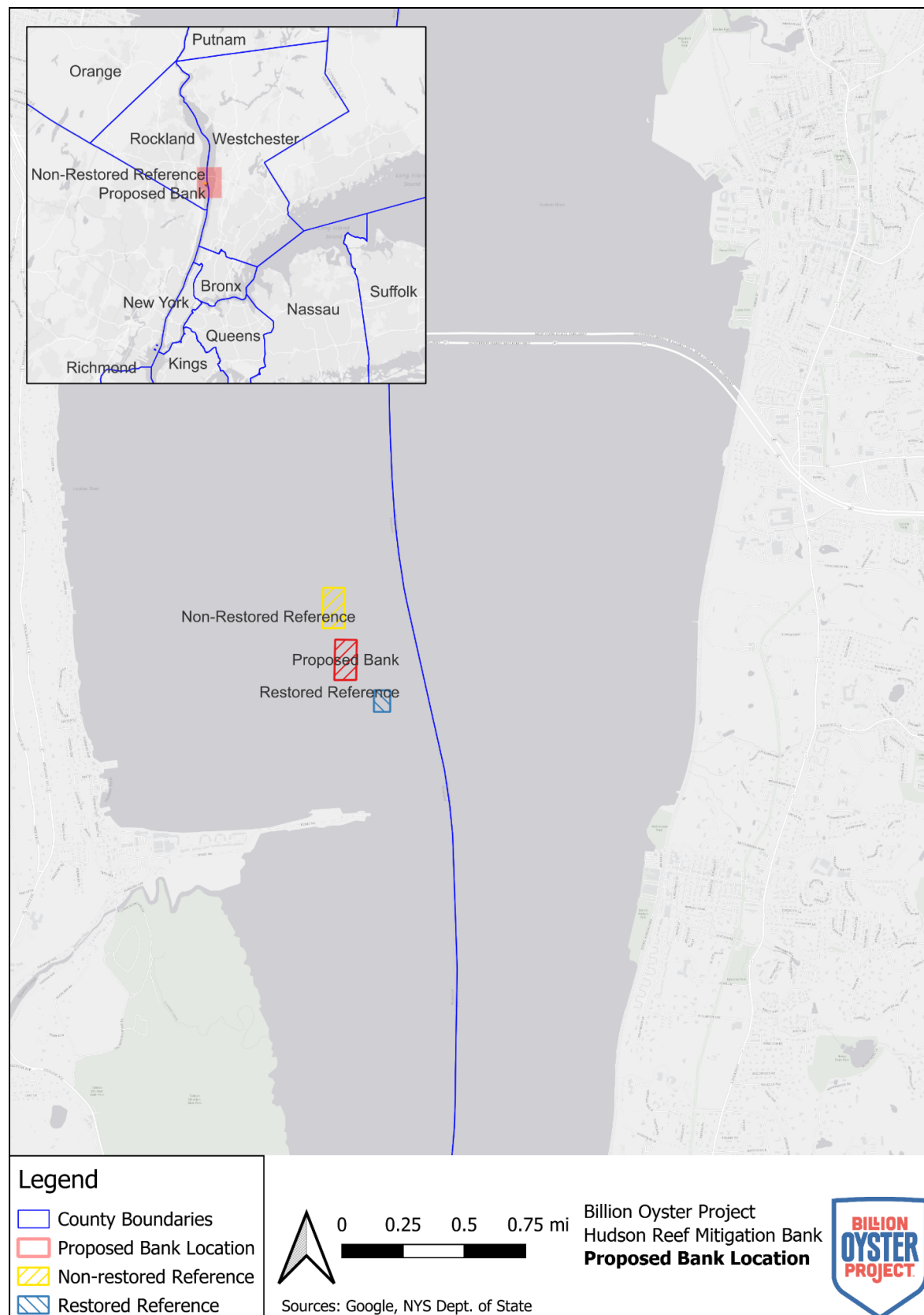


Figure 1. Proposed Bank location.

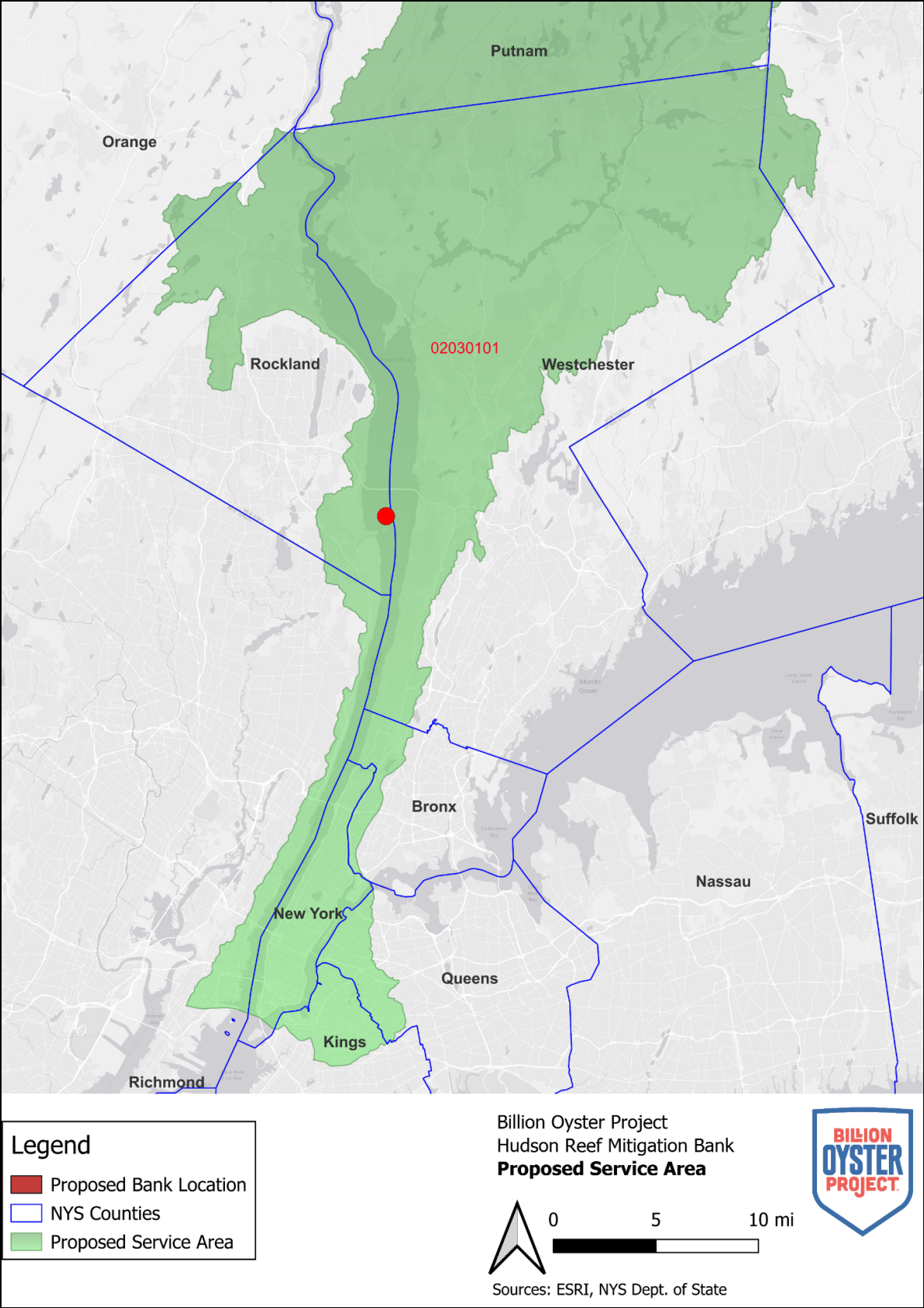


Figure 6. Proposed service area. HUC8 watershed ID in red. NYS county names in black.