



PUBLIC NOTICE

US Army Corps
of Engineers
New York District, CENAN-OP-R
Upstate Regulatory Field Office
1 Buffington Street, Bldg. 10, 3rd Floor
Watervliet, New York 12189-4000

In replying refer to:

Public Notice Number: NAN-1999-12050
Issue Date: June 30, 2010
Expiration Date: July 30, 2010

To Whom It May Concern:

This public notice announces a proposal by the U.S. Army Garrison, Fort Drum (Garrison) to modify the existing "Fort Drum Mitigation Banking Instrument" (Instrument). The Instrument was executed in 1994 to establish the Fort Drum Wetland Mitigation Bank (Bank) to function satisfy the Garrison's anticipated compensatory mitigation needs for the future, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The Instrument has simplified and shortened the permitting process by providing advance compensation for unavoidable impacts associated with expansion and improvement of military training and support facilities at the Fort Drum Military Reservation (Fort Drum). The Bank was established by, and continues to be maintained by the Garrison. The previous establishment of credits at three sites on Fort Drum involved construction activities in waters of the United States that were authorized by this office under Nationwide Permit No. 27. The Garrison continues to maintain the three Bank sites in accordance with the terms and conditions of our authorization, as well as the requirements in the Instrument. The proposed modification of the Instrument would not alter the existing performance standards in the Instrument, nor would it involve construction activities in and over navigable waterways or discharges of dredged or fill material into waters of the United States, including streams and wetlands. Therefore, a Department of the Army permit, in accordance with 33 CFR 320-332, will not be required for this proposal.

A detailed description and draft of the proposed modification are enclosed to assist in your review. A copy of the Instrument, and the two subsequent modifications to the Instrument, can be viewed on the Regional Internet Bank Information Tracking System (RIBITS) website at: <http://216.83.232.125:443/pls/htmldb/f?p=101:2:1636462954740471>

The decision whether to issue the proposed modification 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 benefits 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 to issue, modify, condition or deny 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 PROPOSED MODIFICATION MUST BE PREPARED IN WRITING AND MAILED TO THE ATTENTION OF MR. JOHN CONNELL AT THE ABOVE ADDRESS, OR SENT VIA ELECTRONIC MAIL TO john.r.connell@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.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary

CENAN-OP-R
PUBLIC NOTICE NO. NAN-1999-12050

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.

The Indiana bat (*Myotis sodalis*), a Federally-listed endangered species is known to occur within and in the vicinity of Fort Drum. Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the U.S. Army Garrison, Fort Drum evaluated potential effects to the Indiana bat caused by its activities; and by letter dated June 3, 2009, the U.S. Fish and Wildlife Service issued a biological opinion (BO) regarding potential effects to this species. The BO outlines reasonable and prudent measures that the Garrison will implement in order to minimize the potential effects caused by its activities to the Indiana bat. The Garrison will continue to consult, as necessary, with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

Our preliminary determination is that the proposed modification would have no effect on resources that are eligible for, or included in, the National Register of Historic Places. To assure that the requirements of the Section 106 of the National Historic Preservation Act are met for future projects, the Garrison will continue to consult with the New York State Historic Preservation Office, and other interested parties as appropriate, such as Native American Tribes, on a case-by-case basis to resolve any effects to historic properties.

It should be noted that sections of waterways which are designated in the National Rivers Inventory as Wild and Scenic Rivers, namely the Black and Indian Rivers, may be effected by the activities for which authorization is sought herein. It is the preliminary determination of this office that the proposed modification would not impact these waterways. The Garrison will continue to consult with the National Park Service of the U.S. Department of the Interior, as necessary, to resolve any future effects to these waterways.

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 our Upstate Regulatory Field Office at (518) 266-6357 and ask for John Connell.

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


for Richard L. Tomer
Chief, Regulatory Branch

Enclosures

1. Location Map
2. Proposed Modification No. 3 to Fort Drum Mitigation Banking Instrument

WORK DESCRIPTION

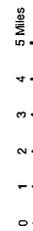
The applicant and Bank Sponsor, U.S. Army Garrison, Fort Drum (Garrison), has requested Department of the Army authorization to modify the existing banking instrument know as "Fort Drum Mitigation Banking Instrument" (Instrument). The Bank is a single-user wetland mitigation bank currently being used, and which would continue to be used, as compensation for impacts to aquatic resources associated with small projects typically designed and funded by the Garrison with operational and maintenance monies. For larger projects with potentially greater impacts to aquatic resources, the Garrison would typically receive additional mitigation funding awarded by the U.S. Congress with military construction project allocations. However, the Garrison was recently notified by the U.S. Army that the use of military construction monies for wetland mitigation projects would not typically be authorized for firing range projects.

The Garrison has indicated that the success of the existing mitigation bank sites, and their efforts to avoid and minimize impacts to aquatic resources for projects at Fort Drum, has generated a sufficient surplus of bank credits to allow larger projects to utilize the Bank. Moreover, the Garrison has indicated that without the proposed modification the Garrison would be without a reliable funding source to mitigate for future range projects that are necessary to meet the military training mission objectives for the Global War on Terror, and other military readiness objectives. The Garrison would continue to follow the Section 404 (b) (1) Guidelines for the Disposal of Dredged or Fill Material in order to avoid and minimize impacts to waters of the United States on all projects.

The Garrison is not proposing any further modifications to the Instrument, including but not limited to performance standards, service area, long-term management plans, or the ecological suitability and sustainability of the bank sites. The stated purpose of this project will continue to be to provide, through the Bank, economically, efficient and flexible compensatory mitigation opportunities for the Garrison to comply with compensatory mitigation requirements for unavoidable impacts to waters of the United States, including wetlands, which result from activities authorized under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 within the mitigation bank service area.

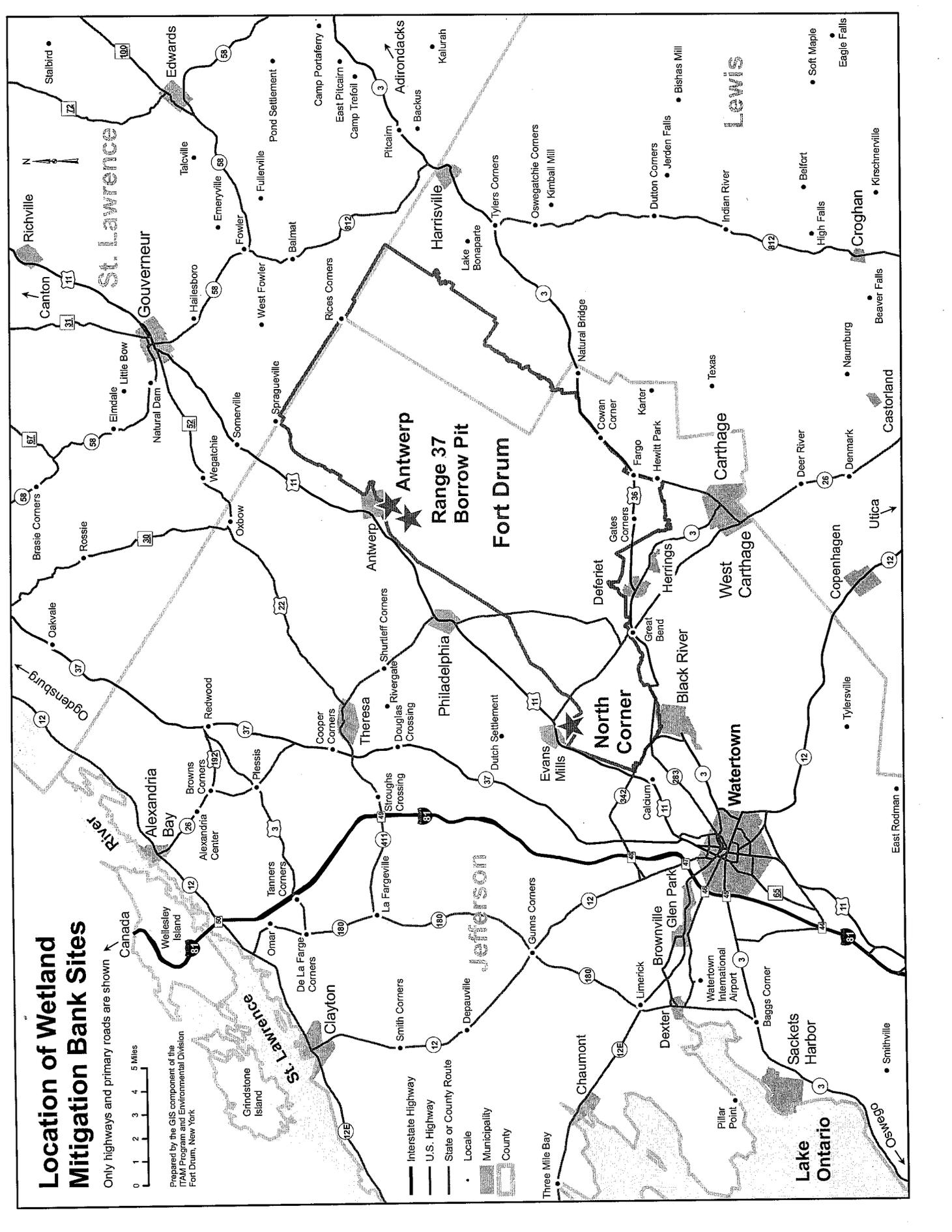
Location of Wetland Mitigation Bank Sites

Only highways and primary roads are shown



Prepared by the GIS component of the ITAM Program and Environmental Division Fort Drum, New York

- Interstate Highway
- U.S. Highway
- State or County Route
- Locale
- ▭ Municipality
- ▭ County



**EXECUTED MITIGATION BANKING INSTRUMENT
MODIFICATION NUMBER 3
FORT DRUM WETLAND MITIGATION BANK
FORT DRUM, NEW YORK**

May 2010

**Prepared for:
INTERAGENCY REVIEW TEAM (MBRT)**

**U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT (MBRT Chair)
U.S. ARMY GARRISON, FORT DRUM
U.S. ENVIRONMENTAL PROTECTION AGENCY
U.S. FISH AND WILDLIFE SERVICE
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Prepared by:

U.S. Army Corps of Engineers, New York District

In association with:

**Fort Drum
Directorate of Public Works
Environmental Division
Natural Resources Branch
Wetlands Program**

2.7 Impacts Suitable for Bank Use

This mitigation bank will supplement the planning process for the permit and become an essential component for up-front mitigation where unavoidable impacts occur from projects. For projects requiring authorization under Section 404 and Section 10, the MBRT Chair, in consultation with the other members of the MBRT, will determine the eligibility of projects to use the Bank on a case-by-case basis. Only projects which have undergone sequencing analysis through the planning process as outlined in Section 404 (b)(1) guidelines and are conducted within the Fort Drum Military Reservation Bank Service Area are eligible for consideration for use of credits.

~~Since funding for environmental considerations are provided by MCA Project funding, and the timing of design and construction is normally adequate, MCA projects will not utilize credits from the mitigation bank. Credits generated by this Bank will be reserved exclusively for smaller in-house and troop type projects which have unavoidable wetland impacts. Credits will not be available for purchase by entities outside Fort Drum.~~

The following types of impacts will be suitable for withdrawal of mitigation credits from the bank:

Range and Maneuver Area improvement projects resulting in unavoidable impacts that cannot be reasonably mitigated on-site, or when the benefits of mitigating with the bank exceed those of on-site mitigation (i.e. a resource of higher quality is restored via the bank than that which can reasonably be restored on-site).

Range and Maneuver Area projects that impact areas of previously altered wetlands where the benefits of using the bank clearly offset the loss of ecosystem function.

Other construction projects on Fort Drum where impacts are unavoidable and use of the bank is the most practicable alternative.

The Bank will be used as compensatory mitigation for projects that have demonstrated avoidance and minimization in accordance with Section 404(b)(1) guidelines, and impacts that occur within freshwater wetlands of equal or lesser functional value than wetlands in the bank.