



**U.S. Army Corps
of Engineers
Baltimore District**

Public Notice



In Reply to Application Number:

NAB 2017-00065(JBA-DoD Umbrella
Mitigation Bank Instrument Prospectus

PN 17-17

COMMENT PERIOD: April 12, 2017 to May 12, 2017

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC CONCERNING THE PROPOSED JOINT BASE ANDREWS-DEPARTMENT OF DEFENSE (JBA-DOD) OF UMBRELLA MITIGATION BANK AS WELL AS ON THE SPECIFIC WORK THAT IS NECESSARY TO CONSTRUCT THE PROPOSED BANK AND REQUIRES DEPARTMENT OF THE ARMY AND STATE OF MARYLAND AUTHORIZATION.

THE BALTIMORE DISTRICT CORPS OF ENGINEERS (Corps) AND MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) ARE 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 BANKING INSTRUMENT PROSPECTUS, THE MATTAWOMAN CREEK UMBRELLA MITIGATION BANKING SITE AND THE POTENTIAL OF THE PROPOSED UMBRELLA MITIGATION BANKING INSTRUMENT TO PROVIDE APPROPRIATE COMPENSATORY MITIGATION FOR ACTIVITIES AUTHORIZED BY DEPARTMENT OF THE ARMY PERMITS AND THE STATE OF MARYLAND DEPARTMENT OF THE ENVIRONMENT PERMITS.

At this time, no decision has been made as to whether or not the Umbrella Mitigation Bank Instrument will be approved. We are requesting comments to determine if approval should be granted for this proposed Umbrella Mitigation Banking Instrument and the proposed Mattawoman Creek Umbrella Mitigation Site (under the Umbrella Mitigation Banking Instrument) for the purpose of providing compensatory mitigation for future unavoidable wetland impacts expected to result from anticipated activities at the U.S. Airforce Joint Base Andrews and the Department of Defense agencies throughout the State of Maryland authorized by the Department of the Army (DA) and MDE under Section 404 of the Clean Water Act (CWA) and Titles 5 and 16 Environment Article Annotated Code of Maryland. In addition, we are soliciting comments to consider in our evaluation of the impacts to Waters of the United States for the construction of this Bank that requires DA authorization pursuant to Section 404 of the CWA (33 U.S.C. 1344). Such authorized use of a Bank must meet all applicable requirements and be authorized by the appropriate authorities.

Issuance of a public notice regarding proposed mitigation banks is required pursuant to the "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule," (Rule) as published in the April 10, 2008, Federal Register, Vol. 73, No. 70, Pages 19594-19705 (33 CFR Parts 325 and 332).

The Corps and MDE have received the JBA-DOD Wetland Umbrella Mitigation Bank Prospectus and Addendum, the Mattawoman Creek Mitigation Bank Site. The Green Trust Alliance has proposed to establish an Umbrella Mitigation Bank on behalf of U.S. Air Force

at Joint Base Andrews and the U.S. Department of Defense. The Umbrella Mitigation Bank would include multiple sites with restoration, creation, enhancement, and preservation of aquatic resources and uplands to generate compensatory mitigation credits for future impacts to wetlands and waterways. The first mitigation site proposed as part of this Umbrella Mitigation Bank is the Mattawoman Creek Mitigation Site. The Bank Prospectus (JBA-DoD UMBI Prospectus.pdf and Addendum (JBA-DOD UMBI Addendum Mattawoman Creek Mitigation Site.pdf and Vicinity Maps.pdf are enclosures to the Public Notice located on our web site: www.nab.usace.army.mil/Missions/Regulatory.aspx/Public Notices

This prospectus provides a summary of how the proposed Umbrella Mitigation Bank and the initial proposed umbrella mitigation banking site will be established, used, operated, and maintained and is in accordance with the Federal Final Rule on Compensatory Mitigation for the Losses of Aquatic Resources (33 CFR 325 and 332 and 40 CFR 230) and Code of Maryland Regulations (COMAR).

Documentation for the establishment and management of this Umbrella Mitigation Banking Instrument, the initial proposed umbrella mitigation banking site (the JBA-DOD Mattawoman Creek Mitigation Site), and any subsequent umbrella mitigation banking sites will be reviewed by an Interagency Review Team (IRT), consisting of Federal and State agency representatives, and co-chaired by the Corps and MDE.

The Mitigation Bank (Bank) would be used to comply with the special condition mitigation requirements of permitted projects by providing in-kind compensation for authorized wetlands losses. The Bank may only be used for future projects after all appropriate and practical steps to avoid and minimize adverse impacts to aquatic resources, including nontidal wetlands and streams have been taken. All remaining unavoidable impacts must be compensated to the extent appropriate and practicable. The Bank may be used when on-site compensation is either not practicable or the use of the Bank is environmentally preferable to on-site compensation.

Applicant:
Joint Base Andrews, Natural Resource Management
11th Civil Engineer Squadron
3466 North Carolina Avenue
Andrews AFB, Maryland 21401

Sponsor:
Green Trust Alliance
c/o Mr. Brett Berkley, Sr. Vice President
GreenVest, LLC
2200 Somerville Road, Suite 300
Annapolis, Maryland 21401

LOCATION: The initial umbrella mitigation bank site proposed for approval under this JBA-DOD Mitigation Bank is the Mattawoman Creek Mitigation Site. The Mattawoman Creek Mitigation site is proposed adjacent to an unnamed tributary to Mattawoman Creek

and adjacent to and within Old Womans Run. The project is located east of the intersection of Pomfret Road and Foxburrow Place in Charles County, Maryland.

The Sponsor, GreenTrust Alliance, proposes in accordance with the attached plans, to establish, design, construct, and operate a compensatory JBA-DOD Wetland Umbrella Mitigation Bank on behalf of U.S. Air Force at Joint Base Andrews and the U.S. Department of Defense. The purpose of this Umbrella Mitigation Banking Instrument is to provide guidelines and assign responsibilities for the establishment, use, operation, and maintenance of JBA-DOD Bank established in the State of Maryland within the Baltimore District.

GreenTrust Alliance will establish and maintain umbrella mitigation banking sites in accordance with the provisions of this Umbrella Mitigation Banking Instrument and a site specific mitigation development plan. Proposed umbrella banking sites will have an established primary service area of the Middle Potomac-Anacostia-Occoquan drainage basin and the Lower Potomac drainage basin (USGS hydrologic unit codes 02070010 and 02070011, respectively), and on a case-by-case basis, also a secondary service area within the Patuxent River drainage basin (USGS hydrologic unit code 02060006). This 81-acre mitigation site in the Mattawoman Creek watershed is proposed to provide over 42 nontidal wetland credits and 1,989 linear feet of stream credits for compensatory mitigation of future authorized nontidal wetland and waterway impacts in the Middle Potomac-Anacostia-Occoquan drainage basin and the Lower Potomac drainage basin (USGS hydrologic unit codes 02070010 and 02070011, respectively), and on a case-by-case basis for impacts within the Patuxent River drainage basin (USGS hydrologic unit code 02060006). This project would include grading and planting to restore/create approximately 21.5 acres of forested nontidal wetland, enhance 25.2 acres of mostly farmed wetland, preserve 20 acres wetland and wetland buffer, and restore an additional 8.9 acres of adjacent wetland buffer and uplands.

The project proposes temporary impacts to approximately 700,274 square feet nontidal emergent wetland, 209,508 square feet nontidal wetland buffer, 18,415 linear feet of perennial stream, and 1,706,107 square feet 100-year floodplain. The wetland buffer and floodplain impacts are subject to MDE regulations. These impacts are not subject to DA regulation.

Note: At this time, a jurisdictional determination has not been performed by the Corps/MDE to confirm Federal and State jurisdiction at the proposed 81-acre mitigation bank. However, a jurisdictional delineation report has been submitted by GreenTrust Alliance on behalf of JBA-DOD with the draft Mattawoman Creek Mitigation Site Plan. Construction of any future proposed mitigation bank sites could require DA authorization and would be evaluated for any proposed impacts prior to approval and any subsequent construction. The evaluation and approval of all additional future umbrella mitigation banking sites proposals will follow the mitigation banking instrument modification procedures of the 2008 Mitigation Rule (33 CFR 332.8(g)(1)).

The purpose of this proposed JBA-DOD Umbrella Mitigation Banking Instrument with the initial umbrella mitigation banking site and any subsequent umbrella mitigation banking site(s) is to provide compensatory mitigation for future unavoidable impacts to Waters of the U.S., including jurisdictional wetlands, as the result of JBA and/or DOD capital improvement projects within the primary and secondary Geographic Service areas permitted under Section 404 of the CWA, and related State laws provided such use has met all applicable requirements and is authorized by the appropriate authority(s). The mitigation bank(s) would be used to comply with special condition mitigation requirements of permitted projects by providing in-kind compensation for authorized wetland losses. The mitigation bank(s) may only be used for future projects after all appropriate and practicable steps to avoid and minimize adverse impacts to aquatic resources, including nontidal wetlands and streams, have been taken. Remaining unavoidable impacts must be compensated to the extent appropriate and practicable. Per the 2008 Mitigation Rule, the bank(s) will be the preferred mitigation option unless it is determined another option would be environmentally preferable.

Further, the final mitigation instrument does not provide ultimate DA and/or State authorization for specific future projects impacting Waters of the United States; exclude such future projects from any applicable statutory or regulatory requirements; or preauthorize the use of credits from the bank for any particular project. The Corps and the MDE provide no guarantee that any particular individual or general permit will be granted authorization to use approved umbrella mitigation banking sites under this Umbrella Mitigation Bank Instrument to compensate for unavoidable wetland impacts associated with a proposed permit, even though compensatory mitigation may be available.

The decision whether to approve this Umbrella Mitigation Banking Instrument and the initial mitigation bank will be based on an evaluation of the probable impacts including cumulative impacts of the proposed bank on the public interest. Future proposed banking site(s) will be evaluated, as appropriate, based on the criteria established in the Umbrella Banking Instrument and any individual site proposals. Future proposed mitigation banking site(s) under this Umbrella Banking Instrument would also be subject to public notice and public interest review. As such, the decision to approve the Umbrella Banking Instrument, the initial banking site, and future proposed banking site(s) under the Umbrella Banking Instrument 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, cultural values, 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.

A preliminary review of this proposal indicates that the proposed work has not and will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this proposal continues, additional information may become available which could modify this preliminary determination. Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion therein are located at the site of the proposed work.

Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work accomplished under the requested permit for the mitigation bank. As the evaluation of this proposal continues, additional information may become available which could modify this preliminary determination.

All work is to be completed in accordance with the approved plan (s) and exhibits, which are available for review at the Corps Baltimore Office, and nt, Baltimore, Maryland. Written comments concerning the activity described above must be submitted directly to the District Engineer, U.S. Army Corps of Engineers, Baltimore District, [ATTN: Mr. Steve Harman, CENAB-OP-RM], 10 S. Howard Street, Baltimore, Maryland, 21201 or by email to steve.harman@usace.army.mil and to Ms. Kelly Neff, Mitigation and Technical Assistance Section, Wetlands and Waterways Program, Water Management Administration, Maryland Department of the Environment, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230-1708 or by email to kelly.neff@maryland.gov, within the comment period as specified above to receive consideration.

The applicant must obtain any State or local government permits which may be required.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

FOR THE DISTRICT ENGINEER:



Kathy B. Anderson
Chief, Maryland Section Southern
Regulatory Branch

Kelly Neff
Chief, Wetland Mitigation & Technical Assistance Section
Maryland Department of the Environment