

U.S. Army Corps
of Engineers

Baltimore District
PN-16-42

Public Notice

In Reply to Application Number
CENAB-OPR-P-2013-00689-P02 (Upper Susquehanna River Mitigation
Bank Phase 2 Modification)

Comment Period: July 18, 2016 to August 18, 2016

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE PROPOSED EXPANSION AND REVISED MITIGATION WORK PLAN OF THE PREVIOUSLY APPROVED UPPER SUSQUEHANNA RIVER MITIGATION BANK PHASE 2. THE PROPOSED WORK IS DESCRIBED BELOW. NO DECISION HAS BEEN MADE AT THIS TIME AS TO WHETHER OR NOT THE PROPOSED EXPANSION OR REVISED MITIGATION WORK PLAN OF THE MITIGATION BANK SITE WILL BE APPROVED AS A MODIFICATION TO THE PENNSYLVANIA STATEWIDE UMBRELLA MITIGATION BANKING INSTRUMENT.

At this time, no decision has been made as to whether or not the proposed expansion or revised mitigation work plan for the Upper Susquehanna River Mitigation Bank Phase 2 (USRMB2) site will be approved as a modification of the Pennsylvania Statewide Umbrella Mitigation Banking Instrument (PSUMBI). The PSUMBI was previously approved by the Corps of Engineers Baltimore, Pittsburgh, and Philadelphia Districts on July 2, 2013. We are requesting comments to determine if approval should be granted for the proposed expansion of the previously approved USRMB2 and revision of the previously approved mitigation work plan for the USRMB2 (initially approved by the Baltimore District on March 24, 2015). The USRMB2 commercial mitigation bank site will be used for the purpose of providing compensatory mitigation for unavoidable aquatic resource impacts, including wetlands and streams, authorized by Department of the Army permits.

A copy of the plans depicting the USRMB2 site, including the proposed expansion areas, and revised mitigation work plan (2) for the USRMB2 are attached to this public notice. The plans provide a summary of the proposed expansion area and mitigation work plan in accordance with the Department of Defense/Environmental Protection Agency Final Rule on Compensatory Mitigation for Losses of Aquatic Resources (33 CFR Parts 325 and 332 and 40 CFR Part 230).

In addition to the submitted Mitigation Site Plan, this District has also received an application for a Department of the Army permit modification pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) for construction of stream and wetland restoration, rehabilitation and re-establishment activities. The permit modification request seeks to modify the Nationwide Permit (NWP) 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities verification previously issued by the Corps for the USRMB2 on May 29, 2013. The proposed work is described below:

APPLICANT:

First Pennsylvania Resource, LLC
Attn: Mr. Conor Gillespie
33 Terminal Way, Suite 431
Pittsburgh, Pennsylvania 15219

WATERWAY AND LOCATION OF THE PROPOSED WORK:

The proposed mitigation bank expansion is located in an unnamed tributary to the Cowanesque River and adjacent wetlands, in Brookfield Township, Tioga County, and Harrison Township, Potter County, Pennsylvania (41° 56' 02.72" N, -77° 36' 21.27" W). The physical address for the USRMB2 is 300 Dibble Hollow Road, Westfield, Pennsylvania, 16950 (Enclosure 1). The sponsor proposes to utilize approximately 134.43 acres for establishment of the mitigation bank.

PROPOSED WORK AND PURPOSE: The bank sponsor proposes to expand the USRMB2 to include an additional upland buffer area of 5.61 acres (no physical earthwork proposed in expanded upland buffer area), and to include an additional 4.5 acres of wetland mitigation and 586.34 linear feet of stream mitigation. The proposed USRMB2 revised mitigation work plan modifications for wetland mitigation will involve the re-establishment of 4.23 acres of palustrine forested wetlands; the enhancement of 8.05 acres of currently degraded existing wetlands, which will be planted with native wetland tree species to obtain a palustrine forested wetland system; and the rehabilitation of 1.0 acre of wetlands associated with stream relocation and floodplain restoration work, for an overall total of 13.28 acres of wetland mitigation. Stream mitigation will involve the relocation of 5,416.03 linear feet of currently degraded stream channel and will be conducted through natural stream channel design with floodplain restoration and connectivity; the rehabilitation of 208.78 linear feet of the current channel through bank stabilization with bioengineering materials and grade controls; the enhancement of 143.90 linear feet through native woody stem plantings; and the preservation of 3,606.22 linear feet of stream channel, including preservation of an adjacent stream buffer, for an overall total of 9,374.93 linear feet of stream mitigation. The entire 134.43 acre USRMB2 site will receive long-term protection through recordation of a Declaration of Restrictive Covenants for Conservation. The geographic service area for the USRMB2 is the Upper Susquehanna River Subbasin, corresponding to the Pennsylvania State Water Plan, Watershed Subbasin 4, and USGS Hydrologic Unit Code (HUC) 02050106, including portions of HUC's 02050101, 02050103, 02050104, and 02050105 located within Pennsylvania.

WORK REQUIRING DEPARTMENT OF THE ARMY AUTHORIZATION: A Preliminary Jurisdictional Determination for the USRMB2 site was performed by the Corps on May 2, 2013. The proposed revised mitigation work plan is being evaluated by the Corps for authorization under NWP 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities. The proposed work will involve the discharge of dredged and/or fill material into wetlands and/or waters for the restoration and rehabilitation of a stream and wetland compensatory mitigation site using a natural stream channel design to restore and preserve self-sustaining functional stream, wetland, and riparian corridors. The work consists of relocating the stream at specified locations; installation of in-stream structures, including bioengineering materials; grading of the streambanks; removal of an in-line agricultural pond; and planting of live native woody stakes and wetland plant species, resulting in permanent impacts to approximately 5,635.75 linear feet (0.68 acre) and temporary impacts of approximately 208.78 linear feet (0.01 acre) to streams; and approximately 0.13 acre of permanent and 1.70 acre of temporary impacts to wetlands.

The purpose of this proposed mitigation bank is to provide compensatory mitigation for future unavoidable impacts to aquatic resources that result from activities permitted by the Corps under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The mitigation bank would be used to comply with special conditions for compensatory mitigation requirements of permitted projects by providing in-kind compensation for authorized aquatic resource impacts. The mitigation bank may only be used for future projects after all appropriate and practicable steps to avoid and minimize adverse impacts to aquatic resources, including wetlands and streams, have been demonstrated. Remaining unavoidable aquatic resource impacts must be compensated to the extent appropriate and practicable. The utilization of approved and established mitigation banks with available credits is given preference to other forms of compensatory mitigation in the hierarchy of potential mitigation options as contained in the Final Rule on Compensatory Mitigation for Losses of Aquatic Resources.

If approved, the final mitigation banking instrument does not provide ultimate Department of the Army 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 provides no guarantee that any particular individual or general permit will be granted authorization to use this Mitigation Bank to compensate for unavoidable aquatic resource impacts associated with a proposed permit, even though compensatory mitigation may be available within the defined service area.

All work is proposed to be completed in accordance with the enclosed plans (Enclosures 2-5). If you have any questions concerning this matter, please contact Mr. Michael Danko, Regulatory Project Manager, at (717) 249-8730.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, 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 reasonable 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, economic, 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, mineral needs, and consideration 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 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 the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments provided will

become part of the public record for this action. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, Carlisle Field Office, 401 East Louthier Street, Suite 205, Carlisle, PA, 17013, within the comment period specified above.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). The Corps has determined this project will not affect any EFH.

WATER QUALITY CERTIFICATION: The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Pennsylvania Department of Environmental Protection. The Section 401 certifying agency has a statutory limit of one year from the date of this public notice to make its decision.

COASTAL ZONE MANAGEMENT PROGRAMS: Where applicable, the applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the approved Coastal Zone Management (CZM) Program. By this public notice, we are requesting the State concurrence or objection to the applicant's consistency statement. It should be noted that the CZM Program has a statutory limit of 6 months to make its consistency determination.

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

A preliminary review of this application indicates that the proposed work will not affect Federal listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

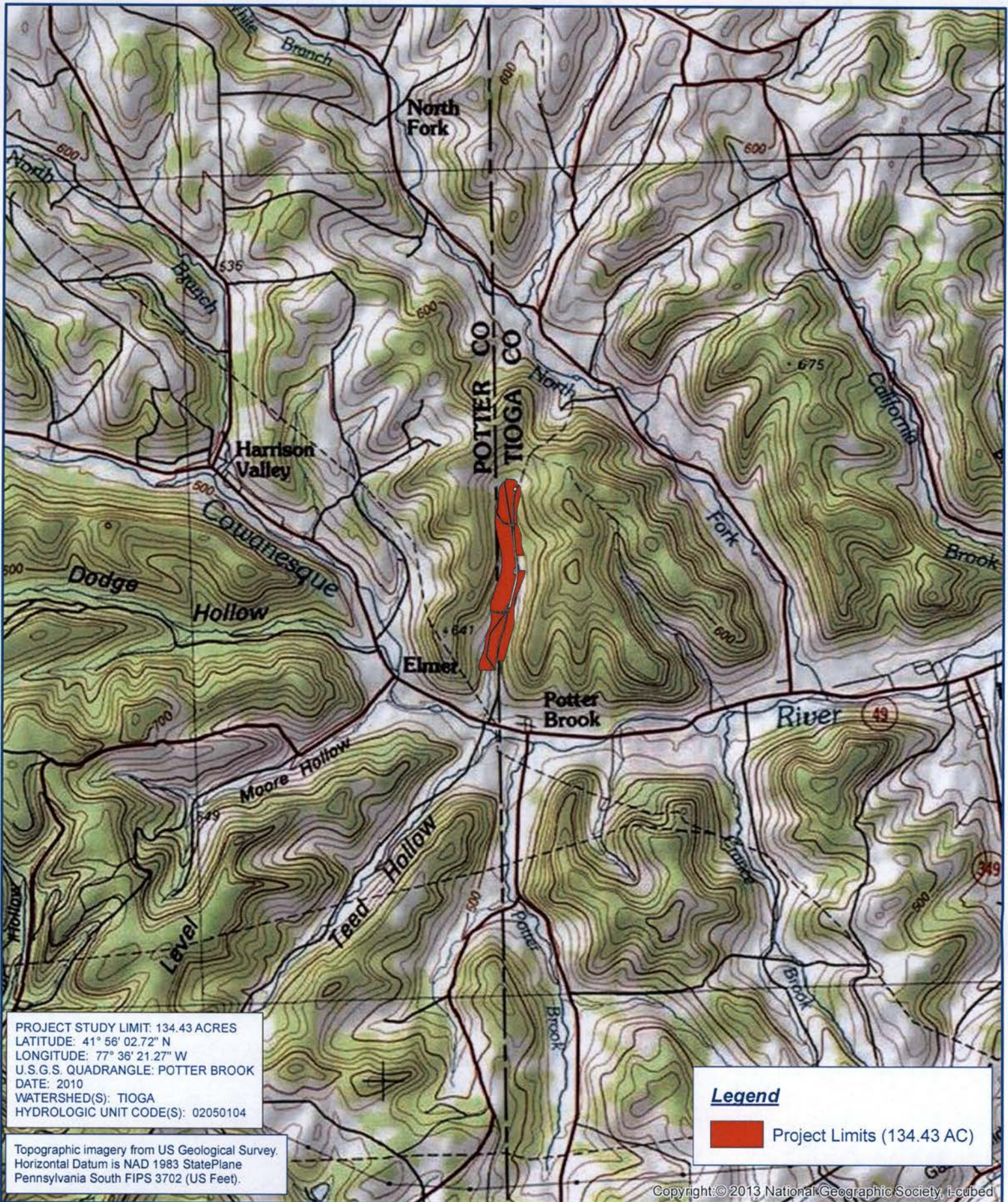
Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion, therein, are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the request permit.

The evaluation of the impact of this project on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, Carlisle Field Office, 401 East Louthier Street, Suite 205, Carlisle, PA, 17013, within the comment period as specified above to receive consideration. Also it must clearly set forth the interest which may be adversely affected by this activity and the manner in which the interest may be adversely affected.

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

Wade B. Chandler
Chief, Pennsylvania Section
Regulatory Branch



PROJECT STUDY LIMIT: 134.43 ACRES
 LATITUDE: 41° 56' 02.72" N
 LONGITUDE: 77° 36' 21.27" W
 U.S.G.S. QUADRANGLE: POTTER BROOK
 DATE: 2010
 WATERSHED(S): TIOGA
 HYDROLOGIC UNIT CODE(S): 02050104

Topographic imagery from US Geological Survey.
 Horizontal Datum is NAD 1983 StatePlane
 Pennsylvania South FIPS 3702 (US Feet).

Legend

Project Limits (134.43 AC)

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FIGURE 1
VICINITY MAP
USRMB2

POTTER AND TIOGA COUNTIES, PENNSYLVANIA

Date: 5/10/2016
 Drawn by: NGD
 Checked by: K LW



