



Joint Public Notice



U.S. Army Corps
of Engineers
Baltimore District

In Reply to Application Number
CENAB-OPR-MN (Monocacy Mitigation Bank)
2019-61966

Maryland Department of
the Environment

PN 19-83

Comment Period: December 17, 2019 to January 16, 2019

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC CONCERNING THE PROPOSED MONOCACY MITIGATION BANK PROSPECTUS FOR DEVELOPMENT OF A PRIVATE COMMERCIAL MITIGATION BANK.

THE BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS (CORPS) AND THE 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 PROPOSED MONOCACY MITIGATION BANK, AND THE POTENTIAL OF THE PROPOSED MITIGATION BANK TO PROVIDE APPROPRIATE COMPENSATORY MITIGATION FOR ACTIVITIES AUTHORIZED BY DEPARTMENT OF THE ARMY AND STATE OF MARYLAND PERMITS.

At this time, no decision has been made as to whether or not the proposed Mitigation Banking Instrument for the Monocacy Mitigation Bank Site will be approved. We are requesting comments to determine if approval should be granted for the proposed Monocacy Mitigation Bank for the purpose of providing compensatory mitigation for future unavoidable impacts to waters of the U.S., including jurisdictional wetlands, authorized by the Department of the Army (DA) and MDE under Section 404 of the Clean Water Act (CWA) and Title 5 Environment Article Annotated Code of Maryland, respectively. 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 Department of the Army and Environmental Protection Agency "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).

A complete application for work in waters of the United States or Waters of the State to construct the Monocacy Mitigation Bank Site has not been received by the Corps and MDE. A preliminary review of the proposed site indicates that there may be waters of the United States or Waters of the State, including wetlands within the project area. These areas may be regulated pursuant to Section 404 of the Clean Water Act (CWA), the Maryland Nontidal Wetlands Protection Act, and the Maryland Waterway Construction Act, and the work described below may require Corps and MDE authorization.

The Corps and MDE have received the Monocacy Mitigation Bank Prospectus which is

available at our website:

<http://www.nab.usace.army.mil/Missions/Regulatory/PublicNotices.aspx> and as an attachment to the electronic copy of this public notice. Those receiving notification of this public notice who desire a copy of the proposed Prospectus may either access the above website link or, may request a hard copy of the document by contacting Ms. Jamie Larkin, Baltimore District, Corps, at 410.962.4522 (Jamie.H.Larkin@usace.army.mil) or by contacting Ms. Kelly Neff, MDE, Wetlands and Waterways Program at 410.537.4018 (kelly.neff@maryland.gov).

This Prospectus provides a summary of the information regarding the proposed Mitigation Banking Instrument and the Monocacy Mitigation Bank Site 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). Oversight of this mitigation bank will be undertaken by the Maryland Interagency Review Team (IRT), which is comprised of Federal and State regulatory and resource agencies. The Corps serves as chair of the IRT, and the MDE as co-chair the IRT.

This prospectus provides a summary of how the proposed Monocacy Mitigation Bank will be established, used, operated, and maintained and is provided 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).

APPLICANT/SPONSOR: Johnson, Mirmiran and Thompson, Inc.
Attn: Mr. Jim Morris, P.E. and Mr. Chandler Denison
40 Wight Avenue
Hunt Valley, Maryland 21030

The Sponsor proposes in accordance with the attached plans, to establish, design, construct, and operate a compensatory Mitigation Bank.

LOCATION AND WATERWAY: The Monocacy Mitigation Bank is located on Wolf Pit Branch in Carroll County, Maryland. The project site is in the Monocacy Service Area identified as Hydrologic Unit Code (HUC 02070009) in the Piedmont Plateau Province Level III ecoregion. The most downstream outfall location is 39° 34' 39.36" N, 77° 8' 15.36" W.

BANK DESCRIPTION: The proposed Monocacy Mitigation Bank would provide compensatory mitigation for future unavoidable nontidal wetland and stream impacts authorized by a Section 404 CWA permit, a Maryland Nontidal Wetlands Protection Act permit and/or a Maryland Waterways Construction Act permit. This mitigation bank would be used to comply with special conditions for compensatory mitigation of permitted projects by providing in-kind compensation for authorized aquatic resource impacts. The proposed mitigation bank would include approximately 4,220 linear feet of stream restoration, 5.82 acres of wetland enhancement, and 7.05 acres of wetland restoration within the project area protected by a permanent conservation easement. 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.

BANK SERVICE AREA: The proposed primary Service Area is the Monocacy Watershed (HUC 02070009). The secondary service areas are the Piedmont and Blue Ridge ecoregions of the Middle Potomac-Anacostia Occoquan Watershed (HUC 02070010) and the Middle Potomac-Catoctin Watershed (HUC 02070008). These secondary service areas were chosen because of the proximity of the proposed bank's location within the Piedmont ecoregion in relation to the other watersheds.

WORK REQUIRING CORPS AND MDE AUTHORIZATION: At this time, a jurisdictional determination has not been performed by the Corps/MDE to confirm Federal and State jurisdiction at the proposed 16.55-acre mitigation bank. The proposed work to construct a wetland and stream mitigation bank involves grading, excavating and filling selective areas within the mitigation bank site by impacting approximately 6.52 acres of emergent nontidal wetland, 3.33 acres of State regulated nontidal wetland buffer, 11.46 acres of State regulated 100 year floodplain, and 4,220 linear feet perennial stream channel. Any impact to jurisdictional streams and/or wetlands must be approved by the Corps and MDE prior to commencing any regulated construction activities. The wetland buffer and floodplain impacts are subject to MDE regulations. These impacts are not subject to DA regulation.

The final mitigation banking instrument does not provide ultimate DA and/or State authorization for specific future projects impacting waters of the United States or Waters of the State; 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 MDE provide 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(s).

The decision whether to approve this mitigation bank and issue a permit for the impacts to waters of the United States will be based on an evaluation of the probable impacts including cumulative impacts of the proposed bank 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, 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.

If you have any questions concerning this matter, or require a hardcopy of the prospectus, please contact Ms. Jamie Larkin, Baltimore District, U.S. Army Corps of Engineers at 410.962.4522 (Jamie.H.Larkin@usace.army.mil) or Ms. Kelly Neff, Maryland Department of the Environment, Wetlands and Waterways Program at 410.537.4018 (kelly.neff@maryland.gov).

Requests to be included on the interested persons list may be sent to MDE, Attn: Kelly Neff, 1800 Washington Boulevard, Suite 430, Baltimore, MD 21230 or

kelly.neff@maryland.gov or 410-537-4018. Any further notices concerning actions on the application will be provided only by mail to those persons on the interested persons list. Please refer to Subsection 5-907 of the Annotated Code of Maryland or the Code of Maryland Regulations 26.23.02 for information regarding the State application process.

ENDANGERED SPECIES ACT: A preliminary review of this application using the U.S. Fish and Wildlife Service IPaC online screening tool indicates that the proposed work will not affect any Federal listed threatened, endangered, or candidate species and/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 determination.

NATIONAL HISTORIC PRESERVATION ACT: 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 requested permit. The Maryland Historical Trust (MHT) on August 6, 2018 made the determination that there are no historic properties affected by this undertaking. As the evaluation of this proposal continues, additional information may become available which could modify this determination.

WRITTEN COMMENTS: Written comments concerning the activity described above must be submitted directly to the District Engineer, U.S. Army Corps of Engineers, Baltimore District [ATTN: Ms. Jamie Larkin, CENAB-OP-RMN], 2 Hopkins Plaza, Baltimore, Maryland, 21201 or by email to Jamie.H.Larkin@usace.army.mil and to the Maryland Department of the Environment [ATTN: Ms. Kelly Neff, Mitigation and Technical Assistance Section], 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230 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 this 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.

General information regarding the Corps' permitting process can be found on our website at <https://www.nab.usace.army.mil/Missions/Regulatory.aspx>. This public notice has been prepared in accordance with Corps implementing regulations at 33 CFR 325.3. If you have any questions concerning this specific project, or would like to request a paper copy of this public notice, please contact (Jamie Larkin, (410) 962-4522, Jamie.H.Larkin@usace.army.mil).

This public notice is issued by the Chief, Regulatory Branch.

