



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
Water & Land Solutions, LLC
PN-25-26

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**Baltimore District
Permit Application No. NAB-2024-00252-P31 (Conowingo
Creek Wetland and Stream Mitigation Bank)**

TO WHOM IT MAY CONCERN: The Baltimore District, United States Army Corps of Engineers (Corps) has received a complete prospectus pursuant to the 2008 Mitigation Rule (33 CFR 332) proposing to establish a compensatory mitigation bank ("Bank") and generate mitigation credits to offset unavoidable impacts to waters of the United States (U.S.). The proposed Bank may also provide alternative types of mitigation for Corps of Engineers civil works projects as well as mitigation in connection with resolving Clean Water Act enforcement cases. In addition, the proposed Bank may be used to generate compensatory mitigation credits to offset unavoidable impacts to wetland and/or waters regulated by the Commonwealth of Pennsylvania.

BANK SPONSOR: Water & Land Solutions, LLC
PO Box 98116
Pittsburgh, PA 15227

WATERWAY AND LOCATION OF THE PROPOSED BANK: The proposed 12.57-acre compensatory mitigation Bank is located on a 17.5-acre property in an unnamed tributary to Conowingo Creek, in East Drumore Township, Lancaster County, Pennsylvania with the center of the site located approximately at Latitude: 39.870739, Longitude -76.201795 (decimal degrees). The Bank is located within the Lower Susquehanna River Subbasin 8-digit U.S. Geological Survey Hydrologic Unit Code (USGS HUC), 02-05-03-06.

PROJECT PURPOSE: The Bank Sponsor proposes to establish, design, construct, operate, and maintain a 12.57 acre public commercial wetland and stream compensatory mitigation bank to be known as Conowingo Creek Wetland and Stream Mitigation Bank. The proposed Bank will provide off-site compensatory mitigation for unavoidable impacts to wetlands and other waters of the U.S. authorized by a Department of the Army (DA) permit within the proposed geographic service area described below.

The prospectus provides a summary of the development of the proposed mitigation Bank and initiates the Corps' review associated with establishment of this mitigation bank, including the development of an approved mitigation banking instrument (MBI). A draft MBI may be prepared by the Bank Sponsor following the Corps' review of the

comments received in response to this public notice and determination that the proposed Bank site has potential for providing appropriate compensatory mitigation for activities authorized by DA permits. An approved MBI is the legal document for the establishment, operation, use, and maintenance of the Bank in a way that complies with the regulations governing compensatory mitigation for activities authorized by Department of the Army permits granted by the Corps.

Pursuant to 33 CFR 332.8(d)(4), the Corps has posted a full copy of the subject prospectus online so that it is available for review by the public. The prospectus may be downloaded from the Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS) at web address:

https://ribits.ops.usace.army.mil/ords/f?p=107:278:8189121333:::278:P278_BANK_ID:6873

PROJECT DESCRIPTION: The proposed establishment of this 12.57-acre mitigation bank site involves the re-establishment, rehabilitation, enhancement of aquatic resources. The Bank Sponsor proposes that ecological lift associated with establishment of this mitigation bank, including stream and floodplain connectivity, flood storage and attenuation, nutrient cycling, wildlife habitat, and invasive species control, would generate wetland and/or stream credits that are to provide off-site compensatory mitigation for activities authorized under a Department of the Army permit. Specifically, the following is a list of project objectives as described by the Bank Sponsor:

- Rehabilitate approximately 2.48 acres of wetlands.
- Re-establish approximately 2.61 acres wetland/4,490.94 linear feet of stream.
- Enhance approximately 0.77 acres of wetland.
- The Bank is proposed to be protected in perpetuity via recordation of a real estate instrument such as a conservation easement or restrictive covenant.
- Upon Bank closure, the bank is proposed to be managed long term by a third-party, Long-Term Steward. If a third-party long-term steward is not identified, the Bank sponsor will retain the legal responsibility for long-term management of the Bank site.

PROPOSED SERVICE AREA: The service area of a bank is a geographic area, such as a watershed or ecoregion, within which the mitigation bank is authorized to provide compensatory mitigation required by Department of the Army permits. The proposed primary service area for the Bank would include the Pennsylvania State Water Plan subbasin Lower Susquehanna River Subbasin East (7E). The use of the secondary service area would be considered by the Corps only when credits are not available from another approved mitigation bank within the primary service area and the applicant demonstrates that the mitigation credits will replace the lost aquatic functions and

services at the impact site. Impacts to coastal and tidal aquatic resources would be excluded from mitigating at this nontidal Bank.

MITIGATION BANK APPROVAL AND PERMITTING PROCESSES: This Bank may be one of a number of practicable options available to applicants to compensate for unavoidable impacts associated with permits issued under the authority of Section 404 of the Clean Water Act. Released mitigation bank credits are generally the preferred option for compensatory mitigation because banks consolidate resources, involve more financial planning and scientific expertise, and must meet certain performance standards, thereby reducing risks associated with mitigation projects. Approval to use an approved Bank site to offset impacts for a specific project is the decision of the Corps pursuant to Section 404 of the Clean Water Act. The Corps provides no guarantee that any particular individual or general permit will be granted authorization to use an approved Bank site to compensate for unavoidable impacts associated with a proposed permit. Authorization by the Pennsylvania Department of Environmental Protection may also be required to use this Bank to offset specific impacts regulated by the Commonwealth of Pennsylvania.

Issuance of a public notice regarding proposed compensatory mitigation bank sites is required pursuant to 33 C.F.R. § 332.8(d)(4) and 40 C.F.R. § 230.98(d)(4). The proposed establishment of the compensatory mitigation Bank will be evaluated pursuant to the 2008 Mitigation Rule (33 CFR Part 332). If the proposal progresses to the Bank Sponsor's submittal of a complete draft MBI to the Corps, the Corps will use the comments received on this public notice to inform an Environmental Assessment completed for the Corps' decision on the MBI.

The Sponsor must obtain the appropriate federal, state, and local permits required to implement the Bank construction activities. The Bank Sponsor would submit an application for a Corps permit should the Bank construction activities involve a discharge of dredge or fill material within waters of the U.S. or work within navigable waters of the U.S. and receive Corps authorization prior to initiating construction activities. The Corps would complete consultation, if appropriate, under the Endangered Species Act, the National Historic Preservation Act and other applicable federal laws, prior to any DA permit authorization for construction of the Bank site.

Based upon a preliminary review of the prospectus, the proposed work to develop the compensatory mitigation Bank site may result in temporary and/or permanent impacts to waters of the U.S. or work within navigable waters of the U.S. No DA permit application has been submitted to date for the proposed construction activities associated with development of the Bank. A preliminary review indicates that the proposed work may qualify for Corps authorization under the Nationwide Permit #27 (Aquatic Habitat Restoration, Enhancement, and Establishment Activities) or State Programmatic General Permit. Both the State Programmatic General Permit and Nationwide Permit #27 have undergone a full public interest review as required by Corps regulations (33 CFR 320.4(a)), and National Environmental Policy Act documentation has been prepared that addresses environmental considerations.

Please refer to the table below for a summary of approximate aquatic resource impacts to construct the compensatory mitigation bank.

EFFECTS ON AQUATIC RESOURCES:

Activity (i.e. culvert)	Stream Impact (lf)	Wetland Impact (Sq. Ft.)	Authority (Section 10/404/408)
Re-establish	4,490.94	2.61	Section 404
Rehabilitate		2.48	Section 404
Enhance		0.77	Section 404

LEAD FEDERAL AGENCY: The Corps, as the lead federal agency, is responsible for all coordination pursuant to applicable federal authorities.

The Interagency Review Team (IRT) responsible for review, approval, and oversight of the proposed mitigation bank includes representatives from the Corps, the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, the Pennsylvania Fish and Boat Commission, the Pennsylvania Game Commission, the Pennsylvania Department of Conservation and Natural Resources, and the Pennsylvania Historical and Museum Commission. The Corps Baltimore District chairs the IRT and the Pennsylvania Department of Environmental Protection co-chairs the IRT.

CULTURAL RESOURCES: The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, state, and federal government agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the State Historic Preservation Office and/or Tribal Historic Preservation Office, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the prospectus, the Pennsylvania Natural Diversity Index Environmental Review to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project will not affect any listed species or critical habitat.

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402.

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

EVALUATION: The decision whether to issue a permit 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

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 determination, comments are used to assess impacts to 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 are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Baltimore District will receive written comments on the proposed work, as outlined above, until July 3, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Mr. Robert Fewster at (410) 962-6144 or at robert.j.fewster@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Baltimore District, Attention: Mr. Robert Fewster, U.S. Army Corps of Engineers, Baltimore District, Regulatory Branch, 2 Hopkins Plaza, Baltimore, MD 21201. Please refer to the permit application number in your comments.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.