



U.S. Army Corps
of Engineers
Baltimore District

Public Notice

In Reply to Application Number
NAB-2015-01573 (Starrucca Creek Mitigation Bank)

PN 19-54

Comment Period: August 26, 2019 to September 20, 2019

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

We are requesting comments to determine if approval should be granted for the proposed modification of the First Pennsylvania Resources, Umbrella Mitigation Banking Instrument, to include the proposed Starrucca Creek Mitigation Bank. The purpose of the proposed bank is to provide compensatory mitigation for unavoidable aquatic resource impacts, including wetlands, authorized by Department of the Army and Pennsylvania Department of the Environmental Protection permits. At this time, no decision has been made as to whether or not a permit will be issued, or whether the proposed Mitigation Banking Site Plan for the Starrucca Mitigation Site will be approved.

A complete application for work in waters of the United States to construct the Starrucca Mitigation Bank site has not been received. A preliminary review of the proposal indicates that there may be waters of the United States including wetlands within the project area. These areas may be regulated pursuant to Section 404 of the Clean Water Act, and the work described below may require Department of the Army and Pennsylvania Department of the Environmental Protection authorization. A preliminary review indicates that the proposed work may qualify for U.S. Army Corps of Engineers authorization under Nationwide Permit (NWP) #27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities). NWP #27 has undergone a full public interest review as required by Corps regulations (33 CFR 320.4(a)), and NEPA documentation has been prepared that addresses environmental considerations.

A copy of the Mitigation Bank Prospectus is available at: <http://www.nab.usace.army.mil/Missions/Regulatory/PublicNotices.aspx> as an attachment to the electronic copy of this public notice. Those receiving a hard copy 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 Mrs. Amy Elliott, U.S. Army Corps of Engineers, Baltimore District, at (814) 235-0573, email amy.h.elliott@usace.army.mil. The Prospectus provides a summary of the information

regarding the proposed Mitigation Banking Site Plan and the Starrucca 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 Pennsylvania Interagency Review Team (IRT), which is comprised of Federal and State regulatory and resource agencies.

The Baltimore District, U.S. Army Corps of Engineers (Corps) serves as chair of the IRT, and the Pennsylvania Department of the Environmental (PADEP) as co-chair the IRT.

APPLICANT: Mr. Shawyn Yeamans
First Pennsylvania Resource, LLC
a wholly-owned subsidiary of
Resource Environmental Solutions, LLC
33 Terminal Way, Suite W445A
Pittsburgh, Pennsylvania 15219

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed mitigation bank is located on a 104.95 acre tract of land, along and around the main stem of Starrucca Creek, located along the Susquehanna/Wayne County boundary, in Northeastern Pennsylvania. The Bank Site is generally bordered by Township Road T-671 to the north and by Starrucca Creek Road (S.R. 4039) to the south, in Thompson Township, Susquehanna County, and Starrucca Borough, Wayne County. (41.878683 N, -75.479975 W).

BANK DESCRIPTION: The proposed Starrucca Creek Mitigation Bank would provide compensatory mitigation for unavoidable wetland and stream impacts for projects authorized by a Section 404 Clean Water Act permit. The 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 mitigation bank proposes to provide approximately 2,518 linear feet of stream preservation, 5,626 linear feet of stream rehabilitation, 10,693 linear feet of stream relocation/restoration, 4.18 acres of wetland enhancement, 33.93 acres of wetland rehabilitation, and 22.54 acres wetland reestablishment. The mitigation site is proposed to be permanently protected by a site protection instrument placed on the property. 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.

The proposed geographic primary service area for the bank is the Upper Susquehanna River Subbasin (8- digit Hydrologic Unit Code (HUC) 02050101).

WORK REQUIRING DEPARTMENT OF THE ARMY AUTHORIZATION: A preliminary jurisdictional determination was issued by this office on March 31, 2016. The proposed work may temporarily or permanently impact jurisdictional waters of the United States, including wetlands, and may qualify for Corps authorization under NWP

#27. The project will temporarily impact approximately 5,747 linear feet of perennial stream, 31.89 acres of palustrine, emergent (PEM) wetland, and 2.57 acres of palustrine, scrub-scrub (PSS) wetland. The project is proposing to also permanently/beneficially impact approximately 9,037 linear feet of perennial stream, 106 linear feet of intermittent stream, 5,273 linear feet of ditches, 1.26 acres of PEM wetlands, and 0.06 acre of PSS wetland. Any impact to jurisdictional streams and/or wetlands must be approved by the Corps prior to commencing any regulated construction activities.

Approval of the Mitigation Site Plan does not provide ultimate Department of the Army or PADEP authorization for specific future projects impacting waters of the United States or Waters of the Commonwealth; 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 PADEP 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.

CORPS EVALUATION REQUIREMENTS: 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.

ENDANGERED SPECIES: A preliminary review of this application indicates that the proposed work 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.

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), including species of concern, life cycle habitat, or Habitat Areas of Particular Concern. The project site does not lie in or adjacent to EFH as described under MSFCMA for managed species under the MSFCMA. The Baltimore District has made a preliminary

determination that the project not affect EFH. This determination may be modified if additional information indicates otherwise.

HISTORIC RESOURCES: 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. Additionally, the applicant has coordinated with the Pennsylvania Historical and Museum Commission (PHMC) and in correspondence dated April 3, 2019, the PHMC determined that the project will have no effect on significant cultural resources. The Corps concurs with this determination. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit for the mitigation bank construction. As the evaluation of this proposal continues, additional information may become available which could modify this preliminary determination.

WATER QUALITY CERTIFICATION: The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act.

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.

SUBMISSION OF COMMENTS: 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 mitigation bank. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny approval of the Starrucca Creek Mitigation Bank site. 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 provided will become part of the public record for this action and are subject to release to the public through the Freedom of Information Act. 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 U.S. Army Corps of Engineers, Baltimore District within the comment period specified above through postal mail at the address below or electronic submission to the project manager email address below. Written comments should reference the Application Number NAB-2015-01573.

PUBLIC HEARING REQUESTS: 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 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. The public hearing request may be submitted by electronic mail or mailed to the following address:

Amy H. Elliott
amy.h.elliott@usace.army.mil
U.S. Army Corps of Engineers, Baltimore District
Regulatory Branch
State College Field Office
1631 South Atherton Street
State College, Pennsylvania 1680

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

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

If you have any questions concerning this matter, or require a hardcopy of the Prospectus, please contact Mrs. Amy Elliott, U.S. Army Corps of Engineers, Baltimore District, State College Field Office, 1631 South Atherton Street, Suite 101, State College, Pennsylvania 16801, at (814) 235-0573, or by email at amy.h.elliott@usace.army.mil.

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