



U.S. Army Corps
of Engineers
Baltimore District

Public Notice

In Reply to Application Number
CENAB-OPR-MN (Eccleston Mitigation Bank)
2017-00437-M38

PN-18-29

Comment Period: June 4, 2018 to July 5, 2018

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 MARYLAND PERMITS.

We are requesting comments to determine if approval should be granted for the proposed Eccleston Mitigation Bank for the purpose of providing compensatory mitigation for unavoidable aquatic resource impacts, including wetlands, authorized by Department of the Army and Maryland Department of the Environment 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 Instrument for the Eccleston Mitigation Site will be approved.

A complete application for work in waters of the United States or Waters of the State to construct the Eccleston Mitigation Bank site has not been received. A preliminary review of the proposal 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, the Maryland Nontidal Wetlands Protection Act, and the Maryland Waterway Construction Act, and the work described below may require Department of the Army and Maryland Department of the Environment 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 Eccleston 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 Mr. Donald Bole, Baltimore District, U.S. Army Corps of Engineers at 410.962.6079

(Donald.R.Bole@usace.army.mil) or Ms. Kelly Neff, Maryland Department of the Environment, Wetlands and Waterways Program at 410.537.4018 (kelly.neff@maryland.gov). The Prospectus provides a summary of the information regarding the proposed mitigation banking instrument and the Eccleston 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 Baltimore District, U.S. Army Corps of Engineers serves as chair of the IRT, and the Maryland Department of the Environment (MDE) as co-chair the IRT.

APPLICANT: Mr. Paul Jones
NextEra Energy Marketing, LLC
700 Universe Boulevard
Juno Beach, Florida 33408

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed mitigation bank is located in Jones Falls and adjacent wetlands, Baltimore County, Maryland (39.4069 N, -76.73357 W).

BANK DESCRIPTION: The proposed Eccleston Mitigation Bank would provide compensatory mitigation for unavoidable wetland impacts for projects authorized by a Section 404 Clean Water Act permit, a Maryland Nontidal Wetlands Protection Act permit and/or a Maryland Waterways Construction 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 proposed mitigation bank is comprised of approximately 570 lf of stream preservation, 646 lf of stream enhancement, 5,604 lf of stream restoration, 4.86 acres of wetland enhancement, 13.91 acres of wetland restoration and 4.39 acres of aquatic resource buffer enhancement within a 35.8 acre site 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.

The proposed geographic primary service area for the bank is the Gunpowder-Patapsco Watershed (Federal 8 digit Hydrologic Unit Code (HUC) 02060003) and the secondary service area is the Piedmont ecoregion of the Patuxent watershed (HUC 02060006) and the Piedmont ecoregion of the Lower Susquehanna (HUC 02050306).

WORK REQUIRING DEPARTMENT OF THE ARMY AND MARYLAND DEPARTMENT OF THE ENVIRONMENT AUTHORIZATION: A preliminary jurisdictional determination has been requested for the proposed mitigation bank site. The proposed work may temporarily or permanently impact jurisdictional waters of the United States and Waters of the State, including wetlands, and may qualify for Corps authorization under NWP #27 and an MDE authorization. The project will temporarily impact approximately 2.59 acres emergent nontidal wetland, 2.26 acres forested nontidal wetlands, 3.22 acres 25-foot wetland buffer, 665 linear feet intermittent stream, 5,451 linear feet perennial stream, and 21.2 acres 100-year floodplain. The project will also permanently impact 727 linear feet ephemeral stream. Any impact to jurisdictional streams and/or wetlands must be approved by the U.S. Army Corps of Engineers and MDE prior to commencing any regulated construction activities.

The final mitigation banking instrument does not provide ultimate Department of the Army or MDE 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.

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.

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.

Review of the latest published version of the National Register of Historic Places indicates that there is a nearby site eligible for inclusion (The Scott-Andrew House, located south of the proposed mitigation property). However, in a letter dated January 20, 2016 Maryland Department of Planning indicated that after reviewing the Phase I Archaeological Report, the proposed mitigation bank would have no effect on the historic site. 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.

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 Mr. Donald Bole, Baltimore District, U.S. Army Corps of Engineers at 410.962.6079 (Donald.R.Bole@usace.army.mil) or Ms. Kelly Neff, Maryland Department of the Environment, Wetlands and Waterways Program at 410.537.4018 (kelly.neff@maryland.gov).

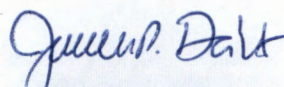
Requests to be included on the interested persons list must be sent by June 25, 2018 to the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230 or to kelly.neff@maryland.gov or 410-537-4018. Any further notices concerning actions on the application 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 application process.

Please forward this information to any interested parties.

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, CENAB-OP-RMN Attn: Mr. Donald Bole, 2 Hopkins Plaza, Baltimore, Maryland, 21201 and/or Attn: Ms. Kelly Neff, Maryland Department of the Environment, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230-1708, within the comment period as specified above to receive consideration.

FOR THE DISTRICT ENGINEER:



Joseph P. DaVia
Chief, Maryland Section Northern