



Public Notice

**U.S. Army Corps
of Engineers**
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 2020-263

Date: June 26, 2020

Notice No. 20-19

Closing Date: July 26, 2020

1. TO ALL WHOM IT MAY CONCERN: The district engineer has received a prospectus to establish a stream and wetland compensatory mitigation bank, in the State of West Virginia (WV) and a request to establish a new umbrella mitigation banking instrument (UMBI), for federal and state permits as described in this Public Notice. Issuance of a Public Notice regarding proposed mitigation banks is required pursuant to the “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 332). In addition, the proposed mitigation bank has been submitted for authorization under the provisions of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. The United States Army Corps of Engineers (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 this proposal. The purpose of this Public Notice is to inform you of the proposed mitigation bank and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

2. INTERAGENCY REVIEW TEAM: As indicated in the Corps regulations (33 CFR 332.8(b)), the district engineer will establish an IRT to review documentation for the establishment and management of mitigation banks and in-lieu fee (ILF) programs. The primary role of the IRT is to facilitate the establishment of mitigation banks and/or ILF programs through the development of mitigation banking or ILF program instruments. The IRT reviews draft prospectuses, prospectuses, instruments, and other documents and provides comments to the Corps.

3. APPLICANT/BANK SPONSOR:

Mr. Brad Cochran
Harmony Environmental, LLC. (Harmony)
4984 Washington St.
West Cross Lanes, WV 25313

4. LOCATION: The proposed mitigation bank site is located in the Fike Run of Little Sandy Creek watershed along unnamed tributaries of Fike Run, adjacent floodplains and upland corridors, within the Cheat River watershed, near Bruceton Mills, Preston County, WV (39.7040, -79.4967).

5. PURPOSE AND DESCRIPTION OF WORK: The Bank Sponsor, Harmony, received approval for their UMBI on July 21, 2019 (LRH-2016-00006-WV No. 2017-1734). As defined in 33 CFR 332.8, an UMBI is a single mitigation banking instrument which provides for future authorization of additional mitigation bank sites. As additional sites are selected, they must be reviewed and approved by the IRT as modifications to the existing mitigation banking instrument. Therefore, the current proposal is under consideration as a modification to Harmony's UMBI.

Harmony has submitted a mitigation plan to the Pittsburgh District Corps and the other members of the WV IRT to develop and operate a stream mitigation bank, known as the Howdershelt Run Mitigation Bank. The purpose of the mitigation bank is to provide off-site compensatory mitigation for projects that result in unavoidable adverse impacts (including the discharge of dredged or fill material) to streams and wetlands within the specified service area, as noted below. The proposed mitigation bank will involve the enhancement, establishment, restoration and preservation of streams and wetlands and their associated riparian buffers.

The Howdershelt Run Mitigation Bank would implement restoration measures and conserve the aquatic environment and upland buffer areas in an effort to provide ecological benefits, including improvements to water quality, fish and wildlife habitat, erosion control, and flood conveyance and storage within the watershed. The primary Geographic Service Area (GSA) would be the Cheat River watershed as defined by the 8-digit Hydrologic Unit Code (HUC) No. 05020004. The Bank Sponsor has also proposed a secondary GSA, which would include Tygart Valley watershed (05020001), Monongahela watershed (05020003), West Fork watershed (05020002), Dunkard Creek (050220005), and the Youghiogheny watershed (05020006).

The goal of the mitigation bank is to restore and preserve self-sustaining, functional stream corridors and wetlands to replace the functions and values lost due to unavoidable adverse impacts to streams and wetlands from agricultural activities, cattle grazing, roads, and timbering. The mitigation bank is anticipated to include the unnamed tributaries of Fike Run, their adjacent floodplains and upland corridors. Some of the targeted functions include improvements to wildlife habitat, water quality, flood conveyance and storage, and erosion control through the implementation of natural channel design and the re-establishment of riparian buffers. The Bank Sponsor proposes to meet the bank's goals through the restoration and preservation of contributing perennial, intermittent and ephemeral streams and wetlands as summarized below:

Restoration: The Bank Sponsor proposes to restore approximately 2,012 linear feet (lf) of stream. The Bank Sponsor also proposes to restore 100-ft. riparian buffers (50-ft. on either side of the stream) along stream reaches targeted for restoration. The proposed activities may include, but are not limited to, natural channel design techniques,

channel cross section and pattern establishment, bank stabilization and bioengineering techniques, grade control and in-stream structures, the connection of contributing streams to the main channel, and the re-establishment of forested riparian buffers.

Enhancement: The Bank Sponsor proposes to restore approximately 1,803 linear feet (lf) of stream. The Bank Sponsor also proposes to restore 100-ft. riparian buffers (50-ft. on either side of the stream) along stream reaches targeted for restoration. The proposed activities may include, but are not limited to, natural channel design techniques, channel cross section and pattern establishment, bank stabilization and bioengineering techniques, grade control and in-stream structures, the connection of contributing streams to the main channel, and the re-establishment of forested riparian buffers.

Establishment: The Bank Sponsor proposes to establish approximately 1,279 linear feet (lf) of stream. The Bank Sponsor also proposes to restore 100-ft. riparian buffers (50-ft. on either side of the stream) along stream reaches targeted for restoration. The proposed activities may include, but are not limited to, natural channel design techniques, channel cross section and pattern establishment, bank stabilization and bioengineering techniques, grade control and in-stream structures, the connection of contributing streams to the main channel, and the re-establishment of forested riparian buffers.

Wetland credits will be determined using the West Virginia Stream and Wetland Valuation Metric 2.1. The Bank will have components of both wetland enhancement and preservation. The acreage and predicted credits generated will be determined after the wetland delineation has been performed and included in the mitigation plan.

Exhibit 1 shows the general location of the proposed mitigation bank, Exhibit 2 shows the watersheds of the proposed service area for the proposed mitigation bank, and Exhibit 3 shows and the topographic location of the proposed mitigation bank, and Exhibit 4 shows the estimated stream and wetland mitigation locations.

Upon approval of the proposed mitigation bank under the UMBI, the Bank Sponsor would protect the proposed mitigation bank's acreage with a perpetual environmental covenant (along with an appropriate monitoring and enforcement endowment) held by a qualified conservation organization (e.g. land trust). Once all credits generated have been released by the WV IRT, the areas would be maintained under an environmental covenant to which the Bank Sponsor and the landowner would be signatory. A designated third-party manager would be responsible for long-term maintenance after bank closure. The third-party financial assurance designee would be identified in the final mitigation banking instrument. Revenues generated by the sale of mitigation credits would allow the Bank Sponsor to establish a long-term monitoring and maintenance fund for the mitigation banks to provide for the long-term quality and viability of the restored ecosystems.

In accordance with the Rule, performance standards and success criteria, established by the application of conditional assessments and/or suitable metrics, would be outlined and implemented as requirements. More specifically, this will include the use of West Virginia Stream and Wetland Valuation Metric v. 2.1 (or newer if revised) and any other functional assessment(s) as deemed applicable by the IRT. For further information, the Prospectus shall be made available for review upon request.

6. WEST VIRGINIA CERTIFICATION: All regulated work will be reviewed for eligibility under Nationwide Permit No. 27 Aquatic Habitat Restoration, Establishment and Enhancement Activities which includes the required Section 401 Water Quality Certification. The West Virginia Department of Environmental Protection will be part of the review of the proposed UMBI as a member of the IRT.

7. IMPACT ON NATURAL RESOURCES: The project sponsor has consulted the most recently available information and has received written concurrence (FWS File #2019-I-0905) that the project will not affect federally listed endangered or threatened species, or result in destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

8. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

9. PUBLIC INVOLVEMENT: Issuance of a public notice regarding proposed mitigation banks is required pursuant to the "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 332). The United States (U.S.) Army Corps of Engineers' (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 this proposed mitigation bank.

10. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. 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 benefit which reasonably may be expected to accrue from the proposals 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, historic properties, 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, considerations of property ownership and, in general, the needs and welfare of the people. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny approval 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.

11. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination, comments can be mailed to:

U.S. Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186
Re: CELRP-RGS Public Notice No. 20-19

Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested banking instrument. All responses to this notice should be directed to the Regulatory Division, attn. Alyssa Barkley at the above address, by telephoning (412) 395-7209, or by e-mail at Alyssa.B.Barkley@usace.army.mil. Please refer to LRP-2020-263 in all responses.

FOR THE DISTRICT ENGINEER:

//SIGNED//

Jon T. Coleman
Chief, Southern Branch
Regulatory Division