



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. LRP 2016-1865

Date: April 11, 2017

Notice No. 17-21

Closing Date: May 11, 2017

1. TO ALL WHOM IT MAY CONCERN: The District Engineer has received a mitigation prospectus to establish a wetland and/or stream compensatory mitigation bank 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). 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. We hope you will participate in this process.

INTERAGENCY REVIEW TEAM: As indicated in the U.S. Army Corps of Engineers (Corps) regulations [33 CFR 332.8(b)], the District Engineer has established an Interagency Review Team (IRT) to review documentation for the establishment and management of mitigation banks and in-lieu fee programs. The primary role of the IRT is to facilitate the establishment of mitigation banks and/or in-lieu fee programs through the development of mitigation banking or in-lieu fee program instruments. The Corps Huntington District (Regulatory Division) is the lead district for the state of West Virginia (WV) and the WV IRT. The WV IRT consists of the following federal and state resource agencies: Corps Huntington and Pittsburgh Districts, U.S. Environmental Protection Agency (USEPA), U.S. Fish and Wildlife Service (USFWS), U.S. Department of Agriculture’s Natural Resource Conservation Service (NRCS), West Virginia Department of Environmental Protection (WVDEP) and West Virginia Division of Natural Resources (WVDNR).

2. APPLICANT: EIP III Credit Company
2002 Clipper Park Rd., Suite 201
Baltimore, Maryland 21211

3. LOCATION: The Brushy Fork Mitigation Site (located at approximately N 39.220759, W -80.195088) is located in Harrison, Taylor, and Barbour Counties, West Virginia, in the West Fork River watershed which flows into the Monongahela River. The site can be accessed from County Route 23/6 (Stonecoal Run Road) which can be accessed from County Route 23/9 (Brushy Fork Road).

4. PURPOSE AND DESCRIPTION OF WORK: The applicant proposes to perform stream and wetland creation, restoration, enhancement and preservation work on Stonecoal Run, Pigtail Run, Beards Run, Glade Run and on unnamed tributaries of these streams. The stream work will occur on and along 95,796 linear feet of perennial, intermittent and ephemeral streams and the wetland work will occur on 9.5 acres of Palustrine Emergent, Palustrine Unconsolidated, Palustrine Scrub-Shrub and Palustrine Forested wetlands. The objective of this project is to increase the functions and values of the aquatic resources which have been degraded or impacted by legacy coal mining, agricultural activities, roads, timbering and natural gas extraction activities and pipelines. Drawings of the proposed site are attached to this notice.

5. WEST VIRGINIA CERTIFICATION: In accordance with Nationwide Permit No. 27 [under January 6, 2017 Federal Register, Reissuance of Nationwide Permits (77 FR 10184)], a general Section 401 Water Quality Certification with special conditions applies. Prior written approval is required from the WVDEP Division of Water and Waste Management in concurrence with the WVDNR. This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification.

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project will have no effect on endangered species or threatened species, or result in destruction or adverse modification of habitat of such species which has been determined to be critical. While concurrence with this determination is not required, 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).

7. 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).

8. PUBLIC INVOLVEMENT: Any person who has an interest that may be adversely affected by the approval of this mitigation bank may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the Corps, and other pertinent laws, regulations, and executive orders. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to approve this mitigation bank 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 that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic 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. Any person may submit cumulative impact information, which is substantive and specifically associated with the proposed action. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, USEPA, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination.

9. SOLICITATION OF 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 this proposed mitigation bank. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps to determine whether to approve, modify, condition or deny 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. 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.

10. RESPONSES: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

U.S. Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186
Re: Public Notice CELRP-OP-F No. 17-21

Please note names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our Nation's water resources. If you have any questions concerning this public notice, please direct them to the

CELRP-OP-F
Public Notice No. 17-21

Regulatory Branch, attn. Greg Currey at the above address, by telephoning (412)-395-7181, or by e-mail at Gregory.e.currey@usace.army.mil. Please refer to **CELRP-OP-F 2016-1865** in all responses.

FOR THE DISTRICT ENGINEER:

/SIGNED/

Jon T. Coleman
Chief, Southern Section
Regulatory Branch



UPPER OHIO NORTH
5030101

Greenburg

UPPER OHIO SOUTH
5030106

Wheeling

DUNKARD
5020005

MONONGAHELA
5020003

MIDDLE OHIO NORTH
5030201

YOUGHIOGHENY
5020006

NORTH BRANCH POTOMAC
2070002

PROJECT SITE
WEST FORK
5020002

CHEAT
5020004

MIDDLE OHIO SOUTH
5030202

LITTLE KANAWHA
5030203

TYGART VALLEY
5020001

LOWER KANAWHA
5050008

ELK
5050007

SOUTH BRANCH POTOMAC
2070001

SOUTH FORK SHENANDOAH
2070005

JAMES
2080201

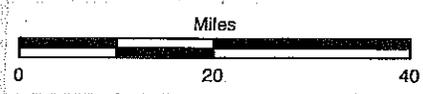
GAULEY
5050005

LEGEND

- Secondary Service Area
- Primary Service Area
- HUC 8-Digit Codes
- WV State Outline
- Project Site

REFERENCE

1. USGS TOPOGRAPHIC MAP/ ARCGIS MAP SERVICE:
[HTTP://GOTO.ARCGISONLINE.COM/MAPS/USA_TOPO_MAPS](http://gto.arcgis.com/maps/usa_topo_maps),
 ACCESSED 2/24/2017
 "QUAD NAME", WEST VIRGINIA QUAD



Civil & Environmental Consultants, Inc.

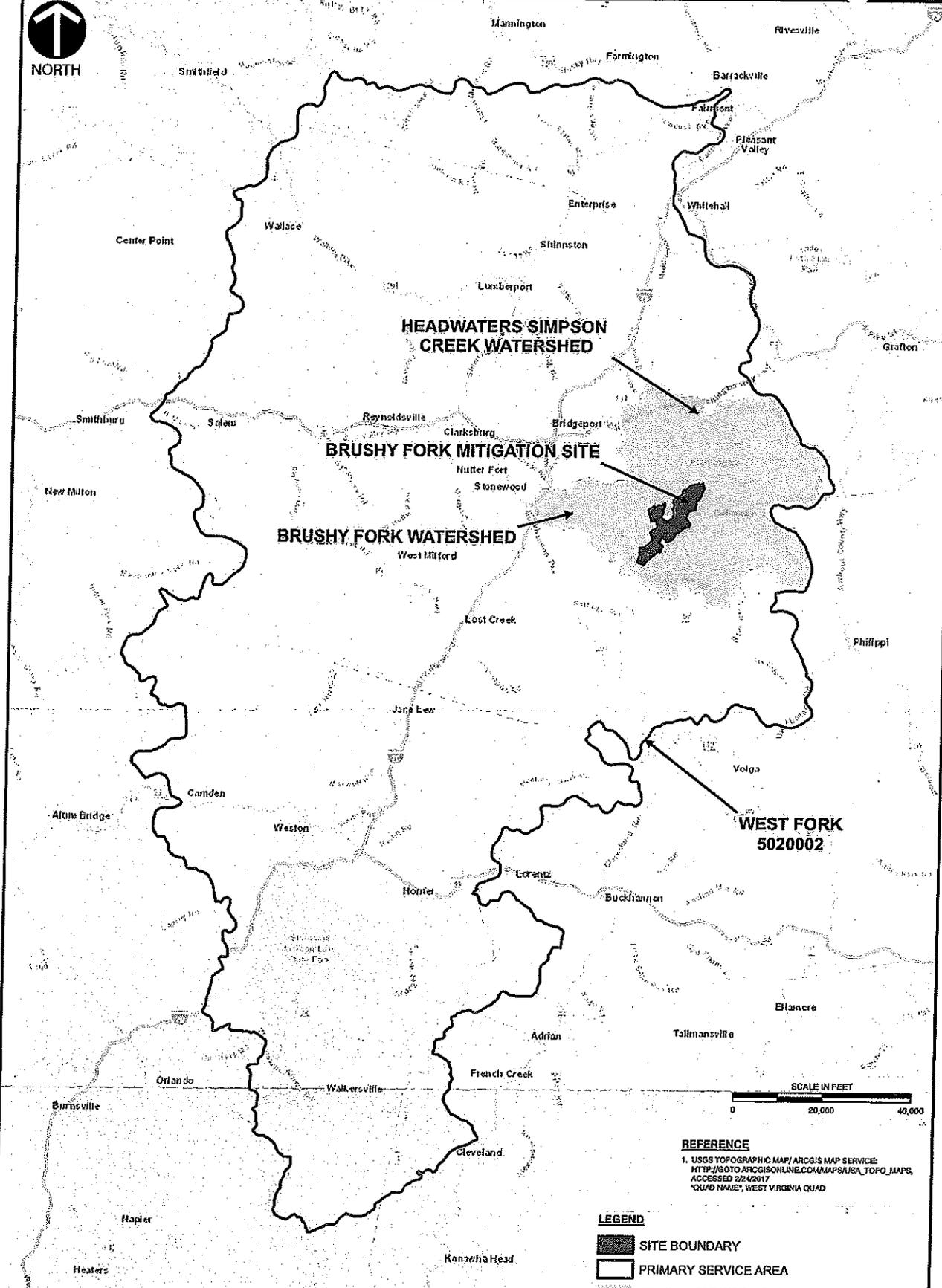
600 Marketplace Avenue Suite 200 - Bridgeport, WV 26330
 Ph: 304-933-3119 • Toll: 855-488-9539 • Fax: 304-933-3327
www.cecinc.com

EIP III CREDIT CO.
 BRUSHY FORK MITIGATION BANK
 HARRISON, TAYLOR AND BARBOUR COUNTIES,
 WEST VIRGINIA

SERVICE AREA MAP

DRAWN BY:	MKD	CHECKED BY:	NSO	APPROVED BY:	NSO*	FIGURE NO:	3
DATE:	02/24/2017	SCALE:	1" = 20 miles	PROJECT NO:	153-387		

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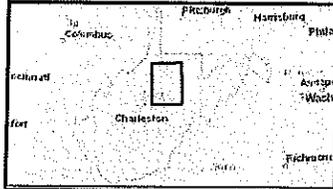


REFERENCE

1. USGS TOPOGRAPHIC MAP/ARCGIS MAP SERVICE:
HTTP://GOTO.ARCGISONLINE.COM/MAPS/USA_TOPO_MAPS,
ACCESSED 2/24/2017
*QUAD NAME, WEST VIRGINIA QUAD

LEGEND

-  SITE BOUNDARY
-  PRIMARY SERVICE AREA
-  BRUSHY FORK/SIMPSON CREEK WATERSHEDS



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BRUSHY FORK MITIGATION BANK
HARRISON, TAYLOR AND BARBOUR COUNTIES,
WEST VIRGINIA

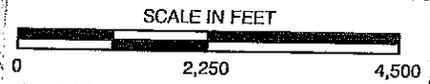
WATERSHED LOCATION MAP

DRAWN BY: MKD	CHECKED BY: NSO	APPROVED BY: NSO*	FIGURE NO: 2
DATE: 02/24/2017	SCALE: 1" = 20,000'	PROJECT NO: 153-387	



39.240414
-80.175231
BRUSHY FORK NORTH

39.215016
-80.200349
BRUSHY FORK SOUTH



REFERENCE
1. USGS TOPOGRAPHIC MAP/ ARCGIS MAP SERVICE:
[HTTP://GOTO.ARCGISONLINE.COM/MAPS/USA_TOPO_MAPS](http://gto.arcgis.com/maps/usa_topo_maps),
ACCESSED 2/24/2017
"QUAD NAME", WEST VIRGINIA QUAD

LEGEND
 PROPOSED MITIGATION BANK BOUNDARY
 PORTION OF PROPERTY NOT INCLUDED WITHING MITIGATION BANK BOUNDARY



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Ph: 304-933-3119 • Toll: 855-488-9539 • Fax: 304-933-3327
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EIP III CREDIT CO.
BRUSHY FORK MITIGATION BANK
HARRISON, TAYLOR, AND BARBOUR COUNTIES,
WEST VIRGINIA

USGS SITE LOCATION MAP

DRAWN BY:	MKD	CHECKED BY:	NSO	APPROVED BY:	NSO*	FIGURE NO:	1
DATE:	02/24/2017	SCALE:	1" = 2,250'	PROJECT NO:	153-387		

153-387-GIS\Maps\Task 0007\February 2017\153387 FIG1 SITE LOCATION MAP2.mxd - 2 J17 - 9:12:25 AM (mdeincoles)