



# Public Notice

U.S. Army Corps of Engineers, Norfolk District

March 10, 2014

CENAO-REG  
NAO-2006-3001

## FEDERAL PUBLIC NOTICE

The District Engineer has received a prospectus to establish a tidal wetland compensatory mitigation bank for Federal and State permits as described below:

### BANK SPONSOR:

City of Virginia Beach  
Mr. Thomas J. Gay, EIT  
Public Works Engineering/Water Resources  
2405 Courthouse Drive  
Virginia Beach, VA 23456

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed mitigation bank site is located on approximately 13.12 acres of undeveloped land. The site is located approximately 0.2 miles south of Shore Drive (US Route 60), and approximately 0.4 miles west of the Lynnhaven Inlet in Virginia Beach, Virginia. The proposed bank site drains to Pleasure House Creek, a tributary of the Lynnhaven River.

PROPOSED WORK AND PURPOSE: The bank sponsor proposes to establish, design, construct, and operate a compensatory wetland mitigation bank to be known as Pleasure House Point Mitigation Bank. The purpose of the mitigation bank is to provide off-site compensatory mitigation for impacts to tidal wetlands that cannot be practicably avoided for City of Virginia Beach projects primarily in the Lynnhaven River Drainage basin. The goal of the bank is to create tidal mitigation credits that will only be available for City of Virginia Beach projects and potentially other State and Federal projects as allowable within the authorized service area. Credits from this bank will not be available to private entities.

The Bank Sponsor proposes to restore 8.75 acres of tidal wetlands and 1.16 acres of shallow water habitat. The tidal wetlands restoration will include high marsh and low marsh habitat types, and the shallow water habitat restoration will include shallow water habitat and non-vegetated tidal flats. The restoration will be accomplished by removing dredge spoils to restore the tidal wetlands that were historically present, grading to appropriate elevations and planting appropriate tidal wetland vegetation. Hydrology will be distributed throughout the site by means of a series of shallow water habitat channels with connections to Pleasure House Creek. The Bank Sponsor will work with the IRT during the preparation of the Mitigation Banking Instrument to determine adequate compensation for conversion of non-tidal wetlands to tidal wetlands and the conversion of tidal wetlands to shallow water habitat.

The sponsor has proposed, for purposes of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, that the primary geographic service area of

this mitigation bank would include the USGS Hydrologic Unit Code 02080108 within the Lynnhaven River basin. Impacts to wetlands in those portions of the Elizabeth River (Lower James River Basin, 02080208), and the Southern Watershed (Albemarle Sound, 03010205) located within the boundaries of the City of Virginia Beach may also use mitigation credits from this Bank when the project meets the criteria of Virginia Code Section 62.1-44.15:23.(3).(i-iv and vi) and the permit writers at the USACE and DEQ agree to the use of these credits.

Oversight of this mitigation bank will be by a group of federal and state agency representatives. This interagency oversight group will be known as the Interagency Review Team (IRT). The Norfolk District of the U.S. Army Corps of Engineers shall chair the IRT.

This mitigation bank may be one of a number of practicable options available to applicants to compensate for unavoidable wetland impacts associated with permits issued under the authority of Section 404 and 401 of the Clean Water Act (Public Law 95-217) in southern Virginia.

The actual approval of the use of this mitigation bank for a specific project is the decision of the Corps pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act and by the Department of Environmental Quality pursuant to Section 401 of the Clean Water Act and Title 62.1 of the Code of Virginia. The Corps and the Department of Environmental Quality provide no guarantee that any particular individual or general permit will be granted authorization to use this mitigation bank to compensate for unavoidable wetland impacts associated with a proposed permit, even though compensatory mitigation may be available. Authorization by the Virginia Marine Resources Commission may also be required for its use for specific projects.

AUTHORITY: 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 325 and 332).

FEDERAL EVALUATION OF PROPOSAL: 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 this proposed mitigation bank. This is not an application for work in Waters of the United States. The Corps of Engineers in evaluating this proposal will consider any comments received. Comments are used to assess impacts on endangered species, historic properties, water quality, conservation, economics, aesthetics, general environmental concerns, wetlands, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) conduct of work will not adversely affect species listed as threatened or endangered under the Endangered Species Act of 1973 (PL 93-205); and (3) the project may not have an effect on properties listed on the National Register of Historic Places, however, a Phase I archaeological survey is recommended for the elevated landform on the western portion of the bank site. Additional information might change any of these preliminary findings.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed project is described above in Proposed Work and Purpose. The proposed project is located in Essential Fish Habitat and is not likely to adversely affect EFH. Based on comments from the National Marine Fisheries Service in response to this public notice, further EFH consultation may be necessary.

**COMMENT PERIOD:** Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: Nancy Hankins), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business **on April 10, 2014**. Copies will be forwarded to the DEQ.

If you have any questions about this project or the permit process, please contact: Nancy Hankins at (757)201-6048 or via email at [nancy.d.hankins@usace.army.mil](mailto:nancy.d.hankins@usace.army.mil) .

Attachments: Vicinity Map, Prospectus