



Joint Public Notice

U.S. Army Corps of Engineers, Norfolk District
Virginia Department of Environmental Quality

CENAO-REG
NAO-2007-4569

July 3, 2008

JOINT FEDERAL/STATE PUBLIC NOTICE

The District Engineer and the Virginia Department of Environmental Quality have received a prospectus to establish a compensatory wetland mitigation bank for Federal and State permits as described below:

BANK SPONSOR

Everything Wetland, LLC
P.O. Box 13
Sandy Hook, VA 23153

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project (to be known as the Eastern Henrico Mitigation Bank) would be located on land in Henrico County that is bordered on the north by the Chickahominy River and on the south by Daisy Avenue. The land is currently in use as Highland Springs Golf Course. This property drains directly to the Chickahominy River.

PROPOSED WORK AND PURPOSE: The bank sponsor, Everything Wetland, LLC, proposes to establish, design, construct, and operate a wetland compensatory mitigation bank (“mitigation bank”) on approximately 190 acres of land. The sponsor’s primary goal for the mitigation bank is to restore an ecologically significant area of wetlands in the Chickahominy floodplain. The mitigation bank, as proposed, would include 140 acres of wetland restoration and 6,000 linear feet of stream creation. A copy of the prospectus is enclosed.

The sponsor has proposed for purposes of Section 404 of the Clean Water Act that the geographic service area of this mitigation bank would include the Lower James USGS Hydrologic Unit Code known as 02080206. This proposed service area would include portions of Hanover, Henrico, Richmond, Hopewell City, New Kent, Chesterfield, Charles City, Prince George, James City, Surry, Isle of Wight, Suffolk, Williamsburg, York, and Newport News. The sponsor has indicated that the geographic service area will be consistent with the Code of Virginia as it relates to wetland mitigation banking.

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 Mitigation Bank Review Team (MBRT). The MBRT shall be chaired by the Norfolk District of the U.S. Army Corps of Engineers.

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 southeastern 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 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.

AUTHORITY: A Public Notice is recommended pursuant to Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Federal Register Number 228).

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. Any comments received will be considered by the Corps of Engineers in evaluating this proposal. 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 affect no species listed as threatened or endangered under the Endangered Species Act of 1973 (PL 93-205); and (3) no cultural or historic resources considered eligible or potentially eligible for listing on the National Register of Historic Places will be affected. Additional information might change any of these preliminary findings.

STATE EVALUATION OF PROPOSAL: To comply with Section 401 of the Clean Water Act (the Act), any applicant for a Corps permit for a proposal which may result in a discharge to State waters must provide the Corps with a certification from the Virginia Department of Environmental Quality, Water Division. They must certify that water quality will be maintained in accordance with Virginia Department of Environmental Quality, Water Division Law (state law) and that the activity will comply with the applicable provisions of Sections 301, 302, 303, and 306 and 307 of the Act. A certification must set forth any effluent limitations and other limitations, conditions and/or requirements needed to assure compliance with the Act itself and with other appropriate requirements of state law. In Virginia, the 401 Water Quality Certification is issued as a Virginia Water Protection Permit.

COMMENT PERIOD: Comments or requests for copies of the bank prospectus should be made in writing, addressed to the USACE Peninsula Field Office, Ms. Kim Prisco-Baggett, PO Box 2320, Poquoson, Virginia 23662-0320, and should be received by the close of business on August 4, 2008. Copies will be forwarded to the DEQ. If you have any questions about the permit process, please call Ms. Prisco-Baggett at 757-659-0083.

FOR THE DISTRICT ENGINEER:

Lynette R. Rhodes
Chief, Southern Virginia
Regulatory Section

Enclosure

EVERYTHING WETLAND, LLC
P.O. Box 13
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Ph. (804) 332-1064
bsmiley@everythingwetland.com

VIA EMAIL: kimberly.a.baggett@usace.army.mil

March 13, 2008

Ms. Kimberly Baggett
U.S. Army Corps of Engineers Field Office
P.O. Box 2320
Poquoson, Virginia 23662-0320

**RE: PROSPECTUS
EASTERN HENRICO MITIGATION BANK
HENRICO COUNTY, VIRGINIA**

Dear Ms. Baggett:

This document consists of a Mitigation Bank Prospectus (Prospectus) to be used at the pre-application coordination phase of the joint state/federal Mitigation Bank Review Team (MBRT). Each item from Appendix C: Prospectus Checklist is presented in **bold** type and the response presented in *italics*.

1. Aerial Photography of the project site (historic and current use).

For current use see:

Figure 1 – Current U.S.G.S topographic map

Figure 2 – Current U.S.G.S. topographic map enlarged

Figure 5 – VDOT aerial photograph, 2005

Figure 6 – VDOT aerial photograph, 1994

Figure 8 – NRCS soils map

Figure 9 – NWI Map

For historic use see:

Figure 3 – U.S.G.S. topographic map, 1964

Figure 4 – U.S.G.S. topographic map, 1956

Figure 7 – VDOT aerial photograph, 1965

2. A preliminary wetland delineation (i.e. soils maps, NWI, U.S.G.S. quad, etc.)

See Exhibit A.

3. Narrative overview of the project describing how the resulting increase in ecological value at the site will improve conditions in the regional watershed (or proposed mitigation service area).

Under existing conditions, the proposed mitigation area is being managed as a golf course. Management goals for a golf course are to promote the growth of grass on the entire area via constant fertilization, irrigation and mowing. In addition, rapid draining of storm water is important for golf course management.

The establishment of a mitigation bank will restore the functions and values of wetland: temporary flood water storage; filtering for water quality improvement; sediment storage; nutrient absorption; and wildlife habitat. As a result, storm water loading and water quality will be significantly improved in the Chickahominy River and lower James River.

4. Types of mitigation proposed: Restoration, Enhancement, Creation, and/or preservation.

On historical maps and aerial photographs, the area appears to have largely been located in the swamp adjacent to the Chickahominy River. The present plan is to restore the area to its previous forested wetland condition. A stream is planned to meander through the wetland.

5. Estimated acreage of each type of work: Restoration, Enhancement, Creation, and/or Preservation.

Approximately 140 acres of wetland will be restored and approximately 6,000 linear feet of stream will be created.

6. Describe how the mitigation will be accomplished. Examples – see below:

- **Hydrologic restoration via filling ditch network**
- **Creation of aquatic resources**
- **Re-establishment of native vegetative via (name activity proposed)**
- **Other**

Hydrology will be restored by plugging the existing surface and subsurface drainage systems. Elevated areas of the topography will be graded in a manner to reinstate the topography and ground water relationship that define a wetland. Re-establishment of native vegetation will be accomplished by planting native trees, shrubs and herbaceous vegetation that will imitate adjacent forested wetlands.

7. Existing vegetative community types and target native community types.

*Referring to Exhibit A, one can readily observe the spatial relationships of open space, open water and groves of trees. Interior to the site fairways and greens are maintained in well manicured grass. Around the ponds, intermittent fringes of vegetation largely consists of saplings of pin oak (*Quercus palustris*), red maple (*Acer rubrum*), river birch (*Betula nigra*), sweetgum (*Liquidambar styraciflua*), buttonbush (*Cephalanthus occidentalis*), elderberry (*Sambucus canadensis*), silky dogwood (*Cornus amomum*) and woolgrass (*Scirpus cyperinus*). Scatterd trees and groves consist largely of mature red maple, loblolly pine (*pinus taeda*), pin oak, willow oak (*Quercus phellos*), and a few white oak (*Quercus alba*).*

Conceptual plans (Exhibit B) consider three native communities of hydrophytes from the Chickahominy River toward higher elevations: Zone 1 to consist of OBL hydrophytes; Zone 2 to consist of FACW+ and FACW hydrophytes; and Zone 3 to consist of FAC+ and FAC hydrophytes. (See Appendix I)

8. A discussion of the current ecological conditions, and the proposed ecological conditions under the with – and without – bank scenarios. Relevant to this discussion are the presence of special biological resources (e.g. endangered species/critical habitat, special aquatic sites, etc.) and adjacent land uses.

Without the bank, golf course operations will continue. Existing underground and surface drainage features will continue to facilitate rapid removal of water from the site into the Chickahominy River. Fertilizer and pesticides will continue to be applied to promote the growth and health of grasses on the fairways and greens thereby maintaining nutrient loading from the site into surrounding waters.

With the bank, functions and values of wetlands as specified in No. 3 above, will improve the environmental health of the Chickahominy River and lower James River.

9. Address if the bank may affect or be affected by a public project. If so, discuss the bank's compatibility with the public project.

The nearest public facility, Richmond International Airport, is approximately two miles south of the proposed bank and will not be affected by the bank.

10. A preliminary discussion of any existing or potential historic or archaeological resources at the site.

According to the Department of Historic Resources, no potential historic or archaeological sites are located at the site. See Attachment E.

11. A discussion of what interest in the property is currently held and will be maintained (e.g. fee simple ownership, lease or use agreement, easements, road, power line or other types of easements, floodways, mineral rights, etc.): identify any portion of the bank that would occur on public lands; identify the owner of that land or holder of any easement on the property.

Owner: Dominion Golf, LLC by purchase agreement

No lease agreement, easements, road, power line, or other types of easements occur on the property. The project in the floodplain of the Chickahominy River.

No portion of the proposed bank will occur on public lands.

12. The proposed Mitigation Service Area and rationale.

The proposed project is located in Hydrologic Unit Code 020802060501. The proposed Mitigation Service Area includes those Units upstream and adjacent to that Unit and those located down stream within the watershed. See Figure 10.

13. Anticipated schedule for completion of the bank.

The mitigation bank will be constructed in five phases. The first phase is expected to be online in the spring of 2009 and the remaining phases constructed in accordance with demand.

14. Plans for perpetual maintenance and management of the bank, identifying the responsible party.

As phases of the bank are completed, each will be placed in a conservation easement and donated to The Nature Conservancy.

15. A discussion of current land use at the bank site and surrounding areas. Discuss reasonable expected development for the site (if bank activities were not implemented) and the surrounding area.

Currently the bank site is operating as the privately owned Highland Springs Golf Course. The golf course is bound on the northeast by the Chickahominy River and its adjacent floodplain; on the northwest and southeast by forested wetlands; and on the southwest by residential land. In the event the mitigation bank is not implemented, the site will continue to be operated as a golf course with the attendant water and nutrient loading to the Chickahominy River.

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16. An Endangered Species and/or Critical Habitat survey or evaluation performed.

See Attachments A, B and C.

17. Proof of Discussion with County and City as incorporation of the site within area, i.e., that there are no objections or conflicts.

See Attachment D.

APPENDIX 1

WOODY HYDROPHYTED FOR PLANTING ZONES

ZONE 1 OBLIGATES

Halbred Leaf Rose Mallow (*Hisbicus laevis*)
Smooth Holly (*Ilex laevigata*)
Tupelo Gum (*Nyssa sylvatica*)
Overcup Oak (*Quercus macrocarpa*)
Swamp Azalea (*Rhododendron viscosum*)
Silky Willow (*Salix sericea*)
Baldecypress (*Taxodium distichum*)
Poison Sumac (*Toxicodendrum vernix*)
Possum Haw (*Virburnum nudum*)

ZONE 2 FACULATIVE WET + AND FACULATIVE WET

Common Marsh Mallow (*Althaea officinalis*)
False Indigobush (*Amorpha fruticosa*)
River Birch (*Betula nigra*)
Sugerberry (*Celtis laevigata*)
Silky Dogwood (*Cornus amomun*)
Green Ash (*Fraxinus Pennsylvania*)
Inkberry (*Ilex glabra*)
Fetterbush (*Lyonia lucida*)
Sweetbay (*Magnolia virginiana*)
Swamp Tupelo (*Nyssa biflora*)
Swamp Chestnut Oak (*Quercus bicolor*)
Pin Oak (*Quercus palustris*)
Black Willow (*Salix nigra*)
Elderberry (*Sambucus Canadensis*)

ZONE 3 FACULATIVE + AND FACULATIVE

Ironwood (*Carpinis caroliniana*)
Fringe Tree (*Chionanthus virginicus*)
Sweet Pepper Bush (*Clethra alnofolia*)
Sheep Laurel (*Kalmia augustifolia*)
Wax Myrtle (*Morella cerifera*)
Black Gum (*Nyssa sylvatica*)
Bur Oak (*Quercus macrocarpa*)
Water Oak (*Quercus nigra*)
Willow Oak (*Quercus phellos*)
Pink Azalea (*Rhododendron periclymenoides*)

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Arrow-wood (*Virburnum dentatum*)