



Public Notice

U.S. Army Corps of Engineers, Norfolk District

March 26, 2012

CENAO-REG
NAO-2010-0543

FEDERAL PUBLIC NOTICE

The District Engineer has received a prospectus to establish a wetland and stream In-Lieu Fee program for Federal and State permits as described below:

BANK SPONSOR

New River-Highlands Resource Conservation and Development Council
100 USDA Drive, Suite F
Wytheville, Virginia 24382

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed service areas are the following watersheds: Upper Roanoke River, Upper Dan River, Upper Yadkin River, Upper and Middle New River, Tug River, Upper Levisa River, North Fork Holston River, South Fork Holston River, Upper Clinch River, and Powell River.

PROPOSED WORK AND PURPOSE: The In-Lieu Fee (ILF) sponsor proposes to establish an ILF that will provide off-site compensatory mitigation for projects that result in unavoidable impacts to nontidal wetlands and streams within the specified service area. The ILF sponsor proposes to identify streams or wetlands in southwest Virginia suitable for and capable of providing compensatory mitigation through the enhancement, restoration, creation, and preservation of wetlands and stream channels and their associated buffers. A copy of the prospectus, including maps, is enclosed.

Oversight of this ILF 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 and the Virginia Department of Environmental Quality will co-chair the IRT.

This ILF may be one of a number of practicable options available to applicants to compensate for unavoidable wetland and stream impacts associated with permits issued under the authority of Section 404 and 401 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and the Virginia Water Protection Permit Regulation (9 VA 25-210-115E).

The actual approval of the use of this ILF for a specific project is the decision of the Corps pursuant to Section 404 of the Clean Water Act/Section 10 of the Rivers and Harbors Act and/or 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 ILF to compensate for unavoidable wetland and stream 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 ILFs 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 and 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 affect species listed as threatened or endangered under the Endangered Species Act of 1973 (PL 93-205); and (3) the effect the project may or may not have on properties eligible for listing or listed on the National Register of Historic Places is unknown at this time. 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 ILF as described above in the Proposed Work and Purpose, is not located in EFH and, therefore, is not likely to affect EFH.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers-West Central Field Office, PO Box 3160, Lynchburg, Virginia 24503, and should be received by the close of business on April 25, 2012. Copies will be forwarded to the DEQ.

If you have any questions about this project, please contact Jeanne C. Richardson at (434) 384.0182 or email: jeanne.c.richardson@usace.army.mil.

FOR THE DISTRICT ENGINEER:

Jeanne C. Richardson

Jeanne C. Richardson

for Peter R. Kube
Chief, Western Virginia
Regulatory Section

Attachment: Prospectus