



January 20, 2022

NOTICE OF PUBLIC COMMENT PERIOD EXTENSION

RE: Permit Number: AI 170959/21-NT-3040/202160426
Project: DRG/WSSI Umbrella Mitigation Banking Instrument and
Addendum #1 Lake Elkhorn Mitigation Bank, Columbia, MD

Dear Adjacent Property Owner/Interested Person/Public Official:

The Maryland Department of the Environment (Department) received many comments on the Prospectus for the DRG/WSSI Maryland Statewide Umbrella Mitigation Bank and Addendum #1 Lake Elkhorn Stream Mitigation Site (Application No. 21-NT-3040/202160426). **Based on comments received, the Department and the U.S. Army Corps of Engineers (Corps) are extending the public comment period until February 23, 2022 at 11:59 PM.** The Department will continue to consider all comments received during the public comment period for this project as it continues its review.

In order for any mitigation bank to be approved, it must follow the requirements and process outlined in 33 CFR332, Compensatory Mitigation for Losses of Aquatic Resources (Federal Mitigation Rule) and in Code of Maryland Regulations 26.23.04.06. The applicant submitted the Prospectus in June 2021, which was placed on public notice for the Department on August 1, 2021 and for the Corps on August 2, 2021, with a joint public hearing held on December 8, 2021. The public comment period closed on January 7, 2022. Based on comments received, the Department and the Corps are extending the public comment period until February 23, 2022 at 11:59 PM. Written comments and requests to be included on the interested persons list must be sent by February 23, 2022 to the Maryland Department of the Environment, Attn: Kelly Neff, 1800 Washington Boulevard, Baltimore, MD 21230 or kelly.neff@maryland.gov or 410-537-4018. Comments can also be directed to Mr. Jack Dinne, Corps, at 410-962-6005 or john.j.dinne@usace.army.mil. A link to the June 2021 Prospectus is located on the Corps RIBITS website (https://ribits.ops.usace.army.mil/ords/f?p=107:278:::RP,278:P278_BANK_ID:5978).

To continue the review process, the applicant will need to respond to Department comments, including a response to public notice comments, and submit the Draft Umbrella Mitigation Banking Instrument with Addendum #1 Lake Elkhorn. This will be reviewed by the Department and other agencies on the Interagency Review Team (IRT), including the Corps, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, the National Marine Fisheries Service and Maryland Department of Natural Resources. Then the applicant will incorporate the additional round of IRT comments and submit the Final Instrument. The timeline for review of a mitigation bank

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follows Federal Mitigation Rule requirements. Please note that if the Umbrella Mitigation Banking Instrument is approved by the Department and the IRT, each new mitigation site that is proposed will still need to go through a public notice and comment period. Additionally, even if a mitigation bank is approved in the area, an applicant proposing impacts still needs to follow all requirements in the "Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland" (Application) process, including the need for avoidance and minimization prior to proposing compensatory mitigation for remaining unavoidable impacts. More information on the application and mitigation process is located on the Department's Wetland and Waterways Program Mitigation website (<https://mde.maryland.gov/programs/Water/WetlandsandWaterways/AboutWetlands/Pages/mitigation.aspx>) and the Corps website (<https://www.nab.usace.army.mil/missions/regulatory/>).

In addition, the applicant is required to obtain an authorization from the Department and for all impacts, permanent and temporary, to nontidal wetlands, the 25-foot nontidal wetland buffer and waterways, including the 100-year nontidal floodplains prior to the commencement of any work in regulated resources related to the Lake Elkhorn project, as well as authorization from the Corps for all impacts to waters of the U.S. While this Application has been submitted, the applicant will be required to provide a revised Application with detailed plans and revised impacts when they submit the Draft Umbrella Mitigation Banking Instrument, since the impacts will be revised as the bank moves from concept to actual design. The Application will be reviewed by the Department concurrently with the mitigation bank review process.

Any future updates related to this project will be put on the Department's Wetlands and Waterways Program website (<https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/index.aspx>). Those on the interested persons list will be notified of the Department's final decision. Thank you for your interest in this project.

Sincerely,



Kelly Neff
Mitigation and Technical Assistance Section, Chief
Wetlands and Waterways Program