

White Oak Bayou Watershed/Service Areas: U.S. Army Corps of Engineers (Little Rock District) Public Notices Exclusion Decision



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The United States Army Corps of Engineers (“Corps”) Little Rock District issued a March 25th public notice addressing the White Oak Bayou Watershed.

The White Oak Bayou Watershed is located in Pulaski County, Arkansas.

The Corps states that:

... the District has decided to exclude the White Oak Bayou watershed from being included in the service areas of previously approved and any future approved compensatory mitigation banks and in-lieu fee programs, unless the bank or in-lieu fee program is located within the White Oak Bayou watershed. Several mitigation banks approved by the District already include this exclusion from their service areas. Those existing banks that currently include the White Oak Bayou watershed in their service areas will be modified to exclude the watershed. This decision compliments a previous decision that requires all compensatory mitigation for a permitted project located in the White Oak Bayou watershed to remain within the watershed.

The Corps had previously requested comments on a District exclusion in an April 27, 2018, public notice.

Section 404 of the Clean Water Act requires a permit be obtained from the Corps for certain activities in jurisdictional waters. A frequent condition of such permit is mitigation of environmental impacts to rivers, streams, or wetlands. The Corps may require that a party proposing the project purchase credits from a mitigation bank or an in-lieu fee program in the same area to compensate for such impacts.

The mitigation bank is generally a wetland, stream, or other aquatic resource area that has been restored, established, enhanced, or (in certain circumstances) preserved for the purpose of providing compensation for unavoidable impacts to aquatic resources permitted under Section 404 of the Clean Water Act. The value of a bank is defined in compensation mitigation credits.

The bank’s instrument identifies the number of credits available for sale and an assessment is typically undertaken to certify that the credits provide the required ecological functions. Some banks operate as commercial enterprises selling their credits to permit applicants needing to provide required mitigation.

A copy of the public notice can be found [here](#).