

Wetland Mitigation Bank: U.S. Army Corps of Engineers (Little Rock District) Public Notices Proposed Arkansas Department of Transportation Ink Bayou Mitigation Bank



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The United States Army Corps of Engineers (Little Rock District) (“Corps”) issued a February 28th Public Notice regarding the proposed Ink Bayou Mitigation Bank (“Bank”).

The Public Notice describes a prospectus for a Bank proposed by the Arkansas Department of Transportation (“ADOT”).

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.

ADOT’s proposed Bank would be established in Pulaski County, Arkansas. The mitigation area is described as being just west of Interstate 40, Southeast of Highway 161, and north of Interstate 40 near McAlmont, Arkansas.

The property is stated to have been purchased by ADOT to mitigate wetland impacts from highway construction and maintenance activities. Further, ADOT is stated to be planning to use the Bank for compensatory mitigation for unavoidable impacts resulting from its highway activities authorized under Section 404 of the Clean Water Act.

The Bank’s Prospectus includes sections addressing:

- Management Goal and Objective
- Establishment and Operation

- Proposed Service Area
- General Need and Feasibility
- Ownership
- Long Term Management

A copy of the Bank's prospectus can be found [here](#) and the Corps Public Notice [here](#).