



US Army Corps  
of Engineers  
Wilmington District

## Milburnie Dam Stream Restoration Bank, Wake County, NC (Regulatory)

- **Project proposal to remove Milburnie Dam in Wake County, NC associated with development of a Mitigation Bank**
- **Draft Mitigation Bank Instrument (DMBI) submitted to Interagency Review Team (IRT) on March 14, 2014**
- **Current concerns related to DMBI are related to potential impacts to wetlands, mitigation credit release schedule, measurable success criteria, and compliance with 2008 Dam Removal Guidance associated with this project**
- **Current objective is to resolve DMBI concerns to complete and approve a Mitigation Bank Instrument (MBI) for the proposed mitigation bank**

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CONGRESSIONAL DISTRICT: NC 4, NC 13

DATE: 23 February 2015

1. **PURPOSE:**

To provide information regarding the proposed development of the Milburnie Dam Stream Restoration Bank (MDSRB) that would include the removal of Milburnie Dam from the Neuse River (HUC 03020201) located on the Twiggs Property, adjacent to 1103 Old Milburnie Road, in the City of Raleigh, Wake County, North Carolina.

2. **BACKGROUND:**

a. Restoration Systems, LLC (RS), the proposed bank developer, provided the Corps a prospectus for the MDSRB that was released for public notice on November 14, 2011. Comments received during the public notice were included in the Corps' evaluation of this prospectus for the establishment of the MDSRB in accordance with the procedures outlined in 33 CFR Part 332 *Compensatory Mitigation for Losses of Aquatic Resources*. Additionally, the proposal was reviewed pursuant to the permitting authority under Section 404 of the Clean Water Act (33U.S.C. 1344) as the dam's removal involves the discharge of fill material in waters and/or wetlands of the United States.

b. By letter dated January 12, 2012, RS was notified by the Corps that it had completed its review of the September 2011 MDSRB prospectus, including review and consideration of the comments received from IRT members, state and local resource agencies, and the general public in response to the November 14, 2011 public notice. Based on that review, the Corps determined that this proposed bank has the potential to provide appropriate compensatory mitigation for Department of the Army (DA) permits. This determination does not approve the proposed bank but was made in compliance

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with 33 CFR 332.8 which authorizes RS, to proceed with the preparation of a DMBI for the proposed MDSRB.

c. On December 6, 2012, RS conducted a public informational workshop in Raleigh, NC. The workshop was advertised in the local newspapers, by fliers to state and Federal agencies, and by e-mail/mail address list to the public who had submitted comments on November 14, 2011 to the public notice for the project's prospectus. The workshop was well organized, provided an opportunity for the project proponent to provide more specific information pertaining to the project to the audience, provided the Corps a forum to review both the permitting and mitigation banking processes and allowed both proponents and opponents an opportunity to exchange their comments and concerns for the project with the project proponent and their team of technical experts.

d. On June 13 & July 23, 2013, the IRT met with RS. The purpose of the meetings was to discuss development of success criteria associated with proposed bank development in reference to development of mitigation credits and credit release. These discussions are part of the continuing effort by RS, to complete their development of a draft DMBI for the MDSRB.

e. On March 14, 2014, the IRT received a copy of the DMBI. The IRT reviewed, met, and has submitted a letter of concerns to RS with the DMBI dated June 13, 2014. The IRT received a response to their concerns from RS by letter dated June 18, 2014. The IRT in turn responded to this letter by letter dated August 21, 2014. As result of these correspondences, the Corps and RS met in the field at the site of the proposed bank on October 27, 2014, with follow-up meetings on the afternoon of October 27, 2014 and November 19, 2014 to address concerns with the DMBI.

3. **CURRENT STATUS:**

The IRT is currently reviewing and working with RS, in response to the IRT's concerns for the DMBI with the objective of resolving concerns to complete and approve a MBI for the proposed mitigation bank in accordance with the procedures outlined in 33 CFR Part 332 *Compensatory Mitigation for Losses of Aquatic Resources*. Current concerns related to DMBI are related to potential impacts to wetlands, mitigation credit release schedule, measurable success criteria, and compliance with the 2008 Dam Removal Guidance associated with this project.