

Hmieleski, Joseph I.

From: Hmieleski, Joseph I.  
Sent: [REDACTED] 2005 9:22 AM  
To: 'Gagnon, Steven K LRC'; Mike Murphy (E-mail)  
Cc: Magnusk (E-mail); Cathy Czerniak (E-mail)  
Subject: [REDACTED] (176)

Mr. Gagnon,

FILE ↗

This email provides the Lake County Stormwater Management Commission's (SMC) response to the Public Notice no. 200400880. In addition to the USACE-regulated impacts, the project impacts an Isolated Waters of Lake County (IWLC) and requires a Watershed Development Permit (WDP) issued by the City of Lake Forest. Lake Forest requires SMC's authorization concerning impacts to the IWLC. Our response to this Public Notice (PN) is to the proposed impacts to the waters of the U.S. only. We submit the following comments:

1. The Costco Development and the City of Lake Forest parcel should be considered a "single and complete" project for determination of wetland impacts.
  - a) We understand that the term single and complete project is "the total project proposed or accomplished by one owner, developer or partnership, or agency. If the project construction involves phases, the sum of all impacted areas would be the basis for deciding [total impacts]" (<http://www.lrc.usace.army.mil/co-r/rppfaq.htm>). The PN states: "the City of Lake Forest intends to acquire the north half of the property for the purpose of developing up to 13 acres of the parcel for a yet to be determined use. Previously, a four building multi-family residential complex was planned for this area, but is no longer proposed...The City Council has directed that thorough consideration be given to ... development of up to 13 acres with some City offices and operations."(PN, page 2). The PN goes on further to state: "If City use of the property is pursued... review by the Corps will be required once a site plan has been developed detailing a specific use."[PN, page 2]. Currently, the site ownership is held by one person/group and initial development considerations involved the entire site. Later discussions involved the acquisition by Lake Forest. Regardless, the location and extent of wetlands along the northern parcel will likely be impacted during a later phase, the extent of which is unknown. Thus, the direct and indirect impact to the remaining ADID wetlands, the majority of which provides the basis for the COSTCO mitigation, cannot be determined until such time as a site plan exists for the northern parcel.
  - b) The PN is for the entire 40 acres as described in the "Proposed Action". However, the project description references the 14.95 acres Costco development. The USACE should specify what area is subject to the public notice.
2. The planned mitigation does not appear to compensate for the proposed impacts and is not appropriate for an identified ADID area. SMC understands that the USACE has not determined the final mitigation credit for the proposed mitigation plan. Accordingly, we submit these comments for consideration by the USACE for determination of final mitigation credits.
  - a) The majority of the planned mitigation occurs in an existing excavated pond partially identified as an ADID wetland on the Lake County Wetland Inventory. The plan calls for pond re-grading, and the placement of fill within the waters of the U.S. to create 3.29 acres of emergent vegetation zone. It is our understanding that fill placed in any waters of the U.S. is considered an impact. Will the proposed fill activity in an ADID wetland require a separate USACE permit?
  - b) The proposed mitigation area occurs within a basin that will also be used for a "naturalized stormwater management facility" that will service the entire site [PN, page 5]. Our opinion is mitigation in this facility area is not appropriate and contradicts Chicago District's policy. The USACE's Chicago District's 2004 Mitigation Requirements state: "Wetland mitigation areas used to incorporate storm-

water storage and detention generally have not provided successful mitigation and are strongly discouraged. Wetland mitigation in these areas is unlikely to meet the performance standards and to be in compliance with the Mitigation Requirements. The probability of later radical and expensive changes in the mitigation area or the creation of off-site mitigation is high. Fluctuations in water levels are too severe and water quality too poor to support wetland vegetation or provide wildlife habitat, since most native plants and animals are not adapted to utilizing stormwater runoff."

(<http://www.lrc.usace.army.mil/co-r/mitgr.htm>). We concur with the USACE guidance and SMC's policy does not permit restoration/creation as mitigation for IWLC impacts within detention facilities.

- c) It is highly likely that stormwater runoff from both the COSTCO, and the yet to be determined northern development will overwhelm the BMP treatment basins and result in poor water quality regardless of the size. The BMP location within the basin will have little or no effect to treat and reduce salt, de-icing materials, or toxicants from entering into the Middle Fork Savanna.
- d) Overall, we recognize the beneficial aspects of providing a wetland basin to treat and improve water quality leaving the site. But this area should not be considered as compensating for the wetland acreage lost. The resulting mitigation area will function more like a water quality basin than a mitigation area, especially in the long term as sediment, nutrients, and toxicants accumulate and result in poorer, and poorer wetland mitigation function.
- e) The proposed BMP treatment basins are within the mitigation facility and will likely result in poorer function than if located in outside the mitigation area as in pre-treatment cell. This is also inconsistent with the WDO's water quality treatment provisions that require pre-treatment before discharging into a WOUS. The USACE regional permit program provides guidance on this design aspect: "Improve water quality of storm water leaving the site through the use of: b. Installation of pre-settlement basins or mechanical storm water treatment units prior to discharge of storm water into primary detention basins" (USACE Regional Permit Program). The pond will be the site's primary detention basin and receives untreated drainage from I-94, and additional untreated drainage from the COSTCO (and ultimately, from the northern development). With the potential for large sediment, nutrient and toxicant loads, a pre-treatment basin is appropriate.
- f) It is our opinion that mitigation credit should not be given for the 0.75 acre of BMP for open water areas. The ADID pond already contains open water areas and the addition of these areas does not add aquatic habitat benefit.
- g) The proposed mitigation will result in loss of wetland resources in Lake County. Lake County's policy is no net loss of wetland area. This project utilizes an existing ADID pond, a waters of the U. S., as the mitigation area. Since no bathymetric survey accompanied the PN, we assume the excavated pond is becoming naturalized as a wetland area. Providing compensatory mitigation for filling an ADID wetland to provide a basin that will be used for stormwater management will result in wetland loss in Lake County. We recommend the applicant provide at least a 1:1 creation for impacted acreage, elsewhere on the site.
- h) The project impacts 0.71 acre of IWLC. For background information, SMC will not allow mitigation for IWLC impacts to occur in the ADID wetland/pond. The applicant will propose to purchase mitigation bank credits or some other means to meet the Lake County Watershed Development Ordinance (WDO) requirements.

3. Did COSTCO examine other sites within the local area as possible alternatives that would not require ADID wetland impacts in conformance with Section 404(b)(1) guidelines? If so, where were these sites located and why were they rejected?

4. The ADID study designated the wetland complex (ADID no. 128), including portions of the excavated pond, as having "High Quality Plant Community" and "Sediment/Toxicant Retention". The PN indicates that the current condition of the pond is poor, and "characterized by regular algal blooms, poor water quality, and limited wildlife habitat. What is the quantitative basis for determining that the water quality is poor? If true, why is the water quality poor at this time and on what basis is this determination made? Does the fact

that the plan does not pre-treat the water before discharge both from I-94 drainage and the COSTCO development contribute to better water quality in the proposed condition?

drainage and the COSTCO

5. **Threatened and Endangered Species:** The PN indicates that the USACE determined that the activity would not affect any **federally listed threatened or endangered species**. SMC participated in a field meeting with the USACE and **representative of the USFWS**. Did the USFWS provide a finding to the USACE concerning the impact of the project on listed species?

Joseph I. Hmieleski  
Senior Wetland Specialist  
Lake County Stormwater Management Commission  
333 Peterson Road  
Libertyville, IL 60048  
847/918-5273  
847/918-9826 (fax)