Public Notice

US Army Corps of Engineers
Philadelphia District

Public Notice No. CENAP-PL-E-16-01

Date: April 1, 2016
Comment Period Closes: May 1, 2016

Internet Homepage: http://www.nap.usace.army.mil

In Reply Refer to: Environmental Resources Branch

Upper Delaware River Watershed, Livingston Manor, New York
Flood Risk Management and Ecosystem Restoration
Draft Feasibility Report and Integrated Environmental Assessment

In accordance with Section 102 of the National Environmental Policy Act of 1969 and pursuant to Section 404 of the Clean Water Act of 1977, NOTICE IS HEREBY GIVEN that the Philadelphia District, U.S. Army Corps of Engineers (Corps) has evaluated flood risk management and associated ecosystem restoration projects to reduce the recurrence of frequent flooding and to restore and/or improve degraded fish and wildlife habitat within the community of Livingston Manor, New York. This evaluation provided a screening of structural and nonstructural measures that can be used to manage risks from riverine flooding, as well as an evaluation of potential associated ecosystem restoration opportunities along the river corridor. The public and all agencies are invited to comment on this study (see final page for instructions).

The New York Department of Environmental Conservation (NYSDEC), as the non-Federal Sponsor, and the U.S. Army Corps of Engineers (Corps) initiated the feasibility phase of the study on May 26, 2009. The purpose of the Livingston Manor Feasibility Study was to provide recommendations for future actions and programs to investigate potential flood risk management solutions and identify ecosystem restoration opportunities that could be implemented within the study area. The flood risk management and restoration opportunities included alternative solutions to reduce the recurrence of frequent flooding and to restore and/or improve degraded fish and wildlife habitat within the community of Livingston Manor. Restoration opportunities that contributed to the reduction of nuisance flooding were considered a high priority for this study since these opportunities could also provide incidental flood damage reduction in addition to ecosystem restoration benefits. A general study area location map is provided in Figures 1 and 2.

This feasibility report documents the initial planning and engineering efforts required to determine potentially implementable solutions that provide reduction in surface water levels during frequently recurring events, including erosion and sediment stabilization features that also provide ecosystem benefits through habitat improvements. The analysis for this report focused mainly on the Little Beaver Kill (LBK) Watershed, since this area historically experienced the most frequently recurring annual flood damages. The investigation of the problems and opportunities in the study area led to the establishment of the following planning objectives:

1) Reduce frequent flooding damages in the Livingston Manor area for at least the 20-year damage frequency by 2020.
2) Stabilize degraded stream channels in the Little Beaver Kill within Livingston Manor using sustainable design techniques.
3) Improve degraded riparian buffers with native vegetation by 2020.

Figure 1. General study area location map.

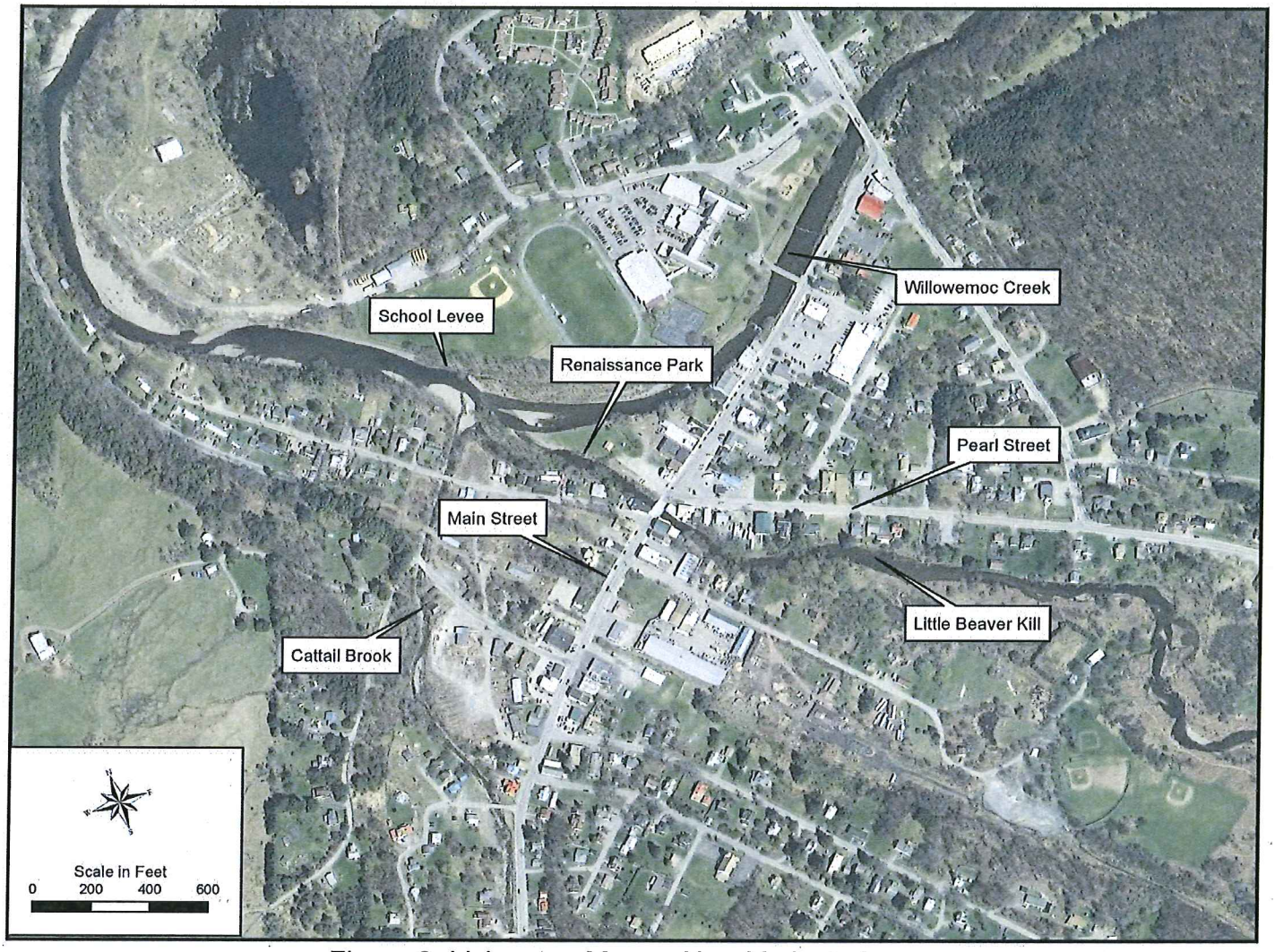

Figure 2. Livingston Manor, New York study area

A scoping letter soliciting input on the proposed project was sent to appropriate state and federal agencies, as well as other potentially interested parties in November 2009. The Corps will be responsible for the design and construction of the project; while the non-federal sponsor, NYSDEC, will be responsible for any future operation and maintenance of the project.

The Draft Feasibility Study and Integrated Environmental Assessment for the project has been forwarded to the U.S. Environmental Protection Agency (EPA), Region II; the U.S. Fish and Wildlife Service (FWS); the National Marine Fisheries Service (NMFS); the NYSDEC; the National Park Service (NPS); and all other known interested parties.

Alternative Plans Considered and the Recommended Plan

A wide range of measures were formulated to address the identified planning objectives and constraints. After the evaluation process was complete, a focused array of 10 feasible project alternatives were analyzed and compared. Findings relative to these alternatives are as follows: based on an evaluation of the various alternatives, including the environmental impacts, design elements, estimated costs, and flood reduction benefits, Plan "J" was determined to be the recommended plan. Plan "J" is composed of a widening of the Little Beaver Kill at the Main St. Bridge, installing a 4 foot x 10 foot box culvert at the Main St. Bridge, and stabilizing one mile of stream upstream from the Main St. Bridge to the old airport site. This plan has measurable flood

damage reduction benefits, as well as incidental benefits to the riparian buffer and stream function. Primary features of the recommended plan are shown in Figures 3 and 4.

Cost of Construction and Economic Feasibility

The Federal objective in water resources planning is to contribute to the National Economic Development (NED) consistent with protecting the Nation's environment, pursuant to national environmental statutes, applicable executive orders and other planning requirements. Accordingly, it was found that Plan "J" best meets the NED objective and therefore has been identified as the NED plan. In addition, Plan "J" provides significant ecosystem restoration benefits and contributes to the National Ecosystem Restoration (NER) Plan. Furthermore, Plan "J" has strong local support and in the opinion of the sponsor best meets the needs of the local community. Therefore, Plan "J" meets the acceptability criterion.

The economic results indicate a 2.29 benefit/cost ratio with $410,000 in annual net benefits to the Nation. In addition, this plan will have incidental environmental benefits by improving approximately 9 acres of riparian habitat (to insure stream stability) around the newly designed stream channel. Under Plan "J", annual damages from flooding should decrease by approximately $727,000. Furthermore, since trout fishing is a large component of the economy in the region and important to the culture of the region, Plan "J" provides essential flood risk management benefits desired by the local community, but done in a manner compatible with sustainable design techniques in support of trout stream habitat.

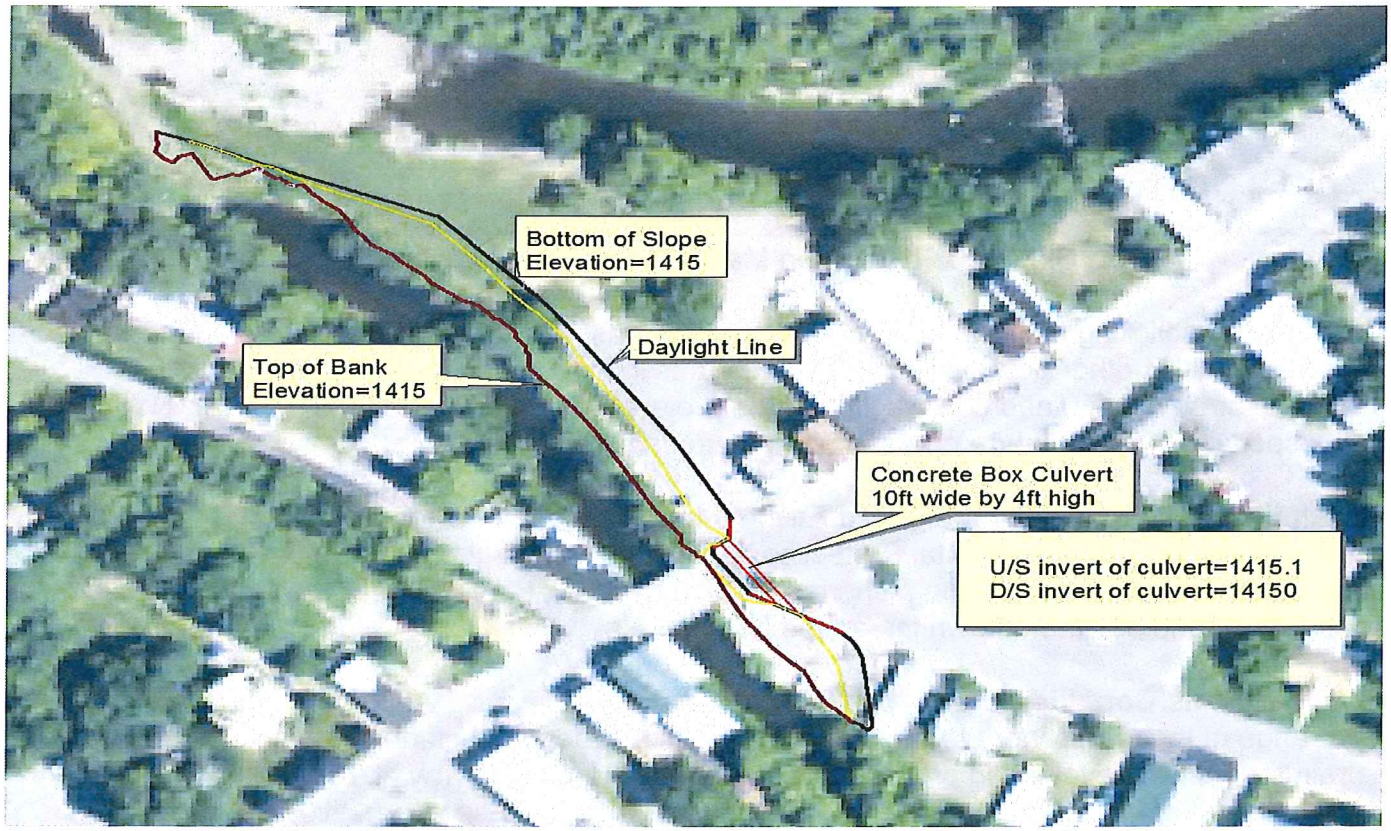

Figure 3. Floodway Expansion component of the recommended plan for Livingston Manor.

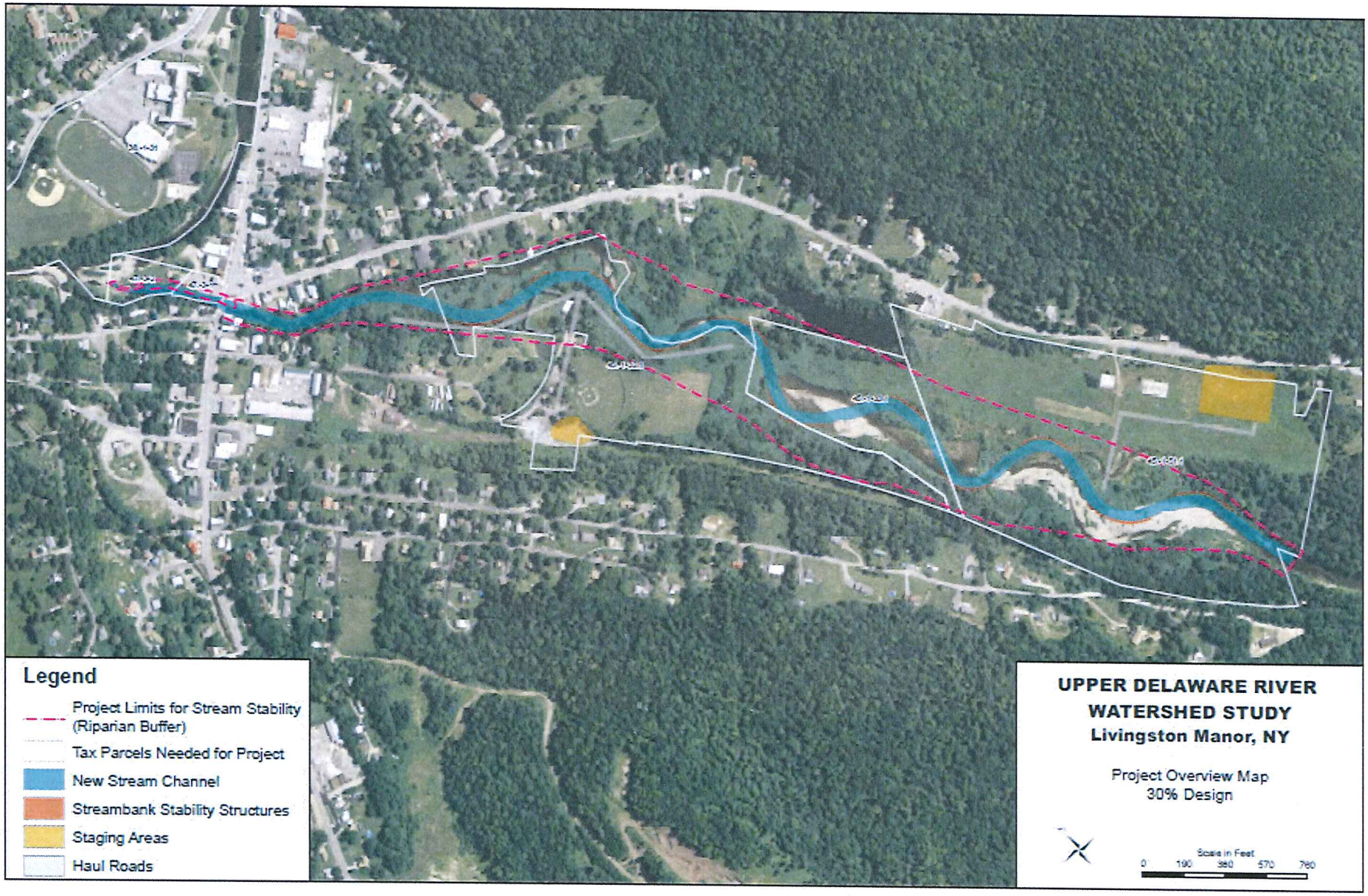

Figure 4. Overview of the recommended plan for Livingston Manor.

In accordance with the National Environmental Policy Act, a draft EA has been developed for this project. The EA concludes that the proposed action would not have a significant adverse impact on the environment. Therefore, a draft Finding of No Significant Impact has been prepared for this project.

Work in waters of the United States, including wetlands, must be in compliance with Section 401 of the Clean Water Act. The New York State Department of Environmental Conservation is responsible for issuance or waiver of the Section 401 State water quality certification for any work, which may affect water or waterways in the state through their Protection of Waters Regulatory Program. As a project partner, the Corps will work closely with the Department of Environmental Conservation to obtain necessary state approvals, including a Section 401 State Water Quality Certification prior to construction. Based on the information gathered during the preparation of the draft Environmental Assessment, the project is not located in the area defined under the Coastal Zone Management Act of 1972. Therefore, the project will not need a federal consistency determination in regard to the Coastal Zone Management Program of New York.

Coordination with various Federal and State natural resource agencies was conducted and is ongoing to identify any threatened and endangered species that may be utilizing the project area. Threatened and endangered species have been found in the projects regional area but not within the immediate project area. Bald Eagle (*Haliaeetus leucocephalus*) nests are found in the region and are at least 10 miles from the project site. Since the original USFWS coordination for the project, the Northern long-eared bat (*Myotis septentrionalis*) has been listed as a federally threatened species and is found within the project area and impacts to its habitat are possible. Additional informal consultation with the USFWS, Cortland, New York Field Office will determine if surveys are needed to determine the presence or absence of roosting trees in the study area. If so, these surveys will be completed in the next phase of the study. Furthermore, if trees suitable for roosting are found in the project area, seasonal restrictions on tree removal activities will be instituted during construction to minimize any impacts on federally listed bats. Pursuant to Section 7 of the Endangered Species Act of 1973 as amended by P.L. 96-159, consultation with the USFWS will be completed prior to finalizing the feasibility study. No significant negative impact to rare, threatened, and endangered species or their habitat is expected from the proposed action. Coordination under the Fish and Wildlife Coordination Act with the U.S. Fish and Wildlife Service is ongoing, and a final Section 2(b) letter will be received for this project.

In accordance with Section 404 of the Clean Water Act, a Section 404(b)(1) analysis was prepared for the proposed action. There are approximately 0.75 acres of wetlands found in the project area and the recommended plan will have a permanent impact on those areas. Attempts to avoid and minimize impacts to these wetlands were made; and, it is believed that unavoidable impacts will be offset by increased stream and riparian floodplain function along the 1 mile of stabilized stream segment of the project.

A Phase IA cultural resource investigation was conducted for the feasibility study in 2010. Ten alternatives were assessed during this investigation, and recommendations regarding the need for further analysis were provided. Additional above-and below-ground investigation are needed in order to determine effects to historic properties. The USACE, in consultation with the Tribes, the SHPO, and the non-federal sponsor developed and must execute a Programmatic Agreement in accordance with 36 CFR § 800.6 and § 800.14 (b)(1)(ii). A draft Programmatic Agreement (PA) was coordinated with the New York State Parks, Recreation & Historic Preservation Office, and the Tribes, consisting of the Delaware Tribe, the Delaware Nation, the Saint Regis Mohawk, the Stockbridge-Munsee Community of Mohican Indians, the Eastern Shawnee and the Oneida Nation in June of 2015.

Comments were received and incorporated into the final document, and the final PA will be sent out for execution in order for the Corps to comply with Section 106 of the National Historic Preservation Act during the Project Engineering and Design phase.

The decision whether to accomplish the work proposed in this public notice will be based on an evaluation of the probable impact of the proposed work on the public interest. The decision will reflect the national concern for the protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonable foreseeable detriments. All factors, which may be relevant to the proposal, will be considered. Among those are conservation, fish and wildlife, general environmental concerns, economics, historic values, recreation, safety, water quality, aesthetics, and in general, the needs and welfare of the people.

The public and all agencies are invited to comment on this proposal. This public notice and EA are also available for review on the Philadelphia District web page at:

http://www.nap.usace.army.mil/Missions/CivilWorks/PublicNoticesReports.aspx.

In addition, copies of the draft Feasibility Report and Integrated Environmental Assessment are available upon request by calling Mr. Steve Rochette of the Public Affairs Office at (215) 656-6432.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice **(April 1, 2016 through May 1, 2016)** that a public hearing / meeting be held to consider this proposal. Requests for a public hearing shall state, in detail, the reasons for holding a public hearing.

All comments on the work described in this public notice should be directed to Mr. Peter R. Blum, ATTN: Planning Division, U.S. Army Corps of Engineers, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390 or sent via email to PDPA-NAP@USACE.ARMY.MIL by **May 1, 2016**.

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