



Public Notice

**U.S. Army Corps
Of Engineers**

Galveston District

Permit Application No: SWG-2021-00571

Date Issued: 30 August 2022

Comments

Due: 30 September 2022

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

PURPOSE OF PUBLIC NOTICE: To inform you of a **MITIGATION BANK** proposal for work (PROSPECTUS) in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. The U.S. Army Corps of Engineers (Corps) is not the entity proposing or performing the proposed work, nor has the Corps taken a position, in favor or against the proposed work.

AUTHORITY: This application will be reviewed pursuant to Section 404 of the Clean Water Act.

APPLICANT: WILD HORSE CAPITAL, LLC/SAND HILL FARM MITIGATION BANK
12800 Northwest Freeway
Houston, Texas 77040
POC: Jerry Young
Telephone: 713-452-7775
Email: JYoung@mustangcat.com

AGENT: WILDWOOD ENVIRONMENTAL CREDIT COMPANY, LLC
P.O. Box 6602
Tyler, Texas 75711
POC: Cliff Sunda
Telephone: 903-579-9326
Email: cliff@wildwoodcredits.com

LOCATION: The project is 955 acres located along Live Oak Creek, approximately 7.0 miles south of Waller, Texas and along Penick Road and Hebert Road. The project can be located on the USGS quadrangle map entitled: Hockley Mound, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.94543° North; Longitude: 95.91707° West

PROJECT DESCRIPTION: The sponsor proposes the establishment and operation of a 955-acre mitigation bank named the Sand Hill Farm Mitigation Bank. The sponsor's plan is to re-establish approximately 228 acres of emergent wetlands, rehabilitate 15.4 acres of emergent and scrub-shrub wetlands and re-establish 12,400 linear feet of intermittent stream. The project work is being conducted within the Spring USGS Hydrologic Unit Code 12040102 to serve as compensatory mitigation for unavoidable, permitted impacts to waters of the United States. Sponsor has stated that the bank will not need diverted hydrology to maintain wetland hydrology parameters.

AVOIDANCE AND MINIMIZATION: The specific objectives of the project are to restore the physical, chemical, and biological characteristics of the site.

MITIGATION: The applicant proposes to construct a compensatory mitigation bank.

CURRENT SITE CONDITIONS: The project site is currently an undeveloped agricultural tract of land surrounded by more undeveloped agricultural land. The subject wetlands are adjacent to Live Oak Creek, a tributary to Spring Creek. There are six predominant vegetation communities present: row crop agriculture, hay pasture, livestock grazing pasture, fallow agricultural land, riparian corridor, and recently plowed agricultural fields.

Dominant vegetation across the site varies seasonally. The vegetation communities at the time of the delineation, are summarized below:

- The western portion (west of Penick Road) consists mostly of watermelon production on the north and south sides of Live Oak Creek. Watermelon fields contained other species that included hogwort (*Croton capitatus*), Bermudagrass (*Cynodon dactylon*), spiny amaranth (*Amaranthus spinosus*), and various other species. This portion of the site also contained recently plowed areas with little to no vegetation and a planted sunflower field.
- Much of the area adjacent to Live Oak Creek consists of forested and shrub-scrub riparian habitat dominated by an overstory of sugarberry (*Celtis laevigata*) and Chinese tallow (*Triadica sebifera*) and a mid/understory that includes Chinese privet (*Ligustrum sinense*), southern dewberry (*Rubus trivialis*), and poison ivy (*Toxicodendron radicans*).
- The northeastern portion of the site (east of Penick Rd and northeast of Live Oak Creek) is primarily dominated by Bermudagrass, hogwort, and deep-rooted sedge (*Cyperus entrerianus*). This area is used primarily for livestock grazing.
- The southeast portion of the site (east of Penick Rd and west of Live Oak Creek) is dominated by vine mesquite (*Panicum obtusum*) in the northern area (hay pasture), Bermudagrass in the southern area (hay pasture), and row crop corn field in the central area.
- The southeast portion of the site (east of Penick Rd and east of Live Oak Creek) is dominated by eastern baccharis (*Baccharis halimifolia*), deep-rooted sedge, southern dewberry, hogwort, annual marsh elder (*Iva annua*), and Bermudagrass. Wetter areas contained more coverage of Pennsylvania smartweed (*Polygonum pennsylvanicum*) and maidencane (*Panicum hemitomom*).

This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. As of the date of this Public Notice, the Corps has received but not yet finalized the verified the Wetland Delineation or the Functional Assessment. The applicant's prospectus and associated documents are enclosed in 73 sheets.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature. Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS:

The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management Program.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on Environmental Quality will review this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. The applicant has not yet reached out to the Texas Commission on Environmental Quality to initiate the Section 401 CWA process. If you have comments or questions on this proposed project's State water quality certification, please contact 401certs@tceq.texas.gov. You may also find information on the Section 401 process here: <https://www.epa.gov/cwa-401/basic-information-cwa-section-401-certification>.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist has not reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information relative to this proposed project. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties: The Texas Historic Sites Atlas indicates that no known sites have been identified within the project boundary. The project has been submitted to the Texas Historical Commission for official review through the Review and Compliance (eTRAC) system. The Texas Historical Commission concluded that no historic properties are present or affected by the project as proposed and was unable to complete a review of archeological resources at this time. The sponsor anticipates conducting a cultural resources survey of areas to be disturbed prior to submittal of the mitigation banking instrument.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps of Engineers may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: The purpose of a public hearing is to solicit additional information to assist in the evaluation of the proposed project. Prior to the close of the comment period, any person may make a written request for a public hearing, setting forth the particular reasons for the request. The District Engineer will determine if the reasons identified for holding a public hearing are sufficient to warrant that a public hearing be held. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **30 September 2022**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are**

no objections. Comments and requests for additional information should reference our file number, **SWG-2021-00571 Sand Hill Farm Mitigation Bank**, and should be submitted to:

Mitigation Banking Program
Regulatory Division, CESWG-RD-P
U.S. Army Corps of Engineers-SWG
2000 Fort Point Road
Galveston, Texas 77550
409-766-3869 Phone
409-766-6301 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS