



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
Ronald Rod

Published: October 7, 2025
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**Galveston District
Permit Application No. SWG-2020-00526**

TO WHOM IT MAY CONCERN: The Galveston District of the U.S. Army Corps of Engineers (Corps) has received a Prospectus from Mr. Ronald Rod to establish the proposed Bird Lake Mitigation Bank, as described below and shown in the enclosed figures.

A mitigation bank is a site where aquatic resources (e.g., wetlands and streams) are restored, established/created, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by the Corps under the authority of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. A mitigation bank sells credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. The purpose of this public notice is to solicit comments from the public regarding the proposed mitigation bank described below:

SPONSOR: Ronald Rod
11808 Old Oaks Lane
Conroe, Texas 77385

AGENT: Jim Herrington
Benchmark Ecological Services, Inc.
4219 South Front Street
Brookshire, Texas 77423

WATERWAY AND LOCATION: The project site is located along the West Fork San Jacinto River (West Fork). The project area is 3 miles SE of the intersection of Interstate 45 and State Highway 242; at Latitude 30.200183° and Longitude -95.397335°; near city of Conroe, in Montgomery County, Texas.

ACTIVITY: Mr. Ronald Rod, as Bank Sponsor, is proposing to develop a mitigation bank to generate credits to offset impacts to waters of the U.S.

BACKGROUND: The 2008 Final Rule for Compensatory Mitigation for Losses of Aquatic Resources (33 CFR Part 332) (Mitigation Rule) established criteria, standards, and defined requirements for the establishment and management of mitigation banks, in-lieu fee (ILF) programs, and Permittee-responsible mitigation to offset unavoidable impacts to waters of the United States authorized through the issuance of Department of the Army (DA) permits pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and/or Sections 9 or 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403). In addition, the Mitigation Rule established a public review process and timeline for the development of mitigation banks and ILF programs. This process includes the following: 1) public review and comment on the Prospectus and 2) Interagency Review Team (IRT) coordination on the Prospectus and the Mitigation Banking Instrument (MBI).

The SWG IRT is comprised of representatives from the United States (U.S.) Environmental Protection Agency (USEPA), the National Marine Fisheries Service (NMFS), the U.S. Department of Agriculture – Natural Resource Conservation Service (USDA-NRCS), the Texas Parks & Wildlife Department (TPWD), the Texas Commission on Environmental Quality (TCEQ), the Texas General Land Office (GLO), and the U.S. Army Corps of Engineers (Corps) represented by the Regulatory Division of the Galveston District.

PROPOSED MITIGATION BANK:

Objectives: The following is a list of objectives as described by the Sponsor:

- Drain pond and establish riverine herbaceous scrub /shrub (RHS)(PEM)(PSS) wetlands along the West Fork
- Restore damage that resulted from sand mining
- Establish approximately 34.74 acres of RHS wetlands
- Preserve 0.15 acres of forested wetlands

Existing Conditions: The proposed bank site (approximately 49 acres) is part of an approximately 248-acre tract of land that is owned by Mr. Ronald Rod and currently consists of an abandoned sand mine that was left with 10-foot-high, 4-sided levees to create a permanently ponded area. The site consists of an area of open water that drawdowns during dry periods and is subject to occasional overbank flooding from the West Fork. As a result of the mining operation, the pond was left with irregularly shaped bottoms. The ponded area consists of a sandy, gravelly bottom with water level fluctuations between 1 and 20 feet deep. Higher portions of the ponded areas can dry up during the summer months on a typical year.

Proposed Service Area: The proposed service area is based on eight-digit HUC's and the EPA, Level III Ecoregion. The proposed primary service area consists of the 8-digit HUC 12040101 in the South-Central Plains ecoregion. The proposed secondary service area consists of the 8-digit HUCCS that are contiguous with the primary service area and in the same ecoregion including portions of 12040102, 12040103, and 12040104. Impacts within the primary service area would be debited on a 1:1 basis and impacts in the secondary service area would be debited on a 1:1.5 basis.

Establishment, Operation and Management: The Sponsor proposes to establish approximately 34.74 acres of self-sustaining riverine herbaceous scrub/shrub (PEM, PSS) habitat on the bank site bound to the West Fork. Specifically, the Sponsor proposes to cut a spillway to drain the pond (H-002) and provide a more frequent connection to the West Fork during storm events. The spillway would be designed to have a wide flat control section and an exit channel to the West Fork. The spillway would be excavated approximately 10 feet deep and 30 feet wide to effectively drain the pond to the West Fork and may include a drawdown pipe under the cut spillway to effectively drain the entire site during construction. Approximately 1-1.5 foot of freeboard would be established by the cut spillway to facilitate seasonal ponding in the wetland. The excavated soil material would be pushed into the deeper areas of the drained pond to create a smooth planting bed. Composite soil testing would be conducted to determine soil amendments that may be needed prior to planting of wetland vegetation.

Ownership and Long-Term Management: The bank site is owned by the Sponsor. Bayou Lands Conservancy has provided a letter of intent to hold the Conservation Easement for the bank. The Prospectus identifies the Sponsor as the entity who will perform long-term management and maintenance.

Need of the Proposed Bank: According to the Sponsor's review of the RIBITS database (accessed 2/2025), it appears that only one mitigation bank, Tarkington Bayou, has a substantial number of riverine herbaceous scrub/shrub (PEM, PSS) wetland credits in the proposed service area. The Sponsor believes there is a need to develop additional in-kind mitigation credits for impacts to herbaceous scrub/shrub wetlands in the service area.

Ecological Suitability: The site was mined for sand and thus the elevation of the site was lowered approximately 10 feet and 4-sided levees were constructed around the pit to create the ponded area. The soils on the site are hydric and most of the area is ponded. Native hydrophytic vegetation is mostly absent due to extended periods of ponding. The site was originally densely forested by bottomland hardwood trees. After construction of the cut spillway, the resulting moisture regime is targeted to be ideally suited for establishment of primarily freshwater emergent vegetation. The site is largely located in the floodway of the West Fork and with the proposed spillway would have a direct connection to the West Fork during frequent hydroperiods.

Technical Feasibility and Qualifications: Mr. Ronald Rod and family own extensive landholdings in the Sleepy Hollow area of Montgomery County, Texas. Managing this land for several generations, Mr. Rod and family have gained expert knowledge of the hydrologic regimes of these properties including the bank site. Mr. Rod's agent, Jim Herrington, is a Professional Wetland Scientist with 30+ years of wetland regulatory experience and approximately 22 years of experience in this area of Montgomery County, Texas.

CULTURAL RESOURCES:

The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) utilizing its existing program-specific regulations and procedures along with 36 CFR Part 800. The Corps' program-specific procedures include 33 CFR 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. The District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

The permit area has been so extensively impacted by sand mining in the late 2000s and early 2010s that there is no potential for historic properties to exist within the permit area. Therefore, the proposed project has no potential to cause an effect to historic properties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur within the boundary of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project will not affect any listed species or critical habitat.

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: No water quality certification is required.

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

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel. The applicant's plans are enclosed in 14 sheets.

MITIGATION BANK APPROVAL AND PERMITTING PROCESSES: Mitigation requirements for a particular project are discussed between the project proponent and the Corps. The project proponent must first submit a compensatory mitigation proposal to the Corps describing the proposed use of a Mitigation Bank. Per the Mitigation Rule, preference is first given to use of Mitigation Banks over ILF Programs and Permittee-responsible mitigation types, as Bank credits are usually in place prior to the permitting of a proposed project.

As part of the process of establishing a Bank, the IRT would determine the types and number of potential Bank credits that may be generated. Upon meeting either administrative milestones (e.g., MBI completion, funding of long-term management) or performance-based milestones (e.g. iHGM/Stream Assessment Tool verification), potential credits then become released credits and are available for sale. The Corps will review the proposal to generate wetlands reestablishment, rehabilitation, enhancement, and preservation credits as well as upland buffer credits. All credit sales would be tracked and reported by the Bank Sponsor to the Corps at a minimum on an annual basis, and also uploaded to the Corps' Regulatory In-lieu Fee and Banking Information Tracking System (RIBITS) at <https://ribits.ops.usace.army.mil/>.

Evaluation: The Corps will review all comments received and make an initial evaluation as to the potential of the proposed mitigation bank to provide compensatory mitigation for impacts authorized by the Corps. Comments received in response to this notice will be provided to the Bank Sponsor and to the IRT. The IRT may include federal, state, local, and/or tribal representatives. The role of the IRT is to review documents for, and advise the Corps on, the establishment and management of mitigation banks.

If the Corps determines the proposed mitigation bank has the potential for providing appropriate compensatory mitigation, the Sponsor will prepare and submit a draft MBI. The instrument is the document governing the establishment, operation, and use of a mitigation bank. The Corps, in coordination with the IRT, will review the MBI and determine whether to approve the mitigation bank.

COMMENTS: The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to help inform the Corps and the IRT as to the overall merits of the proposed mitigation bank, the scope of the proposed mitigation bank, the delineation of the service area, the ecological suitability of the site to achieve the proposed objectives, and to identify project aspects that should be addressed during the development of a draft MBI. Any comments received will be considered by the Corps to determine whether the proposal has the potential to provide mitigation opportunities for project proponents (permittees) authorized to impact waters of the U.S. under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act or as a means of resolving Section 404 and/or Section 10 enforcement actions. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Additional details and project plans will be provided in the Prospectus, available online at <https://ribits.ops.usace.army.mil/>. Please use the following steps to navigate to the appropriate documents:

- In the left column under “Filter” select “USACE District” radio button and from the dropdown, select “Galveston”
- In the same left column under “Menu” select “Banks and Sites”
- Scroll down the alphabetized listing and click on the Bird Lake Mitigation Bank.
- Click on “[Cyber Repository]” located along the top of the banner underneath the frog image.
- Click on “Prospectus”
- Alternatively, a copy of the Prospectus may be requested from the Corps

The Galveston District will receive written comments on the proposed work, as outlined above, until November 5, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to the Regulatory Division at swg_public_notice@usace.army.mil. Alternatively, you may submit comments in writing to the Regulatory Division, U.S. Army Corps of Engineers, Galveston District, Attention: **SWG-2020-00526**, at 2000 Fort Point Road, Galveston, Texas 77550. Please refer to the permit application number **SWG-2020-00526** in your comments.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS