



Public Notice

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

Galveston District

Permit Application No: SWG-2020-00374

Date Issued: 30 August 2022

Comments

Due: 30 September 2022

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

PURPOSE OF PUBLIC NOTICE: To inform you of a **MITIGATION BANK** proposal for work (PROSPETUS) 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 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act.

APPLICANT: Delta Land Services, LLC. / Big Cow Creek Mitigation Bank
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Port Allen, LA 70767
POC: Mr. Winship Songy
Telephone 225-388-5187
Email: Winship@delatland-services.com

AGENT: Delta Land Services, LLC
6750 W. Loop South, Suite 780
Bellaire, Texas 77401
POC: Stephen Ross
Telephone 346-888-2776
Email: stephen@deltaland-services.com

LOCATION: The proposed bank is a 219.8-acre site. It is located adjacent to Big Cow Creek, approximately 0.5 mile southeast of the intersection of U.S. Hwy 190 and County Road 3005, and 2.5 miles west of the City of Newton in Newton County, Texas.

LATITUDE & LONGITUDE (NAD 83):

Parent Tract: Latitude: 30.843714 North; Longitude: -93.799292 West

PROJECT DESCRIPTION: Proposed Mitigation Bank Prospectus. The Sponsor proposes the establishment and operation of a **wetland / stream mitigation bank** to be named the Big Cow Creek Mitigation Bank. The Sponsor's plan is to re-establish 51.3 acres of forested wetlands. The bank will also rehabilitate an additional 28.2 acres of forested wetland. The bank will also preserve an additional 14.8 acres of forested wetland. The bank will also re-establish an additional 99.7 acres of upland buffer. The bank will also re-establish an additional 7,837 linear feet of stream and 24.6 acres of Riparian stream buffer. The bank will also preserve an additional 0.3 acre of stream and 0.9 acre of pond. The project work is being conducted within the Lower Sabine USGS Hydrologic Unit Code 12010005 to serve as compensatory mitigation for unavoidable, permitted impacts to waters of the United States.

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.

WATER RIGHTS ACQUISITION: The applicant has stated the project will not need diverted hydrology to be sustained in perpetuity.

CURRENT SITE CONDITIONS: The site was forested through the 1970's and then cleared sometime circa 1980. The Bank has been maintained as open land and used for cattle or hay production over the last 40 years. Natural topography within most of the Bank is slightly undulating and bisected with small streams and drainages. Water flows across the site generally from the west and northwest and drains toward Big Cow Creek.

The Bank is partially located in the floodplain of Big Cow Creek. The eastern and northeast portions are entirely included in FEMA designated flood zone A or 100-year floodplain of Big Cow Creek. The Bank consists of agricultural land (cattle grazing) with wetland and upland hardwood forests and wetland and upland herbaceous communities. Riverine forested wetlands occur within the Bank and are contiguous with adjacent bottomland hardwood forests along Big Cow Creek. The Bank is primarily open with remnant forested areas along drainages and side slope seeps.

Wetland herbaceous/shrub vegetation communities are present along the central north/south stream corridor and within the hillside seep wetland just west of this stream corridor on the slope grading into the floodplain. Wetland forests occur along Big Cow Creek and the tributaries along the southern boundary of the Bank.

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 and finalized the verification of the Wetland Delineation and the Functional Assessment. The applicant's prospectus and associated documents are enclosed in 241 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 CWA.

OTHER AGENCY AUTHORIZATIONS:

The applicant has stated the project has been coordinated with TPWD permitting; and does not have a TPWD regulated stream use or impact that would trigger a specific permitting component.

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

On August 31, 2021, the Galveston District Tribal Liaison notified the Alabama-Coushatta Tribe of Texas, Alabama-Quassarte Tribal Town, Apache Tribe of Oklahoma, Caddo Nation of Oklahoma, Choctaw Nation of Oklahoma, Coushatta Tribe of Louisiana, Delaware Nation, Jena Band of Choctaw Indians, Kiowa Indian Tribe of Oklahoma, Northern Arapaho Tribe, Tonkawa Tribe of Oklahoma, and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie) of the project and invited them to participate in consultation on this project.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist has 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 permit area is likely to contain terrestrial cultural resources that could be eligible for inclusion in the National Register of Historic Places. The applicant will need to conduct an investigation for historic properties.

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-2020-00374 Big Cow Creek MB**, and should be submitted to:

Mitigation Banking Program / Policy Branch
Regulatory Division
U.S. Army Corps of Engineers
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS