



Public Notice

US Army Corps
of Engineers
Fort Worth District

Applicant: XS Ranch Mitigation Bank

Permit Application No.: SWF-2008-00281

Date: February 15, 2013

The purpose of this public notice is to inform you of a proposal for work 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. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Mr. Brent Jasper

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PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

SUBJECT: This public notice is being issued to provide interested parties an opportunity to comment on a proposal to create the XS Ranch Mitigation Bank (XSRMB), a stream mitigation bank located in Bastrop County, Texas.

APPLICANT: XS Ranch Fund VI, L.P.
300 West Sixth Street, Suite 1810
Austin, Texas 78701

APPLICATION NUMBER: SWF-2008-00281

DATE ISSUED: February 15, 2013

LOCATION: The proposed XSRMB is located just north of the Colorado River, approximately six miles northwest of downtown Bastrop and approximately 23 miles east of Austin in Bastrop County, Texas (Figure 1). The proposed project would be located approximately at Latitude 30.1963 North and Longitude -97.3510 West on the Lake Bastrop U.S. Geological Survey 7.5 minute quadrangle (Figure 2), in the East Central Texas Plains Level III Ecoregion (Omernik 2004), the Lower Colorado River Basin, and the Lower Colorado-Cummins Watershed (HUC 12090301) (Figure 3).

PROJECT DESCRIPTION: The proposed XSRMB site consists of approximately 53,328 linear feet, or 10.1 miles, of perennial, intermittent and ephemeral stream channel and associated riparian corridor (Figure 4). The proposed 727-acre bank site is owned by XS Ranch Fund VI, L.P. (Figure 5).

A resource review and waters assessment identified approximately 53,328 linear feet (LF), or 10.1 miles, of perennial (13,206 LF), intermittent (31,458 LF), and ephemeral (8,664 LF) stream channel and associated riparian corridor located within the floodplain of Big Sandy Creek and its tributaries within the boundary of the bank. The majority of the bank, including the associated aquatic resources, is altered as a result of prior land uses, most notably an extensive cattle operation with its associated management practices. The bank area's vegetative composition is presently primarily bermudagrass (*Cynodon* sp.) pasture with few native grasses and forbs. Where riparian vegetation is present near the waterways, it is minimal and consists predominantly of black willow (*Salix nigra*), cedar elm (*Ulmus crassifolia*), hackberry (*Celtis laevigata*), and saw greenbrier (*Smilax bona-nox*), with some large cottonwood (*Populus deltoides*), American elm (*Ulmus americana*), and pecan (*Carya illinoensis*) trees present near Big Sandy Creek.

According to the Natural Resource Conservation Service (NRCS), soils within the bank are mapped as Patilo-Demona-Silstid association and Axtell-Tabor association (Figure 6). Patilo-Demona-Silstid association soils are characterized as gently sloping to strongly sloping, with a sandy surface layer and moderately slowly to moderately permeable lower layers, and are located on uplands. Axtell-Tabor association soils are characterized as nearly level to strongly sloping, with a loamy surface layer and very slowly permeable lower layers, and are located on stream terraces and uplands.

The proposed bank site offers the opportunity to rehabilitate a degraded aquatic resource, thereby improving water quality and aquatic habitat, resulting in a net gain to the aquatic resource function of the watershed. The primary goal of the proposed XSRMB is to produce a stable, functional stream corridor with a variety of resource types. The mitigation work proposed for the bank seeks to restore the natural, traditional condition of each individual resource type within the bank; in doing so, the resulting ecosystems would be functional and self-sustaining to the highest extent practicable. The restoration methods proposed for the project area include: 1) floodplain terrace restoration; 2) streambed stabilization; 3) bank protection; 4) grade control; and 5) vegetation restoration.

The primary service area proposed for the bank is the U.S. Geological Survey 8-digit hydrologic unit code (HUC) 12090301 Lower Colorado-Cummins. Counties within the primary service area are Austin, Bastrop, Caldwell, Colorado, Fayette, Lee, Travis, and Washington. The secondary service area proposed for the XSRMB is defined as any 8-digit HUC adjacent to the primary service area. The tertiary service area proposed for the XSRMB is defined as any 6-digit HUC adjacent to the secondary service area. See Figure 7 for the proposed service area for the project.

A mitigation banking instrument (MBI) would be developed in accordance with the Compensatory Mitigation for Losses of Aquatic Resources (CMLR), (Federal Register, Thursday, April 10, 2008, Vol. 73, No. 70, pp. 19594-19705). The MBI would detail the legal and physical characteristics of the bank and how the bank would be established and operated. Subjects addressed in detail in the MBI would include development of the site, service area, credit determination, financial assurances, scope of agreement, purpose and goals of the bank, baseline conditions, projected ecological lift, performance standards for enhancement activities, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of bank ownership or sponsorship. The USACE, United States Environmental Protection Agency (EPA), United States Fish and Wildlife Service (USFWS), Texas Commission on Environmental Quality (TCEQ), and Texas Parks and Wildlife Department (TPWD) comprise the Interagency Review Team (IRT), and would be involved in developing the MBI and may be signatories to the final document.

Implementation of the proposed mitigation bank would require Department of the Army Authorization under Section 404 of the Clean Water Act. Based on preliminary evaluation by the USACE, it appears that the proposed bank may be authorized by nationwide permit 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the latest USFWS and TPWD published versions of listed endangered and threatened species to determine if any may occur in the project area. The proposed bank site would be in Bastrop County where the Houston toad (*Bufo houstonensis*), Navasota ladies'-tresses (*Spiranthes parksii*), and whooping crane (*Grus americana*) are federally listed as endangered. The bald eagle (*Haliaeetus leucocephalus*) is documented to occur in Bastrop County, and is protected under the Bald and Golden Eagle Protection Act. Our initial review indicates that the proposed work would have no effects on any federally-listed endangered or threatened species or the bald eagle.

NATIONAL REGISTER OF HISTORIC PLACES: The proposed work takes place in an area that has been partially surveyed for the presence of historic and prehistoric sites in 2009. The XS Ranch was the site of historic (early 20th century) lignite mining around the Calvin Town Site. Most of the evidence of the town has been removed or been destroyed by restoration of the area for ranching. Some shallow depressions associated with the lignite mining pits remain. Structures associated with the modern ranching and agricultural use of the property remain extant. Prehistoric sites are also located within the project area.

The current plan for work will take place in areas that effect or potentially effect fourteen historic and prehistoric sites. Of these fourteen sites, thirteen are prehistoric sites that have been damaged by the historic uses of the property. At least three sites have historic and prehistoric components. The original location of the Calvin Town Site is also adjacent to the area proposed for modification. Additional survey will be required for portions of the area where sufficient information on sites has not been collected.

Of the fourteen sites within or adjacent to the proposed areas to be modified, only four have been formally determined ineligible for listing in the National Register of Historic Places (NRHP). Ten of the recorded sites will require determination of NRHP eligibility. The applicant plans to provide additional survey and assessment of the project area. Any sites identified by the pending work will also require assessment to eligibility to the NRHP. Sites found eligible for the NRHP will be subject to protection, avoidance, or mitigation measures.

FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to allow the public an opportunity to comment on this bank proposal and to assist the USACE and other members of the IRT in developing the final MBI. 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: 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 whether the issues raised are substantial and should be considered in his permit decision. 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 March 18, 2013, which is the close of the comment period. 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 be submitted to Mr. Brent Jasper; Regulatory Branch, CESWF-PER-R; U.S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1733. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
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