

# **Public Notice**

Applicant:	Enviromit, L.P.
Project No.: _	SWF-2012-00278
Date:	August 6, 2014

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. David Carraway

Phone Number: <u>(817) 886-1838</u>

#### 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 an approximately 258.78-acre wetland mitigation bank, to be known as the Cypress Slough Mitigation Bank (CSMB) located near the Town of Domino in northeastern Cass County, Texas.

APPLICANT: Mr. Jeremy Buechter Enviromit, L.P. 567 Bar M Ranch Road Kilgore, Texas 75662

APPLICATION NUMBER: SWF-2012-00278

DATE ISSUED: August 6, 2014

LOCATION: The proposed Cypress Slough Mitigation Bank (referred to, below, as "CSMB" or "project") involves approximately 374.35 acres within 3 separate land tracts located approximately 9.0 miles south of Texarkana, Texas, 6.5 miles north of Bloomburg, Texas, and approximately 3.5 miles east of Domino, Texas - within the northeastern extent of Cass County. The eastern boundary of the North Tract is only 0.5 miles west of the Arkansas state line (Miller County, Arkansas) with the primary access easement extending approximately 3.8 miles from State Highway 237 in Miller County, Arkansas. The northeastern extent of the project is only 1.1 miles south of the Sulphur River channel, situated downstream from Wright Patman Lake, with the northwestern corner of the North Tract located approximately 6.5 miles southeast of the dam/spillway structures. An extensive industrial facility is located northwest of the Proposed project, with the nearest waste water retention pond only 1,100 feet west of the North Tract boundary (see attached Figures following the text).

Three (3) separate land tracts totaling 374.35 acres are involved in the proposed project with the North Tract covering 162.25 acres, the Mid Tract covering 133.35 acres, and the South Tract covering 78.75 acres (Figure 1). The southern boundary of the Mid Tract and northern boundary of the South Tract are congruent (approximately 2,000 feet), while the southwestern corner of the North Tract is offset approximately 500 feet north of the northeastern corner of the Mid Tract (see attached figures). The approximate geographical center of the project (at the southwestern corner of the North Tract) is located at 33.2449129°N, -94.0571637°W (NAD83, decimal degrees) on the Bloomburg, Tex.-Ark. 7-5-minute United States Geological Survey (USGS) quadrangle map (1969). The northern half of the North Tract is located on the Domino, Tex.-Ark. 7-5-minute quadrangle map (1954, Photo-revised 1975). The project is located within the Lower Sulphur River Basin, Hydrologic Unit Code (HUC) 11140302, within the South Central Plains Eco-Region (see attached Figure 3).

PROJECT DESCRIPTION: Preliminary site investigations determined that the approximately 374.35-acre tract of land is comprised of approximately 258.78 acres of forested, scrub-shrub, and emergent wetlands (Figures 9 and 10). The wetlands exhibit hydrologic indicators including such examples as: water marks on trees, water-stained leaves, oxidized rhizospheres on living roots, drainage patterns, moss trim lines, crayfish burrows, surface water, high water table, and saturation. Sufficient hydrology for this wetland determination is established via positive indicators of hydrology data as discussed in the *Corps of Engineers Wetlands Delineation Manual*: *Atlantic and Gulf Coastal Plain Region (Version 2.0)*. The CSMB is traversed by Cypress Creek, Little Cypress Creek, Camp Creek, and Cypress Slough, which provide hydrological sources to wetland areas of CSMB. In addition, floodwater (backwater) from the Sulphur River via Wright Patman Reservoir releases provides seasonal inundation of the northern portions of the CSMB site.

The current habitat types on the CSMB site include cut-over harvested timberland with varying densities of trees/shrubs, cut-over harvested timberland with thin stands of mature hardwood/bald cypress trees, non-harvested riparian timberland with dense stands of bald cypress (*Taxodium distichum*), non-harvested timberland with dense stands of water elms (*Planera aquatica*), seasonally inundated wetlands with thin stands of mature bald cypress trees, and clear-cut harvested timberland. Existing vegetative cover is dominated by bald cypress swamp concentrated on riparian communities, with the vast majority of the North Tract and linear portions of the Mid Tract containing stands directly associated with seasonal inundation from Cypress Slough. The northeastern-central portion of the North Tract supports semi-open areas typically inundated for long durations, with sporadic groves of buttonbush (*Cephalanthus occidentalis*) grading to adjacent mature stands of water elm, which are surrounded by bald cypress stands. The Cypress Slough riparian is currently lacking tupelo gum (*Nyssa aquatica*).

The stands present opportunity for enhancement, with the addition of bottomland hardwoods (specifically tupelo gum in riparian settings) proposed to increase the diversity of composition (low species richness, lack of interspersion, or strata overlap). Clear-cut harvested portions of the North Tract and Mid Tract were previously dominated by overcup oak (*Quercus lyrata*). These communities were clear-cut harvested (circa August to December 2007); and, opportunities for restoration of bottomland hardwoods are available.

The bank sponsor plans to increase the species diversity of the bottomland hardwood communities with the addition of water oak (*Quercus nigra*), willow oak (*Quercus phellos*), and tupelo gum (*Nyssa aquatica*) and/or blackgum components (*Nyssa sylvatica*). Natural regeneration of overcup oak (*Quercus lyrata*) is expected from the extensive seed/acorn source from the previous stand, although this species may be planted if IRT approved. Slightly elevated and/or undulating portions and the entire peripheral acreage of the clearcut harvested areas are posed for additional mast producing species, including but not limited to shumard oak (*Quercus shumardii*), cherrybark oak (*Quercus pagoda*), nuttall oak (*Quercus texana*), swamp chestnut oak (*Quercus michauxii*), bur oak (*Quercus macrocarpa*), and bottomland post oak (*Quercus similis*). Soft mass species, such as common persimmon (*Diospyros virginiana*), Mexican plum (*Prunus*)

mexicana), Chickasaw plum (*Prunus angustifolia*), roughleaf dogwood (*Cornus drummondii*), deciduous holly (*Ilex decidua*), mayhaw (*Crataegus spp.*), and other suitable hawthorns (*Crataegus spp.*) will be planted to increase plant strata overlap, interspersion, and species richness. Lower elevated portions of the undulations will be supplemented with swamp privet (*Forestiera acuminata*), buttonbush (*Cephalanthus occidentalis*), rattlebush (*Sesbania drummondii*), alder (*Alnus serrulata*), and mayhaw (*Crataegus spp.*). Non-native invasive plants, such as Chinese tallowtree (*Sapium sebiferum*), will be spot treated with herbicide as necessary. These and other methods will be implemented in both restored forested habitats and enhanced wetlands. Any woody regeneration that is not considered in line with the planting regime may be addressed physically, chemically and/or via any combination of suitable control practices to ensure survival of the planted species.

Seasonally inundated portions of the Mid and South Tracts are located on soils mapped as Cypress clay loam, submerged and Ashford clay, 0-1% slopes, ponded. Seasonally inundated portions of the North Tract are located on soils primarily mapped as Gladewater clay, frequently flooded.

The primary service area for the CSMB is proposed to serve the Lower Sulphur hydrologic cataloguing unit (HUC) 11140302. The CSMB proposes the secondary service area include the McKinney-Posten Bayous HUC 11140201, the Caddo Lake HUC 11140306, and the Cross Bayou HUC 11140304. The CSMB proposes the tertiary service area include the White Oak Bayou HUC 11140303 and the Sulphur Headwaters HUC 11140301 in Texas. The proposed primary, secondary, and tertiary Service Areas proposed for the CSMB are shown on Figure 3.

A mitigation banking instrument (MBI) would be developed in accordance with *Compensatory Mitigation for Losses of Aquatic Resources* (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, performance standards for enhancement activities, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of bank ownership or sponsorship. The U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Texas Commission on Environmental Quality, Railroad Commission of Texas, and Texas Parks and Wildlife Department, who comprise the Interagency Review Team (IRT), would be involved in developing the MBI and may be signatories to the final document.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in Cass County where the Louisiana Black Bear (*Ursus americanus luteolus*) is federally listed as a threatened species. In addition, the bald eagle (*Haliaeetus leucocephalus*) is listed as Federally Delisted Taxon that is being monitored. Our initial review indicates that the proposed work would have no effect on any federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The area of the proposed mitigation bank has never been formally surveyed for the presence of historic or prehistoric cultural resources. Due to this, no sites eligible for, or listed in, the National Register of Historic Places are known to be present. Based on cultural resources work from Wright Patman Lake and other areas on the Sulphur River drainage, the presence of multiple historic and prehistoric occupations is possible. Historic and prehistoric sites may be present in the area, as well as sites associated with the Caddo Tribe of Oklahoma. Aspects of the proposed work on the mitigation bank have the potential to impact these resources.

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 September 5, 2014, 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. David Carraway; Regulatory Branch, CESWF-DE-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) 886-1838. 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 CORPS OF ENGINEERS



















