



PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

BUILDING STRONG®

Availability of Prospectus: Soquel Canyon Mitigation Bank

Public Notice/Application No.: SPL-2011-00261-SLP

Program: Soquel Canyon Mitigation Bank

Comment Period: July 13, 2012, 2012 to August 12, 2012

Project Manager: Shannon Pankratz; 213-452-3412; Shannon.L.Pankratz@usace.army.mil

Bank Sponsor

Tracey Brownfield
Land Veritas, Corp.
1001 Bridgeway No. 246
Sausalito, California 94965

Location

The mitigation bank service area would encompass the following watersheds:

- Santa Ana River (Counties of Los Angeles, San Bernardino, and Orange) (HUC 18070203)
- Lower Los Angeles River (County of Los Angeles) (HUC 1807010504)
- San Gabriel River (Counties of Los Angeles, San Bernardino, and Orange) (HUC 18070106)
- Bolsa Chica Channel (County of Orange) (HUC 1807020100)
- San Diego Creek (County of Orange) (HUC 1807020401)

Activity

To establish the Soquel Canyon Mitigation Bank ("Bank") pursuant to the requirements of the Corps-EPA Compensatory Mitigation Rule¹ (33 CFR 332.8(d)) ("Mitigation Rule") within the city of Chino Hills, San Bernardino County and an unincorporated area of Orange County (see attached map). For more information see pages 2-4 of this notice. Supporting documents are available online or at the address below.

Interested parties are hereby notified that a Prospectus has been received in order to authorize a mitigation bank for the purpose of mitigating impacts to waters of the United States authorized, or enforcement actions resolved, under section 404 of the Clean Water Act. Interested parties are invited to provide their comments on the proposed authorization of this Bank, which will become a part of the record and will be considered as part of this proposal.

¹ The mitigation rule was promulgated by the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency at 33 C.F.R. Part 332 and 40 C.F.R. Part 230, respectively.

Comments should be mailed to:

U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
Attn: Shannon Pankratz, Project Manager
915 Wilshire Boulevard
Los Angeles, California 90017

Alternatively, comments can be sent electronically to: Shannon.L.Pankratz@usace.army.mil.

Background

Land Veritas, Corp. (“Sponsor”) is a conservation real estate company involved with the preservation and restoration of sensitive habitats throughout California.

The Sponsor has submitted a Prospectus to the Corps for the establishment of the Soquel Canyon Mitigation Bank. If authorized, this Bank would receive monies from individuals or entities (“project proponent”) receiving Corps authorization under section 404 of the Clean Water Act and, when appropriate, to provide compensatory mitigation credit as part of Section 404 enforcement actions within the proposed service area (see attached map). Additionally, the proposed mitigation bank may be utilized to offset environmental losses to aquatic resources resulting from unavoidable impacts related to regulated activities by the California Department of Fish and Game, Los Angeles Regional Water Quality Control Board, and the Santa Ana Regional Water Quality Control Board.

The Mitigation Rule established a process and defined requirements for the establishment and management of mitigation banks, in-lieu fee agreements and permittee-responsible mitigation (33 CFR 332). In addition, the Rule established a public review process and timeline for the development of mitigation banks and in-lieu fee agreements. This mitigation bank development process will include the following: 1) public review and comment on the Prospectus, 2) Interagency Review Team (IRT)² coordination on the Prospectus and the Bank Enabling Instrument (BEI), 3) development of a mitigation credit production approach and credit release schedule, 4) long-term site protection and management measures, 5) financial assurances estimation approach.

The 313 acre Soquel Canyon Mitigation Bank site would be located on upper Soquel Creek in the city of Chino Hills, abutting the northern boundary of the Chino Hills State Park. Due to its location in the Santa Ana River and San Gabriel River watersheds, its adjacency to the Chino Hills State Park, the presence of onsite habitat, and the presence of approximately 37,000 linear feet (lf) of ephemeral (0.63 acre, 24,984 lf), intermittent (0.71 acre, 8,521 lf), and perennial streams (0.79 acre, 3,525 lf) onsite, the property is being considered as a mitigation bank.

Mitigation Approval and Permitting Processes

Mitigation requirements for a particular project are negotiated between the project proponent and the Corps. The project proponent must therefore first submit a compensatory mitigation proposal to the Corps that describes the proposed use of an In-Lieu Fee (ILF) Program or Mitigation Bank. Per

² The Interagency Review Team (IRT) consists of member Agencies, and may include U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, California Department of Fish and Game, and the Regional Water Quality Control Board(s).

the Mitigation Rule, preference is first given to use of Mitigation Banks over In-Lieu Fee Programs and Permittee-based mitigation types, as Bank credits are usually in place prior to the permitting of a proposed project.

A Mitigation Bank contains wetlands, streams and/or other aquatic resources that have been restored, established, enhanced, or preserved. The Bank area is then utilized to compensate for future impacts to aquatic resources resulting from permitted activities. The value of a Bank is determined by quantifying the aquatic resource functions restored, established, enhanced, and/or preserved in terms of "credits." If appropriate credits are available at a Mitigation Bank located within the service area, and the Corps determines that the Bank is the most appropriate approach to mitigation implementation, then the project proponent would contact the Bank sponsor to discuss mitigation options. The Bank sponsor would review copies of all permits issued to the project proponent and then submit a proposal to the project proponent, including the estimated cost of the proposed mitigation work. Prior to acceptance of payment ("credit sale"), the Bank sponsor would also contact the Corps in order to verify the Corps' compensatory mitigation requirements.

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., BEI completion, funding of long-term management endowment) or performance-based milestones (e.g., 1-year, 3-year, 5-year conditional assessments), potential credits then become released credits and are available for sale. The sponsor proposes to generate habitat establishment, restoration, enhancement and preservation credits, including stream, riparian, oak woodland, coastal sage scrub, chaparral credits and potential future credits for federally-listed threatened and endangered species. In addition to the final IRT approvals of the Bank Prospectus and BEI, the sponsor would also need to obtain the appropriate federal, state, and local permits required to implement the Bank restoration activities. The Bank sponsor would submit an application for Corps permit(s)³ should the proposed bank mitigation activities involve a discharge of dredge or fill material within waters of the U.S. The Corps would complete consultation, if appropriate, under the Endangered Species Act, the National Historic Preservation Act and other applicable laws, prior to any permit authorization.

Bank funds would be held in a Bank account, and 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).

To ensure permanent protection of the Bank mitigation site, in coordination with the Corps, the Bank sponsor would secure phased, in-perpetuity conservation easements, to be recorded at the appropriate County's Registry of Deeds following Corps approval. Each phased conservation easement, as required by the Mitigation Rule, would be recorded by the Bank sponsor prior to the release of any Bank credits for the respective phase area. An endowment would be provided by the Bank sponsor to a third party, non-profit, conservation entity that would manage the bank once all Bank credits have been sold.

To ensure a high level of confidence that the Sponsor's Mitigation Plan⁴ would be successfully completed in accordance with applicable mitigation performance standards, the Bank sponsor in coordination with the Corps would secure sufficient financial assurances following Corps approval. Examples of acceptable financial assurances include performance bonds, letters of credit, escrow accounts, and casualty insurance.

³ The proposed mitigation activities may also require separate approvals from the Regional Water Quality Control Board and California Department of Fish and Game.

⁴ The content of a complete Mitigation Plan is described in the Mitigation Rule, at 33 CFR 332.4(c)(2-14).

The Corps 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 and benefits of the proposed Bank. Any comments received will be considered by the Corps to determine whether the proposal has the potential to provide mitigation opportunities for permittees authorized to impact waters of the U.S. under section 404 of the Clean Water Act or as a means of resolving Section 404 enforcement actions.

Additional details are provided in the Prospectus, available online at the following link: <http://www.slideshare.net/timrdegraff/soquel-canyon-mitigation-bank-final-prospectus>. The Prospectus is also available at the Corps' Los Angeles office at the address above.

For additional information please contact Shannon Pankratz of my staff via phone at 213-452-3412 or via e-mail at Shannon.L.Pankratz@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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