



SPECIAL PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

BUILDING STRONG®

APPLICATION FOR ESTABLISHMENT OF A MITIGATION BANK Brook Forest Conservation/Mitigation Bank

Public Notice/Application No.: SPL-2012-00055-RJV

Project: Brook Forest Conservation/Mitigation Bank

Comment Period: October 29, 2012 – November 28, 2012

Project Manager: Richard J. Van Sant III; (760) 602-4837; Richard.J.Vansant@usace.army.mil

Applicant/Mitigation Bank Sponsor

Michael Crews Development II
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(760) 749-1919

Contact

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Location

The proposed Brook Forest Conservation/Mitigation Bank is located within and adjacent to Moosa Creek, immediately south of Betsworth Avenue and east of Frace Lane, in the community of Valley Center, in unincorporated San Diego County, California (Latitude: 33.220, Longitude: -117.051, Figures 1 and 5).

Activity

The proposed activity is the establishment of a mitigation bank for the purposes of providing compensatory mitigation for Department of the Army (DA) permits that impact waters of the United States (U.S.).

Interested parties are hereby notified that a prospectus has been received for a proposed mitigation bank for compensatory mitigation for DA permits. Interested parties are invited to provide their views on the proposed prospectus, which will become a part of the record and will be considered in the decision to authorize or not authorize the proposed mitigation bank. Comments should be mailed to:

U.S. Army Corps of Engineers
Regulatory Division
South Coast Branch, Carlsbad Field Office
Attn: Richard J. Van Sant III
6010 Hidden Valley Road, Suite 105
Carlsbad, California 92011

Alternatively, comments can be sent electronically to: Richard.J.Vansant@usace.army.mil

Evaluation Factors

The decision whether to authorize the proposed mitigation bank will be based on an evaluation of the probable impact, 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 benefit 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 including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the Environmental Protection Agency (EPA) Guidelines (40 Code of Federal Regulations [CFR] 230) as required by Section 404 (b)(1) of the Clean Water Act (CWA).

The U.S. Army Corps of Engineers (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 of this proposed activity. The District Engineer (DE) will review the comments received in response to this notice and make a written initial evaluation as to the potential of the proposed mitigation bank to provide compensatory mitigation. 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, if applicable, of an Environmental 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. In addition, all comments will be distributed to the members of the Interagency Review Team (IRT) and the sponsor within 15 days of the close of the comment period. The DE and the IRT members will also have the opportunity to comment to the sponsor. After considering comments from the DE, the IRT, and the public, the bank sponsor will prepare a draft instrument and submit it to the DE.

Background

On April 10, 2008, the Corps and the EPA published the Final Rule on Compensatory Mitigation for Losses of Aquatic Resources ("Mitigation Rule"), which went into effect June 9, 2008. The rule replaced most previous guidance concerning compensatory mitigation.

Consistent with the requirements of the rule at 33 CFR 332.8(d), the bank sponsor has submitted a prospectus to the Corps for the purpose of establishing and managing a mitigation bank

consistent with the Mitigation Rule. The Corps seeks comments from interested parties on the prospectus. This public notice provides a summary of the mitigation bank prospectus submitted by the applicant. The full prospectus may be obtained from the Corps by contacting Richard J. Van Sant III at Richard.J.Vansant@usace.army.mil or (760) 602-4837 or by accessing the Corps' Regulatory In-lieu Fee and Bank Information System (RIBITS) website at <http://geo.usace.army.mil/ribits/index.html> (enter website, filter view to Los Angeles District, click on "Existing Banks & ILF Sites," click on "Brook Forest Conservation/Mitigation Bank," click on "Cyber Repository" in top right corner.)

Objectives

The primary objective of the proposed mitigation bank would be to replace functions and services of aquatic resources and associated habitats that have been degraded or destroyed as a result of activities conducted in compliance or in violation of Section 404 of the CWA. The proposed mitigation bank would provide mitigation for both permanent and temporary impacts to waters of the U.S. In addition, the proposed mitigation bank may be used to offset environmental losses resulting from unavoidable impacts related to regulated activities by the California Department of Fish and Game and the San Diego Regional Water Quality Control Board. Specific objectives include:

1. Establishing/re-establishing approximately 20 acres of federal and state wetlands and approximately 4 acres of state-only wetlands.
2. Restoring self-sustaining fluvial processes.
3. Improving and expanding the existing riparian habitat and restoring the historic riparian floodway. Habitat expansion would provide potential habitat for endangered and threatened species, including the least Bell's vireo (*Vireo bellii pusillus*) and possibly the southwestern willow flycatcher (*Empidonax traillii extimus*).
4. Improving the channel design to accommodate current and future flood flows.
5. Preserving existing habitat on site including Diegan coastal sage scrub, southern coast live oak riparian forest, southern willow scrub, mafic southern mixed chaparral, and native and non-native grassland.
6. Recording a biological conservation easement over the entire project site.
7. Permanently managing and maintaining the site to ensure it retains appropriate functions and services and funding a non-wasting endowment to finance the long-term management.

Service Area

The proposed service area for the proposed mitigation bank is located within the following Hydrologic Unit Code (HUC) 10 watersheds: San Onofre Creek-Frontal Gulf of Santa Catalina; Lower Temecula Creek, San Margarita River; Lower San Luis Rey, Middle San Luis Rey, Upper San Luis Rey; San Marcos Creek - Frontal Gulf of Santa Catalina, and Escondido Creek.

Establishment and Operation of the Program

The proposed mitigation bank property site consists of 226 acres of land located within the following San Diego County Assessor Parcel Numbers (APNs): 186-210-70, 185-274-08, 186-061-01, 186-061-02, 186-061-03, 186-210-02, 186-210-18. The site currently supports approximately 16.1 acres of coastal sage scrub, 65 acres of non-native grassland, 18.9 acres of southern coast live oak riparian forest, 20 acres of open Engelmann oak woodland, 6.3 acres of southern willow scrub, 57.7 acres of mafic southern mixed chaparral, 8.3 acres of disturbed mafic southern mixed chaparral, 5.2 acres of native grassland, 7.3 acres of disturbed habitat, 20.9 acres of active dry-farm agriculture lands, and 0.3 acre of disturbed wetlands. The mitigation bank sponsor is proposing to establish/re-

establish (and sell mitigation credits for) 20 acres of federal/state wetlands and 4 acres of state only wetlands. To create these wetland areas, approximately 1-3 feet of sediment would be excavated from the existing agriculture lands, 0.3 acre of disturbed wetland, and 2.8 acres of non-native grassland. Due to extensive agriculture on the site for many decades the land adjacent to Moosa Creek has been significantly disturbed and the natural topography and flood patterns significantly altered. The grading activities would attempt to re-create the site conditions prior to any disturbance. The excavated materials would be placed in disturbed upland areas on site. The upland habitats will be conserved and credits sold through an upland conservation bank. The 7.3 acres of existing disturbed habitat will be converted to non-native grassland (Figure 3 – Conceptual Grading Plan, Figure 4 – Vegetation Map, Figure 10 – Cross Section).

The proposed mitigation bank property is currently owned by the mitigation bank sponsor, Michael Crews Development II. The bank sponsor will retain fee title and ownership of the property and will place a biological conservation easement over the property. Emerald Crest Conservancy is currently proposed to hold the conservation easement. The bank sponsor will contract the long-term maintenance and management duties through an IRT-approved land manager to conserve the land in perpetuity. A non-wasting endowment will be set up to ensure sufficient funding for long-term maintenance and management activities. MKT Advisors is proposed to hold the endowment.

Qualifications of the Sponsor

The mitigation bank sponsor has no previous mitigation bank implementation experience; however, they have contracted with biological and regulatory consulting companies that have been involved in other conservation/mitigation banks, including the Red Mountain Conservation Bank, the Elfin Forest Recreation Reserve, and the Miller Valley Ranch Conservation/Mitigation Bank. The mitigation bank will be managed by an IRT-approved habitat manager.

For additional information please contact Richard J. Van Sant III at Richard.J.Vansant@usace.army.mil or at (760) 602-4837. This public notice is issued by the Chief, Regulatory Division.



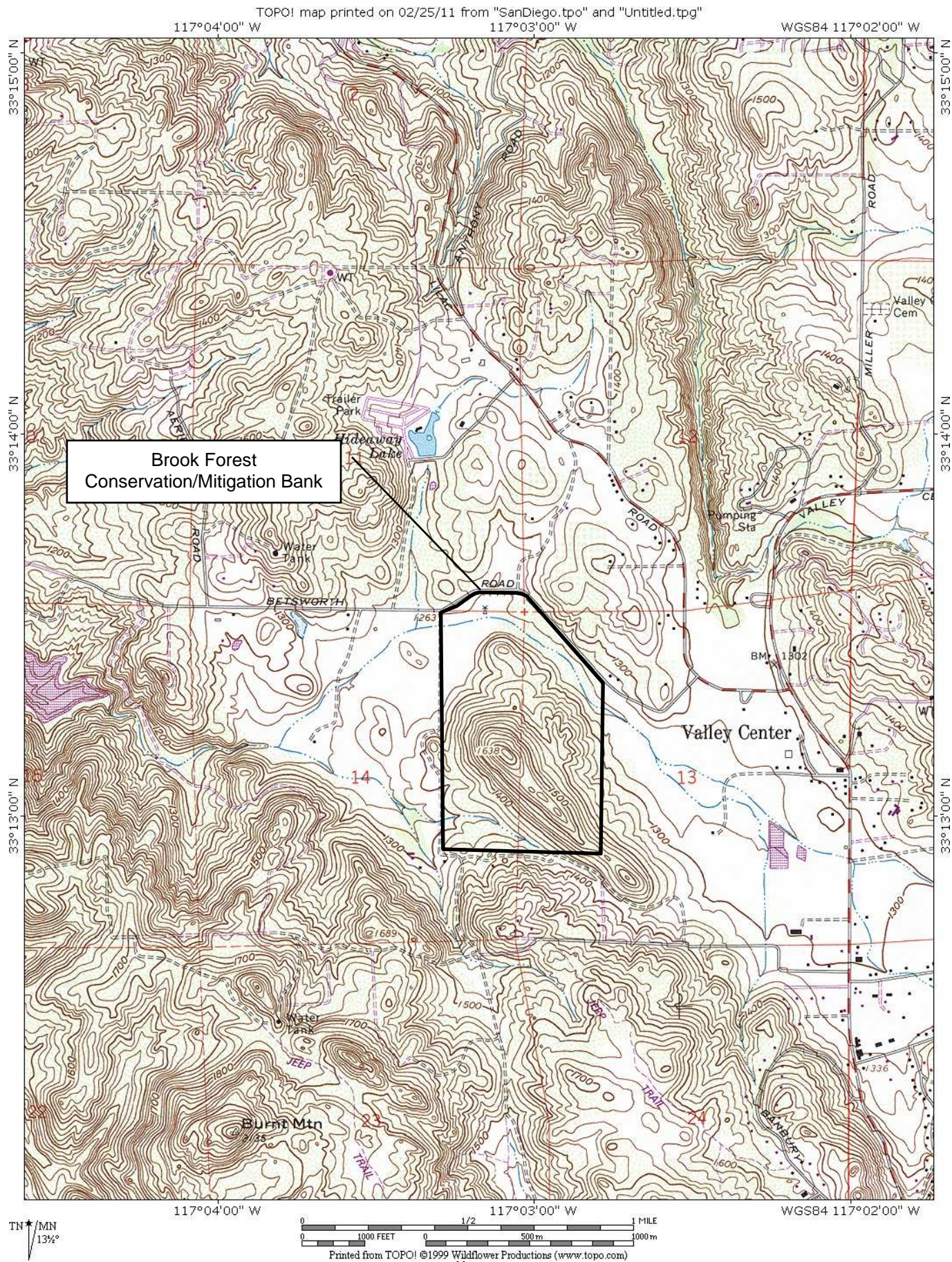
Regulatory Program Goals:

- 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.

U.S. ARMY CORPS OF ENGINEERS – LOS ANGELES DISTRICT

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**Figure 1. Regional Location – Brook Forest Conservation/Mitigation Bank
Portion of U.S.G.S. “Valley Center, California” 7.5’ Quadrangle Map**



1"=600'



AERIAL PHOTO

Figure 5

Source: Google Maps, 2012

BROOK FOREST MITIGATION BANK SERVICE AREA

