



# PUBLIC NOTICE

**US Army Corps  
of Engineers®**  
Albuquerque District

**Application Number: SPA-2021-00329**

**Date: October 18, 2021**

**Comments Due: November 17, 2021**

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**SUBJECT:** The U.S. Army Corps of Engineers, Albuquerque District (Corps), is evaluating a prospectus for the establishment of the Gunnison Headwaters Mitigation Bank (GHMB), which would result in the reestablishment, enhancement, and preservation of approximately 180 acres of waters of the United States, including wetlands, in the Porphyry Creek-Tomichi Creek watershed. If authorized, this mitigation bank would receive money from individuals or entities receiving authorization under Section 404 of the Clean Water Act of 1972, when appropriate, to provide compensatory mitigation credit as part of Section 404 permits or enforcement actions within the proposed service area. This notice is to inform interested parties of the proposed activity and to solicit comments.

**APPLICANT:** SCP Conservation, LLC c/o Mr. Gray Stevens, 1030 3rd Avenue S, Suite 304, Naples, FL 34102, [gstevens@sandycp.com](mailto:gstevens@sandycp.com)

**AUTHORITY:** This prospectus is being evaluated under the Mitigation Rule at 33 Code of Federal Regulations (CFR) Part 332.

**LOCATION:** The 620-acre project site is located on Tomichi Creek in Sections 9 and 16, Township 48 North, Range 5 East, New Mexico Principal Meridian, centered near Latitude 38.416560°, Longitude -106.413969°, and is bisected by U.S. Highway 50, approximately 0.5 mile north of the unincorporated community of Sargents, Saguache County, Colorado.

**PROJECT DESCRIPTION:** The prospective sponsor proposes to establish an approximately 620-acre mitigation bank on public lands managed by the Colorado State Land Board. The submittal identifies aquatic resources in need of restoration, enhancement and preservation, and conceptual design includes actions to increase/sustain aquatic resource functions/services, including: (1) reestablishment of 73 acres of wetlands, (2) enhancement of 103 acres of existing wetlands, (3) enhancement and preservation of 11,088 linear feet of Tomichi Creek and 1,859 linear feet of Agate Creek, and (4) enhancement of a 203-acre buffer to aquatic resources. The attached prospectus provides additional project details. Supporting documents are available online at the Corps' Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS) website: [https://ribits.ops.usace.army.mil/ords/f?p=107:10:::P10\\_BANK\\_ID:6181](https://ribits.ops.usace.army.mil/ords/f?p=107:10:::P10_BANK_ID:6181).

**SERVICE AREA:** The Geographic Service Area for the GHMB is proposed as the 7,923-square-mile Gunnison Basin (6-digit Hydrologic Unit Code 140200), which includes the Tomichi, Upper Gunnison, Lower Gunnison, North Fork Gunnison, Uncompahgre, and East Taylor watershed subbasins.

**ADDITIONAL INFORMATION/BACKGROUND:**

**Authority:** 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. In addition, the Mitigation Rule established a public review process and timeline for the development of mitigation banks and in-lieu fee agreements.

**Background:** 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 credits. Prior to acceptance of payment (“credit sale”), the bank sponsor would also contact the Corps in order to verify the Corps’ compensatory mitigation requirements.

**Mitigation Approval and Permitting Processes:** As part of the process of establishing a bank, the Corps will organize an interagency review team (IRT) to evaluate and determine the types and number of potential bank credits that may be generated. Upon meeting either administrative milestones (e.g., Banking Enabling Instrument (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. 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) should the proposed bank mitigation activities involve a discharge of dredge or fill material within waters of the United States. 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 an account for the bank, and all credit sales would be tracked and reported by the bank sponsor to the IRT on an annual basis at a minimum and also uploaded to RIBITS.

To ensure permanent protection of the bank site, in coordination with the IRT, the bank sponsor would secure an in-perpetuity conservation easement and/or fee title transfer. An endowment would be provided by the bank sponsor to a third-party, non-profit conservation entity that would

fund long-term management of the bank property.

To ensure a high level of confidence that the bank would be successfully completed in accordance with applicable mitigation performance standards, the bank sponsor in coordination with the IRT, would secure sufficient and appropriate financial assurances.

**CONSIDERATION OF COMMENTS:** The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to help inform the Corps and the IRT as to the overall merits of the proposed bank, the scope of the proposed mitigation bank, the delineation of the service area, the ecological suitability of the individual sites to achieve wetlands restoration, and to identify project aspects that should be addressed during the development of a draft BEI. Any comments received will be considered by the Corps to determine whether the proposal has the potential to provide mitigation opportunities for project proponents (permittees) authorized to impact waters of the United States under Section 404 of the Clean Water Act or as a means of resolving Section 404 enforcement actions.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before November 17, 2021, 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. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Comments and requests for additional information should be submitted to:

Travis Morse, Senior Project Manager  
U.S. Army Corps of Engineers, Albuquerque District  
400 Rood Avenue, Room 224  
Grand Junction, CO 81501  
970-243-1199 x1014  
Email: [w.travis.morse@usace.army.mil](mailto:w.travis.morse@usace.army.mil)

Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available through the Freedom of Information Act.

DISTRICT ENGINEER  
ALBUQUERQUE DISTRICT  
CORPS OF ENGINEERS

Enclosure