



PUBLIC NOTICE

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

Application Number: SPA-2023-00443

Date: March 1, 2024

Comments Due: March 31, 2024

SUBJECT: The U.S. Army Corps of Engineers, Albuquerque District (Corps), is evaluating a prospectus for the establishment of Phase-1 of the Stonewall Springs Wetland Mitigation Bank (SSWMB), which would result in the establishment, enhancement, and preservation of a total of approximately 101.45-acres of waters of the United States within the Upper Arkansas watershed (Hydrologic Unit Code [HUC]-8, No. 11020002). If authorized, this mitigation bank would enter into financial transactions with 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 Clean Water Act 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. The final prospectus for the proposed SSWMB titled, *Prospectus for Stonewall Springs Wetland Mitigation Bank Pueblo County, Colorado*, dated December 11, 2023, is included as an attachment to this public notice.

APPLICANT (SPONSOR): Stonewall Springs Quarry, LLC, Attn: Mr. Mark Moley, 20 Boulder Crescent, Suite 200, Colorado Springs, CO 80903.

AGENT: Bristlecone Ecology, Attn: Dan Maynard, 2023 W. Scott Place, Denver, CO, 80211.

AUTHORITY: This prospectus is being evaluated under the Compensatory Mitigation For Losses Of Aquatic Resources at 33 Code of Federal Regulations (CFR) Part 332 (2008 Final Mitigation Rule).

LOCATION: The 329.94-acre property is located approximately 7.85-miles east of the city of Pueblo, Colorado and south of State Highway 96, adjacent to the Arkansas River in portions of Sections 1, 2, 35, & 36, Township 21 & 20 South, Range 63 West; centered at approximately Latitude 38.256774°, Longitude -104.409314°; Pueblo County Parcel No.'s 1301000027, 1302000053, 1302000002, 1302000035, & 335000019; Pueblo County, Colorado.

PROJECT DESCRIPTION: The prospective Sponsor proposes to establish an approximately 101.45-acre mitigation bank on lands owned by the sponsor. The final prospectus identifies aquatic resources in need of restoration, enhancement and preservation, and conceptual design includes actions to increase/sustain aquatic resource functions/services. Additionally, the final

prospectus provides proposed credit estimates for each restoration type. See Table 1 below:

Table 1

Area/Mitigation Type	Acres	Proposed Credit Ratio	Proposed Credit Estimate
Establishment			
Open Water Establishment	0.94	2:1	0.47
Palustrine Emergent Wetland Establishment	45.01	1.5:1	30.01
Scrub-Shrub Wetland Establishment	22.57	1:1	22.57
Riparian Buffer Establishment	3.10	3:1	1.03
Total	71.62		54.08
Enhancement			
Scrub-Shrub Wetland Enhancement	2.97	4:1	0.74
Forested Wetland Enhancement	0.84	3:1	0.28
Riparian Buffer Enhancement	23.69	5:1	4.74
Total	27.5		5.76
Preservation			
Riverine Wetland Preservation	2.03	5:1	0.41
Riparian Buffer Preservation	0.30	10:1	0.03
Total	2.33	--	0.44
Grand Total	101.45	--	60.28

The attached final prospectus provides additional project details.

SERVICE AREA: The proposed geographic service area for the SSWMB would encompass the entirety of Bent County, Crowley County, Otero County, Pueblo County, and portions of Custer County, El Paso County, Fremont County, Baca County, Cheyenne County, Elbert County, Kiowa County, Lincoln County, Prowers County, Park County, Huerfano County, Las Animas County, and Teller County. The proposed service area was determined by the Sponsor based on two factors, the boundaries of the Southwest Tablelands Level III Ecoregion and the 6-digit Hydrologic Unit Code (HUC) watershed in which the bank would be located. A detailed map depicting the proposed geographic service area can be found in Figures 3 and 4 of the attached final prospectus.

ADDITIONAL INFORMATION/BACKGROUND:

Authority: The 2008 Final 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 2008 Final 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 Department of Army permits pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and/or sections 9 or 10 of the

Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403). 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 which has a service area encompassing the applicant’s project area, and the Corps determines the bank is the most appropriate approach to fulfill the requirements of compensatory mitigation, then the project proponent would contact the bank sponsor to discuss purchase of mitigation bank credits. The description above summarizes the general process of the use of mitigation bank credits for fulfillment of 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), composed of a Corps representative and representatives from outside state or federal agencies, to evaluate and determine the types and number of potential bank credits that may be generated. To ensure a high level of confidence that the bank would be successfully completed in accordance with applicable mitigation performance standards, the Corps would require the Sponsor to secure sufficient and appropriate financial assurances. In addition to the final IRT approvals of the bank prospectus and mitigation bank instrument (MBI), the sponsor would also need to obtain the appropriate federal, state, and local permits required to implement the bank restoration activities. Should the mitigation bank activities involve a discharge of dredge or fill material within waters of the United States, the bank sponsor would submit an application for a Corps permit(s) prior to commencement of the project.

All credit sales would be tracked and reported by the bank sponsor to the Corps on an annual basis. Debiting and crediting of wetland credits would also be reflected in the Corps’ Regulatory In-Lieu and Bank Information Tracking System (RIBITS) website.

To ensure permanent protection of the bank site, the Corps would require the Sponsor to secure a legal site protection (e.g., conservation easement). The Corps would also require the Sponsor to identify a third-party, non-profit conservation entity that would fund long-term management of the bank property.

HISTORIC PROPERTIES: To assist with the Corps’ consultation obligations under Section 106 of the National Historic Preservation Act (NHPA), the Sponsor’s Agent, Bristlecone Ecology, conducted a Class I file search of the area of potential effect (APE) utilizing the Colorado Office of Archaeology and Historic Preservation (OAHP) website request system. The OAHP provided the file search results on March 14, 2023 (OAHP File Search No. 25253). File search results indicate two (2) previous surveys have taken place within the APE and no previously documented cultural resources are located in the APE. The Corps defined the APE as the entire 329.94-acre property the proposed mitigation bank is located within. Almost the entire APE has been disturbed by historic sand and gravel mining. The Corps will consult with the State Historic Preservation Officer in accordance with Section 106 of the NHPA, if applicable.

ENDANGERED SPECIES: The Corps has reviewed the U.S. Fish and Wildlife Service's latest published version of federally listed endangered and threatened species located in Pueblo County, Colorado. The Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*) and Greenback Cutthroat Trout (*Oncorhynchus clarkii stomias*) were identified as having a range that

encompasses the action area. The Corp's action area is the entire 329.94-acre property the proposed mitigation bank is located within. The Corps has not yet made a determination of effects to listed. The Corps will initiate consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act, if applicable.

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 MBI. Any comments received will be considered by the Corps to determine whether the proposal has the potential to provide mitigation opportunities for project proponents (i.e., permittees) authorized to impact waters of the United States under Section 404 of the Clean Water Act, Sections 9 or 10 of the Rivers and Harbors Act of 1899, or as a means of resolving Clean Water Act Section 404 enforcement actions.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **March 31, 2024**, 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:

U.S. Army Corps of Engineers, Albuquerque District
Regulatory Division-Southern Colorado Branch
Attn: Mr. Daniel Delgado, Senior Regulatory Project Manager
201 West 8th Street, Suite 350
Pueblo, CO 81003
(719) 543-9459 Ext. 1
Daniel.i.Delgado@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

Enclosures