



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
450 Golden Gate Ave., 4th Floor
San Francisco, CA 94102-3406

PUBLIC NOTICE

Availability of Prospectus: Kelly Farm Mitigation Bank

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PUBLIC NOTICE DATE: February 16, 2021

COMMENTS DUE DATE: March 14, 2021

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1. **INTRODUCTION:** The City of Santa Rosa (Sponsor) (POC: Tanya Mokvyts, 69 Stony Circle, Santa Rosa, CA 95401, 707-543-3958, tmokvyts@srcity.org), through their agents GHD (POC: Kristine Gaspar, 2235 Mercury Way, Suite 150, Santa Rosa, CA, 707-523-1010, kristine.gaspar@ghd.com) and Vollmar Natural Lands Consulting (POC: Eric Smith, 2401 Capitol Avenue, Suite 301, Sacramento, CA 95816, 916-758-6928, esmith@vollmarconsulting.com), has submitted a Prospectus to the U.S. Army Corps of Engineers (Corps), and other members of the Interagency Review Team¹ (IRT) for the establishment of the Kelly Farm Mitigation Bank. If authorized, this mitigation bank would receive money from individuals or entities (“project proponent”) receiving Corps 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. Additionally, the proposed mitigation bank may be utilized to offset unavoidable impacts to waters of the State that are regulated by the Regional Water Quality Control Board under Section 401 of the Clean Water Act or Section 13260 of the Porter-Cologne Act.

2. PROPOSED MITIGATION BANK:

Activity: To establish the Kelly Farm Mitigation Bank (Bank) pursuant to the requirements of the Corps-EPA Compensatory Mitigation Rule² (33 CFR 332.8(d)) (Mitigation Rule). Supporting documents are available online at the Corps’ Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS) website:

¹ The 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).

https://ribits.ops.usace.army.mil/ords/f?p=107:278:5297742607149::NO::P278_BANK_ID:5787

Bank Location: The Bank is located at approximately 5300 Occidental Road, southeast of the intersection of Occidental Road and Hepworth Road, in an area annexed into the City of Santa Rosa, Sonoma County California. The site is located within Section 30, Township 7 North, Range 8 West, Sebastopol 7.5 minute USGS quadrangle, centered at approximately 38.4215° latitude and -122.8007° longitude.

Bank Site Description: The approximately 100-acre Bank site appears to have historically encompassed complexes of vernal pools interspersed with valley oak savanna, but has been managed as a hay farm since the 1970s. It has been repeatedly disked and planted, fertilized with manure, and irrigated with treated recycled water. Surrounding land uses vary from single family homes, agricultural uses, and minor rural development.

Based on a Corps Approved Jurisdictional Determination, the Bank site contains 9.341 acres of non-jurisdictional wetlands, and 0.297 acre of non-jurisdictional other waters.

Bank Description: As shown in the Prospectus, the Sponsor is proposing to restore historical structure and associated functions to the degraded wetland/vernal pool ecosystem. To accomplish this, grading combined with changes to vegetation management, and seed introduction would be conducted to re-establish and/or rehabilitate lost and degraded wetlands.

² 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.

Service Area: The proposed service area for vernal pool credits covers the Santa Rosa Plain as defined in the “Northern California Aquatic Resource Inventory (NCARI): Santa Rosa Plain WRAMP GIS Data.”

3. ADDITIONAL INFORMATION/BACKGROUND:

Mitigation Rule: 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 Mitigation 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, but is not limited to, the following: 1) public review and comment on the Prospectus, 2) IRT 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, and 5) financial assurances estimation approach.

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 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 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.

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. 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 U.S. or work or structures within navigable 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 an account for the Bank, and all credit sales would be tracked and reported by the Bank sponsor to the IRT at a minimum on an annual basis, 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.

4. 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 U.S. under Section 404 of the Clean Water Act or as a means of resolving Section 404 enforcement actions.

5. SUBMITTING COMMENTS: 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.

As stated above, additional details and project plans are provided in the Prospectus, available online through RIBITS at the following link: https://ribits.ops.usace.army.mil/ords/f?p=107:278:5297742607149::NO::P278_BANK_ID:5787

Additionally, these documents are also available at the Corps' San Francisco District Office at the address below and may be reviewed by appointment. However, due to the on-going COVID-19 public health emergency, delays in scheduling an appointment should be expected.

During the specified comment period, interested parties may submit written comments to Bryan Matsumoto, San Francisco District, Regulatory Division, 450 Golden Gate Avenue, 4th Floor, Room 1111, San Francisco, California 94102-3404, or by email cited in the public notice letterhead; comments should cite the Bank name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Regulatory Project Manager by telephone or email. An electronic version of this public notice may be viewed under the *Public Notices* tab on the USACE website: <https://www.spn.usace.army.mil/Missions/Regulatory/Public-Notices/>.