



**US Army Corps
of Engineers**®
San Francisco District

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SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: Elsie Gridley Mitigation Bank, Proposed Amendment to the Bank Enabling Instrument

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COMMENTS DUE DATE: July 13, 2024

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1. INTRODUCTION:

The Bank Sponsor, Wetland Resources, LLC, has applied to amend the Bank Enabling Instrument (BEI) for the Elsie Gridley Mitigation Bank to allow for and guide restoration activities generating mitigation credits within the "Phase 4" (Pasture 6) area of the bank, and to incorporate language, procedures, and templates into the instrument for a sale of credits without a transfer. The mitigation bank was established in 2006 and was amended in 2012 and 2022.

2. PROPOSED PROJECT:

Project Site Location: Phase 4 consists of the northern 323 acres of the existing 1,814-acre mitigation bank. Phase 4 is located in the northern portion of the bank property, east of Rio Dixon Road and south of Brown Road, Solano County, California; Latitude 38.303293°, Longitude -121.809687° (Figures 1 & 2).

Project Site Description: The majority of the Phase 4 project area was undisturbed until 1958. By 1974, extensive ground disturbance resulting from

agricultural conversion had occurred, and most of the natural vernal pool landscape was gone. This converted farmland may have initially been used for dryland farming or hay production, but in recent decades and up to the present, its sole use has been pastureland for livestock. The existing annual grassland species assemblage within the Phase 4 project area likely developed and expanded as a result of agricultural leveling of the land to remove the historic vernal pool/swale and mound-intermound topography.

The Phase 4 project area exhibits a series of level terraces and slopes from west to east. A historic railroad right-of-way bisects the bank from the southwest to northeast and runs along the eastern boundary of the Phase 4 project area. The elevation on the Phase 4 project area is approximately 15 feet North American Vertical Datum of 1988 (NAVD88). The Phase 4 project area is bounded by Ulatis Creek in the northeast and Alamo Creek through the central portion of the bank. However, neither of these waterways are within the boundaries of the Phase 4 project area. These waterways are channelized and

owned, managed, and maintained as flood control channels by Solano County Water Agency.

Water drains onto the Phase 4 project area from the north through culverts under Brown Road into onsite agricultural drainage ditches. However, these drainages do not provide hydrology to the 2.37 acres of existing preserved vernal pools and vernal marsh wetlands. These aquatic resources are sustained from primarily direct precipitation.

Habitats which could support occurrence of California tiger salamander (*Ambystoma californiense*, CTS), Delta green ground beetle (*Elaphrus viridis*), vernal pool tadpole shrimp (*Lepidurus packardii*), vernal pool fairy shrimp (*Branchinecta lynchi*), and Conservancy fairy shrimp (*Branchinecta conservatio*) are present within the Phase 4 project area. These habitats may be temporarily and/or permanently affected by the proposed restoration activities. Vernal pool tadpole shrimp have been observed in six existing vernal pools within the Phase 4 project area. Vernal pool fairy shrimp, Conservancy fairy shrimp, and Delta green ground beetle have not been documented within the Phase 4 project area. Additionally, although the Phase 4 project area has not been systematically surveyed for CTS, this species has been observed in reference pools adjacent to the Phase 4 project area. Therefore, it is assumed that CTS utilize and may be present within existing vernal pool and/or upland habitat in the Phase 4 project area.

Based on information provided by the Sponsor, a Department of the Army permit would not be required for the proposed restoration activities.

Project Description: The restoration plan for the Phase 4 project includes grading and contouring of the site that would result in reestablishment of 84.11 acres of vernal pools/alkali playa pools and 42.63 acres of seasonal wetland swale/alkali mesic grassland (Figure 3). 2.17 acres of the reestablished seasonal wetland swale/alkali mesic grassland would not be used as mitigation bank credits to account for the loss of an equivalent acreage of agricultural drainages due to project implementation. In total, the

restored habitats would generate 84.11 vernal pool reestablishment credits and 40.46 seasonal wetland reestablishment credits at the bank. The reestablished seasonal wetlands, although no longer providing species credits, would continue to serve as upland habitat for federally-listed species during drier months. The Phase 4 project area also includes 2.37 acres of existing preserved vernal pools and vernal marsh wetlands that would be avoided and would continue to be preserved.

The area that would be impacted by the proposed restoration was previously credited as CTS upland and movement / Swainson's hawk (*Buteo swainsoni*; SWHA) and burrowing owl (*Athene cunicularia*; BUOW) grassland foraging (CTS/SWHA/BUOW upland). As part of the Phase 4 project, 126.57 acres of existing CTS/SWHA/BUOW upland habitat would be permanently converted to wetland habitat types, and an equivalent amount of CTS/SWHA/BUOW upland credits would be deducted from the bank ledger. 40.46 seasonal wetland reestablishment and 84.11 vernal pool reestablishment credits would be added to the ledger. The remaining 2.17-acre difference between the credits to be deducted and those to be added consist of the previously mentioned existing agricultural drainage channels (currently credited as CTS/SWHA/BUOW upland), which would be converted to seasonal wetland but would not be credited.

The intent of the Phase 4 project is to restore a more natural landform to the project area that resembles the vernal pool landscape historically present at the bank property. The conceptual restoration design is based on reference sites, current site conditions, historic imagery, and a water budget model developed for the Phase 4 project. The Phase 4 project has been designed to restore degraded areas where natural wetlands were historically removed, while preserving existing sensitive aquatic habitat. This includes removing agricultural drainages that were installed to alter hydrology for agricultural production and incorporating mound-intermound topography as important upland features of vernal pool landscapes.

From a hydrologic and hydraulic perspective, regrading of the landscape and reformation of the pools and swales on the site would result in water hydrating the A and B horizon soils to provide habitat for aquatic species during the wet months of the year. The soils within the Phase 4 area are predominantly Solano-Pescadero soils consistent with what is found throughout the greater mitigation bank site. The soils found at the Elsie Gridley Mitigation Bank have some of the lowest water moisture requirements in the region to begin substantial ponding, and the site has the potential to support larger, deeper pools. Thus, it is anticipated that the reestablishment of a complex topography within the Phase 4 project area would lead to longer ponding in vernal pools after rain events. Reestablished vernal pools would be connected hydrologically through reestablished wetland swales. The depth and side slopes of the vernal pools would support vernal pool vegetation and the swales would be graded to pond and retain soil moisture during the wet season and function as upland habitat in the dry season. Alkali playa pools would be reestablished as the lowest points in the Phase 4 project area and the upland slopes built up around them to create deeper habitat suitable for CTS breeding. The upland areas surrounding the alkali playa pools would be gently sloped to create alkali mesic grassland habitat. The elevation of these upland areas would be contoured to support seasonal ponding during the wet season and upland habitat in the dry season.

The proposed landscape grading would delineate the project area into nine distinct subwatersheds, each contoured to gently slope towards the anticipated vernal pools and playa pools. These delineations adhere to the site's historic drainage patterns.

The design would ensure that both watershed runoff and direct precipitation find their way into the reestablished pools. The interconnected network of swales would serve as the conduit through which these pools interact, ultimately allowing water to drain towards the playa pools. The playa pools would be the gravitational focal points and lowest features within each subwatershed.

Mound-intermound topography would be reestablished throughout the Phase 4 project area to provide high-quality burrowing habitat that can support fossorial mammals and by association, CTS burrow usage. These uplands would mimic habitat historically present at the site and throughout the region.

Seed collected from vernal pools and alkali playa pools on other portions of the bank site would be used to seed these habitat types in the Phase 4 project area. Appropriate seed types may be propagated or purchased off-site if a sufficient amount of collected seed is unavailable. Seed would be distributed prior to or concurrent with the onset of the rainy season. If enough seed is not available the same year that construction is finished, additional seeding may be performed in the fall one to two years later. Seed would be distributed by hand-spreading or mechanical raking. Organic tackifier and/or water spraying may be used to increase adhesion of the seed to the soil.

The Phase 4 vernal pool service area is proposed to remain unmodified from the approved vernal pool service area detailed in the current executed BEI as amended (Figure 4). The Phase 4 seasonal wetland service area boundary is proposed to be defined by the following county boundaries and roadways (Figure 5):

- Solano County watersheds draining to Suisun Marsh and the Sacramento-San Joaquin Delta; western boundary follows the Suisun Bay HUC-8;
- Eastern Contra Costa County watersheds draining to the Sacramento-San Joaquin Delta; western boundary follows the Lower Sacramento HUC-8;
- Northeastern Alameda County watersheds draining to the Sacramento-San Joaquin Delta and north of Interstate 580 and Interstate 205; southwestern boundary follows the San Joaquin Delta HUC-8;
- Western San Joaquin County watersheds draining to the Sacramento-San Joaquin Delta. North of Interstate 205 and then westerly of a line defined extending from the junction of Interstate 205 and

Interstate 5 north along Interstate 5 to State Highway 4, easterly along Highway 4 to Highway 99, north along Highway 99 to Highway 88, northeasterly along Highway 88 to Highway 12 where it runs parallel then north to the Middle River-San Joaquin River and Bear Creek HUC-10 boundaries;

- Western Sacramento County watersheds draining to the Sacramento-San Joaquin Delta; eastern boundaries include the Morrison Creek and American River HUC-10s;
- Southern Yolo County watersheds draining to the Sacramento River and Sacramento-San Joaquin Delta; northern boundaries include the Lower Cache Creek HUC-10, the South Fork Willow Slough HUC-10, and a portion of the Hungry Hollow Canal.

The associated bank location and service area maps provide additional details. A copy of the Sponsor's Development Plan and Interim Management Plan, Elsie Gridley Mitigation Bank, Phase 4 Project, dated September 2023 is available online at the following location:

https://ribits.ops.usace.army.mil/ords/f?p=107:278:1070629013698:::P278_BANK_ID:5117

Project Impacts: Grading required to construct features within Phase 4 would result in the discharge of fill material within approximately 2.17 acres of agricultural drainages.

Proposed Mitigation: The proposed project would reestablish wetland features within Phase 4 of the bank to compensate for impacts at other approved projects. Although no mitigation is required for the grading required for Phase 4, 2.17 acres of reestablished seasonal wetland swale/alkali mesic grassland would not be credited to account for the loss of an equivalent acreage of agricultural drainages.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

The Interagency Review Team responsible for the review and approval of the proposed mitigation bank includes representatives from the Corps, U.S. Environmental Protection Agency, U.S. Fish and

Wildlife Service, California Department of Fish and Wildlife, State Water Resources Control Board, Central Valley Regional Water Quality Control Board, and San Francisco Bay Regional Water Quality Control Board.

Endangered Species Act (ESA): Restoration activities that would occur as a result of the proposed BEI amendment may affect federally-listed endangered or threatened species. Although there is designated critical habitat for CTS and Delta green ground beetle on portions of the bank property, there is no critical habitat within the Phase 4 project area. The Corps will initiate consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act, as appropriate.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Restoration activities would not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Restoration activities would not occur in sanctuary waters and do not require authorization under Section 302 of the MPRSA of 1972, as amended (16 U.S.C. Â§ 1432 *et seq.*).

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. Â§ 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic

Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments.

notice may be viewed under the *Public Notices* tab on the USACE website: <https://www.spn.usace.army.mil/Missions/Regulatory>

4. CONSIDERATION OF COMMENTS:

USACE is soliciting comments from the public; Federal, State, and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the project.

5. SUBMITTING COMMENTS:

During the specified comment period, interested parties may submit written comments to:

Zachary Simmons
San Francisco District, Regulatory Division
450 Golden Gate Avenue, 4th Floor
San Francisco, California 94102-3404
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Comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. 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 Permit Manager by telephone or e-mail (cited in the public notice letterhead). An electronic version of this public