Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) and Washington Department of Ecology (Ecology) are considering a proposal to establish the Blue Heron Slough Conservation and Mitigation Bank (Bank) near Everett, Snohomish County, Washington.

BANK SPONSOR CONTACT:

Wildlands
310 SW 4th Ave. Ste., 830
Portland, OR 97204
Contact: Julie Mentzer
Email: jmentzer@heronpacific.com
(503) 241-4895

Port of Everett
P.O. Box 538
Everett, WA 98206
Contact: Erik Gerking
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(425) 259-3164

LOCATION: The proposed 353-acre Bank project is located in Water Resource Inventory Area (WRIA) 7 (Snohomish River basin), between the cities of Everett and Marysville in unincorporated Snohomish County, on north Spencer Island (see attached Figure 1. Regional Vicinity). The main channel of the Snohomish River is located to the southwest of the Bank site. The Bank site is bounded to the north and east by Steamboat Slough, to the south by Union Slough, and to the west by Interstate Route 5 (I-5) (see attached Figure 2. Bank Location and Figure 3. Aerial of Bank). The north shoreline of the Bank site extends from approximately river mile (RM) 1.5 to RM 3 along Steamboat Slough. The south shoreline of the Bank site extends from RM 1 to approximately RM 1.8 along Union Slough. The Bank site is located in Sections 3, 4, 9, and 10 of Township 29 N, Range 5 E, on the Willamette Meridian at latitude 48°01’41”N, 122°10’02”W.

MITIGATION BANKING: Mitigation banks provide an alternative to traditional permittee-responsible compensatory mitigation. Mitigation banks offer an opportunity to implement compensatory mitigation at a regional scale in advance of impacts. Mitigation banks establish “credits” through restoring, creating, enhancing,
and/or preserving wetlands and other aquatic resources. These credits can then be sold to future permit applicants who need to offset the adverse environmental impacts of projects with wetland and aquatic resource impacts that would occur within the bank’s designated and agency approved “service area”. The Mitigation Bank Instrument (MBI) is the document that defines the bank. It is a legal document that is created in cooperation between the Bank Sponsor and the Interagency Review Team (IRT). The IRT includes the Corps and Ecology as Co-Chairs, and may also include the Environmental Protection Agency, and other Federal, Tribal, State, and local agencies. The MBI contains the legal language between the Bank Sponsor and the agencies, and the technical and procedural elements of constructing, operating, and maintaining the bank. The first stage of developing a MBI is reviewing the Prospectus of the mitigation bank proposal.

PROJECT DESCRIPTION: The purpose of this public notice is to receive public comment on the Prospectus for this proposed mitigation bank entitled Blue Heron Slough Conservation and Mitigation Bank dated January 2020. In the Prospectus, the listed conceptual goals of the Mitigation Bank are to restore ecological processes (hydrologic, geomorphic, physiochemical, and biological) that will improve ecological functions within the Snohomish River watershed, Whidbey Basin, and Puget Sound; provide off-channel fish rearing and refuge habitat in the Snohomish river estuary; and permanently protect and manage the restored and enhanced habitats at the Bank site in perpetuity (see attached Figure 6. Conceptual Bank Design).

The 353-acre Bank site is zoned Agricultural; designated as Riverway Commercial Farmland, a Floodway Area, and a Density Fringe Area; and its shoreline environment designation is Resource. Historically, the Bank site supported tidally-influenced marsh, and non-tidal emergent, scrub-shrub, and forested wetland habitat types typical of the lower Snohomish Estuary. In the early 1900s, a private dike was constructed around the site and it was drained for agricultural use. From the early 1900s until 2008, the majority of the site was used for agricultural production, including strawberry and other berry fields, and tree farm areas. Between 2008 and 2012, farming activities gradually tapered off until they ceased altogether in 2012. Despite past agricultural activities, a total of 46 wetlands have been delineated on the Bank site. The 65.3 total acres of wetlands include: 8.4 acres of estuarine wetlands (located on the outer slough-sides of the perimeter dike); 44.9 acres of palustrine emergent wetlands (PEM); 5.4 acres of palustrine scrub-shrub wetlands (PSS); and 6.6 acres of palustrine forested wetlands (PFO). The Bank site also includes 7.4 acres of freshwater mudflats and 1.4 acres of constructed channels (more than 6 feet deep) with nearly vertical sidewalls. The estuarine wetlands are dominated by Pacific silverweed (Potentilla anserina spp. Pacifica); PEM wetlands are dominated by reed canarygrass (Phalaris arundinacea) and non-native pasture grasses; and PSS wetlands are dominated by Douglas spirea (Spiraea douglasii), black twinberry (Lonicera involucrata), and Himalayan blackberry (Rubus armeniacus). PFO wetlands are primarily located in remnant tree farm areas, so they are dominated by planted tree species including weeping birch (Betula sp.), cherry (Prunus sp.), and London plane (Plantanus sp.). Residual upland tree farm areas are dominated by Douglas fir (Pseudotsuga menziesii) and a variety of planted broad-leaved deciduous trees including maples (Acer sp.) and fruit trees. Upland areas of fallow agriculture are dominated by annual ryegrass (Lolium multiflorum), Canada thistle (Cirsium arvense), and other ruderal species.

A portion of the Bank project (one side channel) was constructed in the summer of 2008, and additional site construction occurred in 2014 and 2018. Large-scale construction of the Bank project began in 2019, and the majority of the structures on the site were removed at that time. Those structures included a two-story residence, barns, outbuildings, and children’s theme area. The single remaining structure (a barn currently being used to stage construction equipment) will be removed prior to completion of the Bank project which is expected in 2020.

In 2008, the Bank site was approved by the National Oceanic and Atmospheric Administration (NOAA) as a conservation bank, with conservation credits that can be used to compensate for impacts to salmonid species listed under the Endangered Species Act (ESA). In June 2019, a Consent Decree was lodged addressing Natural Resource Damages at Port Gardner. As described in the Consent Decree Appendix C Statement of Work, a portion
of the ecosystem credits generated by the Bank site (and the corresponding acreage) will be set aside to offset damages that occurred in Port Gardner Bay. That reserved portion of the Bank site cannot be used to generate credits for the proposed wetland and aquatic resource mitigation Bank.

**PROSPECTUS AVAILABILITY:** The Prospectus can be downloaded at the following internet addresses. If you do not have internet access and would like to request a paper copy of the prospectus, please contact Jordan Bunch at (206) 764-3482.

https://ecology.wa.gov/Water-Shorelines/Wetlands/Mitigation/Wetland-mitigation-banking/Public-notices


**SERVICE AREA:** The service area of a mitigation bank is the geographic area over which credits may be used for compensatory mitigation. The Sponsor has proposed a wetland and aquatic resource service area for this Bank that would encompass all of WRIA 7 (Snohomish) below 2,500 feet in elevation; all of the Coastal/Delta/Marine Shoreline areas within WRIA 5 (Stillaguamish); all of the marine areas within WRIA 5; the Coastal/Delta/Marine Shoreline areas within WRIA 3 (Lower Skagit/Samish) to the northern limit of the Skagit River delta (McGlinn Island); the marine areas of Whidbey Basin within WRIA 6 (Island) to a northern boundary from McGlinn Island to the south end of Dugualla Bay; and the Coastal/Delta/Marine Shoreline areas within WRIA 6 that are also adjacent to the marine areas of Whidbey Basin (see attached **Figure 7a. Proposed Service Area** and **Figure 7b. Service Area – Landscape Context**). We are seeking comments on the proposed service area. The proposed service area may be increased or decreased based on public and IRT comments.

**PURPOSE:** The purpose of the mitigation bank is to provide compensatory mitigation for adverse aquatic ecosystem impacts associated with activities authorized by the Corps, Ecology, and other regulatory entities that occur within the service area of the bank. The use of bank credits as future compensatory mitigation would depend on case-by-case approval by the involved regulatory agencies after determining that the use of bank credits would be consistent with all applicable rules and policies of the agencies.

**ADDITIONAL INFORMATION:** The Bank Sponsor will work with the IRT to develop the MBI in accordance with the Federal Mitigation Rule, 33 CFR Parts 325 and 332 and 40 CFR Part 230, *Compensatory Mitigation for Losses of Aquatic Resources*; and the State Rule, Chapter 173-700 WAC, *Wetland Mitigation Banks*: as well as other applicable State, local, and Federal requirements. For additional information on wetland mitigation banking within Washington State, please refer to the following websites:

https://ecology.wa.gov/Water-Shorelines/Wetlands/Mitigation/Wetland-mitigation-banking

http://www.nws.usace.army.mil/Missions/CivilWorks/Regulatory/PermitGuidebook/Mitigation.aspx

If you are interested in receiving updates from the Washington State Department of Ecology concerning wetland mitigation banking in the state, please join their e-mail list at:


**ENDANGERED SPECIES:** The Endangered Species Act (ESA) requires Federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service pursuant to Section 7 of the ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered, or any designated critical habitat. After receipt of comments from this public notice, the Corps will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat.
ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). If the Corps determines that the proposed action may adversely affect EFH for Federally managed fisheries in Washington waters, the Corps will initiate EFH consultation with the NMFS.

CULTURAL RESOURCES: An historic properties investigation will be conducted within the proposed Bank site area and will be coordinated with the Washington Department of Archaeology and Historic Preservation. The Corps will review the latest published version of the National Register of Historic Places, lists of properties determined eligible for the historic register, and other sources of information. The Corps invites responses to this public notice from Native American Nations or Tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of, or concerns regarding, historic properties and sites of religious and cultural significance at or near the Bank area. This public notice initiates consultation under Section 106 of the National Historic Preservation Act (36 CFR 800.4[a][3]) with any Tribe that has information or concerns with historic properties in the proposed Bank area.

EVALUATION: The Corps and Ecology are soliciting comments from the public; Native American Nations or Tribal governments; Federal, State, and local agencies and officials; and other interested parties in order to identify project aspects that need to be addressed during the bank review process and in the development of the MBI. Public comments will assist the IRT to determine whether or not to authorize the proposed Bank. For accuracy and completeness of the record, all comments should be submitted in writing with sufficient detail to furnish a clear understanding of the reasons for that support or opposition.

COMMENT AND REVIEW PERIOD: Conventional mail or e-mail comments on this public notice will be accepted and made part of the record, and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author’s e-mail account and must include on the subject line of the e-mail message the mitigation bank name and reference number as shown below. Either conventional mail or e-mail comments must include the mitigation bank name and reference number, as shown below, and the commentator’s name, address, and phone number. All comments, whether conventional mail or e-mail, must reach the Corps and Ecology no later than the expiration date of this public notice to ensure consideration.

CORPS COMMENTS: All e-mail comments should be sent to jordan.a.bunch@usace.army.mil. Conventional mail comments should be sent to: U.S. Army Corps of Engineers, Regulatory Branch, Attention: Jordan Bunch, P.O. Box 3755, Seattle, Washington 98124-3755. All comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act, including any personally identifiable information such as names, phone numbers, and addresses.

ECOLOGY COMMENTS: All e-mail comments should be sent to kate.thompson@ecy.wa.gov. Conventional mail comments should be sent to: Washington State Department of Ecology, Attention: Kate Thompson, P.O. Box 47600, Olympia, Washington 98504-7600.

MITIGATION BANK NAME AND REFERENCE NUMBER: To ensure proper consideration of all comments, responders must include the following mitigation bank name and reference number in the text of their comments:

Blue Heron Slough Conservation and Mitigation Bank; NWS-2009-890

Figures (6)