

**US Army Corps
of Engineers
Omaha District**

PUBLIC NOTICE

Application No: 2004-90-212
Applicant: Nevada Spring Creek Partners, LLC
Waterway: Lower Nevada Spring Creek
Issue Date: September 13, 2004
Expiration Date: October 13, 2004

30 DAY NOTICE

Helena Regulatory Office

10 West 15th Street, Suite 2200, Helena, Montana 59626

JOINT PUBLIC NOTICE

For the Upper Clark Fork Stream Mitigation Bank
Submitted to US Army Corps of Engineers and Montana DEQ

For the Proposed Mitigation Bank the Mitigation Review Team (MBRT) will consist of the following agencies, US Army Corps of Engineers, US Environmental Protection Agency (EPA), US Fish and Wildlife Service (USFWS), Montana Department of Environmental Quality (MT DEQ), North Powell Conservation District, and Montana Fish, Wildlife and Parks (FWP).

History and Purpose

The Nevada Spring Creek Partners, LLC propose to restore a significant stream reach in the Blackfoot River watershed in western Montana. The stream restoration project includes the lower reach of Nevada Spring Creek. Restoration of this stream will be pursued and documented in the manner prescribed to establish stream mitigation bank credits. Principal guidance documents are the 1995 Federal Guidance for Establishing Mitigation Banks, the 2000 Draft Operational Guidance for Wetland Banks (Omaha District, Corps of Engineers), and the 2003 Draft Montana Stream Mitigation Process.

Restoration entails relocating 9,432 feet of Lower Nevada Spring Creek to a historic alignment 12,511 feet long, through uplands in some cases (to avoid wetlands) and historic floodplain/channel now in pasture or hay production. Approximately 1,548 feet of the restored alignment is on adjacent federal (USFWS) property and is excluded from the bank, so the result is 10,963 linear feet. The abandoned channel will be enhanced as wetland habitat in accordance with Corps authorization and conditions. Based on the 2003 Draft Montana Stream Mitigation Process the bank sponsor proposes 20,500 stream credits and 24,255 riparian buffer credits.

Project Description

The project is located on the former Potts Ranch, a functioning livestock operation of 1,910 acres total parcel size (See figures 1-5). The ranch is located in the Clark Fork River major basin, Blackfoot River basin and the Nevada Creek watershed.

The project is designed to restore the lower Nevada Spring Creek, tributary to Nevada Creek, entering Nevada Creek at stream mile 4.6. The restored stream will average 10 feet in width with a minimum riparian corridor/floodplain of 150 feet on each side and a maximum floodplain of 300 feet, all

on historic alignment. The abandoned channel of the stream will be enhanced as wetland habitat.

The Primary Geographic Service Area (see Attachment 1) will include the Blackfoot River basin (HUC #17010203), the Upper Clark Fork River basin (HUC #17010201), the Flint-Rock Creek basin (HUC #17010202) and a 10-mile radius around the Missoula metropolitan areas. A Secondary Geographic Service Area will be defined as a 50-mile radius from the confluence of the Blackfoot and Clark Fork Rivers, excluding the Flathead watershed. All basins fall within the same eco-region (Middle Rocky Mountain Steppe) and the interspersed Major Land Resource Area is the Northern Rocky Mountains and Valleys).

401 Water Quality Certification: The Montana Department of Environmental Quality, 1520 East 6th Avenue, PO Box 200901, Helena, Montana 59620-0901, will review the proposed work with the intent to certify in accordance with the provisions of Section 401 of the Clean Water Act. The certification if issued, will express the State's opinion that the operations undertaken by the applicant will not result in a violation of applicable water quality standards. The Montana Department of Environmental Quality hereby incorporates this public notice as its own public notice and procedures by reference thereto.

Cultural Resources: The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, as amended. We have checked the National Register of Historic Places and its current supplements, and there are no known National Register sites in the vicinity; however, we will evaluate input by the State Historic Preservation Office and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the mitigation bank area to check for unknown historic or prehistoric properties, if warranted.

Threatened / Endangered Species: In compliance with the Endangered Species Act, a preliminary determination has been made that the described mitigation bank will not affect species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the US Fish and Wildlife Service and other interested agencies and individuals.

Evaluation Factors: The decision whether to issue a permit or approve the mitigation bank will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed mitigation bank on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposed activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs considerations of property ownership and in general, the needs and welfare of the people. In addition, the evaluation of the impact of work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 CFR; Part 23).

Comments: The Corps of Engineers is soliciting written comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to

determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. Any agency or individual having an objection to the work should identify it as an objection with clear and specific reasons. All replies to the public notice should be sent to the **U. S. Army Corps of Engineers, Omaha District Office, Regulatory Branch ATTN: Ms. Lawrence, 12565 West Center Rd, Omaha, Nebraska 68144**. For additional information please contact **Ms. Lawrence at karen.l.lawrence@usace.army.mil or 402-221-4010** or see website <http://www.nwo.usace.army.mil/html/od-rmt/pn/pn.html>.

The District Engineer will consider requests for holding a public hearing, for the purpose of gathering additional information. Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held. Requests for a public hearing should state specifically the reasons for holding a public hearing, and what additional information would be obtained. Should the District Engineer decide that additional information is required and a public hearing should be held, interested parties will be notified of the date, time and location.

Comments received after the close of business on the expiration date of this public notice will not be considered.

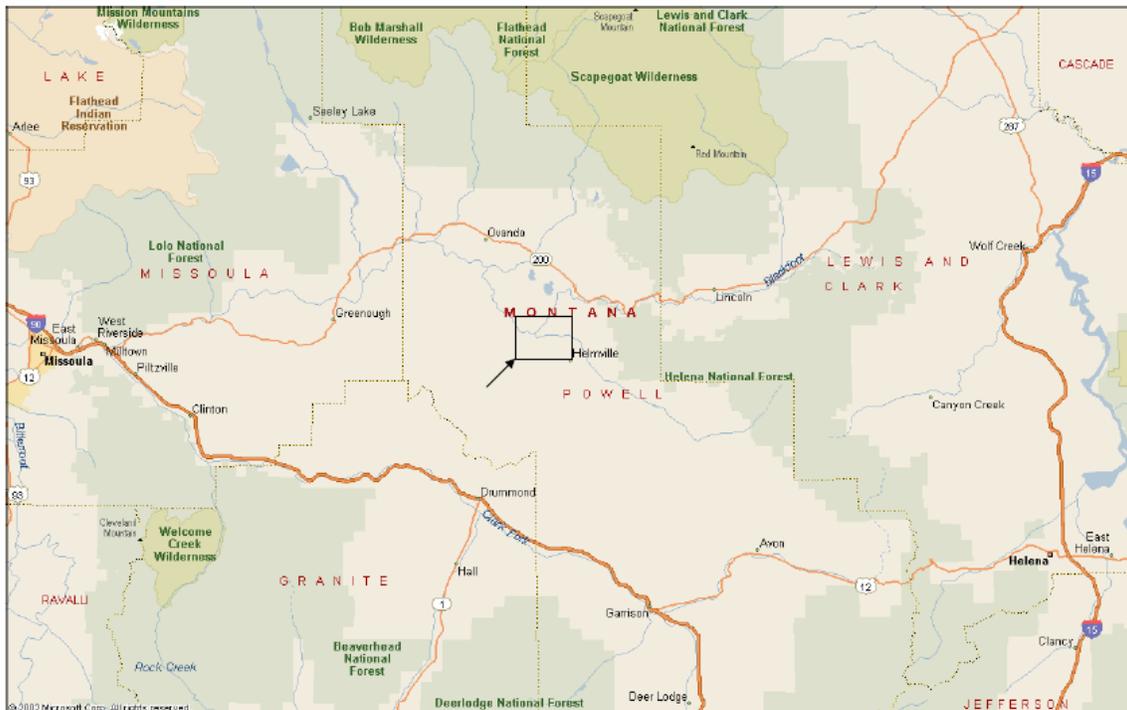


Figure 1. Project location.

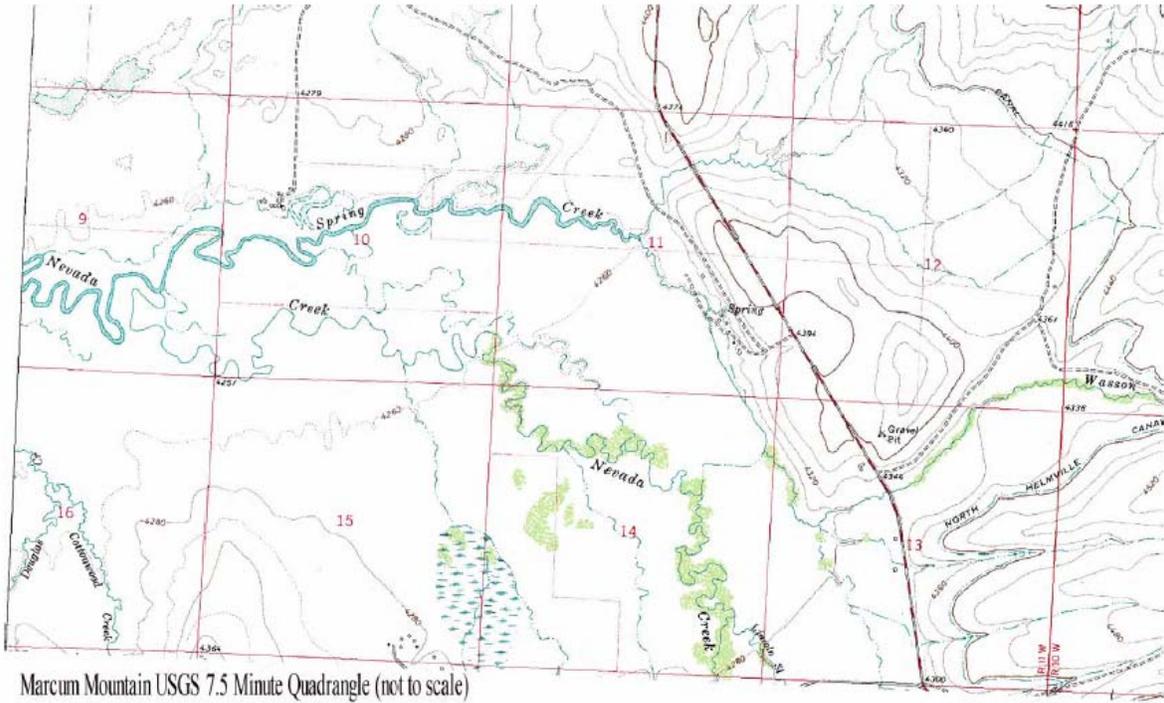


Figure 2. Project vicinity.

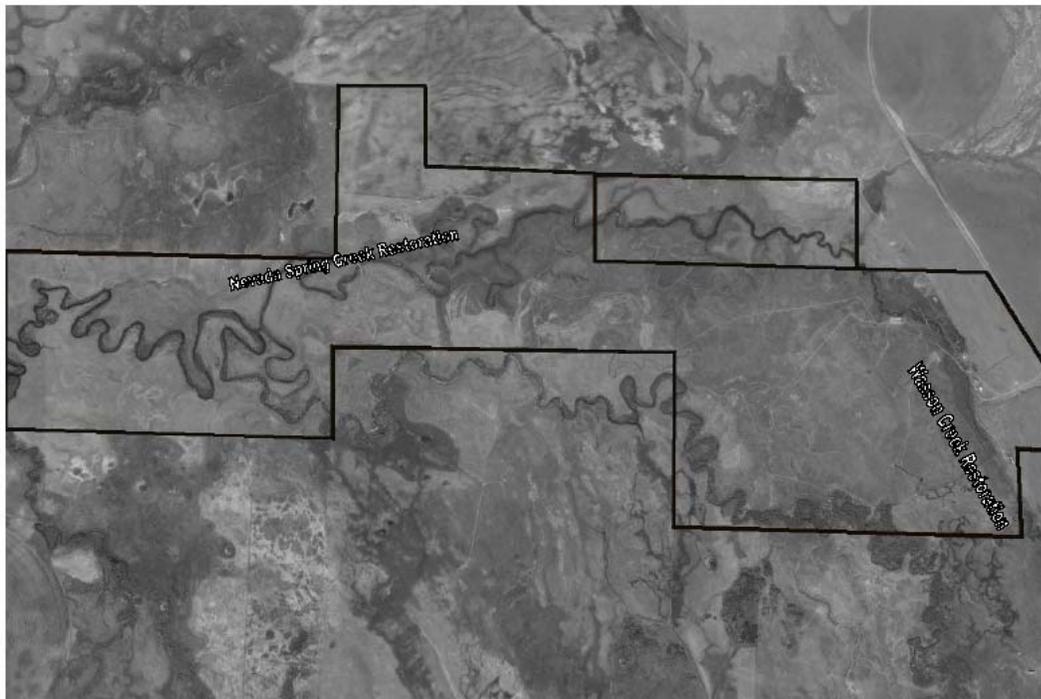


Figure 3. Project site base aerial and property boundary.

Attachment 1 - The Geographic Service Area

Upper Clark Fork Mitigation Bank Geographical Service Area

