



**US Army Corps
of Engineers ®**
Fort Worth District

Public Notice

Applicant: Forestar (USA) Real Estate Group, Inc.

Permit Application No.: SWF-2012-00298

Date: June 21, 2013

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Brent Jasper

Phone Number: (817) 886-1733

PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS

FORT WORTH & GALVESTON DISTRICT

SUBJECT: This public notice is being issued to provide interested parties an opportunity to comment on a proposal to create the Lufkin Mitigation Bank (LMB), a stream mitigation bank located in Angelina, County, Texas.

APPLICANT: Forestar (USA) Real Estate Group, Inc.
6300 Bee Cave Road
Building 2, Suite 500
Austin, Texas 78746

APPLICATION NUMBER: SWF-2012-00298

DATE ISSUED: June 21, 2013

LOCATION: The LMB is a proposed 6,628 linear foot (LF) (44.7 acre) stream mitigation bank located near the city of Lufkin, Angelina County, Texas. Specifically, the bank is located within the Bald Hill United States Geological Survey (USGS) 7.5 minute topographic quadrangle, at Latitude 31.2423° North, Longitude 94.7051° West; Universal Transverse Mercator (UTM) 3457708.7469 Northing, 337622.7011 Easting. The LMB is also located within the Middle Neches Watershed (HUC 12020002) and the South Central Plains Level III Ecoregion (Omernik 2004).

PROJECT DESCRIPTION: The proposed LMB is owned by Forestar (USA) Real Estate Group (Forestar) who is also the bank sponsor. The proposed LMB would restore and enhance intermittent and ephemeral stream channels within the boundaries of the proposed bank site. The restoration and enhancement objectives are to 1) restore the hydraulic geometry to a stable form where necessary and 2) preserve and enhance 40.5 acres of riparian buffer through improved mixed hardwood species composition and vertical canopy diversity. These resources have been degraded from previous land uses including agriculture and silviculture. Topographic maps and historical aerial maps (Figures 3-6) indicate previous land uses.

Two intermittent tributaries to Bear Creek, which have become degraded as a result of excessive down-cutting, would be restored to provide beneficial hydrologic and ecological functions. Through implementation of the Natural Channel Design approach, approximately

3,302 LF of intermittent stream channel would be restored to a stable geomorphology. An additional 519 LF of intermittent and 2,807 LF of ephemeral stream channels identified on-site are in need of riparian buffer and limited in-stream enhancements.

The LMB would provide ecological restoration and enhancement to the aquatic resources within the stream, including physical, chemical and biological improvements to the immediate waters and those waters hydrologically connected downstream. The restoration of the stream would also provide ecological enhancements to wildlife habitat within the adjacent riparian buffer areas. Finally, the establishment of the LMB would provide protection of the riparian buffers by eliminating activities within the riparian buffer which would be incompatible with the site's ecological goals.

The U.S. Department of Agriculture - Natural Resources Conservation Service mapped soils within the proposed LMB are the Alazan, Fuller, Keltys, and to a minor extent the Herty and Rosenwall series (Figure 7). The Alazan and Fuller map units are included on the national hydric soils list due to minor hydric inclusions. No hydric soils or wetland habitats have been observed within the proposed bank. The Alazan, Keltys, Herty, and Rosenwall soil series are moderately well drained, while the Fuller series is somewhat poorly drained.

The service area for the LMB were delineated utilizing 8-digit Hydrologic Unit Codes (HUCs) and the Level III Ecoregions of Texas. Service area designations are within the Fort Worth District of the USACE (physical location of Bank) and the Galveston District of the USACE. Proposed service areas within the Galveston District include approximately 50% of the primary service area (resident watershed sub-basin) and approximately 30% of the secondary service area (adjacent watershed sub-basins within the Neches River Basin). Please reference Figure 8 for a map of the proposed service area.

The primary service area proposed for the bank would be the Middle Neches Sub-Basin (8-digit HUC 12020002). Counties within, or partially within, the primary service area include Angelina, Cherokee, Houston, Polk, Trinity, and Tyler. The secondary service area proposed for the LMB is defined as any 8-digit HUC (or portion thereof) adjacent to the primary service area and within the same Level III ecoregion as the mitigation bank. The tertiary service area is defined as any 8-digit HUC (or portion thereof) adjacent to the primary service area, but located outside of the resident Level III Ecoregion. Secondary and tertiary service areas do not extend beyond the limits of the Neches River Basin (6-digit HUC 120200). Additionally, a tertiary service area has not been proposed within the Galveston District of the USACE.

A mitigation banking instrument (MBI) will be developed in accordance with the Compensatory Mitigation for Losses of Aquatic Resources (CMLR) (Federal Register, Thursday, April 10, 2008, Vol. 73, No. 70, pp. 19594-19705). The MBI will detail the legal and physical characteristics of the bank and how the bank will be established and operated. Subjects addressed in detail in the MBI will include development of the site, service area, credit determination, financial assurances, scope of agreement, purpose and goals of the bank, baseline conditions, projected ecological lift, performance standards for enhancement activities, accounting procedures, monitoring and reporting, long-term maintenance and protection, and

transfer of bank ownership or sponsorship. The USACE, United States Environmental Protection Agency, United States Fish and Wildlife Service (USFWS), Texas Commission on Environmental Quality, and Texas Parks and Wildlife Department comprise the Interagency Review Team (IRT), and will be involved in developing the MBI and may be signatories to the final document.

Implementation of the proposed mitigation bank will require Department of the Army Authorization under Section 404 of the Clean Water Act. Based on preliminary evaluation, it appears that the proposed bank may be authorized by Nationwide Permit 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the latest USFWS and TPWD published versions of listed endangered and threatened species to determine if any may occur in the project area. The proposed bank site would be in Angelina County where the red-cockaded woodpecker (*Picoides borealis*) is federally listed as endangered and the Louisiana pine snake (*Pituophis ruthveni*) is listed as a candidate species. The bald eagle (*Haliaeetus leucocephalus*) is documented to occur in Angelina County, and is protected under the Bald and Golden Eagle Protection Act. Other species of concern (State listed, candidate species, etc.) for Angelina County include the Bachman's Sparrow (*Aimophila aestivalis*), timber rattlesnake (*Crotalus horridus*), black bear (*Ursa americanus*), and the creek chubsucker (*Erimyzon oblongus*). Our initial review indicates that the proposed work would have no effects on any federally-listed endangered or candidate species or the bald eagle.

NATIONAL REGISTER OF HISTORIC PLACES: The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources. The area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

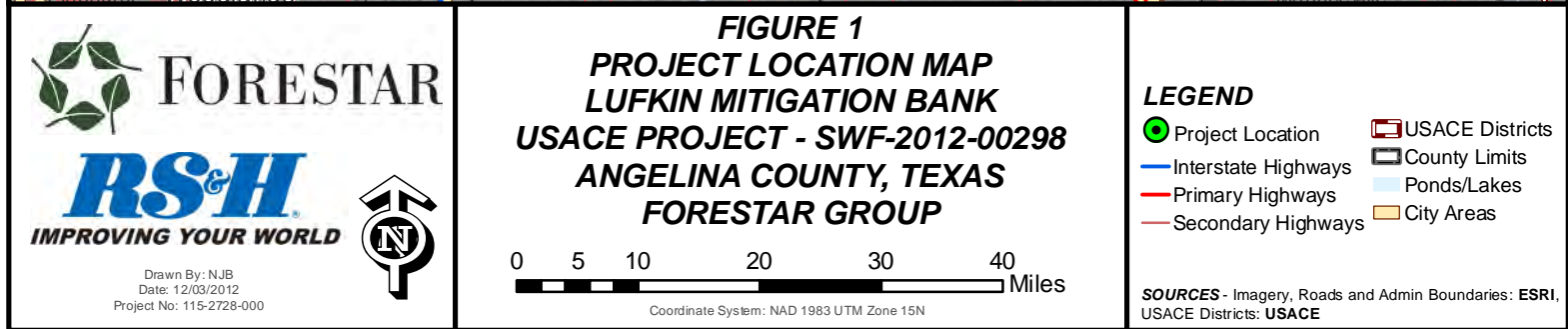
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to allow the public an opportunity to comment on this bank proposal and to assist the USACE and other members of the IRT in developing the final MBI. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before July 22, 2013, 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. Comments and requests for additional information should be submitted to Mr. Brent Jasper; Regulatory Branch, CESWF-PER-R; U.S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1733. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



Stream Name	Stream Type	Length (LF)	Restoration / Enhancement
Fossil Branch	Intermittent	1,019	Channel Restoration
Fossil Branch	Intermittent	519	Enhancement
FB-1	Ephemeral	307	Enhancement
Pine Branch	Intermittent	1,605	Channel Restoration
PB-1	Ephemeral	336	Enhancement
Pine Branch West	Intermittent	406	Channel Restoration
PBW-1	Ephemeral	784	Enhancement
PBW-2	Ephemeral	430	Enhancement
PBW-3	Ephemeral	151	Enhancement
PBW-4	Ephemeral	67	Enhancement
Pine Branch East	Intermittent	272	Channel Restoration
PBE-1	Ephemeral	81	Enhancement
PBE-2	Ephemeral	651	Enhancement

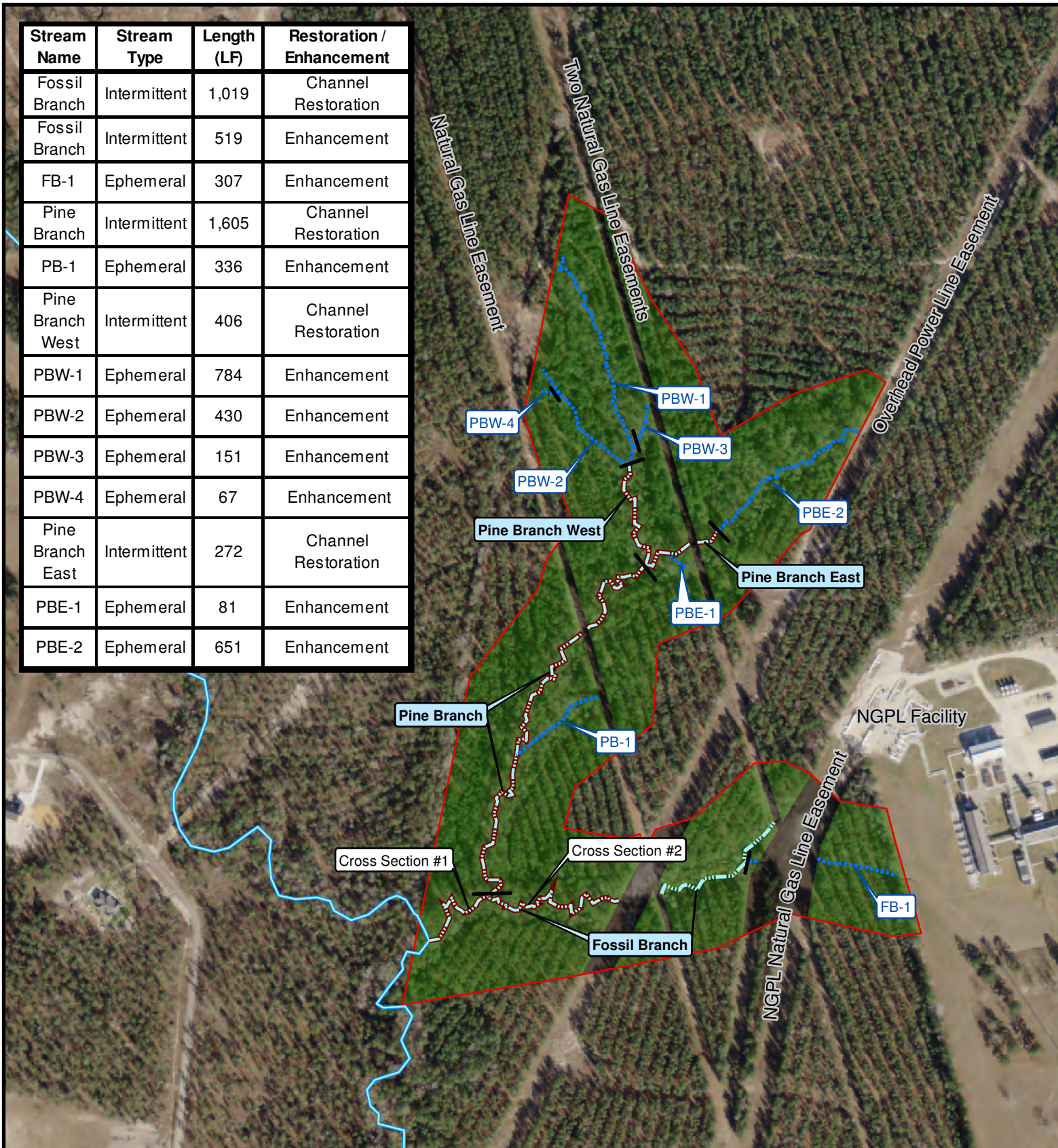
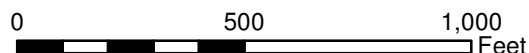


FIGURE 2
CONCEPTUAL MITIGATION PLAN MAP
LUFKIN MITIGATION BANK
USACE PROJECT - SWF-2012-00298
ANGELINA COUNTY, TEXAS
FORESTAR GROUP



Coordinate System: NAD 1983 UTM Zone 15N

LEGEND

- Intermittent (Restoration - 3,302 LF)
- Intermittent (Enhancement - 519 LF)
- Ephemeral (Enhancement - 2,807)
- Perennial Stream (Non-Credit)
- Bank Boundary (44.7 Ac)
- Habitat in Bank**
 - Stream Buffer (Enhancement - 40.5 Ac)
 - Easements (Non-Credit - 4.2 Ac)
- SOURCES** - Property Boundary: **Forestar**, Streams & Easements: **Hydrex**, Imagery: **NAIP**

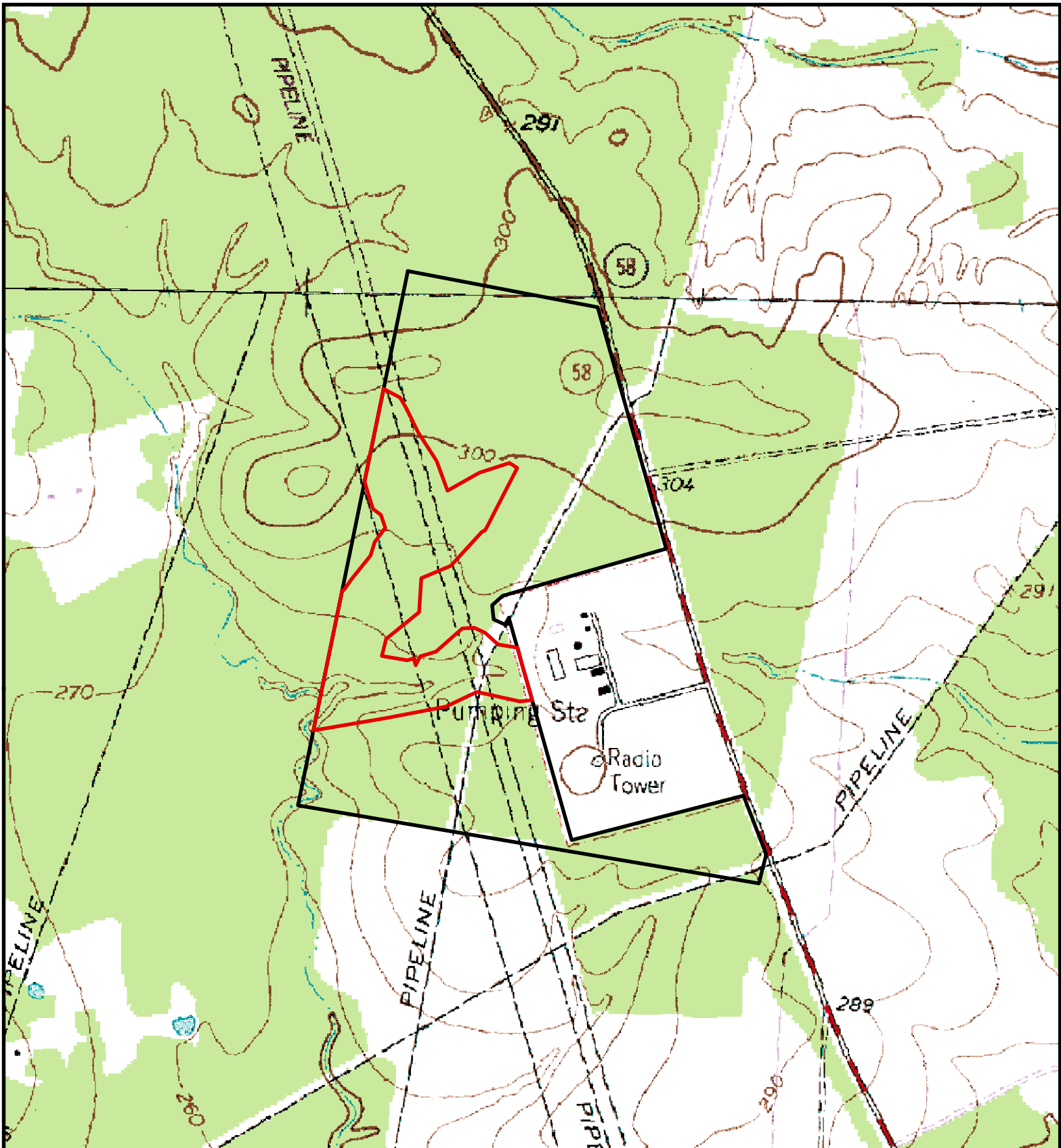


FIGURE 3
USGS TOPOGRAPHIC MAP
LUFKIN MITIGATION BANK
USACE PROJECT - SWF-2012-00298
ANGELINA COUNTY, TEXAS
FORESTAR GROUP

0 500 1,000 1,500 2,000
 Feet

Coordinate System: NAD 1983 UTM Zone 15N

LEGEND

- Bank Boundary (44.7 Ac)
- Property Boundary

SOURCES - Imagery: USGS, Property Boundary: Forestar



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Drawn By: NJB
 Date: 12/12/2012
 Project No: 115-2728-000



FIGURE 4
1962 AERIAL MAP
LUFKIN MITIGATION BANK
USACE PROJECT - SWF-2012-00298
ANGELINA COUNTY, TEXAS
FORESTAR GROUP

0 500 1,000 1,500 2,000
 Feet

Coordinate System: NAD 1983 UTM Zone 15N

LEGEND

- Bank Boundary (44.7 Ac)
- Property Boundary

SOURCES - Imagery: USGS, Property Boundary: **Forestar**



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FIGURE 5
1982 AERIAL MAP
LUFKIN MITIGATION BANK
USACE PROJECT - SWF-2012-00298
ANGELINA COUNTY, TEXAS
FORESTAR GROUP

0 500 1,000 1,500 2,000 Feet

Coordinate System: NAD 1983 UTM Zone 15N

LEGEND

- Bank Boundary (44.7 Ac)
- Property Boundary

SOURCES - Imagery: USGS, Property Boundary: **Forestar**



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Drawn By: NJB
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 Project No: 115-2728-000



FIGURE 6
1996 AERIAL MAP
LUFKIN MITIGATION BANK
USACE PROJECT - SWF-2012-00298
ANGELINA COUNTY, TEXAS
FORESTAR GROUP

0 500 1,000 1,500 2,000
 Feet

Coordinate System: NAD 1983 UTM Zone 15N

LEGEND

- Bank Boundary (44.7 Ac)
- Property Boundary

SOURCES - Imagery: **TOP**, Property Boundary: **Forestar**

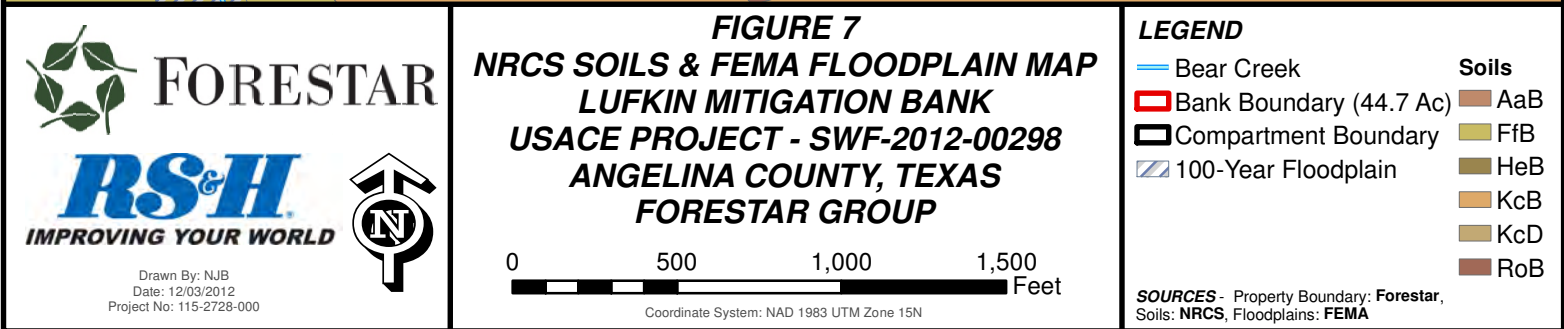


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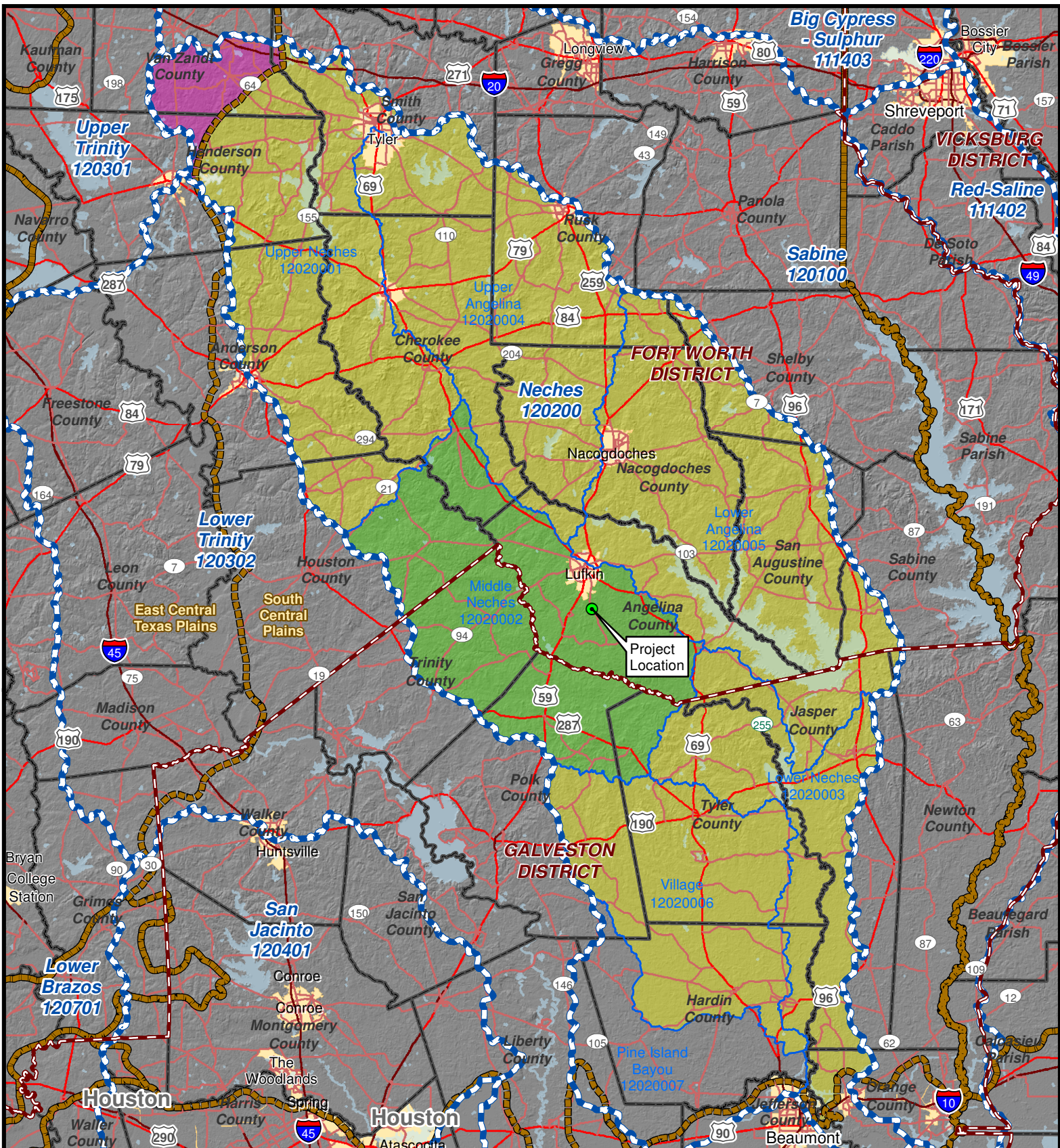


FIGURE 8
PROPOSED SERVICE AREA MAP
LUFKIN MITIGATION BANK
USACE PROJECT - SWF-2012-00298
ANGELINA COUNTY, TEXAS
FORESTAR GROUP



Drawn By: NJB
 Date: 12/12/2012
 Project No: 115-2728-000



0 5 10 20 30 40 50 Miles

Coordinate System: NAD 1983 UTM Zone 15N

LEGEND

- Project Location
- USACE Districts
- Service Area**
 - Primary
 - Secondary
 - Tertiary
- Basins (6-Digit)
- Sub-Basins (8-Digit)
- Ecoregions
- County Limits
- Water Areas
- City Areas
- Background Data**
 - Interstate Highways
 - Primary Highways
 - Secondary Highways
- SOURCES** - Imagery, Roads and Admin Boundaries: **ESRI**,
 USACE Districts: **USACE**