Public Notice

US Army Corps of Engineers
Fort Worth District

Applicant: Mr. Johnny Mack Powers

Permit Application No.: SWF-2013-00436

Date: November 8, 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: Mr. Mike Happold

Phone Number: (817) 886-1670

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

SUBJECT: This joint public notice is being issued to provide interested parties an opportunity to comment on a proposal to establish the Brushy Creek Tract in the Red Oak Umbrella Mitigation Bank. The Red Oak Umbrella Mitigation Bank currently consists of the Palmer Tract. The proposed Brushy Creek Tract would be located adjacent to the Palmer Tract, sharing the boundary of Red Oak Creek.

APPLICANT: Mr. Johnny Mack Powers
1150 Highway 205 South
Rockwall, Texas 75032

APPLICATION NUMBER: SWF-2013-00436

DATE ISSUED: November 8, 2013

LOCATION: The proposed Brushy Creek Tract of the Red Oak Umbrella Mitigation Bank (ROUMB) is located in north-central Ellis County, approximately 2 miles northeast of Palmer, Texas. The approximate center of the Brushy Creek Tract is located at Latitude 32˚46'96.08" North and Longitude 96˚65'73.72" East. The Brushy Creek Tract falls within the Trinity River Basin (8-digit HUC 12030105) and the Texas Blackland Prairies EPA Level III Ecoregion. The ROUMB currently encompasses approximately 348 acres in the Palmer Tract and with the addition of the Brushy Creek Tract, the ROUBM would increase to approximately 474 acres (Sheets 1 through 6 of 8).

PROJECT DESCRIPTION: The purpose of the Brushy Creek Tract of the ROUMB is to create, restore, enhance, and preserve wetland and stream habitat located on the southeast side of the Dallas-Fort Worth Metroplex with the intent to provide mitigation bank credits to offset impacts to virtually all types of waters of the U.S. in the eastern portion of the DFW metroplex.

The Brushy Creek Tract is located along the floodplain of Brushy Creek in Ellis County. The tract includes a long section of Brushy Creek that was channelized prior to construction of what is now Interstate Highway 45. Additionally, the tract includes numerous remnant channels and ephemeral stream segments that have been heavily impacted and disconnected by past agricultural activities, its historical use. In addition to Brushy Creek, the southern boundary of the tract is the old Red Oak Creek Channel.

Within the Brushy Creek Tract, planned activities would include restoring and reconnecting the remnant channel and ephemeral stream segments that have been severely impacted by past land management activities and restoring the riparian corridor along the channelized portion of Brushy Creek. Wetlands would be restored in the floodplain of both Brushy Creek and the old Red Oak Creek by creating shallow depressions through excavation and construction of low berms. These wetlands would include a mixture of emergent wetlands, and scrub-shrub/forested wetlands. The ultimate ecological goal for this tract would be a highly functioning perennial stream floodplain with a wooded riparian bottom, bottomland wetlands (forested and herbaceous) and contiguous intermittent and ephemeral streams with wooded and herbaceous riparian corridors (Sheet 7 of 8).

SUMMARY OF PROJECT – Mitigation Bank Credit would be generated for wetland acres created or re-established back to native wetland ecosystems and linear feet of streams created, restored, enhanced and preserved. Additionally, credits would be sought for upland areas having a clear relationship to the aquatic resources in the form of wetland and riparian buffers. These areas would increase the overall ecological function of the mitigation work on each individual tract. The proposed Brushy Creek Tract, like the ROUMB, would be privately owned and operated through a business structure, likely a Texas Limited Liability Company. This company would manage the property through the implementation and establishment of the long-term management. Adaptive management strategies would be employed to meet the goals and specific success criteria measures. A non-wasting endowment would be established to satisfy financial assurance requirements and a conservation easement would provide protection of the bank properties in perpetuity.

A delineation of potential waters of the U.S. was conducted on each tract per the Great Plains Regional Supplement and the 1987 Corps Wetland Delineation Manual. Based on the field investigation and the delineations conducted on the tract; there is approximately 1.71 acres of jurisdictional wetlands and approximately 11,910 linear feet of stream including 9,438 linear feet of intermittent and 2,472 linear feet of ephemeral streams. Proposed activities would enhance and preserve these features, while restoring and creating many other water features including forested and herbaceous wetlands, and ephemeral, intermittent and perennial streams.

The Brushy Creek Tract of the ROUMB is ecologically suitable for the site development activities. The soils in the tract is mapped as occasionally and frequently flooded and possess the qualities necessary for both riparian and wetland restoration and enhancement. The site is all located in the floodplains of major drainages and are thus afforded with appropriate hydrology for riparian and wetland restoration and enhancement activities.

The bank proponent proposes that the Brushy Creek Tract maintains the same service area as the ROUMB which would include habitat types wholly encompassed within the USACE Fort Worth District within the State of Texas. The 8-digit HUC 12030105 would be the proposed primary service area. The primary service area would include portions of Anderson, Collin, Dallas, Denton, Ellis, Freestone, Henderson, Kaufman, and Navarro counties. The secondary service area would include the 8-digit HUCs 12030102, 12030103, 12030106, 12030107, 12030108, 12030109, and 12030201 all of which are within the Texas Blackland Prairies Ecoregion. The secondary service area would include all or portions of Collin, Dallas, Denton, Ellis, Fannin, Freestone, Grayson, Hill, Hunt, Johnson, Kaufman, Limestone, Navarro, Rockwall, and Tarrant counties. The tertiary service area would be determined by the portions of the 8-digit HUC 12030102, 12030103, 12030107, 12030108, 12030109, 12030201 that fall outside the Texas Blackland Prairies Ecoregion. This would include portions of Anderson, Archer, Clay Cooke, Dallas, Denton, Freestone, Grayson, Henderson, Hood, Houston, Jack, Johnson, Kaufman, Leon, Limestone, Montague, Navarro, Parker, Tarrant, Van Zandt, Wise, and Young Counties (Sheet 8 of 8).

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the USFWS's latest published version of endangered and threatened species to determine if any may occur in the proposed Brushy Creek Tract of the ROUMB. In Ellis County, the Whooping Crane (*Grus americana*) is listed as endangered. Our initial review indicates that the proposed work would have no effect on federally listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The USACE has reviewed the latest complete

published version of the National Register of Historic Places and found no listed properties to be in the project area. The tracts that encompass the proposed mitigation bank have not been formally surveyed for the presence of historic and prehistoric artifacts.

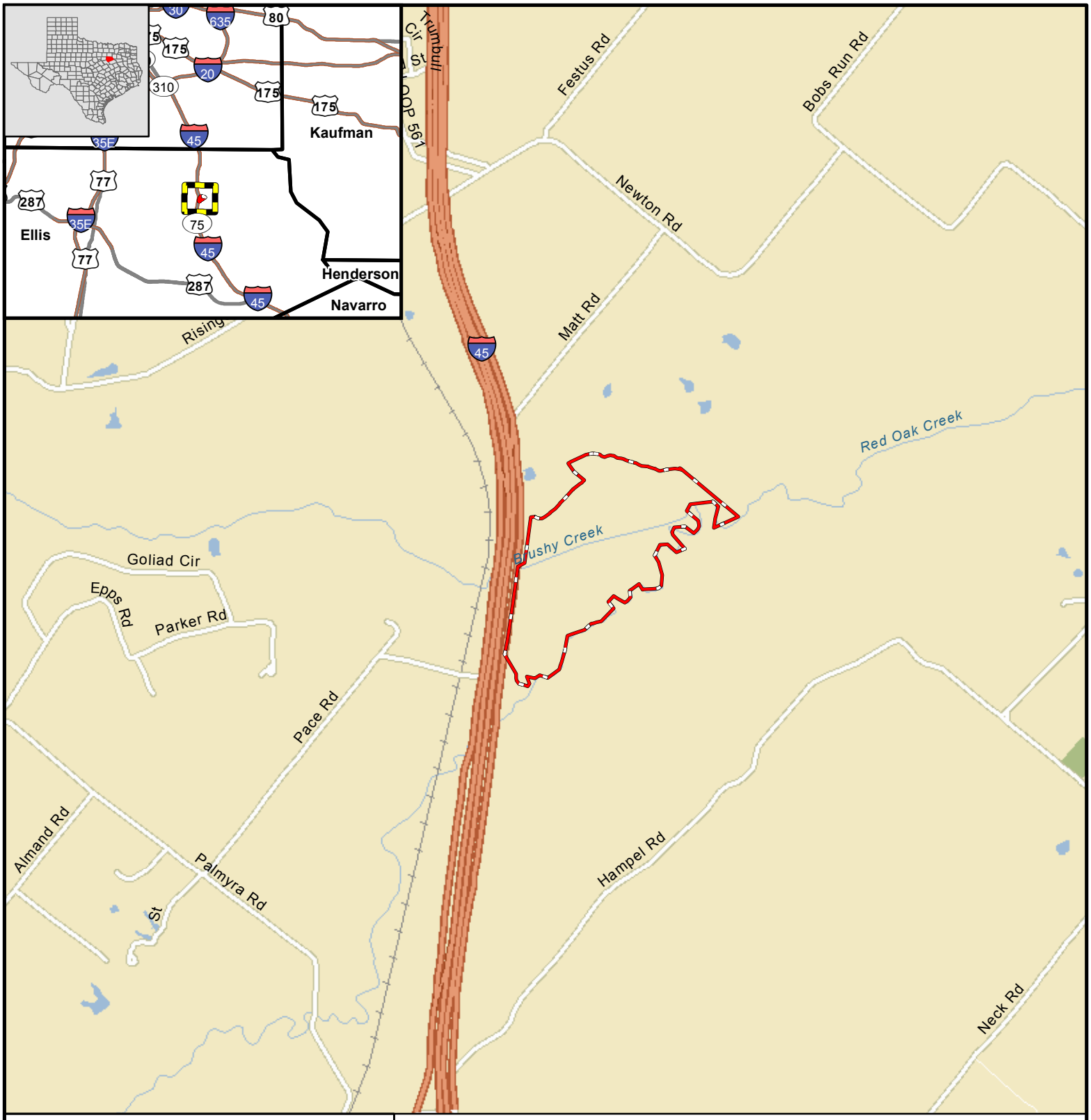
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review 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 modifying the ROUMB 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 December 9, 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. Mike Happold; 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) 886-1670. 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



Sheet 1 of 8
General Location Map
USACE Project Number
SWF-2013-00436

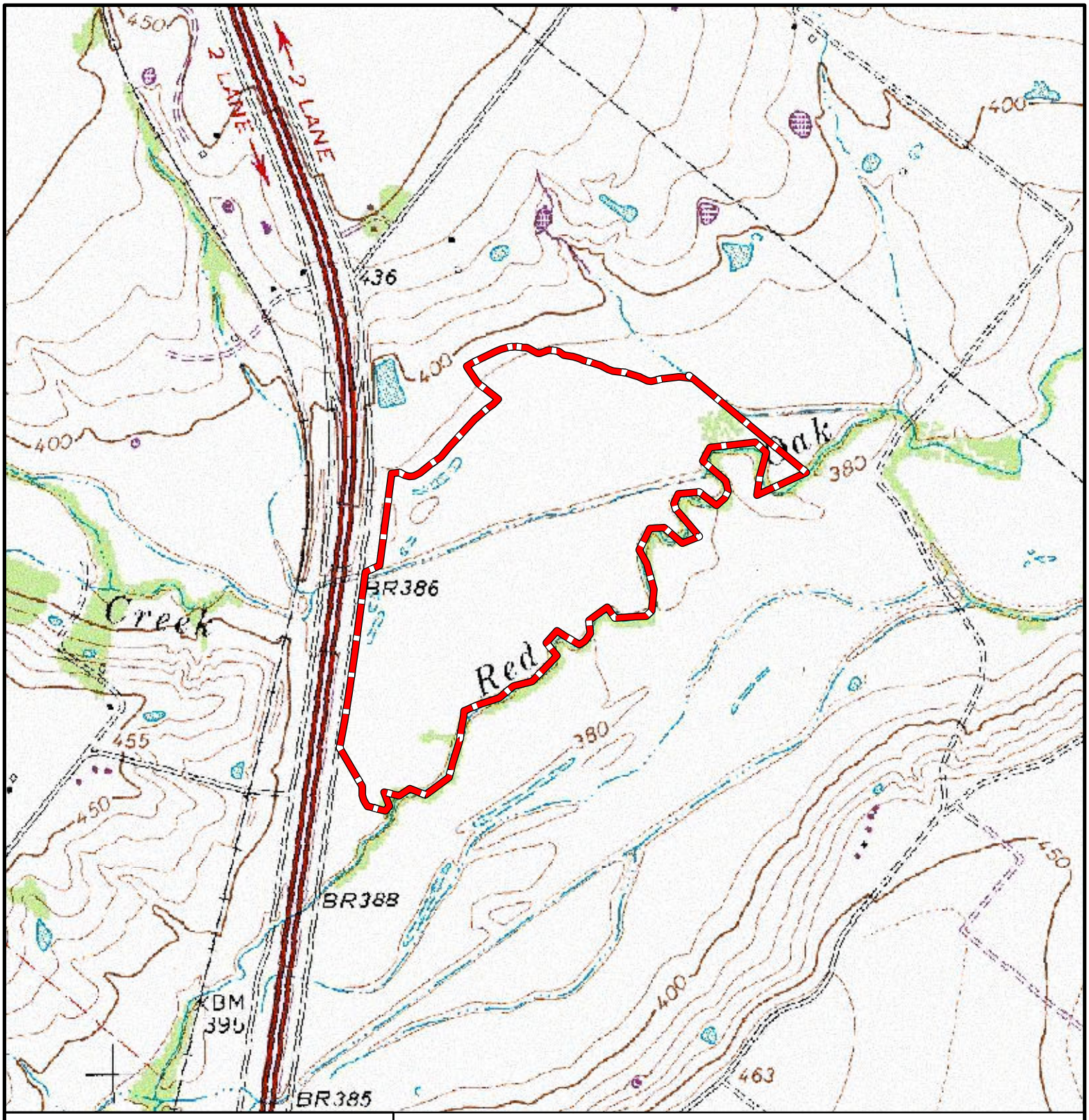
Brushy Creek Tract

N
W E
S

County: Ellis
State: Texas
Date map created: 11/05/2013
Source: ESRI 10 Streetmap
North America

1 inch = 2,000 feet

0 1,000 2,000 4,000 Feet



Sheet 2 of 8
Topographic Map
USACE Project Number
SWF-2013-00436

County: Ellis
State: Texas
Date map created: 11/05/2013
Source: USGS Topographic Map
Palmer 7.5' Quadrangle, 1979

Brushy Creek Tract

N
W E
S

1 inch = 1,000 feet

0 500 1,000 2,000 Feet

Sheet 3 of 8
Soil Series Map
USACE Project Number
SWF-2013-00436

County: Ellis
State: Texas
Date map created: 11/05/2013
Source: Soil Survey of Ellis County, Texas. 1951 Aerial Photograph

Brushy Creek Tract

Tc—Trinity clay, frequently flooded

To—Trinity clay, occasionally flooded

HcD2—Heiden clay, 5 to 8 percent slopes, eroded

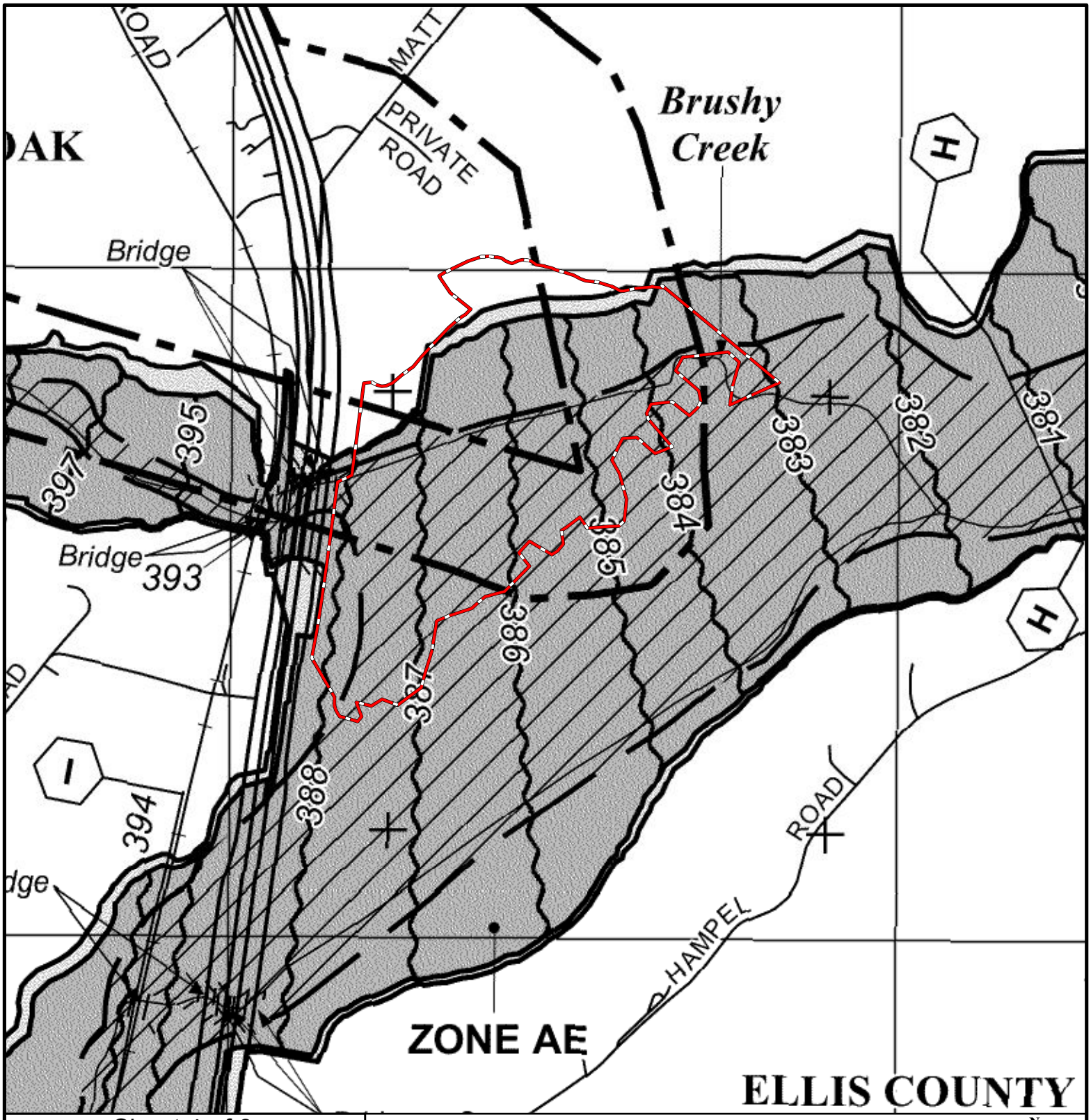
Intermittent, unclass

Wet Spots

N
W E
S

1 inch = 500 feet

0 250 500 1,000 Feet



Sheet 4 of 8
FEMA FIRM
USACE Project Number
SWF-2013-00436

County: Ellis
State: Texas
Date map created: 11/05/2013
Source: Federal Emergency Management Agency Flood Insurance Rate Map Panel, 48139C0225F
Effective Date: 06/03/2013

Brushy Creek Tract

FEMA FIRM Zone Descriptions

Zone X - Areas determined to be outside the 0.2% annual chance floodplain

Zone X - Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood

Zone A - Special Flood Hazard Areas subject to inundation by the 1% annual chance flood; No base flood elevations determined

Zone AE - Special Flood Hazard Areas subject to inundation by the 1% annual chance flood; Base flood elevations determined

Zone AE - Floodway areas in Zone AE

N
W E
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1 inch = 1,000 feet

0 500 1,000 2,000 Feet

Sheet 5 of 8
Aerial Photograph Map
USACE Project Number
SWF-2013-00436

Brushy Creek Tract

N
W E
S

County: Ellis
State: Texas
Date map created: 11/05/2013
Source: 2012 USDA FSA TOP Aerial Photography

1 inch = 500 feet

0 250 500 1,000 Feet

Sheet 6 of 8
Existing Aquatic Features Map
USACE Project Number
SWF-2013-00436

County: Ellis
State: Texas
Date map created: 11/05/2013
Source: 2012 USDA FSA TOP Aerial Photography

Brushy Creek Tract

Existing Aquatic Features

Ephemeral Tributary

Intermittent Tributary

Wetland

N
W E
S

1 inch = 500 feet

0 250 500 1,000 Feet

Sheet 7 of 8
Proposed Site Development Map
USACE Project Number
SWF-2013-00436

County: Ellis
State: Texas
Date map created: 11/05/2013
Source: 2012 USDA FSA TOP Aerial Photography

Brushy Creek Tract

Proposed Site Development Activities

- Ephemeral, Enhancement
- Ephemeral, Restoration
- Intermittent, Enhancement
- Intermittent, Restoration
- Wetland

N
W E
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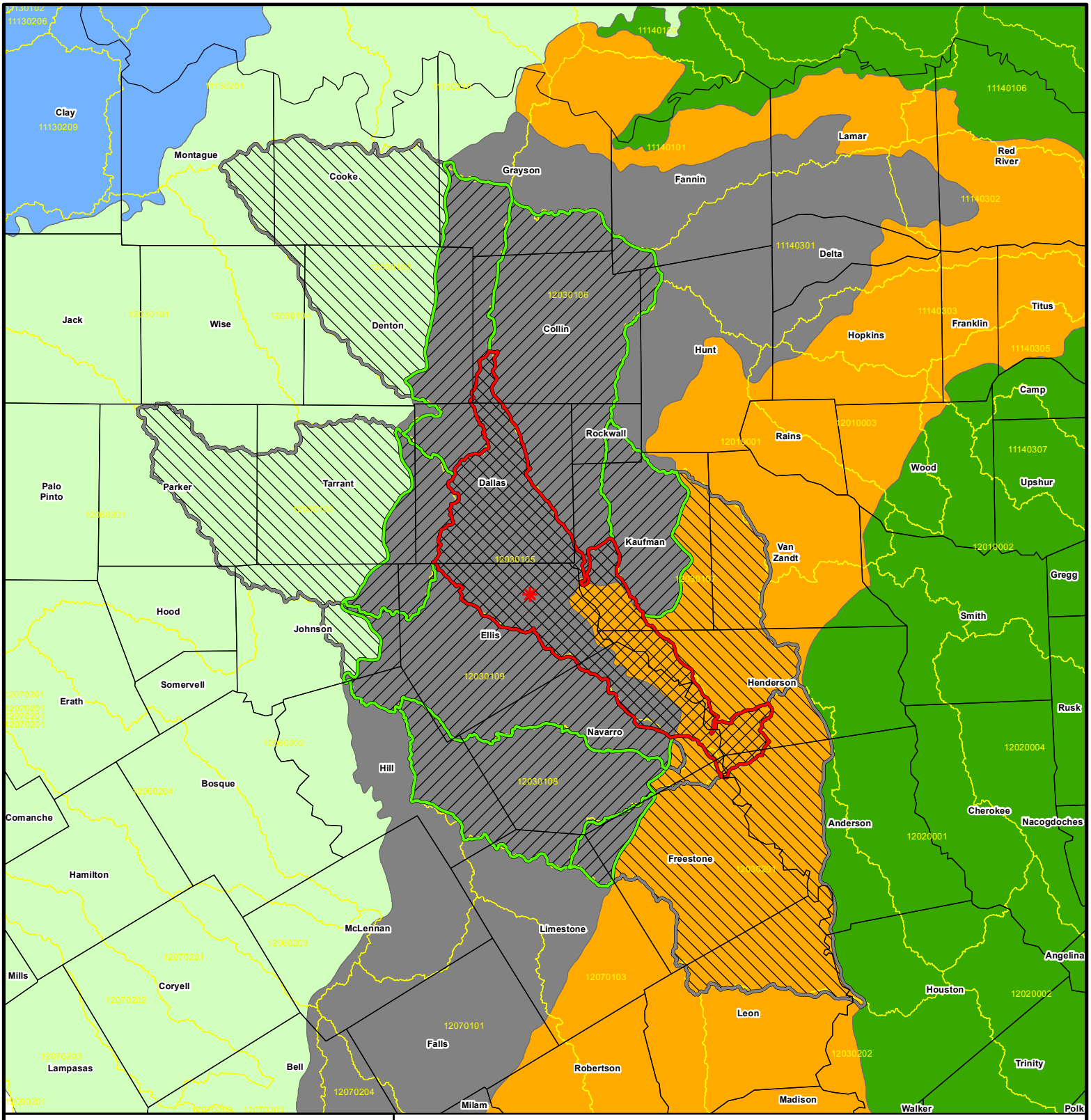
1 inch = 500 feet

0 250 500 1,000 Feet



Sheet 8 of 8
Service Area Map
USACE Project Number
SWF-2013-00436

County: Ellis
State: Texas
Date map created: 11/05/2013
Source: TNRIS 8 Digit Hydrologic Unit Code, EPA Level III EcoRegion

- Brushy Creek Tract Location
- Primary Service Area
- Secondary Service Area
- Tertiary Service Area
- 8 Digit HUC

EcoRegions

- Central Great Plains
- Cross Timbers
- East Central Texas Plains
- South Central Plains
- Texas Blackland Prairies

N
W E
S

1 in = 25 miles

0 12.5 25 50 Miles