



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

Public Notice

Applicant: TXI Operating, LP

Project No.: SWF-2012-00125

Date: April 2, 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. Darvin Messer

Phone Number: 817-886-1744

JOINT PUBLIC NOTICE

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

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States (WOUS) associated with the expansion of a rock and gravel quarry near the city of Chico in Wise County, Texas.

APPLICANT: TXI Operating, LP

APPLICATION NUMBER: SWF-2012-00125

DATE ISSUED: April 1, 2013

LOCATION: The proposed rock and gravel quarry expansion would be located on Village Creek and its associated abutting emergent wetlands adjacent to the existing quarry operations west of Texas Highway 101 (Figures 1-3 of 7) near the city of Chico in Wise County, Texas. The proposed project would be located approximately at Latitude 33.26848 North and Longitude -97.81886 West on the Chico, Texas, 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit #12030101 – Upper West Fork Trinity.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 16 cubic yards of dredged and fill material into approximately 110 linear feet (lf) (0.013 acres) of WOUS (ephemeral stream) to divert the flow of Village Creek into a newly constructed channel. This diversion would allow for the proposed excavation of 1,599 lf (0.12 acre) of an ephemeral reach of Village Creek and 1.44 acre of abutting emergent wetlands in conjunction with the construction, operation, and reclamation of the quarry expansion (Figures 3-7 of 7). Proposed impacts to WOUS would be permanent and total 1.573 acre. Proposed impact subtotals by aquatic resource type are 1.44 acre of emergent wetlands and 1,709 lf (0.133 acre) of ephemeral stream.

The applicant's stated purpose of the project is to continue rock and gravel mining operations near their existing processing facility to help meet continuing strong regional demand for rock and aggregate construction materials. WOUS present on the proposed project site have been degraded by past and ongoing quarry operations being conducted by the applicant and other companies in the watershed. During project planning, the applicant considered several alternatives in an effort to avoid and minimize adverse impacts to WOUS. The no action alternative would result in the proposed project not being built and subsequently, there would be

no adverse impacts to WOUS. However, the no action alternative would have significant financial and operational implications for the quarry. Other action alternatives considered would result in the same or greater amount of impacts to WOUS primarily due to real estate access constraints. The applicant's preferred alternative would allow mining operations to continue and provide compensatory mitigation in the form of mitigation bank credits for unavoidable losses of WOUS. Additionally, the diverted ephemeral reach of Village Creek would be constructed with abutting emergent wetlands to restore hydrologic connection to the watershed and ecological functions to the project area. The applicant proposes to purchase 4.3 wetland credits and 8.5 ephemeral stream credits from Trinity River Mitigation Bank (TRMB) pursuant to their approved Mitigation Banking Instrument.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, 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.

The USACE is soliciting 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 USACE in determining whether to issue, issue with modifications, or conditions, 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 the 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.

STATE WATER QUALITY CERTIFICATION: This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public

notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. **Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087.** The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in a Wise County, Texas, where the whooping crane (*Grus americana*) and black-capped Vireo (*Vireo atricapilla*) are known to occur or may occur as migrants. The whooping crane and black-capped Vireo are endangered species. 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. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit.

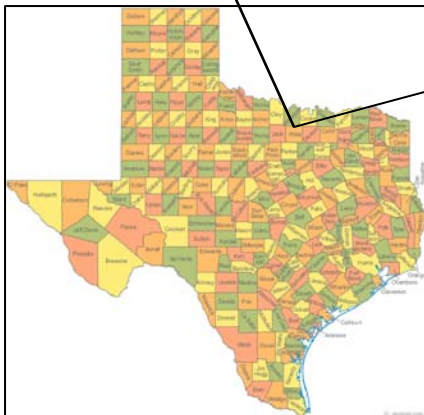
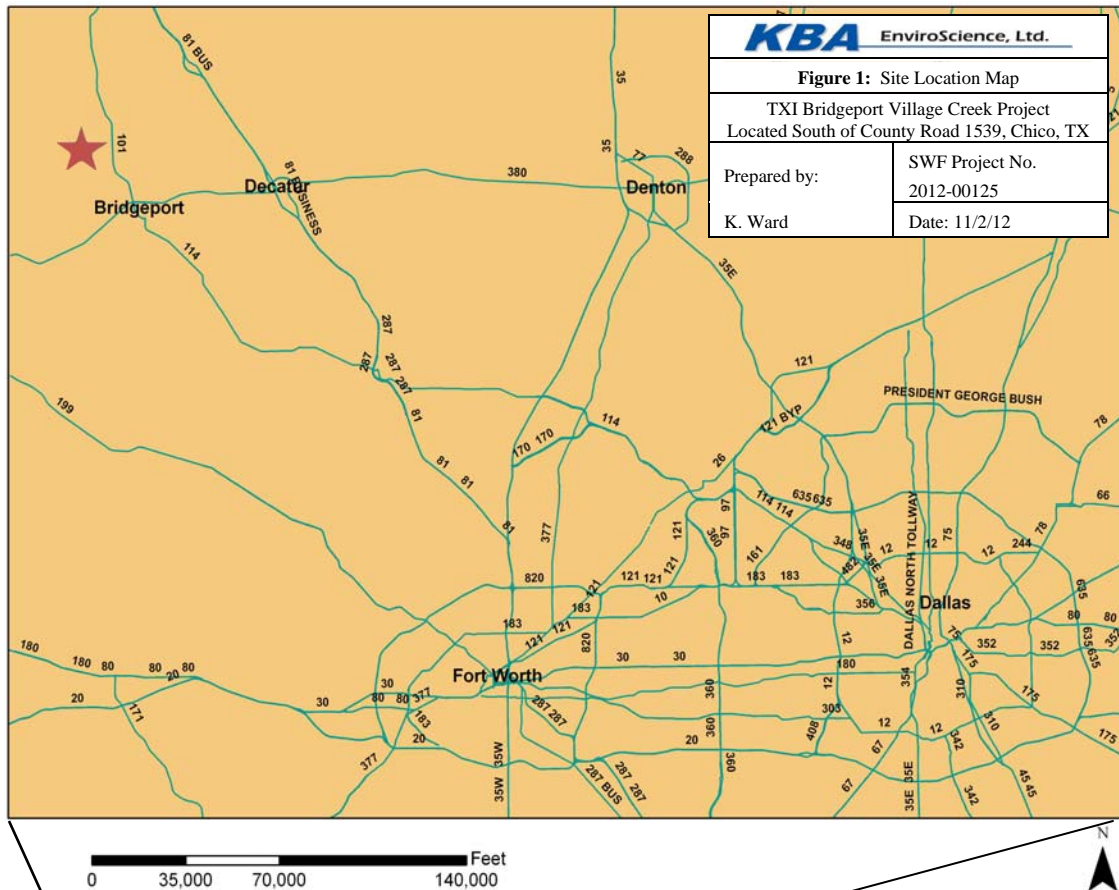
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review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

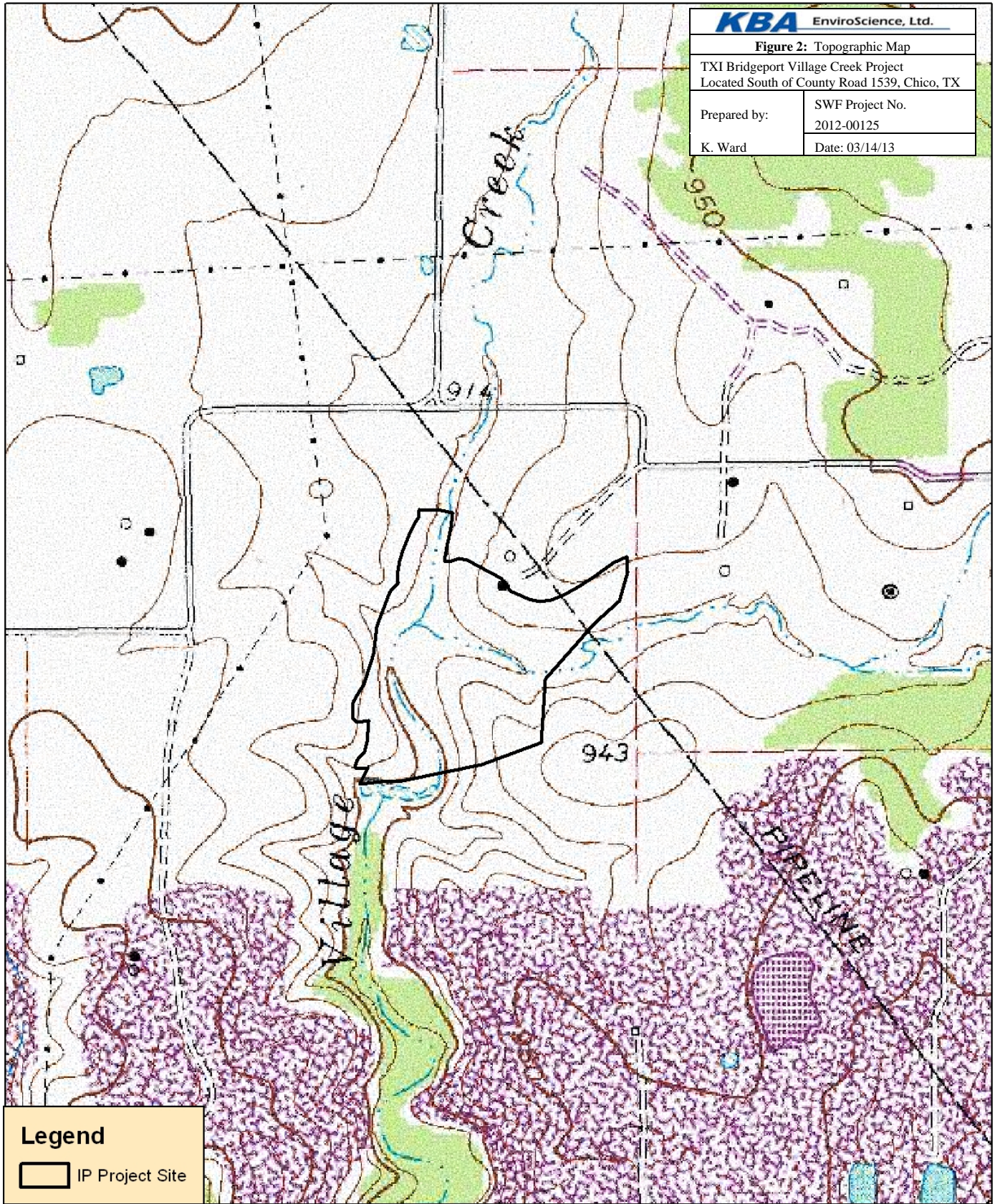
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

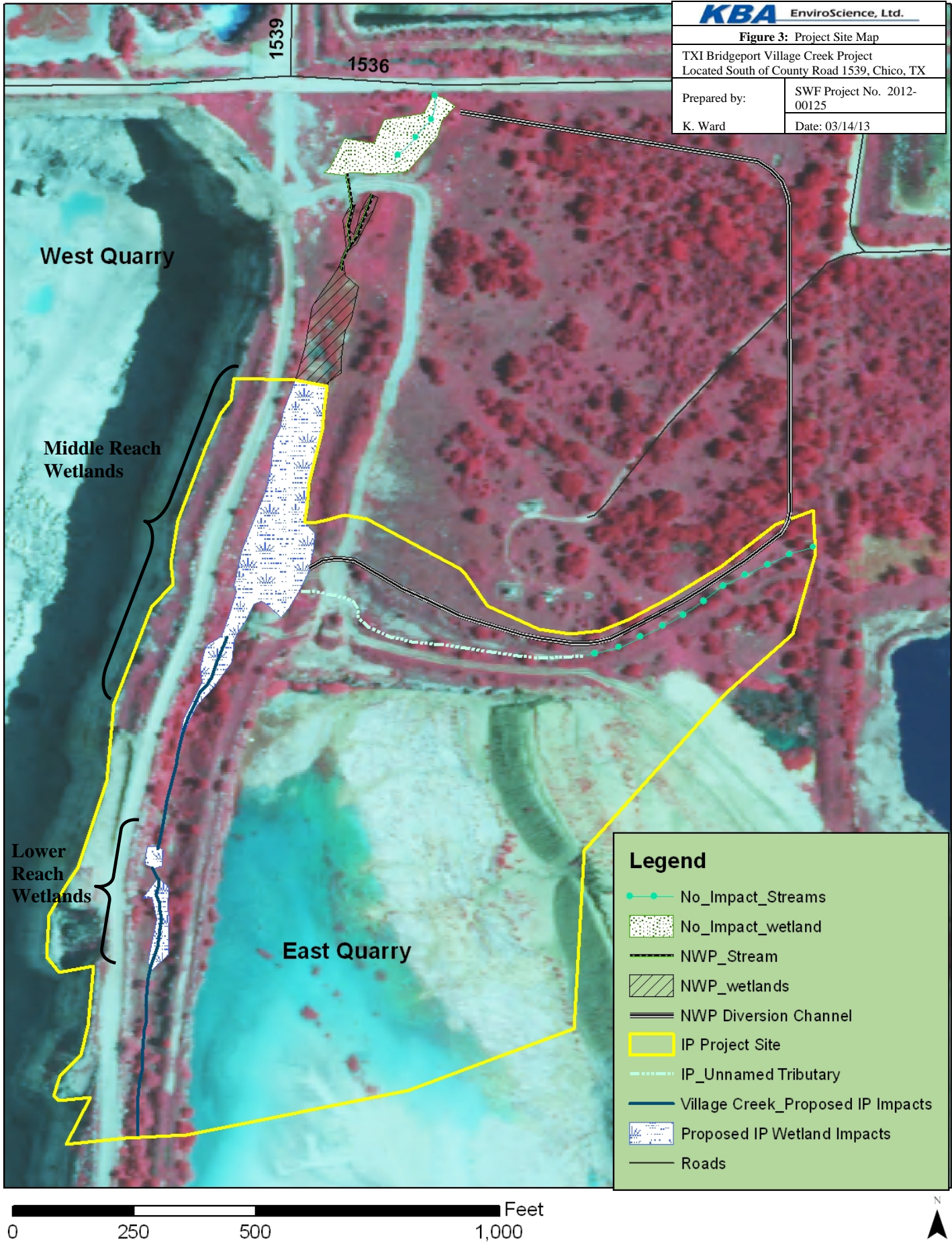
PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If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

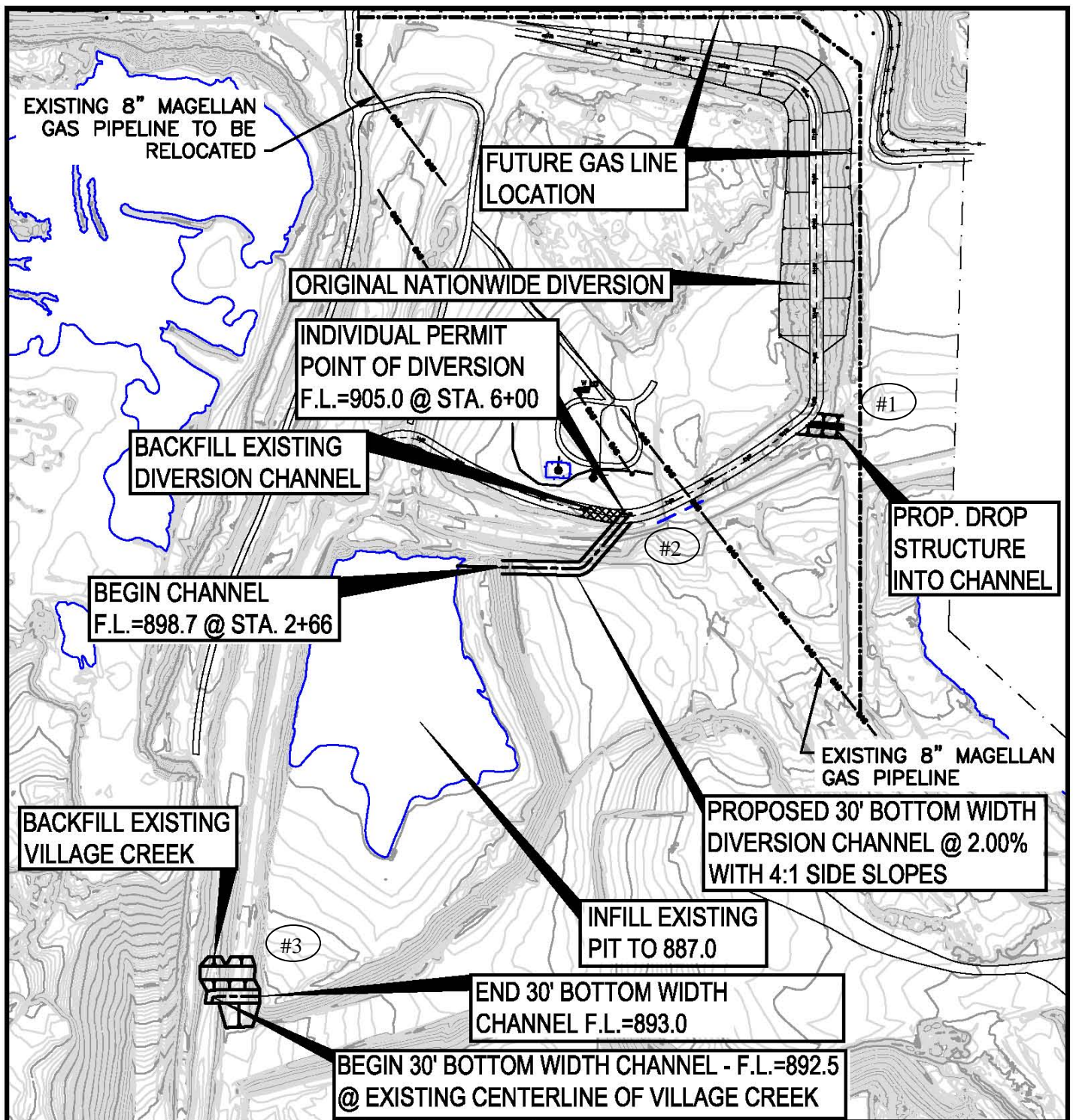
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before May 1, 2013, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to ; 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) 886-1731. 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









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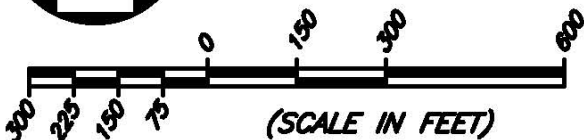


Figure 4: Plan View

TXI Bridgeport Village Creek Project
Located South of County Road 1539, Chico, TX
SWF Project No. 2012-00125



TXI BRIDGEPORT PROPOSED STREAM DIVERSION

1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78748 (512) 327-9204

Texas Registered Engineering Firm F-353

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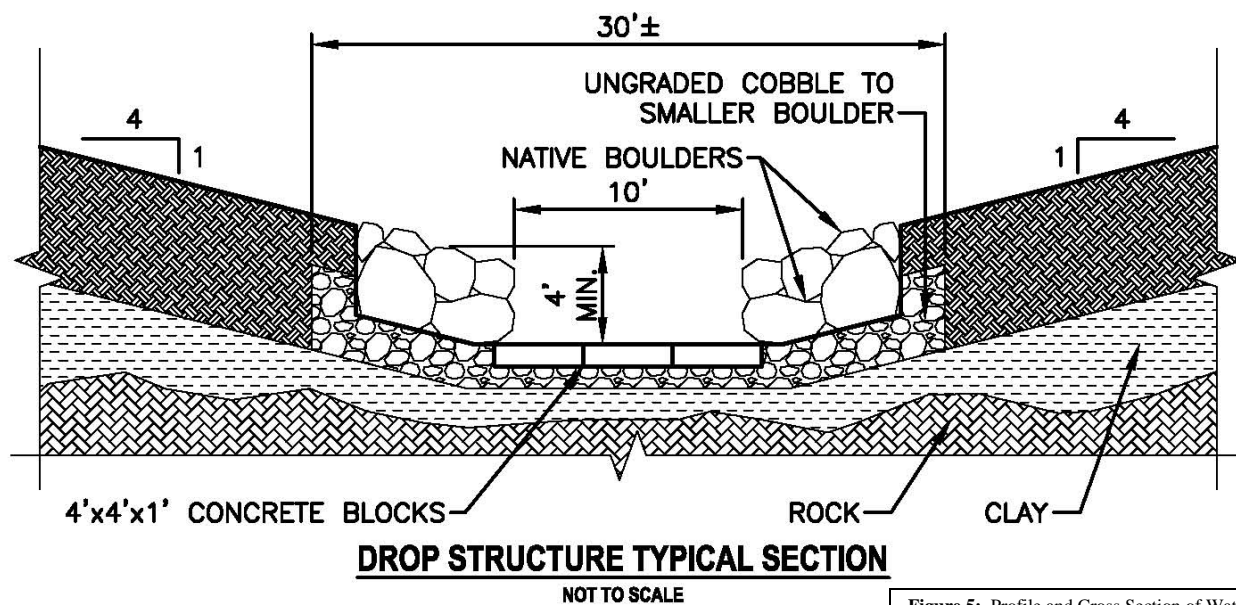
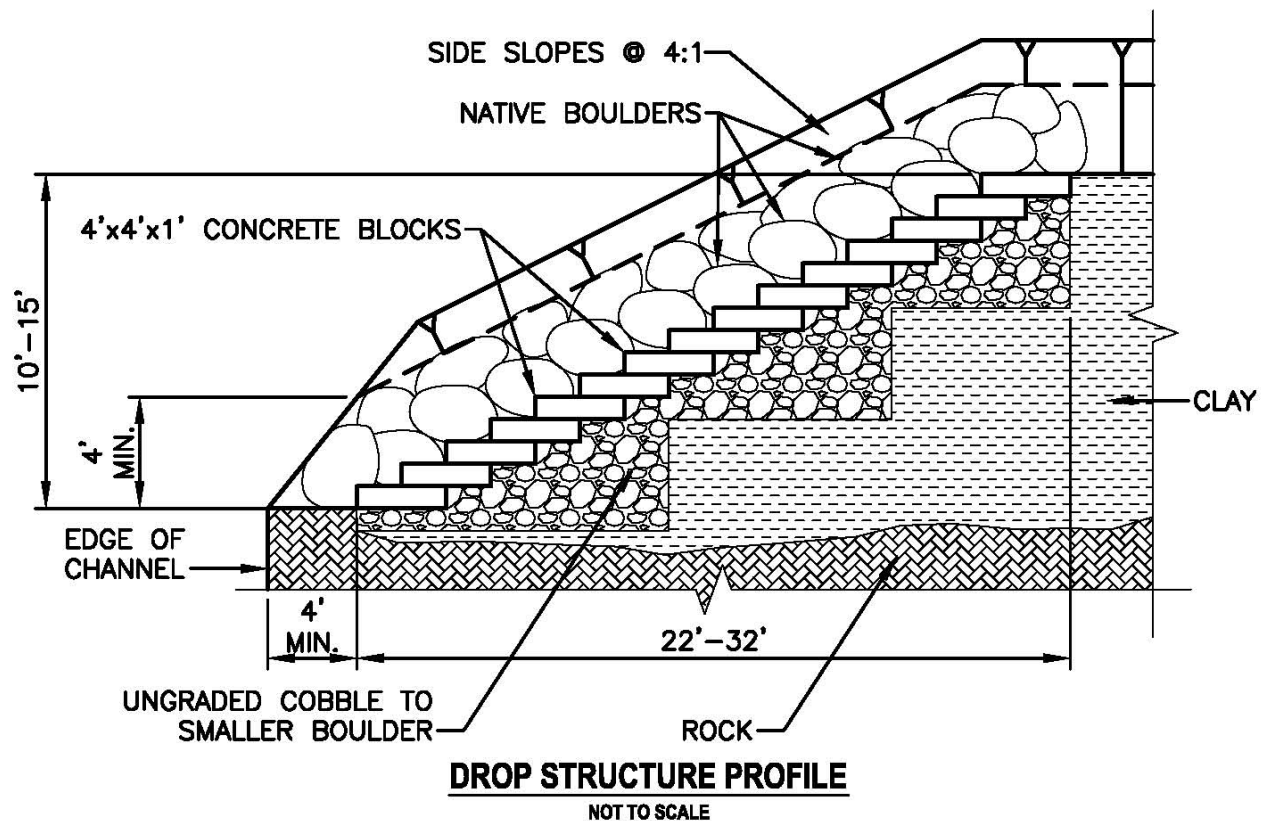


Figure 5: Profile and Cross Section of Water Drop Structure Receiving High Flows from Unnamed Tributary

TXI Bridgeport Village Creek Project
Located South of County Road 1539, Chico, TX

SWF Project No. 2012-00125

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Murfee Engineering Company

TXI BRIDGEPORT PROPOSED DROP STRUCTURE

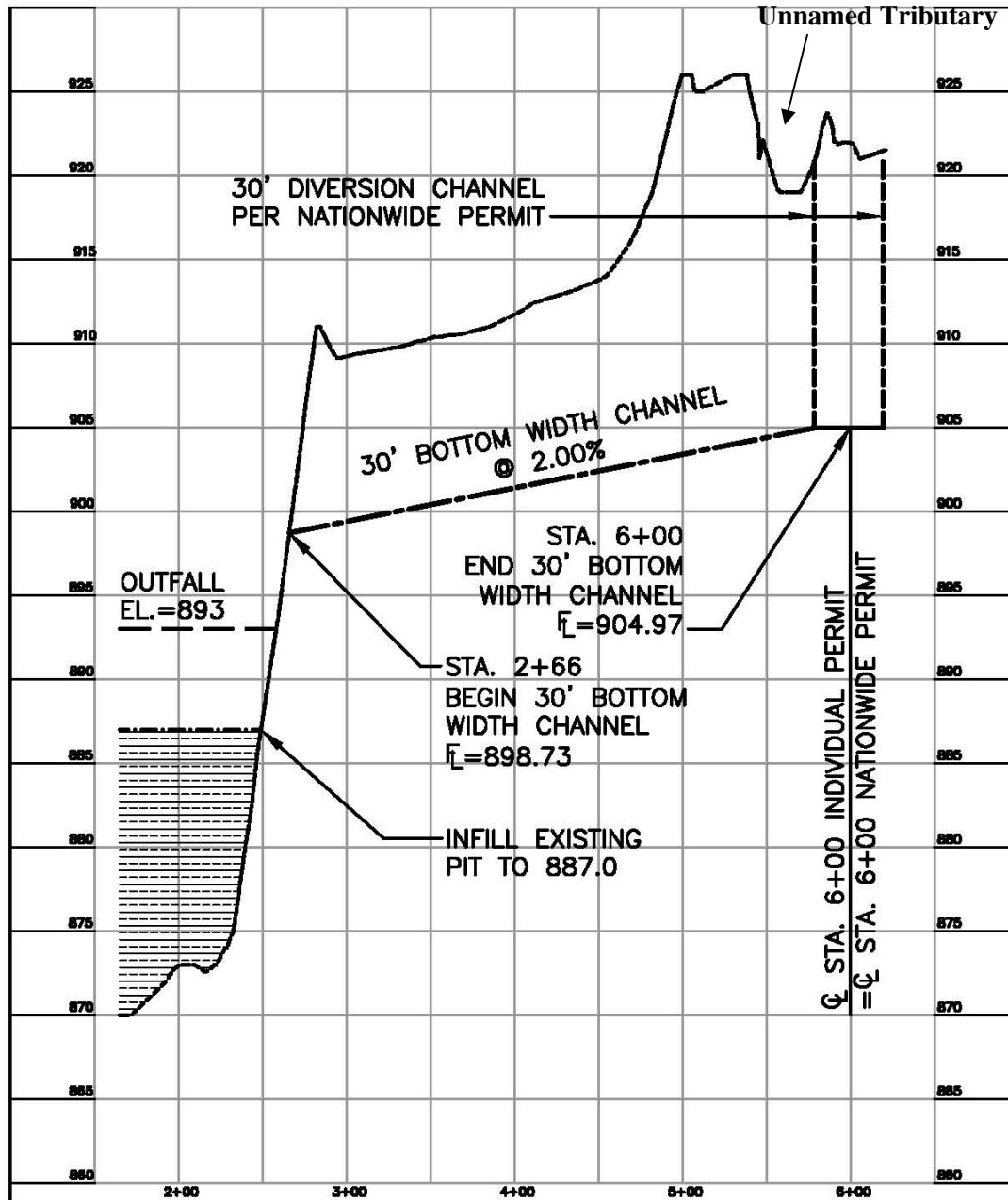
1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78748 (512) 327-9204

Texas Registered Engineering Firm F-353

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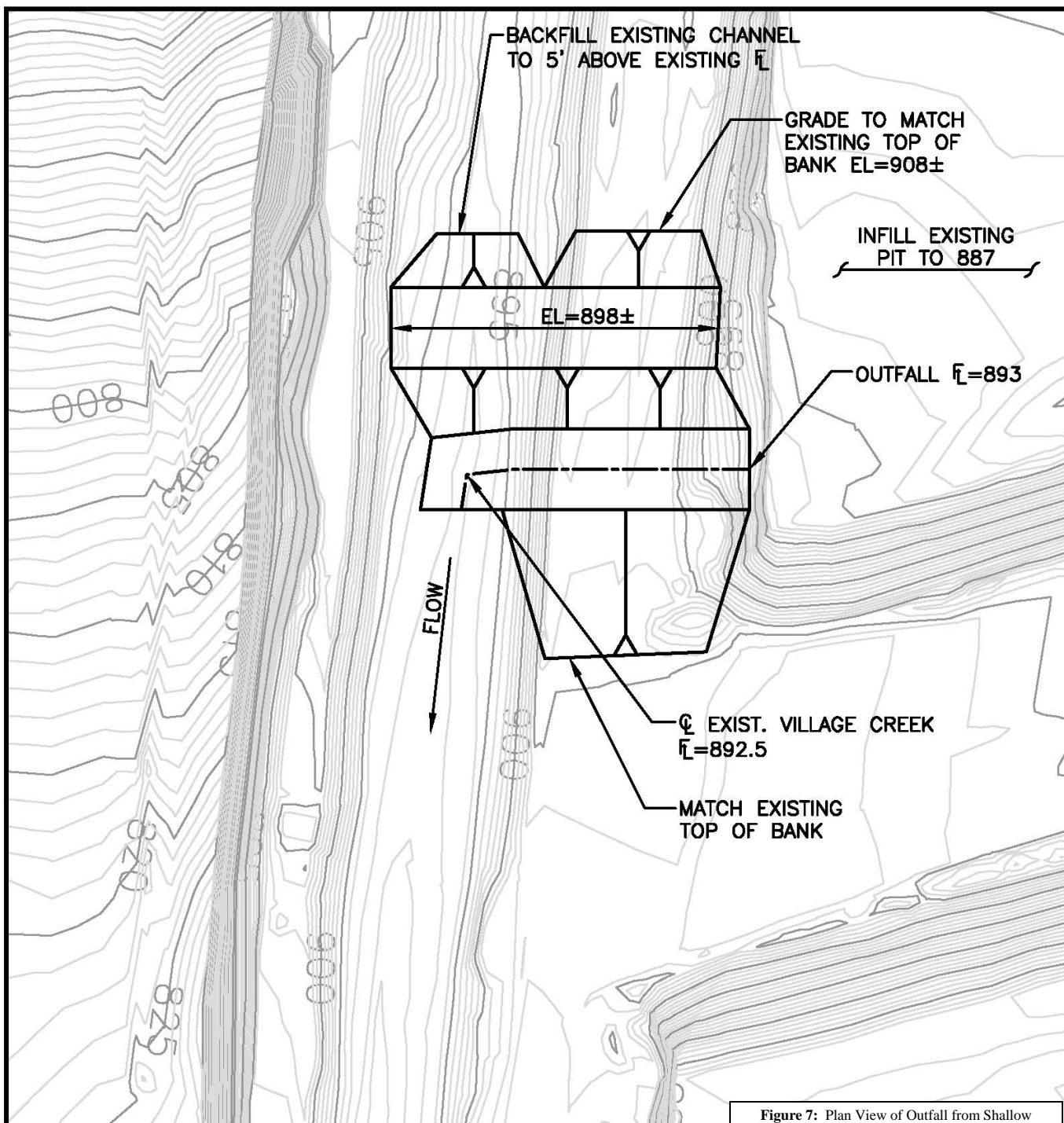
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 Murfee Engineering Company	Figure 6: Profile of Diversion of Village Creek into Shallow Water Habitat/Emergent Wetland TXI Bridgeport Village Creek Project Located South of County Road 1539, Chico, TX SWF Project No. 2012-00125	
	TXI BRIDGEPORT PROPOSED STREAM DIVERSION	
1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78748 (512) 327-9204		
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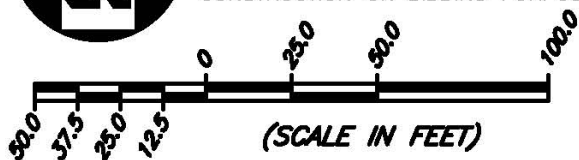


Figure 7: Plan View of Outfall from Shallow
Water Habitat/Emergent Wetland into Downstream
Portion of Village Creek

TXI Bridgeport Village Creek Project
Located South of County Road 1539, Chico, TX

Murfree Engineering Company

SWF Project No. 2012-00125

TXI BRIDGEPORT PROPOSED OUTFALL

1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78748 (512) 327-9204

Texas Registered Engineering Firm F-353

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