



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

Public Notice

Applicant: XTO Energy, Inc.

Project No.: SWF-2014-00257

Date: October 29, 2014

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

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) to discharge dredged and fill material into waters of the United States (WOUS) associated with development of a proposed oil well site on 1.43 acres of land in Titus County, Texas (east of Talco, Texas).

APPLICANT: XTO Energy, Inc.
c/o Mr. Bobby Stark
6141 Paluxy Drive
Tyler, Texas 75703

APPLICATION NUMBER: SWF-2014-00257

DATE ISSUED: October 29, 2014

LOCATION: The proposed FWY West oil well would be located on an approximately 1.43-acre pad containing emergent wetlands east of Talco, Titus County, Texas (Sheet 1). The emergent wetlands drain to an unnamed tributary of Big Slough, then to White Oak Creek and Wright Patman Lake. The proposed project area is centered at approximately (33.34765, -95.037422). Soil types for the project site and surrounding area are depicted in Sheet 3. A topographic map of the site is located in Sheet 4. A diagram of the pad and road along with a cross-sectional diagram can be found on Sheets 6 & 7.

PROJECT DESCRIPTION: XTO Energy, Inc. (XTO) proposes to discharge approximately 2,700 cubic yards of clay and 620 cubic yards of soil cement into 1.2 acres of WOUS, which is comprised entirely of emergent wetland, in conjunction with the construction of the FWY West well site in Titus County, Texas (Sheet 5). Proposed adverse impacts total 1.2 acres of emergent wetland. The proposed project exceeds the acreage thresholds of Regional General Permit No. 11 (RGP-11) and Nationwide Permit 39 (NWP 39), and is therefore being evaluated as an Individual Permit.

The applicant's stated purpose for the proposed project is to obtain recoverable hydrocarbons on an existing mineral lease. The project area is hydrologically connected to the Sulphur River, a traditionally navigable water. All wetlands delineated for the proposed project are jurisdictional under Section 404 of the CWA.

EXISTING CONDITIONS: The project area is characterized as having a single plant community occupying both the emergent wetlands and upland areas. Dominant vegetation within both plant communities includes lanceleaf ragweed (*Ambrosia bidentata*), common bermudagrass (*Cynodon dactylon*), and Osage orange (*Maclura pomifera*). However, the emergent wetland areas had greater coverage of lanceleaf ragweed.

The pad site would permanently impact 1.2 acres of emergent wetland. The emergent wetland is located in a flat area near tributaries of Big Slough and as such, has the potential to be inundated during periods of high rainfall and flooding of downgradient waters. Hydrology indicators on-site are algal mats, oxidized rhizospheres on living roots, and a sparsely vegetated concave surface. Hydric soils are also present, along with primarily lanceleaf ragweed (*Ambrosia bidentata*) as the vegetative layer.

ALTERNATIVES: During project planning, the applicant considered several alternatives in an effort to avoid and minimize adverse impacts to WOUS. Descriptions of the alternatives are provided below.

Alternative 1: XTO considered a No Action Alternative in which the proposed well site would not be constructed, thus resulting in no production of hydrocarbons. In the short-term, adverse environmental impacts would be avoided. However, the proven oil reserves in the project vicinity would likely mean that a well site would be placed in the proposed project location at some point in the future.

Alternative 2: XTO considered drilling from the I.N. Williams #21, an existing pad immediately to the north of the proposed location (Sheet 2). This alternative was deemed unsafe due to the high risk of drilling operations colliding with a historical well bore associated with the I.N. Williams #21 well. Likewise, drilling from other locations to the immediate northeast and northwest also increases the risk of colliding with existing well bores prevalent in the area. The current proposed location of the FWY West is of sufficient distance south for minimizing the risk of colliding with these historical well bores.

Alternative 3: XTO considered drilling from locations to the south and southeast of the proposed locations (Sheet 2). These areas would have increased wetland impacts in comparison to the proposed location. Further, movement of the location is limited by XTO's lease and the requirement to maintain legal distances between wells. The Railroad Commission of Texas regulates the spacing of wells and XTO is obligated to adhere to these regulations.

MITIGATION: The applicant's proposed compensatory mitigation consists of debiting pre-purchased credits from the Brooks Creek Mitigation Bank. These credits have been calculated and purchased in compliance with the terms of the approved mitigation banking instrument. In total, 1.0 credit would be debited from the Brooks Creek Mitigation Bank to offset the permanent impact and loss of 1.2 acres of emergent wetland on the subject tract.

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 of 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 that 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 incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those that result in a direct impact of three acres or less of waters of the State or 1,500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices (BMPs) and other provisions designed to safeguard water quality. The USACE has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

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 Titus County where the least tern (*Sterna antillarum*) and piping plover (*Charadrius melodus*) are known to occur or may occur as migrants. The least tern is an endangered species while the piping plover is a threatened 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 project area was surveyed for the presence of historic and prehistoric cultural resources. Shovel testing and a pedestrian survey did not identify any prehistoric or historic sites. No previously recorded historic or prehistoric sites listed on, or eligible for listing in the National Register of Historic Places are known from the immediate vicinity of the project area.

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

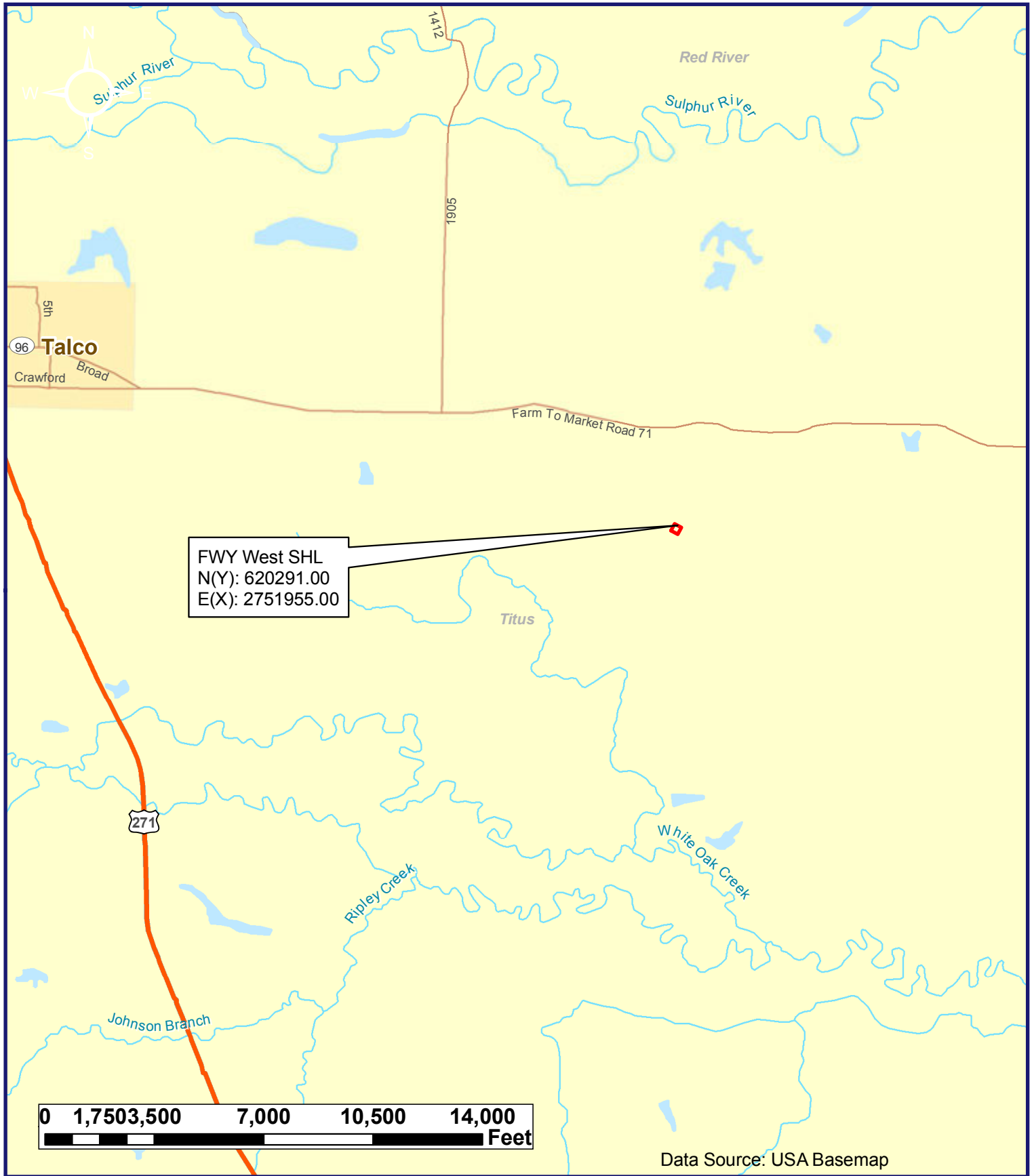
Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing facts 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 December 1, 2014, 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-DE-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

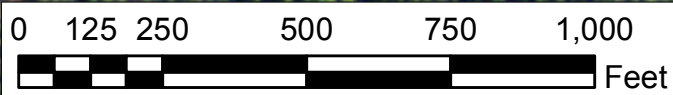


 <p>Titanium Environmental Services, LLC PO Box 4029 • Longview, Texas 75606 Phone (903) 234-8443 • Fax (903) 234-1641 www.titaniumenvironmental.com</p>	CLIENT	PROJECT DESCRIPTION	Sheet 1 of 7
	XTO Energy, Inc.	Talco East Unit FWY West	General Location Map SWF-2014-00257 Created by: KH Date: 4/10/2014 Revised by: Date:




I.N. Williams #21 existing pad and areas to the north have increased risk of colliding with historical well bores.

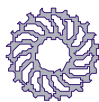
Southern and eastern areas have greater wetland impacts



Legend

 FWY West Pad

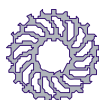
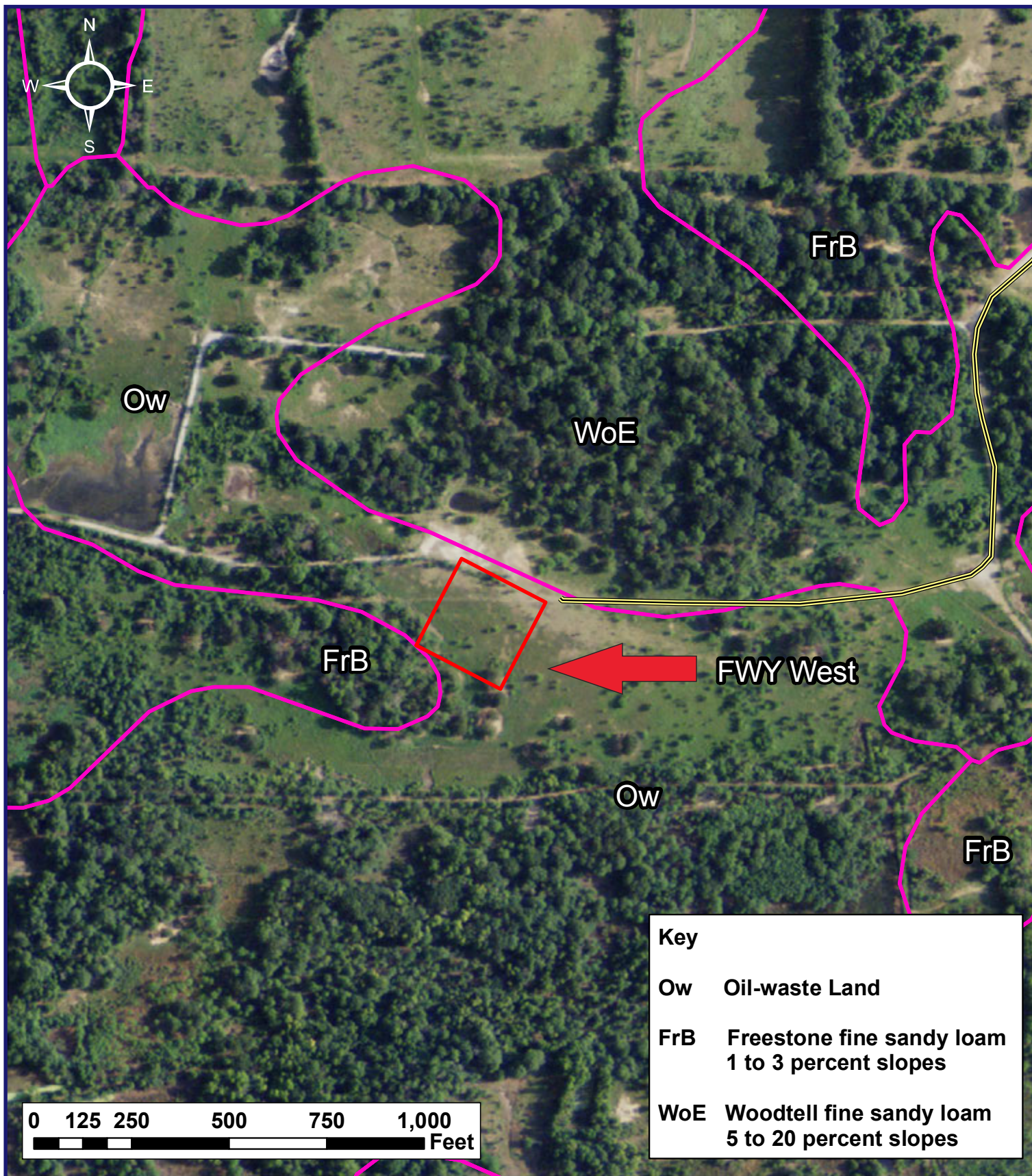
Data Source: 2012 Aerial Photograph, Courtesy of TNRIS



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CLIENT	PROJECT DESCRIPTION	Sheet 2 of 7
XTO Energy, Inc.	Talco East Unit FWY West	Alternative Locations SWF-2014-00257 <small>Created by: KH Date: 4/10/2014</small> <small>Revised by: J. Mars Date: 10/13/2014</small>



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CLIENT

XTO Energy, Inc.

PROJECT DESCRIPTION

**Talco East Unit
FWY West**

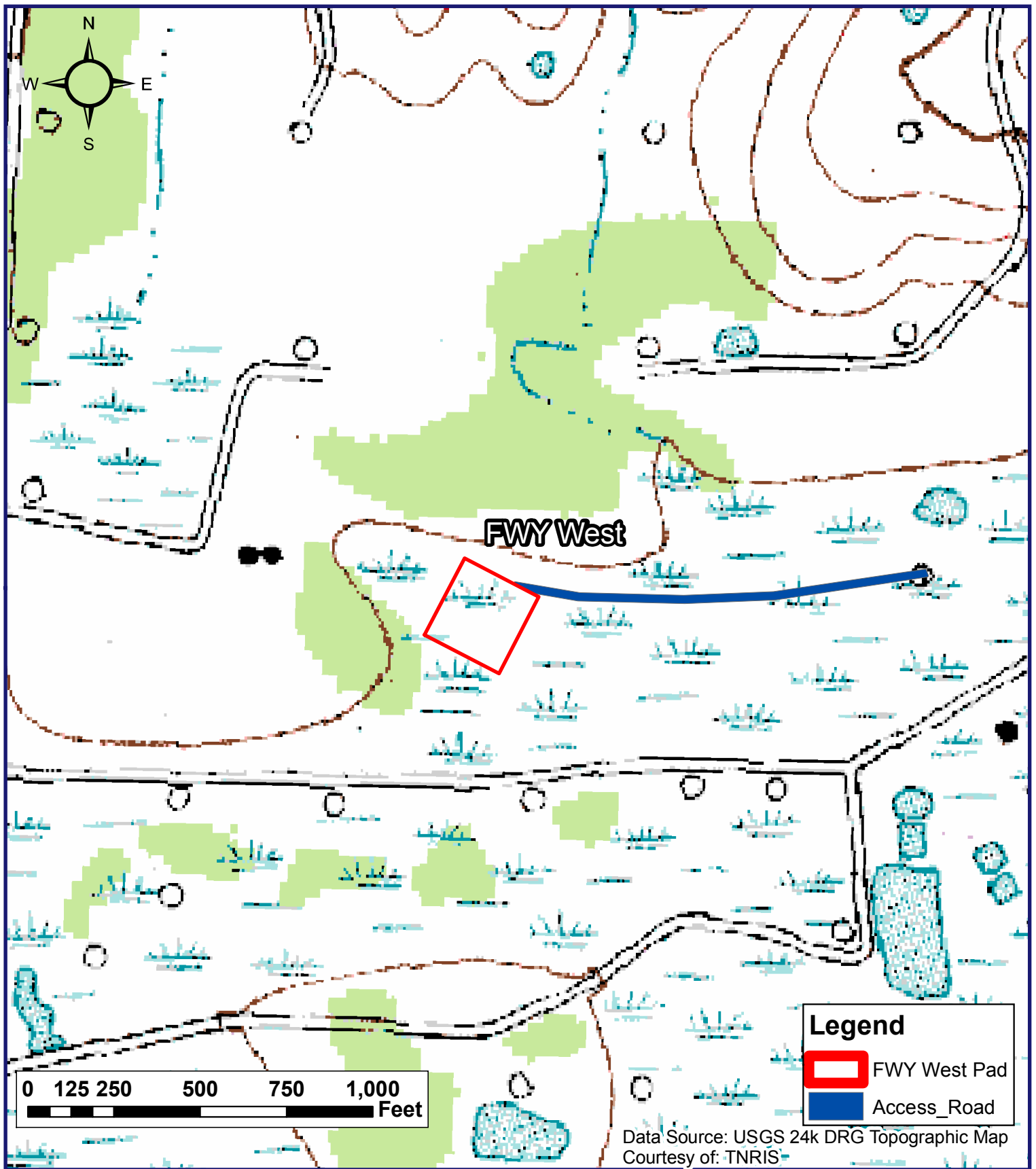
Sheet 3 of 7

Soils Map

SWF-2014-00257

Created by: KH
Date: 4/28/2014

Revised by: J. Mars
Date: 10/09/2014



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CLIENT

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PROJECT DESCRIPTION

Talco East Unit
FWY West

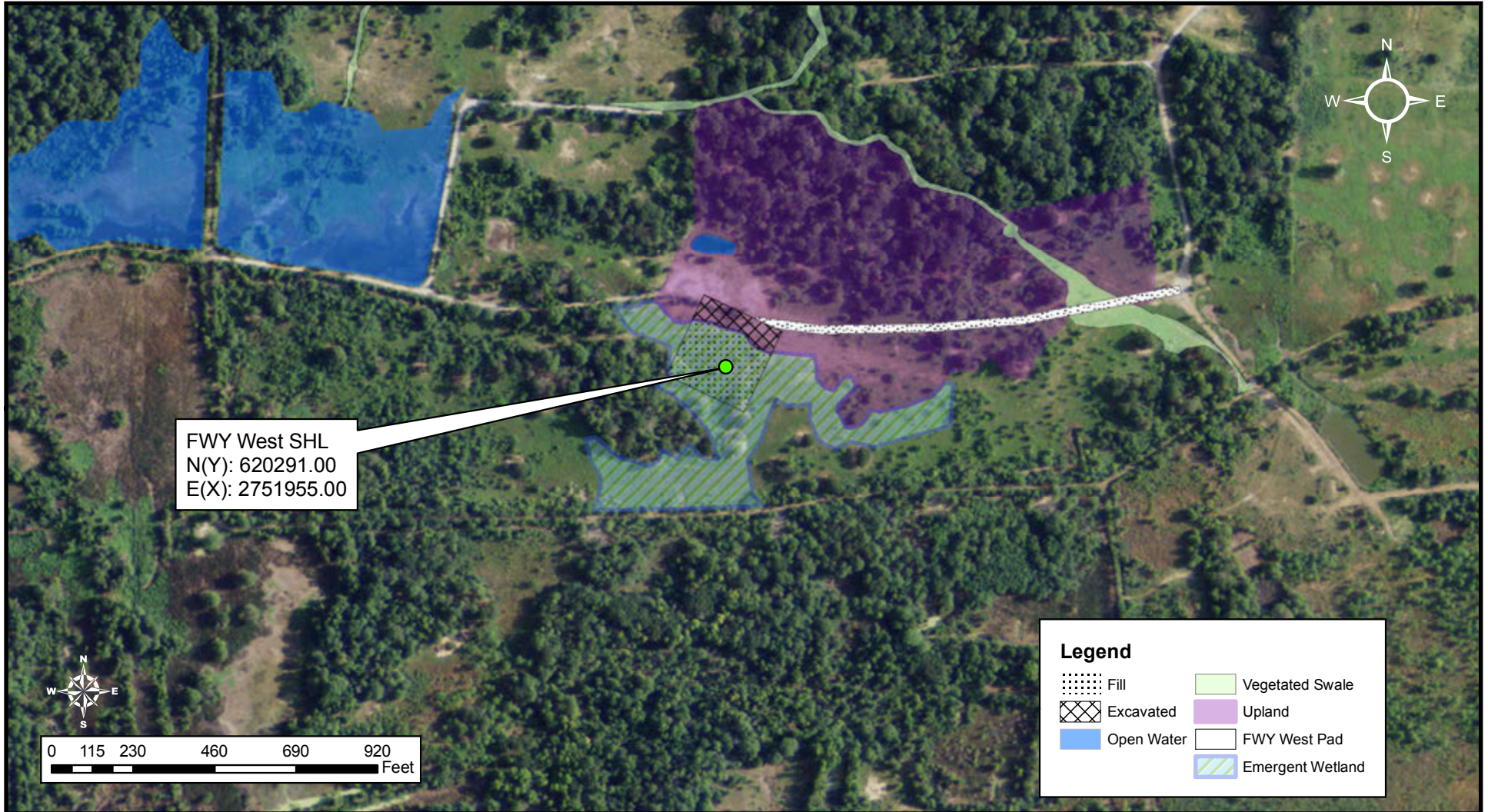
Sheet 4 of 7

Topographic Map

SWF-2014-00257








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Date: 4/10/2014

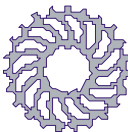
Revised by: J. Mars
Date: 10/09/2014

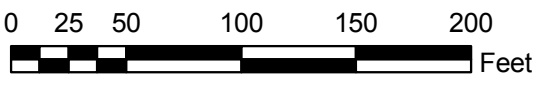
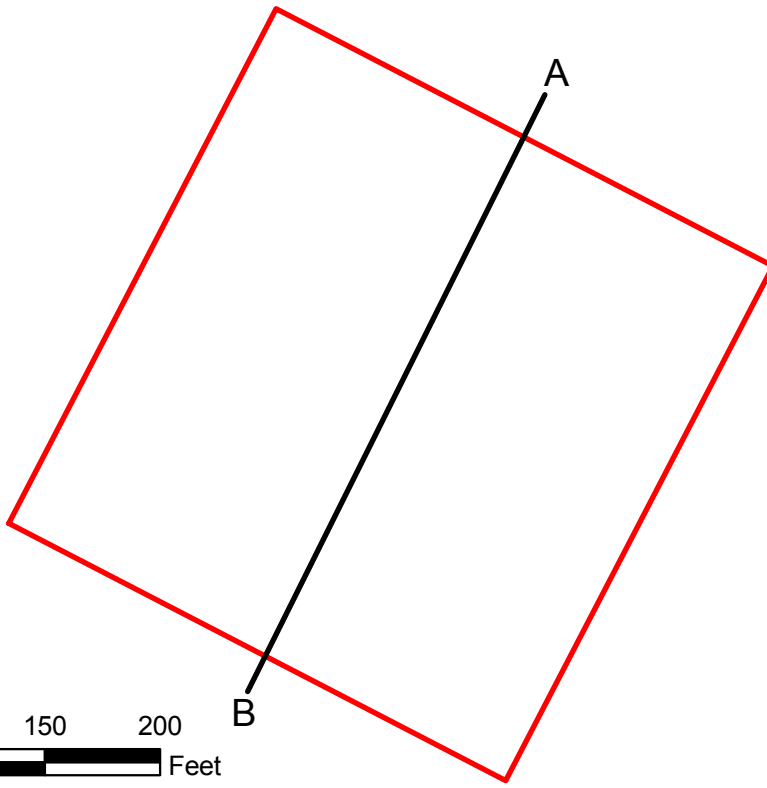


FWY West SHL
 N(Y): 620291.00
 E(X): 2751955.00


Legend

-  Fill
-  Vegetated Swale
-  Excavated
-  Upland
-  Open Water
-  FWY West Pad
-  Emergent Wetland

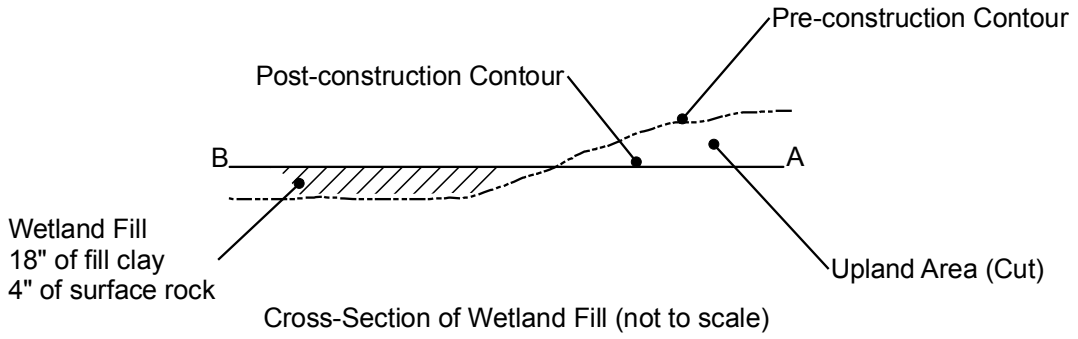
 <p>Titanium Environmental Services, LLC PO Box 4029 • Longview, Texas 75606 Phone (903) 234-8443 • Fax (903) 234-1641 www.titaniumenvironmental.com</p>	CLIENT	PROJECT DESCRIPTION	Sheet 5 of 7
	XTO Energy, Inc	Talco East Unit FWY West	Waters of the United States SWF-2014-00257
			Created by: KH Revised by: J. Mars Date: 4/10/2014 Date: 10/09/2014



Legend

 FWY West Pad

Cross-Section of Dredge and Fill
(Not to Scale)

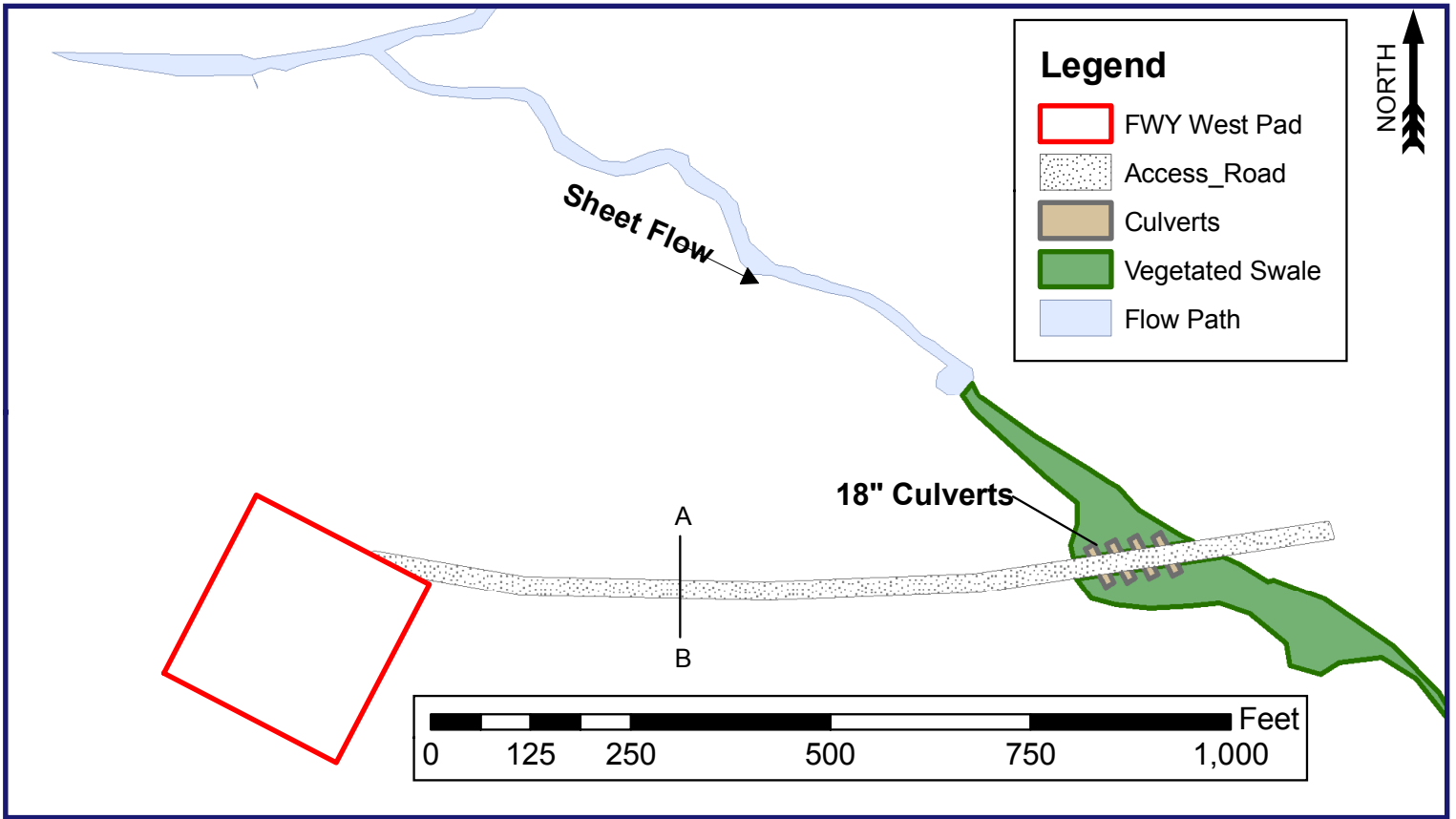



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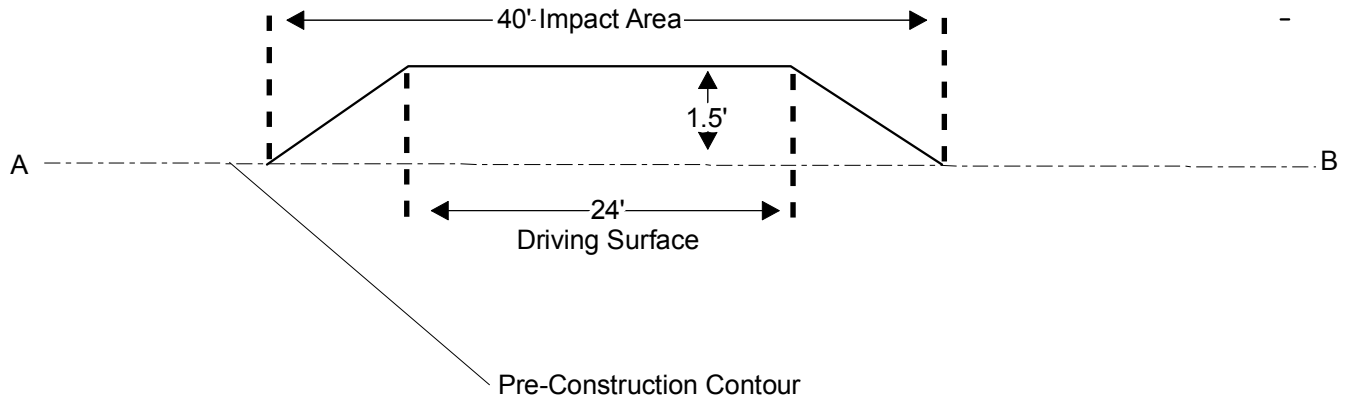
CLIENT
XTO Energy, Inc.

PROJECT DESCRIPTION
Talco East Unit

Sheet 6 of 7
Pad Cross-Section SWF-2014-00257
Created by: J, Mars Revised by: Date: 10/06/2014 Date:



Cross-Section of Dredge and Fill
(Not to Scale)



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PROJECT DESCRIPTION

Talco East Unit

Sheet 7 of 7

Road Cross-Section

SWF-2014-00257

Created by: J. Mars
Date: 10.06.2014

Revised by:
Date: