



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

Public Notice

Applicant: TRBP, L.P

Permit Application No.: 200400475

Date: September 17, 2004

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: Ms. Jessica L. Napier

Phone Number: (817) 886-1745

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 from the Texas Commission on Environmental Quality (TCEQ) under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the construction of a commercial and retail facility located in the City of Fort Worth, Tarrant County, Texas.

APPLICANT: TRBP, L.P.
Mr. Wesley Schubert
3701 North Harrison
Shawnee, Oklahoma 74804

APPLICATION NUMBER: 200400475

DATE ISSUED: September 17, 2004

LOCATION: The proposed activities would be located in the city of Fort Worth, Tarrant County, Texas, at the southeast corner of the U. S. Interstate Highway 35W (IH 35) and Interstate Highway Loop 820 (IH Loop 820) interchange (Sheets 1 and 2 of 10). The proposed project would be located approximately at UTM coordinates 658403 East and 3634378 North (Zone 14) on the Haltom City 7.5 Minute USGS quadrangle map in USGS Hydrologic Unit 10230102.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification (TCEQ), State of Texas Permit to Appropriate Public Water (TCEQ)

PROJECT DESCRIPTION: The applicant is proposing to construct a commercial and retail development with associated parking and amenities at the southeastern corner of the intersection of IH 35 and IH Loop 820 in the city of Fort Worth, Texas (See Sheets 1-10 of 10). The proposed project would impact a total of 3.38 acres of waters of the United States (U.S.), which would include 3,013 linear feet (1.90 acres) of ephemeral streams and 1.48 acres of adjacent herbaceous wetlands that are waters of the United States.

The project site includes three ephemeral streams that are tributaries to Fossil Creek and three adjacent herbaceous wetlands that are waters of the U. S. Past land use primarily included agricultural usage. The upland portions of the project site are dominated by common grasses and forbs, which include bermudagrass (*Cynodon dactylon*), Texas wintergrass (*Nassella leucotricha*), one-seeded croton (*Croton monanthogynus*), broom snakeweed (*Gutierrezia sarothrae*), paspalum grass (*Paspalum* sp.), goldenrod (*Solidago* sp.), giant ragweed (*Ambrosia trifida*), gumweed (*Grindelia* sp.), and western ragweed (*Ambrosia psilostachya*). Scattered sugar hackberry (*Celtis laevigata*), bois d'arc (*Maclura pomifera*), and mesquite (*Prosopis glandulosa*) are present on portions of the site, including along fencelines.

There are 8.88-acres of waters of the U. S. present on the proposed project site including three ephemeral streams, and three adjacent herbaceous wetlands (Wetland 1, Lower and Upper Wetland 2, and Wetland

3). A map of waters of the U. S. is presented on Sheet 8 of 10. The areas, length, and average width between the Ordinary High Water Marks (OHWM) for waters of the U. S. are presented in Table 1.

Table 1: Waters of the United States

Water Body Name	Type	Average Width of OHWM (Feet)	Tributary Length (Linear Feet)	Area (Acres)
Tributary 1	Ephemeral	29	2,021	1.36
Tributary 2	Ephemeral	22	1,115	0.61
Tributary 3	Ephemeral	1	146	0.003
Wetland 1	Herbaceous	--	--	3.15
Lower Wetland 2	Herbaceous	--	--	1.06
Upper Wetland 2	Herbaceous	--	--	2.62
Wetland 3	Herbaceous	--	--	0.07
Totals:			3,282	8.88

Tributary 1 is a 2,021-foot long ephemeral stream that is a tributary of Fossil Creek that flows from north of the proposed project area and continues southwest into Wetland 1 (See Sheet 5 of 10). The tributary has been channelized in the past along most of its length and has developed into a wide, braided channel. Tributary 1 has an average width of 29 feet between the OHWMs. These widths vary between 20 to 37 feet wide. The tributary has an eight-foot wide low-flow channel along segments, pooled areas in other segments, and is filled with hydrophytic vegetation along other segments. The most common vegetation within the channel is bushy bluestem (*Andropogon glomeratus*) and broadleaf cattail (*Typha latifolia*). Additional vegetation found within the OHWM of the channel includes spike-rush (*Eleocharis* sp.), boneset (*Eupatorium serotinum*), cocklebur (*Xanthium strumarium*), and algae. The upper edge of the fringe consists of giant ragweed, annual sumpweed (*Iva annua*), Brazilian vervain (*Verbena braziliensis*), wireweed (*Aster subulatus*), and goldenrod. A few black willow (*Salix nigra*) and sugar hackberry trees are present along the banks of the tributary. The southernmost segment of Tributary 1 is densely filled with broadleaf cattail, bushy bluestem, and black willow.

Tributary 2 is a 1,115-foot long ephemeral stream that is a tributary of Fossil Creek that originates offsite and flows into the project site from culverts at the northwest corner of the property (See Sheet 5 of 10). This tributary has characteristics similar to Tributary 1, although Tributary 2 has more vegetation within the OHWM and fewer ephemeral pools. The dominant vegetation present within the channel is bushy bluestem, broadleaf cattail, and young black willow. Common fringe vegetation includes annual sumpweed, wireweed, cocklebur, and spike-rush. The tributary has an average width of 22 feet at the plane of the OHWM. These widths vary between 13 to 40 feet wide.

Tributary 3 is a 146-foot long ephemeral stream that is a tributary of Fossil Creek that flows from the south end of Wetland 3 to connect with Wetland 1 (See Sheet 5 of 10). The earthen channel varies from a shallow swale to an incised depression with approximately one foot between the OHWMs. Species located along the channel included switchgrass (*Panicum virgatum*), smartweed (*Polygonum* sp.), and sugar hackberry.

Wetland 1 is a 3.15-acre herbaceous wetland that is located at the south property boundary (See Sheet 5 of 10). The wetland consists of dense stands of uniform vegetation, shallow open water pools, open channels, and fringe vegetation. The predominant vegetation is switchgrass and broadleaf cattail.

Subdominant vegetation includes spike-rush, annual sumpweed, western ragweed, and goldenrod. Wetland 1 is separated from Wetland 2 by a manmade earthen dam that has been breached.

Lower Wetland 2 is a 1.06-acre herbaceous wetland that is located to the northwest of Wetland 1 and receives hydrology from overland flow and Tributary 2 (See Sheet 5 of 10). The area was previously a stock pond but the dam on the east side has been breached. A small open water area is present in the center of the wetland, which is surrounded by a wide fringe of flat sedge (*Cyperus* sp.), spike-rush, and an outermost fringe of switchgrass. Additional wetland species present include smartweed, wireweed, and goldenrod.

Upper Wetland 2 is a 2.62-acre herbaceous wetland that is located between Tributary 2 and Lower Wetland 2 (See Sheet 5 of 10). It appears to receive hydrology from Tributary 2. This wetland also receives water that backs up from Lower Wetland 2 during periods of heavy rainfall. The area is dominated by dense switchgrass, spike-rush, annual sumpweed, and smartweed.

Wetland 3 is 0.07-acre herbaceous wetland that is located to the north of Wetland 1 (See Sheet 5 of 10). The pooled area is devoid of vegetation, except for a few broadleaf cattails, a fringe of switchgrass, and a few large black willows.

The proposed activities would result in 3,013 linear feet (3.38 acres) of adverse impacts to two ephemeral tributaries and three herbaceous wetlands (Sheet 10 of 10). A summary of these adverse impacts is presented in Table 2.

Table 2: Adverse Impacts To Waters of the United States

Water Body	Type	Tributary Length Adversely Impacted (Linear Feet)	Area Adversely Impacted (Acres)
Tributary 1	Ephemeral	1,898	1.29
Tributary 2	Ephemeral	1,115	0.61
Tributary 3	Ephemeral	--	--
Wetland 1	Herbaceous	--	0.03
Lower Wetland 2	Herbaceous	--	0.38
Upper Wetland 2	Herbaceous	--	1.07
Wetland 3	Herbaceous	--	--
Totals:	--	3,013	3.38

The proposed development would involve relocating approximately 1,115 linear feet of Tributary 2 into a trapezoidal channel with a meandering pilot channel and ephemeral pools, in order to accommodate the commercial lots proposed by TRBP. The proposed development would also involve filling portions of Upper Wetland 2, Lower Wetland 2, and Wetland 1 due to the realignment of Tributary 2 (See Figure 6 of 10). Approximately 1,898 linear feet of Tributary 1 would be adversely impacted in order to expand the banks of the stream channel to allow for reduction of the floodplain within the project site.

The proposed project would result in the realignment 3,013 linear feet of ephemeral stream channel and the loss of 1.48 acres of emergent wetlands that are waters of the U.S. The realigned streams would be located in a straight earthen trapezoidal channel.

The applicant has made an effort to minimize adverse impacts to ephemeral streams that are waters of the U. S. by designing the realigned ephemeral stream channels with an earthen meandering pilot channel

with ephemeral pools and a forested upland riparian corridor and a shrub and herbaceous understory. The applicant also proposes to expand an existing herbaceous wetland on the southern portion of the property and plant a forested upland buffer around the wetland. The area would be excavated to hold no more than 24 inches of standing water at any given time and planted with native herbaceous wetland species. The applicant would manage the forested upland buffers as natural areas and deed restrict the area in perpetuity. In addition, the applicant proposes to purchase 0.5 credit from the Trinity River Mitigation Bank or an appropriate number of credits (based on the Mitigation Banking Agreement) from another approved mitigation bank with a service area covering the proposed project site to provide additional compensation for adverse impacts to waters of the United States.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the United States Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the United States 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 the processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 31, 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 Natural Resource Conservation Commission, 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 complete application may be reviewed in the USACE's office. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing 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 United States 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 county where the bald eagle (*Haliaeetus leucocephalus*), interior least tern (*Sterna antillarum athalassos*) and whooping crane (*Grus americana*) are known to occur or may occur as migrants. The whooping crane and interior least tern are endangered species and the bald eagle 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 USACE has reviewed the latest complete published version of the National Register of Historic Places and found no listed properties located in the project area. However, this area has never been formally surveyed for the presence of historic or prehistoric sites.

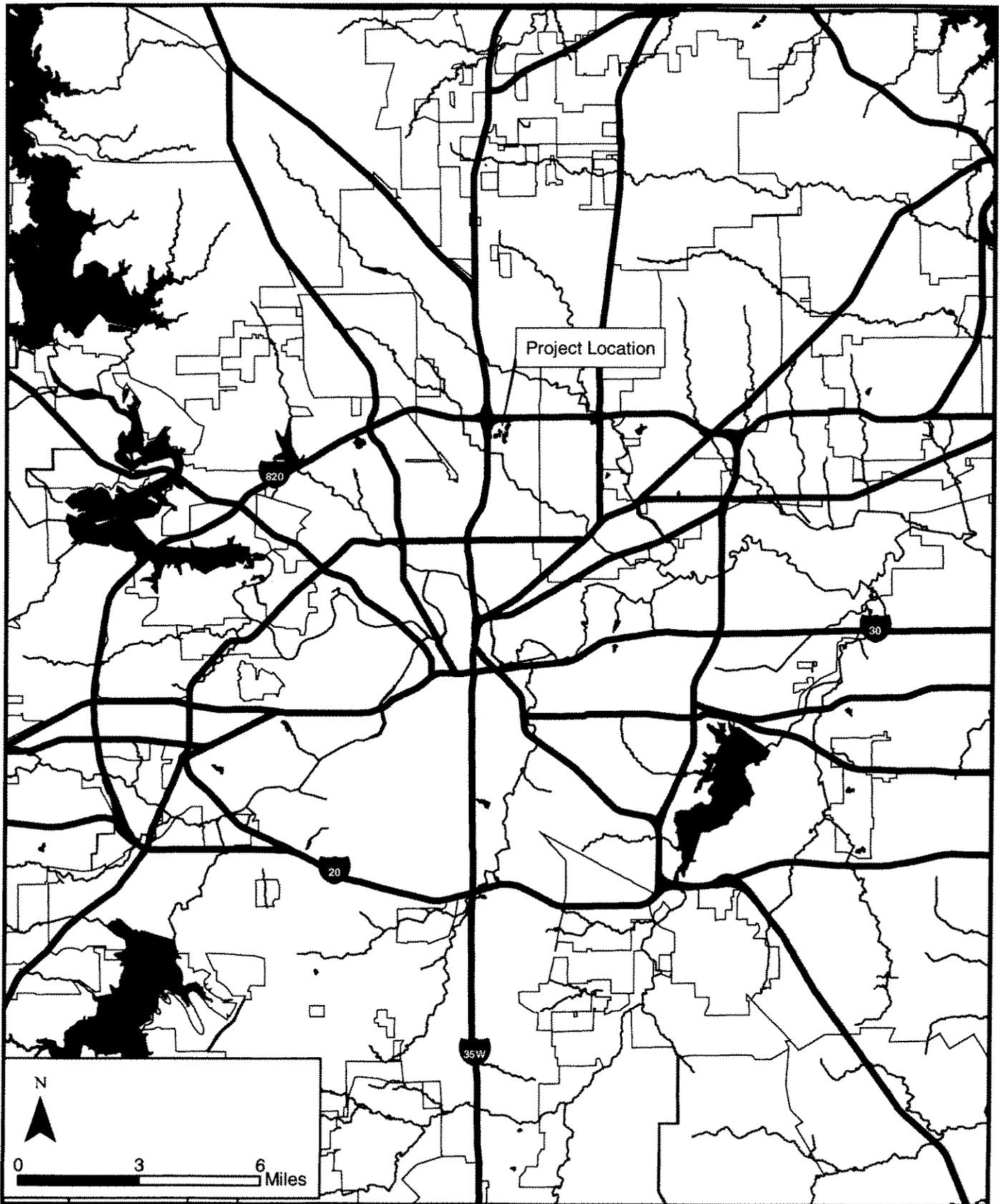
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrators. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review 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 October 17, 2004, 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 Ms. Jessica Napier; Regulatory Branch, CESWF-PER-R: United States 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) 886-1745. 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

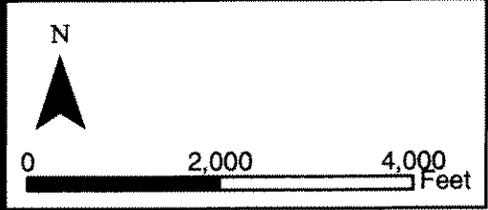
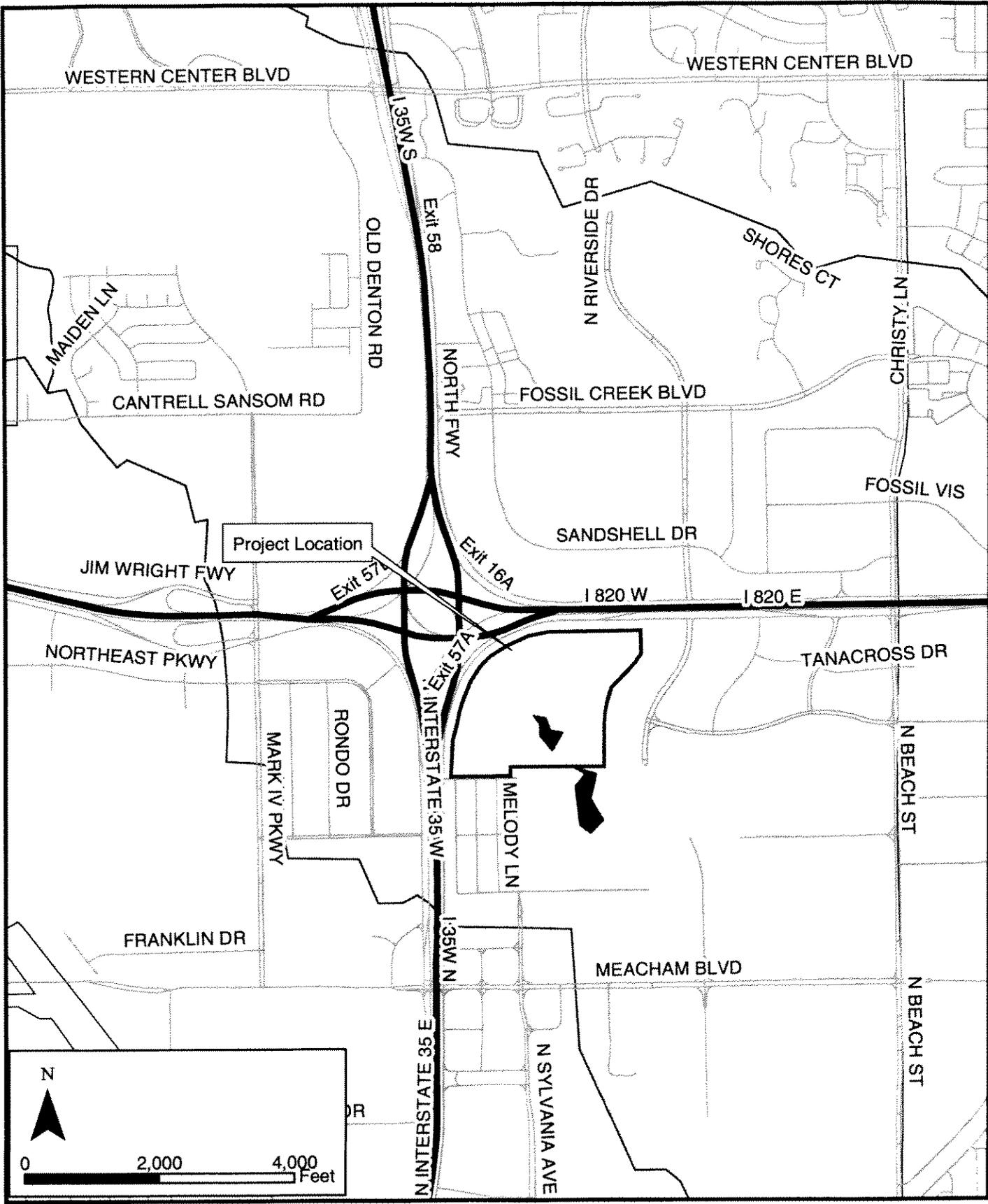


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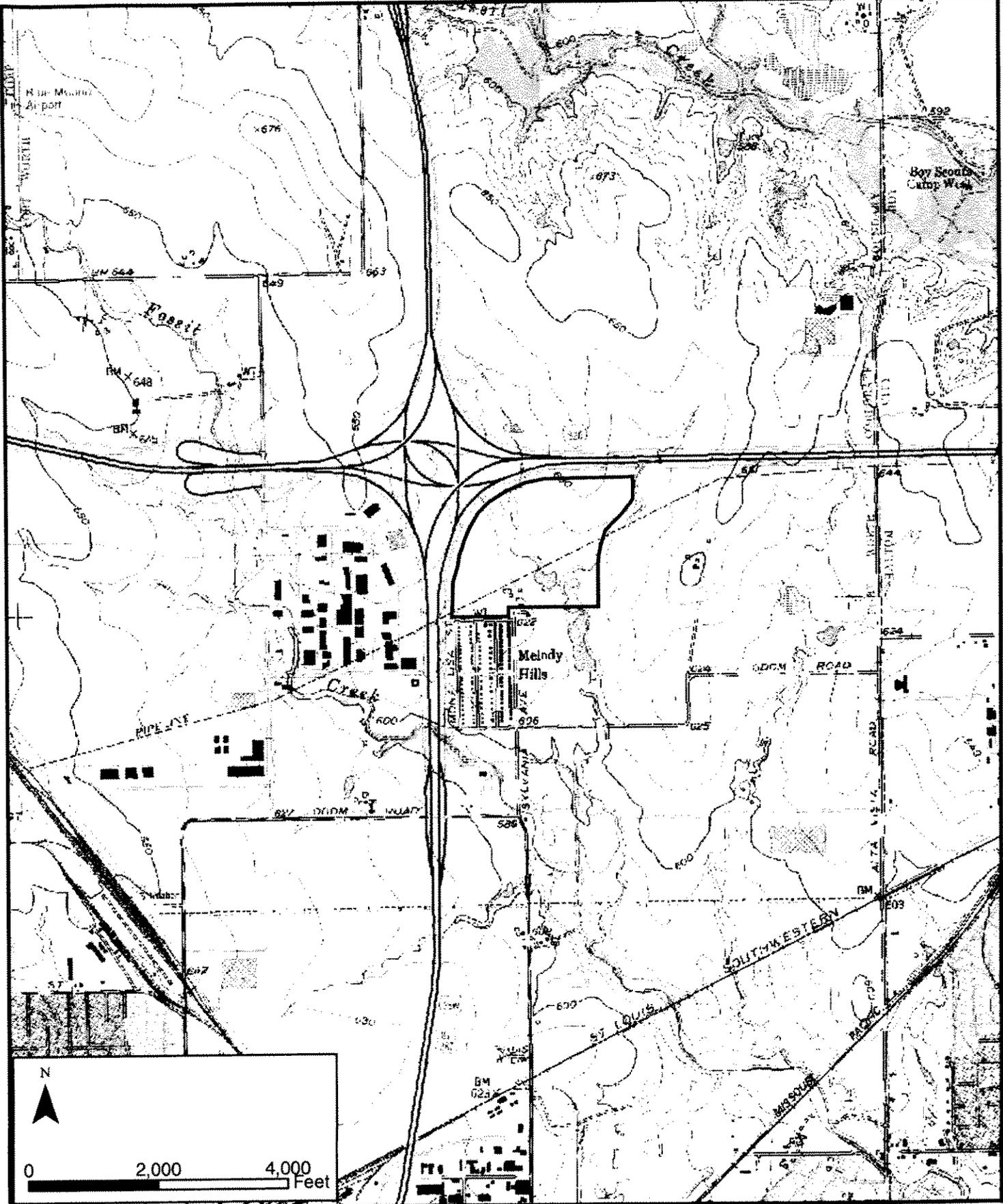
Vicinity Map
Northern Cross Development
Fort Worth, Texas
August 2004
C&B Project No. 020832.020
USACE Project No 200400475

Source:
NCTCOG

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	<p>Local Area Map Northern Cross Development Forth Worth, Texas August 2004 C&B Project No. 020832.020 USACE Project No. 200400475</p>	<p>Source: NCTCOG</p>	<p>Sheet 2 of 10</p>
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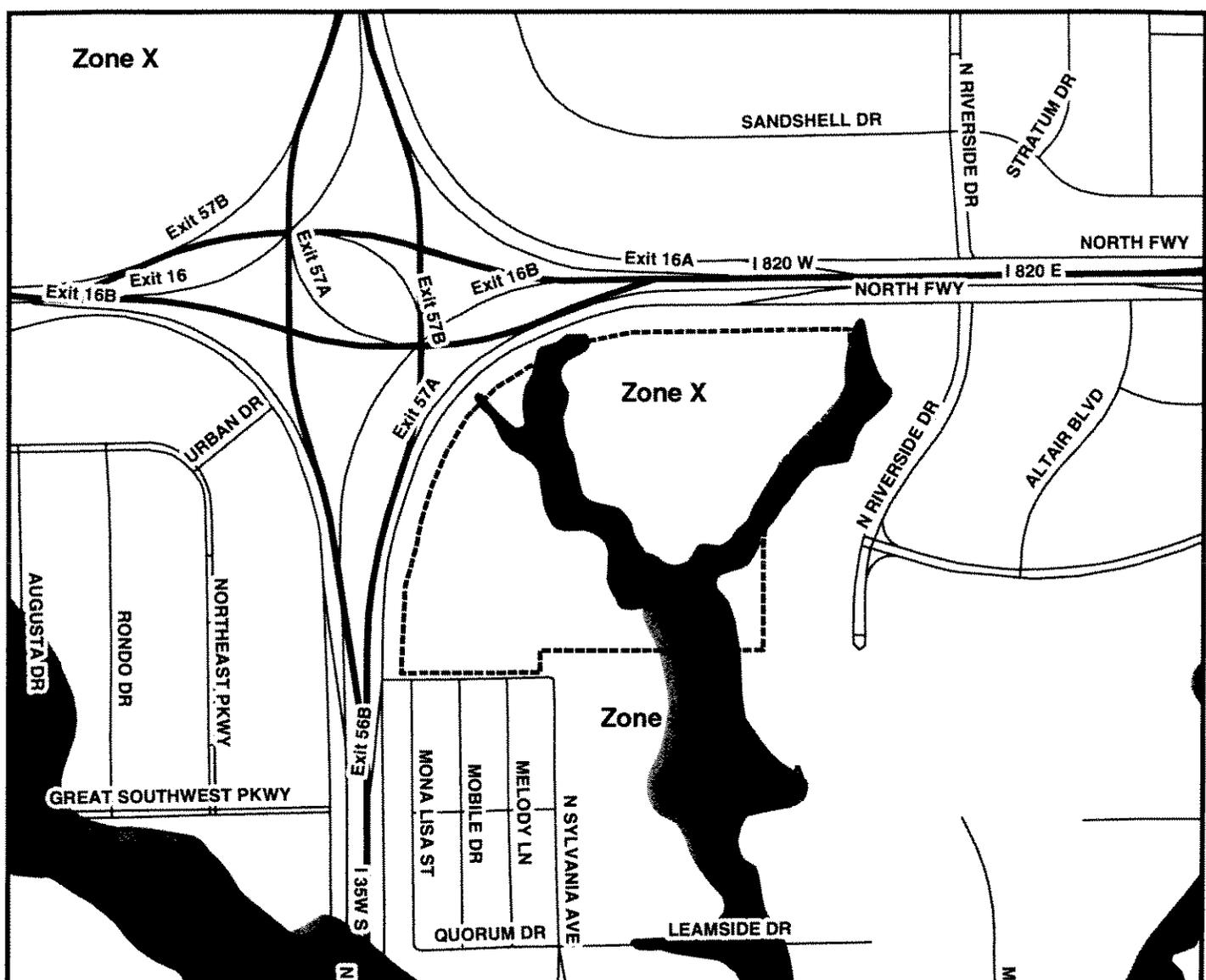


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U.S.G.S Topographic Map
 Northern Cross Development
 Fort Worth, Texas
 August 2004
 C&B Project No. 020832.020
 7.5 Minute Series - Haltom City
 Quadrangle 1981

Legend
 Project Boundary
 Source: TNRIS
 USACE Project No. 200400475

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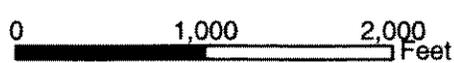


Legend

Project Boundary

Special Flood Hazard Areas Inundated by 100-year Flood

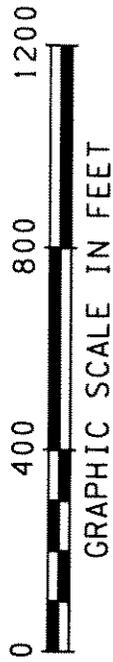
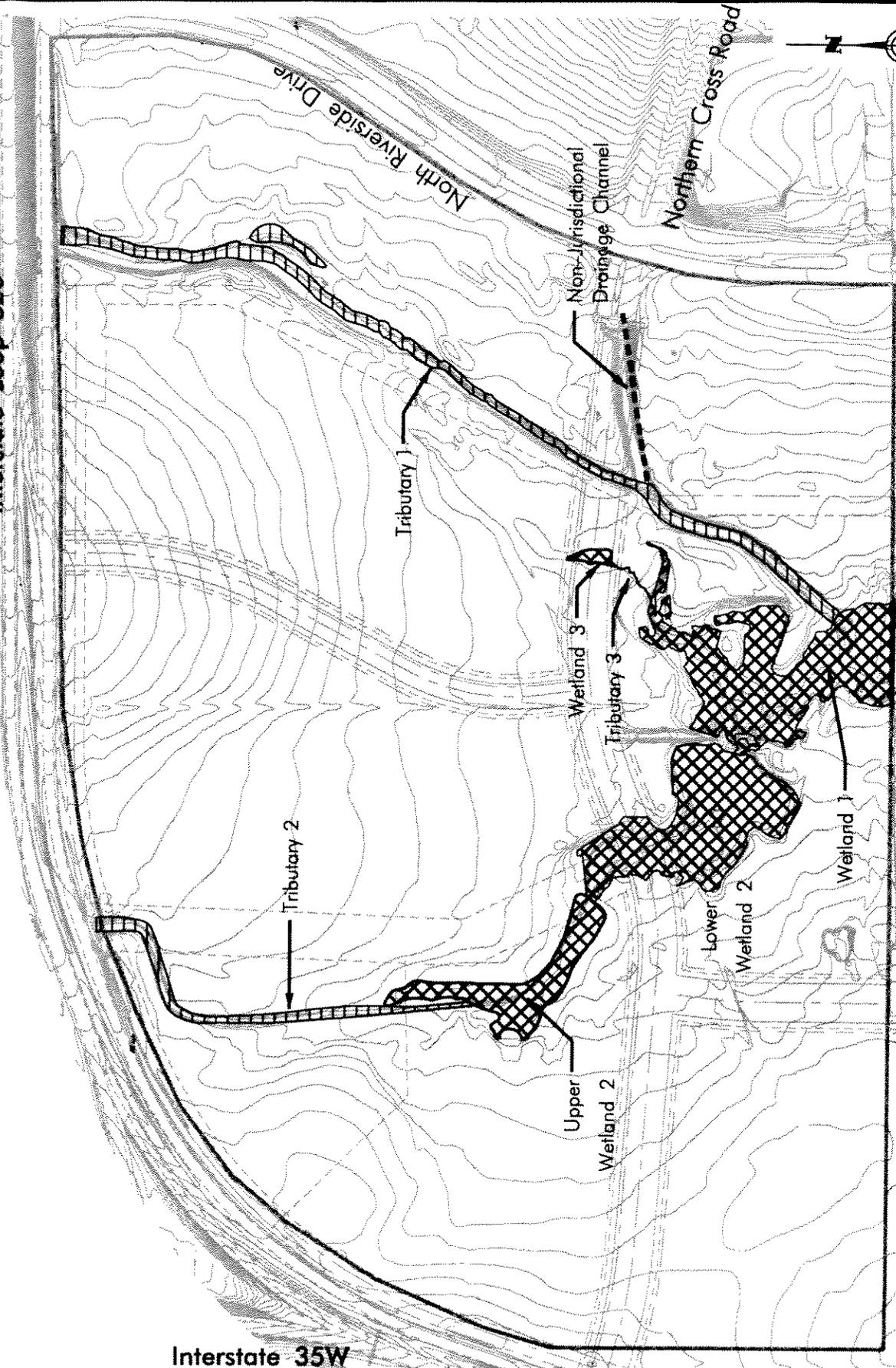
- No base flood elevation determined.
- Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.
- Area determined to be outside of 500-year floodplain.



<p>Carter=Burgess</p>	<p>Flood Insurance Rate Map Northern Cross Development Fort Worth, Texas August 2004 C&B Project No. 020832.020 USACE Project No. 200400475</p>	<p>Source: Federal Emergency Management Agency</p>	<p>Sheet 4 of 10</p>
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Interstate Loop 820

Interstate 35W



LEGEND

	Project Boundary
	Ephemeral Stream Channel - Waters of the U.S.
	Herbaceous Wetland - Waters of the U.S.
	Topographic Contours

Carter=Burgess

Waters of the U.S.
 Northern Cross Development
 Fort Worth, Texas
 August 2004
 USACE Project No. 200400475

Project No. 020832

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Interstate Loop 820

North Riverside Drive

Northern Cross Blvd.

Non-Jurisdictional
Drainage Channel

Impact 2
0.61 acres
(1,115 linear feet)

Impact 3
1.07 acres

Impact 4
0.25 acres

Impact 6
0.02 acres

Impact 1
0.78 acres
1,230 linear feet

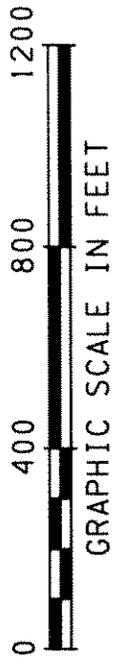
Impact 5
0.11 acres

Impact 8
0.51 acres
668 linear feet

Impact 7
0.03 acres

LEGEND

	Project Boundary
	Ephemeral Stream Channel - Water of the U.S.
	Herbaceous Wetland - Water of the U.S.
	Drainage Channel Not a Water of the U.S.
	Impacts to Ephemeral Stream Channel - Waters of the U.S.
	Impacts to Herbaceous Wetland - Waters of the U.S.

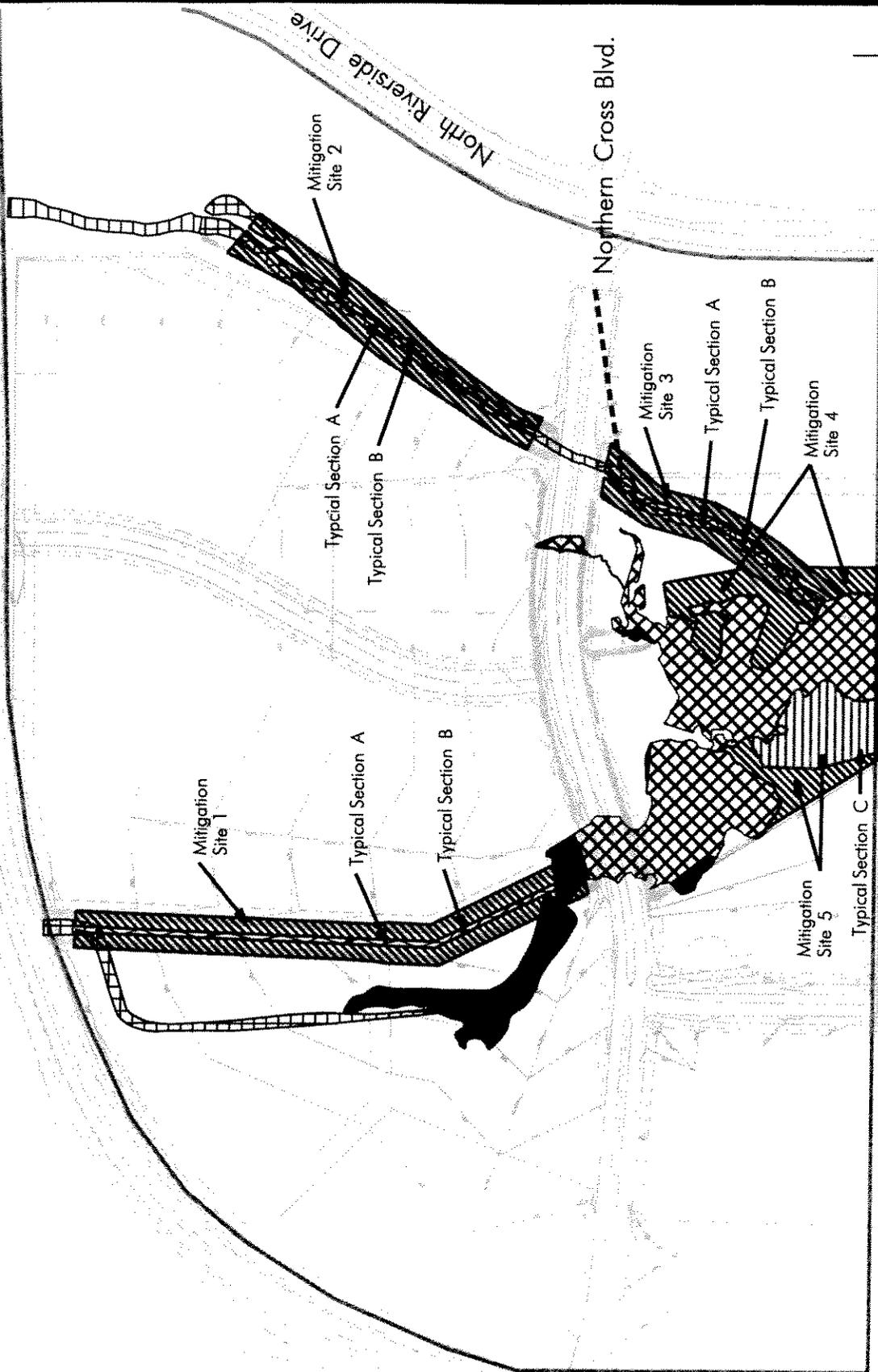


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Interstate Loop 820

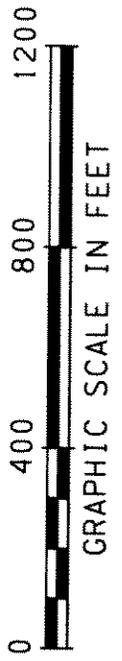
North Riverside Drive

Northern Cross Blvd.

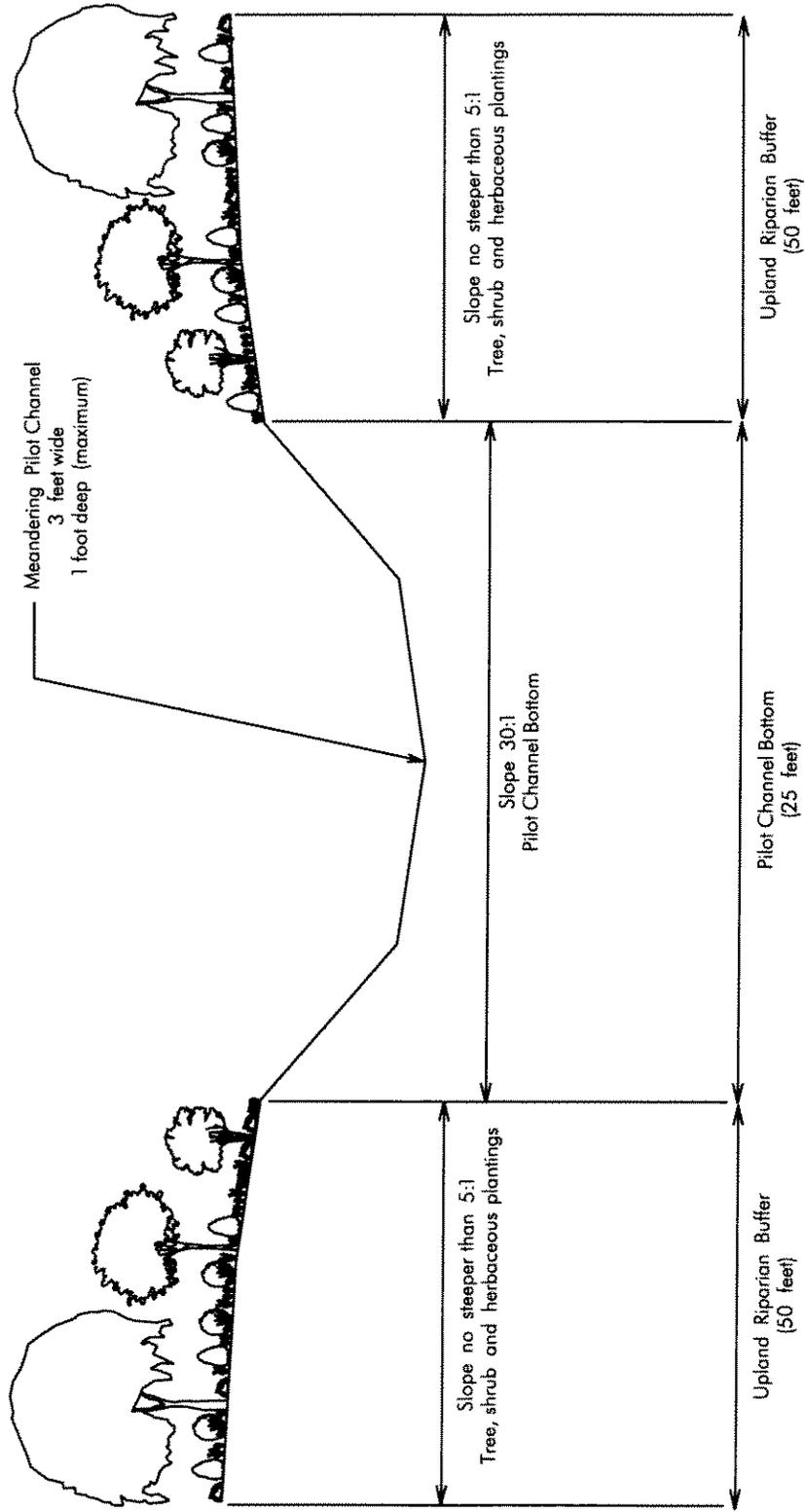


LEGEND

	Project Boundary		Drainage Channel Not a Waters of U.S.		Upland Riparian Buffer
	Ephemeral Stream Channel - Waters of the U.S.		Impacts to Ephemeral Stream Channel - Waters of the U.S.		Created Wetland
	Herbaceous Wetland - Waters of the U.S.		Impacts to Herbaceous Wetland - Waters of the U.S.		



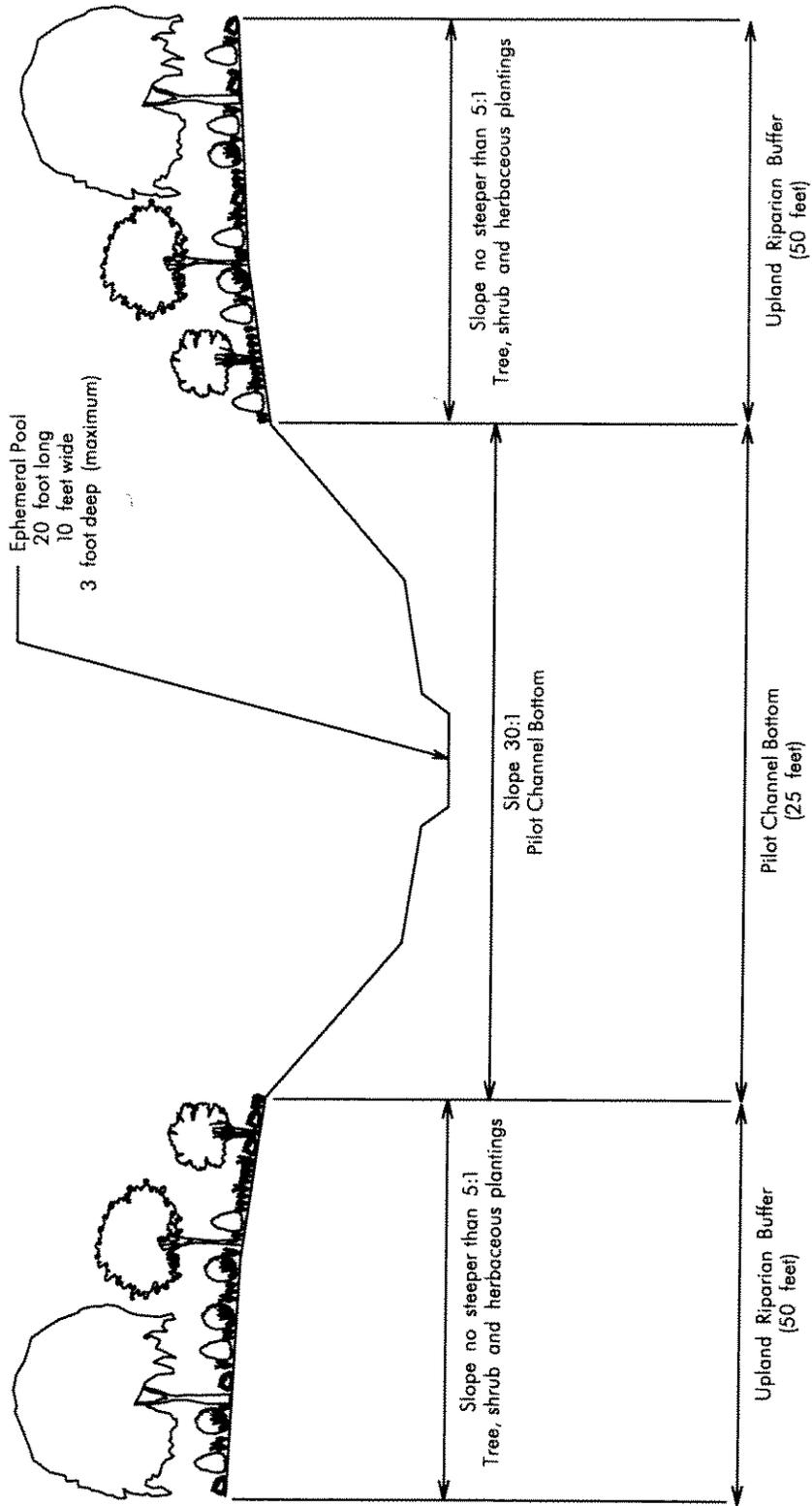
Typical Section A Mitigation Areas 1, 2, and 3: Pilot Channel & Upland Riparian Buffer



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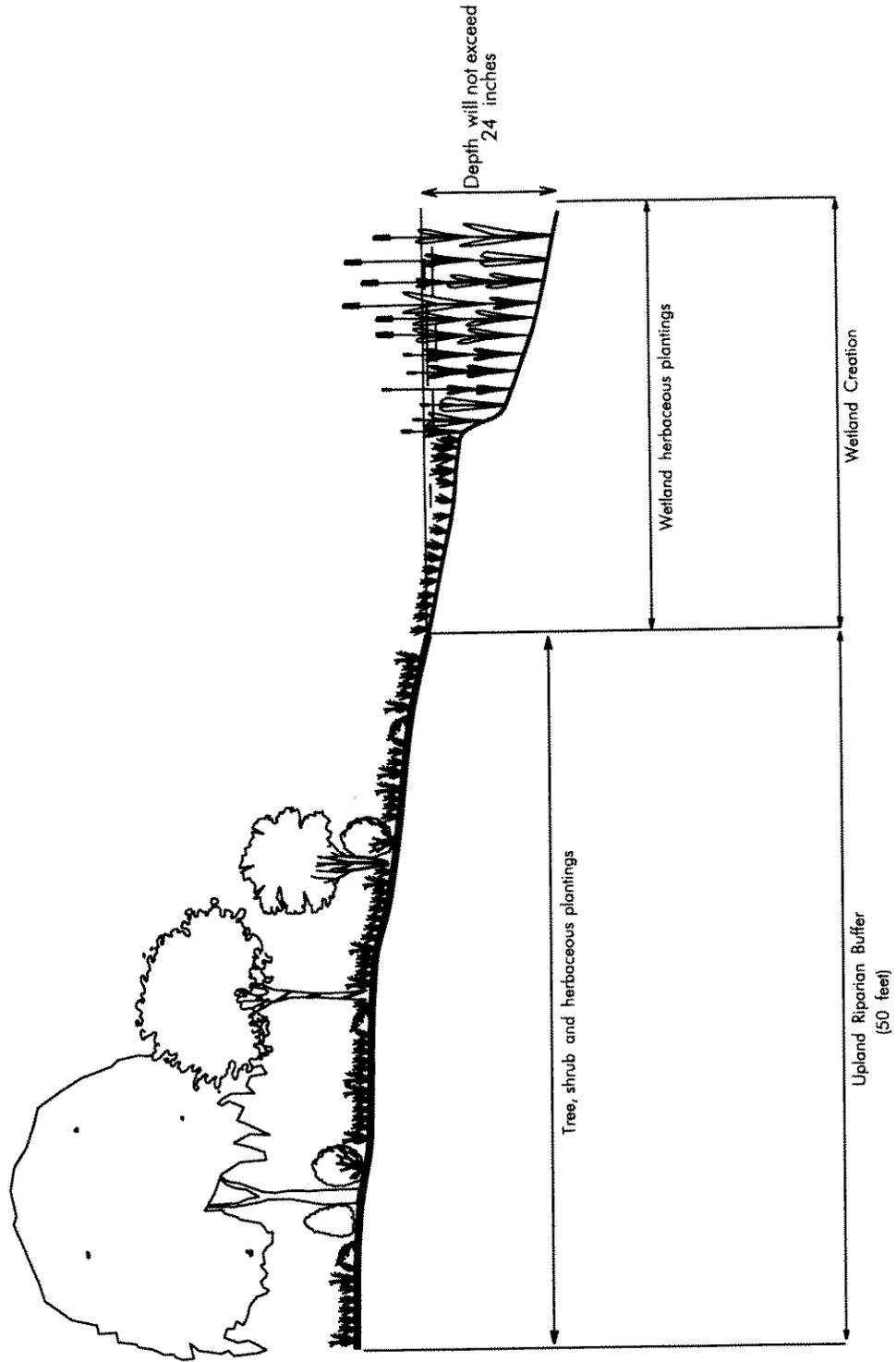
Typical Section B Mitigation Areas 1, 2 and 3: Ephemeral Pool & Upland Riparian Buffer



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Typical Section C Mitigation Area 5: Wetland Creation & Wooded Upland Buffer



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Typical Cross Section
 Northern Cross Development
 Fort Worth, Texas
 August 2004
 USACE Project No. 200400475

Project No. 020832.020

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