



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

Public Notice

Applicant: Wild-TX Lands, LLC

Project No.: SWF-2022-00163

Date: November 2, 2023

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. Brent Jasper

Phone: 817-886-1733; Email: brent.j.jasper@usace.army.mil

PUBLIC NOTICE

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

SUBJECT: This public notice is being issued to provide interested parties an opportunity to comment on a proposal by Wild-TX Lands, LLC, to establish the Little Pond Creek Mitigation Bank (LPCMB), a mitigation bank that would be located 0.7 miles east of the Burlington community in northern Milam County, Texas.

APPLICANT: Wild-TX Lands, LLC
c/o Cliff J. Sunda
Wildwood Environmental Credit Company, LLC.
P.O. Box 6602
Tyler, Texas 75711

APPLICATION NUMBER: SWF-2022-00163

DATE ISSUED: November 2, 2023

LOCATION: The proposed bank is located along the Little Pond Creek, in northern Milam County, Texas approximately 0.7 miles east of the Burlington community. The approximate center of the proposed LPCMB is located at Latitude 31.007684° North and Longitude 96.968493° West as mapped on the *Rosebud* and *Ben Arnold* 7.5-minute U.S. Geological Survey quadrangle. The site is located within the Lower Brazos-Little Brazos watershed (8-digit HUC 12070101) and the Texas Blackland Prairies U.S. Environmental Protection Agency (EPA) Level III Ecoregion (Griffin, et al. 2003). Maps of the proposed LPCMB are provided as Figures 1-7.

PROJECT DESCRIPTION: The Sponsor is proposing the restoration, enhancement, and permanent protection of approximately 14,157 linear feet of intermittent streams, 4,342 linear feet of ephemeral streams, 5.29 acres of palustrine emergent wetlands, and 20.17 acres of palustrine forested wetlands within the LPCMB. The bank site is located within the Lower Brazos-Little Brazos watershed of the Lower Brazos River basin. The goal of the Sponsor in developing the LPCMB is to provide high quality restoration/enhancement of stream ecosystems as compensation for adverse impacts to Waters of the United States (WOTUS) occurring within the Bank's proposed Service Area. It is anticipated that ecological lift associated would generate forested wetland, emergent wetland, in-channel ephemeral stream, and in-channel intermittent stream credits.

The purpose of the LPCMB is to provide potential permittees with mitigation credits needed to compensate for unavoidable impacts to WOTUS within the proposed service areas in accordance with the Mitigation Banking Guidelines (CESWF-10-MIT, dated June 16, 2011, CESWF-12-MITB, dated July 5, 2016, CESWF-18-MITB, dated January 24, 2019) and the Stream Mitigation Method (SWF-2011-00078, dated October 2, 2013).

The proposed service area includes like-kind habitat and out-of-kind habitat types located within the U.S. Army Corps of Engineers (USACE), Fort Worth District and the Lower Brazos River Basin (HUC 120701). The Sponsor is proposing primary, secondary, and tertiary service areas within the Lower Brazos, Little, and Middle Brazos-Bosque basins.

The proposed primary service area includes the Lower Brazos-Little Brazos HUC (12070101). The Lower Brazos-Little Brazos is within the Texas Blackland Prairies and East Central Texas Plains Level III Ecoregion. It includes portions of Austin, Bell, Brazos, Burleson, Falls, Grimes, Limestone, McLennan, Milam, Robertson, Waller, and Washington counties.

The proposed secondary service area includes the Little HUC (12070204), Leon HUC (12070201), Bosque HUC (12060203), Middle Brazos-Lake Whitney HUC (12060202), Navasota HUC (12070103), Yegua HUC (12070102), and Lower Brazos HUC (12070104) within the Texas Blackland Prairies Level III Ecoregion. This includes portions of Austin, Bell, Falls, Grimes, Hill, Limestone, McLennan, Milam, Washington, and Williamson counties.

The proposed tertiary service area includes the Leon HUC (12070201), Bosque HUC (12060203), Middle Brazos-Lake Whitney HUC (12060202), Navasota HUC (12070103), Little HUC (12070204), Yegua HUC (12070102), and Lower Brazos HUC (12070104) within the Cross Timbers and East Central Texas Plains Level III Ecoregion. This includes portions of Austin, Bastrop, Bell, Bosque, Brazos, Brown, Burleson, Callahan, Comanche, Coryell, Eastland, Erath, Fayette, Freestone, Grimes, Hamilton, Hill, Hood, Johnson, Lee, Leon, Limestone, Madison, McLennan, Milam, Mills, Robertson, Somervell, Stephens, Waller, Washington, and Williamson counties.

The LPCMB property, stream, and wetland hydrology, was historically driven by precipitation, overland flow, and overbank events from Little Pond Creek. Aerial photography indicates that Little Pond Creek and associated drainages at the site have been impacted by agricultural activities, predominantly clearing, channelizing, cattle grazing, and stock pond establishment. Agricultural activities began prior to 1951 and continue to the current time. The U.S. Fish and Wildlife Service (USFWS) National Wetland Inventory (NWI) map illustrates that Milam County is not completely mapped. The area of the proposed LPCMB has no NWI data available. Soils at the site are mapped by the Natural Resource Conservation Service (NRCS) as clay (Soil Survey Staff, n.d.). The three most dominant soil types are the Burleson clay, 0 to 2 percent slopes (BurA); Ferris-Helden complex, 5 to 15 percent slopes, moderately eroded (FhF2); and the Tinn clay, 0 to 1 percent slopes, frequently flooded (TnA).

All mitigation creditable areas within the Bank boundary would be protected in perpetuity through a conservation easement administered by a 501(c)(3) land trust.

A mitigation banking instrument (MBI) would 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 would detail the legal and physical characteristics of the Bank and how the Bank would be established and operated. Subjects addressed in detail in the MBI would include development of the site, service area, credit determination, short and long-

term financial assurances, scope of agreement, purpose, and goals of the Bank, baseline conditions, performance standards for enhancement activities, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of bank ownership or sponsorship.

The USACE, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Texas Parks and Wildlife Service, Texas Commission on Environmental Quality, and the Railroad Commission of Texas comprise the Interagency Review Team (IRT) and would be involved in developing the MBI and may be signatories to the final document.

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

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the USFS's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project is in a county where the Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), and the Whooping Crane (*Grus americana*) are known to occur or may potentially occur. The Piping Plover and Red Knot are listed as only needing to be considered for wind energy projects. In addition, one amphibian is listed as endangered, the Houston Toad (*Bufo houstonensis*), and one plant is also listed as endangered the Navasota Ladies-tresses (*Spiranthes parksii*). Our initial review indicates that the proposed work would have no effect on federally listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: In accordance with 36CFR800 and 33CFR325 (Appendix C), the District Engineer has consulted the latest version of the National Register of Historic Places. The proposed Project area has never been surveyed for the presence of historic or prehistoric cultural resources. Three cemeteries are located approximately one mile west of the site. A survey of the permit area will be required to identify and assess known archeological sites and any cultural resources identified. The USACE will be coordinating with the Applicant and the Texas Historic Commission to ensure compliance with Section 106 of the National Historic Preservation Act.

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 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 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 4, 2023, 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: U.S. Army Corps of Engineers, Fort Worth District, Regulatory Division, Permits Branch by emailing CESWF-Permits@usace.army.mil and must include "Project Number SWF-2022-00233" in the email subject line. Requests for additional information should be submitted to: Mr. Brent Jasper by emailing brent.j.jasper@usace.army.mil, and must include "Project Number SWF-2022-00233" in the email subject line. 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

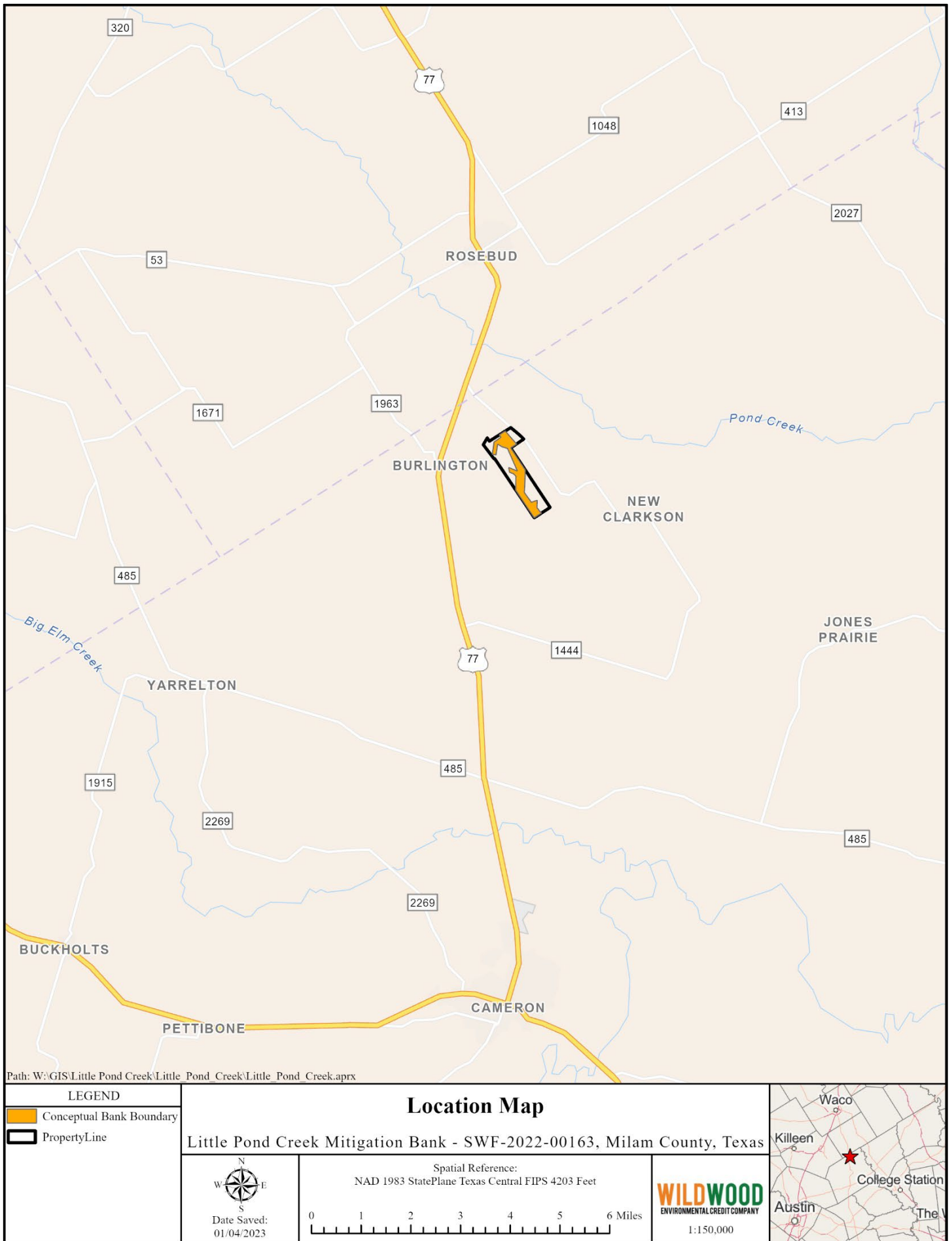


Figure 1. Location map of the site.

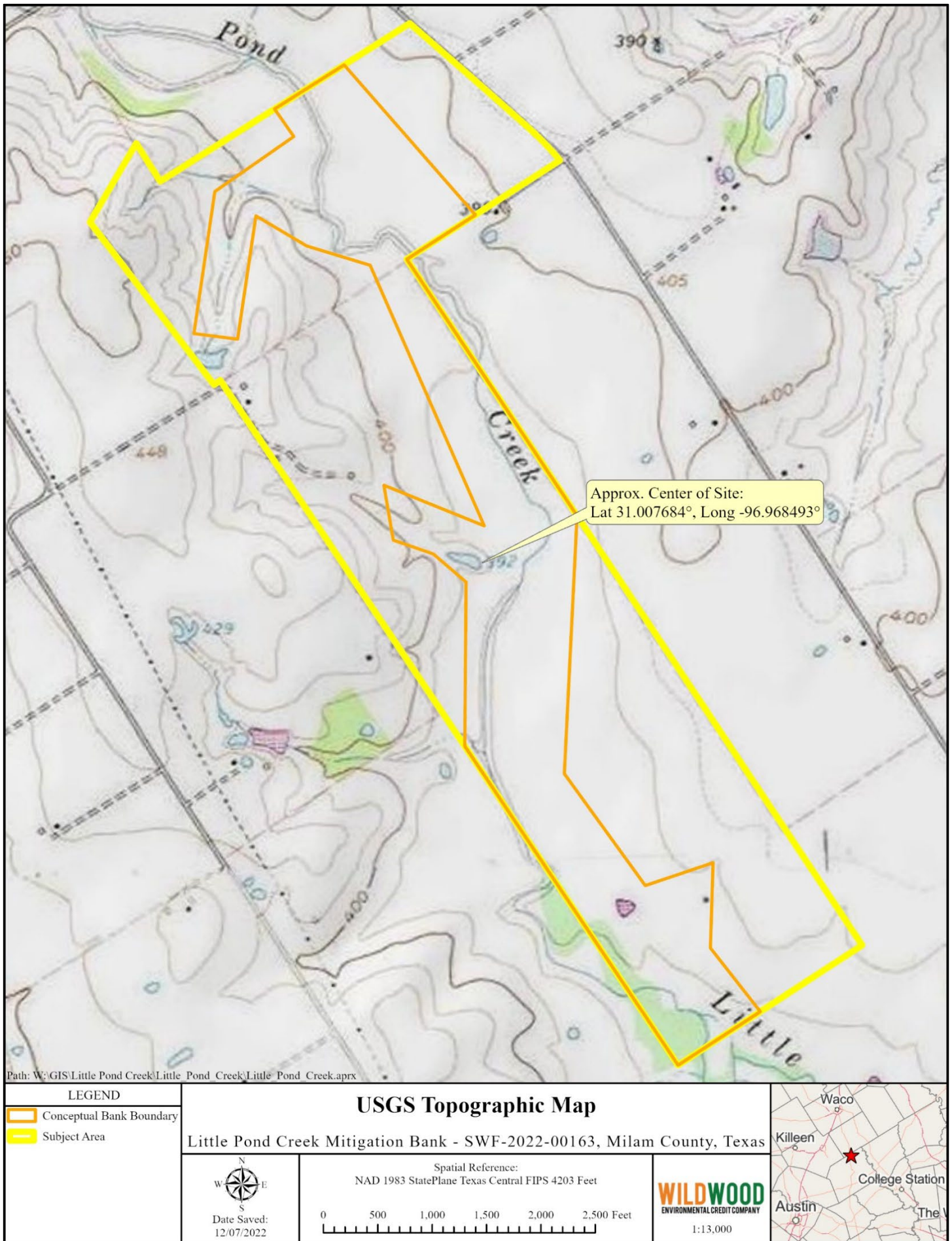


Figure 2. USGS topographic map of the site.

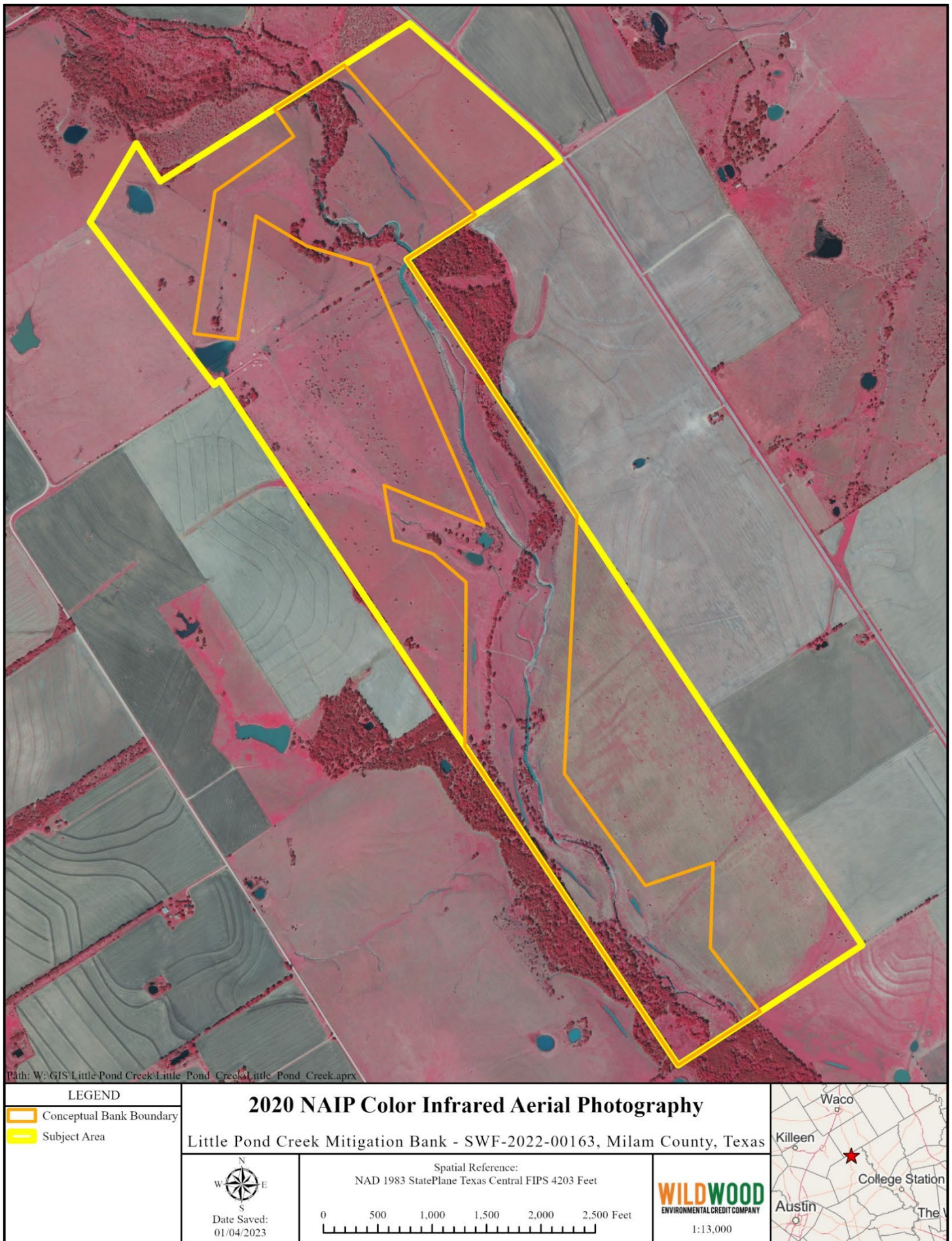


Figure 3. Aerial photograph of the site in 2020.

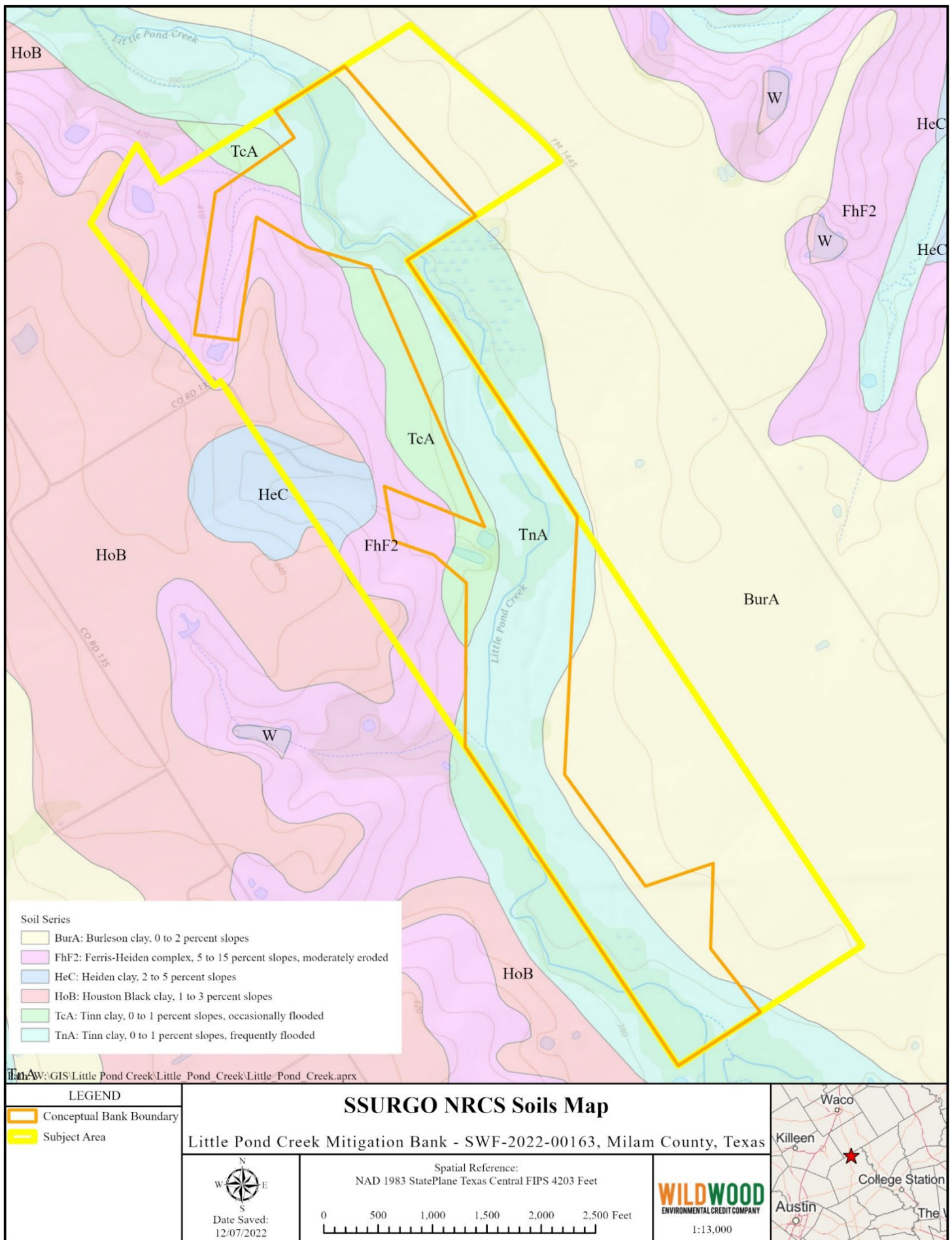


Figure 4. NRCS SSURGO Soil survey map of the site over the National Map base layer.

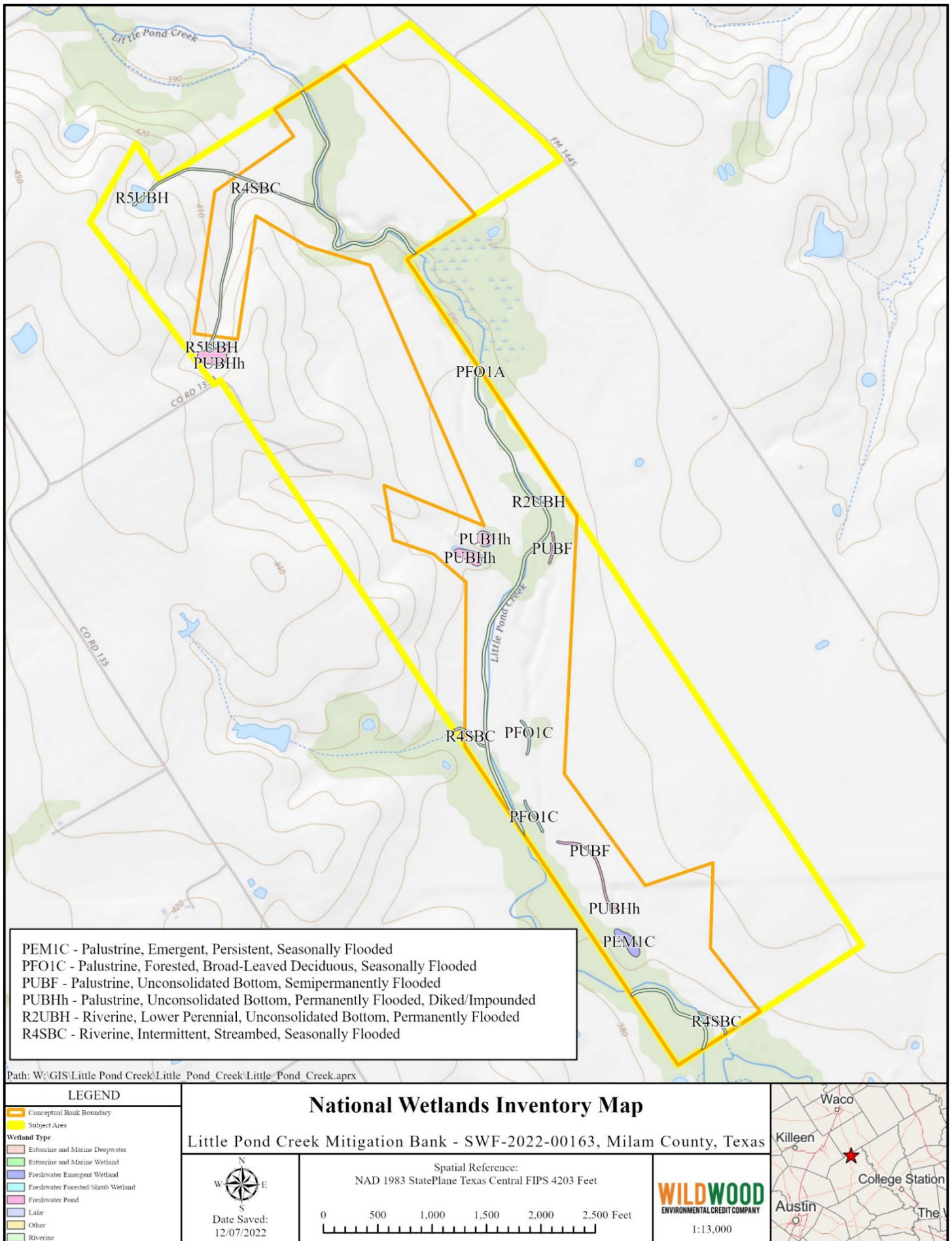


Figure 5. National Wetland Inventory classification of the site.

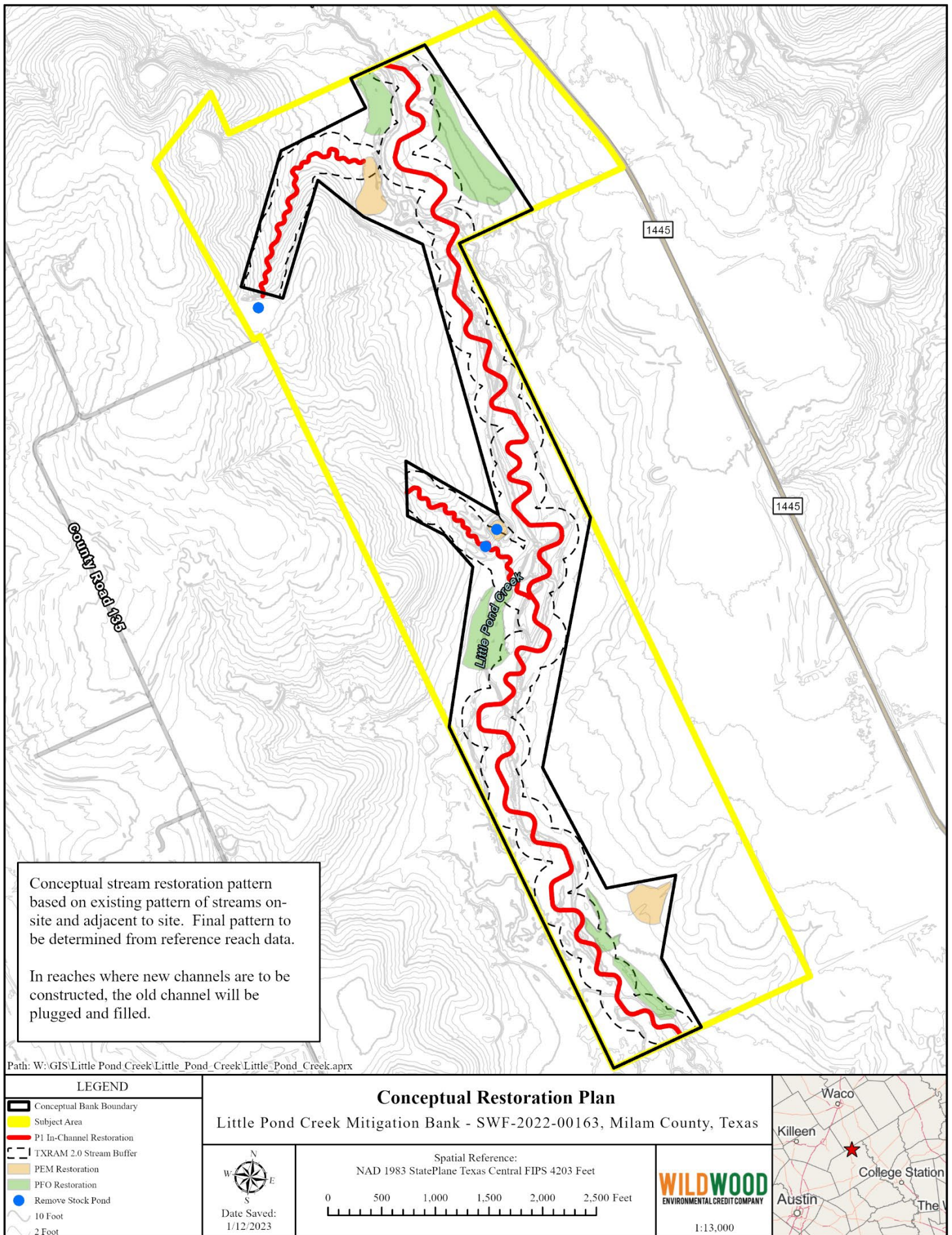


Figure 6. Conceptual Mitigation Work Plan for Little Pond Creek Mitigation Bank.

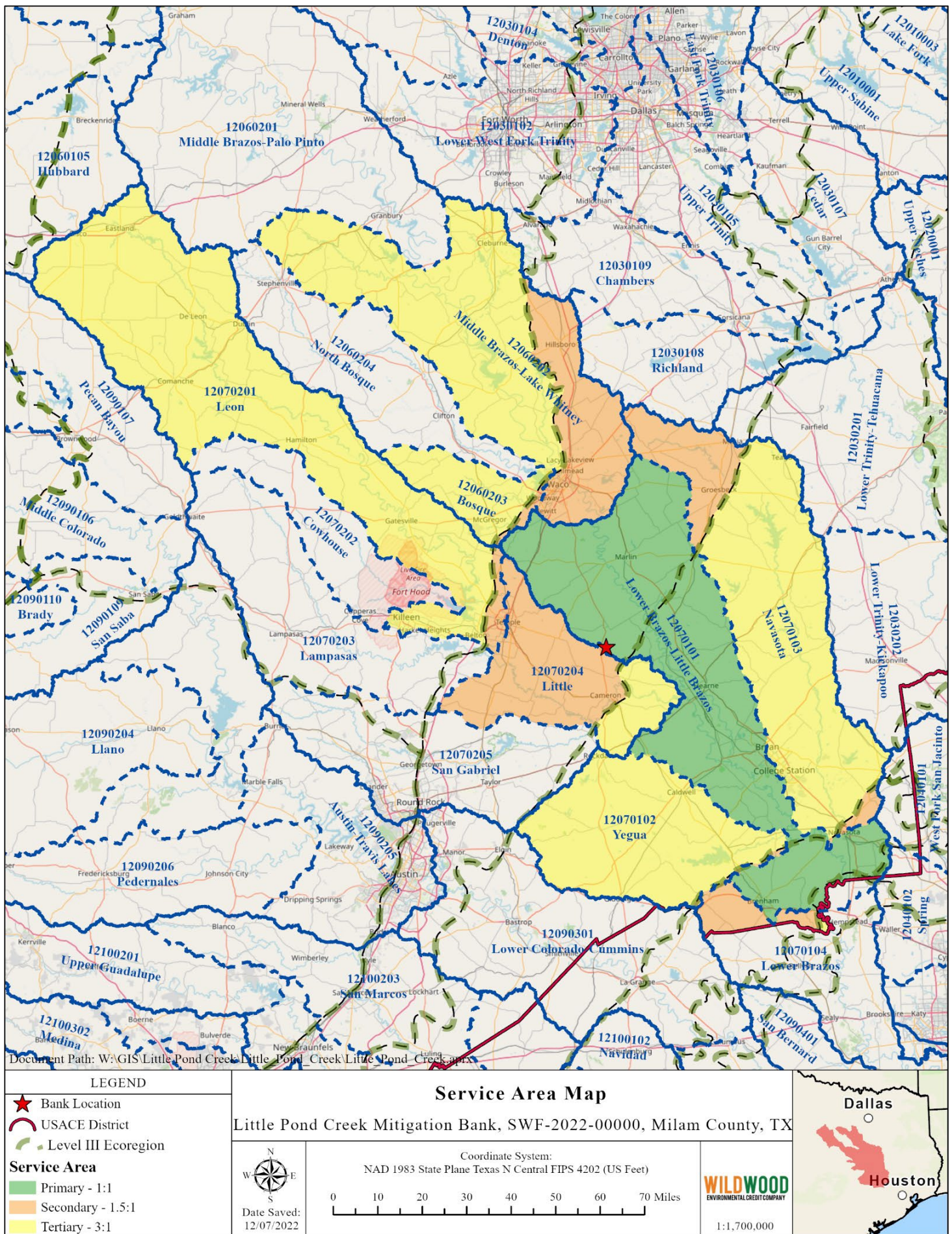


Figure 7. Proposed service area map based on guidance in CESWF-10-MITB.