



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

Public Notice

Applicant: Forestar (USA) Real Estate Group, Inc.

Permit Application No.: SWF-2012-00372

Date: August 17, 2015

Purpose

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 (USACE) 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: Eric Dephouse, Project Manager

Phone Number: (817) 886-1820

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 to create the Upper Neches Mitigation Bank (UNMB), a stream buffer bank located in Cherokee and Houston Counties, Texas.

APPLICANT: Forestar (USA) Real Estate Group, Inc.
6300 Bee Cave Road, Building Two, Suite 500
Austin, Texas 78746

APPLICATION NUMBER: SWF-2012-00372

DATE ISSUED: August 17, 2015

LOCATION: The Upper Neches Mitigation Bank (UNMB or Bank) is a proposed 277-acre stream buffer bank located approximately 9 miles southwest of Alto, Texas. Specifically, the Bank is located within the Weches United States Geological Survey (USGS) 7.5 minute topographic quadrangle, at Latitude 31.576374° North and Longitude 95.211255° West; Universal Transverse Mercator (UTM) 3,495,378 Northing, 290,154 Easting. Please refer to Exhibit 1 for more information regarding the location of the Bank.

PROJECT DESCRIPTION: The proposed UNMB is owned by Forestar (USA) Real Estate Group, Inc. (Forestar), who is also the Bank Sponsor. The 2014 aerial photograph and USGS topographic map (Exhibits 2.a and 2.b) show the Bank boundaries and surrounding features.

Forestar proposes to enhance stream buffers within the boundaries of the proposed Bank site. Exhibit 3 illustrates the preliminary enhancement plan for UNMB. Riparian buffer resources within the proposed Bank have been degraded from drought and previous land uses (limited, selective timber harvests). The primary goal of the UNMB is to enhance the ecological function of the riparian buffer of the Neches River and associated tributaries within the Bank. This overall goal will be achieved by accomplishing the following objectives:

- Removing noxious and/or invasive species within the riparian buffer;
- Cessation of timber harvesting in perpetuity;
- Establishment of a desirable vegetative community through strategic plantings;
- Prohibition and prevention of detrimental anthropogenic activities within the Bank through easements and other legal actions.

The canopy cover at the proposed UNMB site is currently somewhat sparse due to an intense drought of record (2011-2014) and tree fall from two hurricanes (Hurricane Rita in 2005 and Hurricane Ike in 2008). UNMB enhancement will increase canopy cover through planting of native tree species. This will increase flora and fauna species diversity and composition within the buffer. It will improve stream function by enhancing the function of riparian buffer to provide beneficial hydrologic and ecological functions lost through previous land uses. The buffer enhancement will include:

- 108.48 acres and 17,259 LF of Neches River buffer enhancement;
- 16.95 acres and 3,993 LF of unnamed perennial stream buffer enhancement;
- 37.28 acres and 14,404 LF of unnamed intermittent stream buffer enhancement.

U.S. Department of Agriculture - Natural Resources Conservation Service (USDA – NRCS) mapped soils within the proposed UNMB (Exhibit 4) are as follows:

Soil	Hydric Component (%)	Drainage
Alazan-Besner Complex, 0 to 2 percent slopes	10	Moderately well to well drained
Alazan very fine sandy loam, 0 to 2 percent slopes	5	Moderately well drained
Attoyac fine sandy loam, 1 to 3 percent slopes	0	Well drained
Bibb clay loam (or Mantachie clay loam), 0 to 1 percent slopes	0	Poorly drained
Hannahatchee fine sandy loam, 0 to 1 percent slopes	0	Moderately well drained
Independence loamy fine sand, nearly level 1 to 3 percent slopes	0	Well drained
Mollville-Besner Complex, 0 to 2 percent slopes	45	Poorly to well drained
Ozias-Pophers Complex, frequently flooded	40-45	Somewhat poorly drained
Percilla soils, 0 percent slopes	95	Poorly drained

A preliminary assessment of Waters of the U.S. (WOUS) was conducted using the U.S. Fish and Wildlife Service (USFWS) National Wetland Inventory (NWI) Map and GIS data (Exhibit 5). Freshwater forested and shrub wetlands are mapped in a mosaic with uplands across the site. No emergent wetlands or open water features such as lakes or ponds are found within the Bank boundaries. Most of the wetlands identified on site are low, broad sloughs and swales that may periodically experience flow, but that flow regime may change during flooding events, and the normal status is that of stagnant, low water depressions.

Preliminary site investigations have taken place to corroborate the general location, kind, and quality of WOUS on site, but a full delineation has yet to be performed.

The service areas for the UNMB were delineated utilizing the USACE June 11, 2011 public notice (CESWF-10-MITB), which uses the 8-digit Hydrologic Unit Codes (HUCs) and the Level III Ecoregions of Texas for service area determinations. Service area designations are within the Fort Worth District of the USACE. The proposed service area is illustrated in Exhibit 6. This exhibit is provided as a reference and does not take precedence over the subsequent text.

Per CESWF-10-MITB, the primary service area is defined as the entire 8-digit HUC within which the UNMB is located (regardless of Ecoregion). The secondary service area is defined as the 8-digit HUC (or portion thereof) adjacent to the primary service area, and located within the same Level III Ecoregion as the Bank. The secondary service area of the UNMB is located within the same major river basin as the primary service area (the Neches basin). A tertiary service area is not proposed for this project.

The Texas Rapid Assessment Method (TXRAM) would be used as the functional assessment and credit generation mechanism for the UNMB. Unless otherwise approved for specific circumstances by USACE, credit-to-TXRAM impact ratios for service areas are as follows:

- Primary Service Area 1:1
- Secondary Service Area 1.5:1

The Primary Service Area is the Upper Neches sub-basin (8-digit HUC 12020001). The majority of the primary service area (approximately 1,720 square miles) is located in the South Central Plains Level III Ecoregion, with a small portion (approximately 224 square miles) located in the East Central Texas Plains Level III Ecoregion.

The Secondary Service Area includes all or part of the following sub-basins within the Neches River Basin (6-digit HUC 120200), the South Central Plains Ecoregion, and the boundaries of the USACE Fort Worth District:

- Upper Angelina (8-digit HUC 12020004)
- Middle Neches (8-digit HUC 12020002)

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, financial assurances, scope of agreement, purpose and goals of the Bank, baseline conditions, projected ecological lift, performance standards for enhancement activities, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of Bank ownership or sponsorship. USACE, USFWS, the U.S. Environmental Protection Agency (EPA), Texas Commission on Environmental Quality (TCEQ), and Texas Parks and Wildlife Department (TPWD) comprise the Interagency Review Team (IRT), and will be involved in developing the MBI and may be signatories to the final document.

ENDANGERED AND THREATENED SPECIES: Federally listed Threatened and Endangered Species known (or potentially known) in Cherokee and Houston Counties, Texas, include:

Species	Status
Least tern (<i>Sterna antillarum</i>)	Endangered
Louisiana pine snake (<i>Pituophis ruthveni</i>)	Candidate
Neches River rose-mallow (<i>Hibiscus dasycalyx</i>)	Threatened
Piping Plover (<i>Charadrius melodus</i>)	Threatened
Red-cockaded woodpecker (<i>Picoides borealis</i>)	Endangered
Red knot (<i>Calidris canutus rufa</i>)	Threatened

There are no critical habitats for any of these species within the project area. 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.

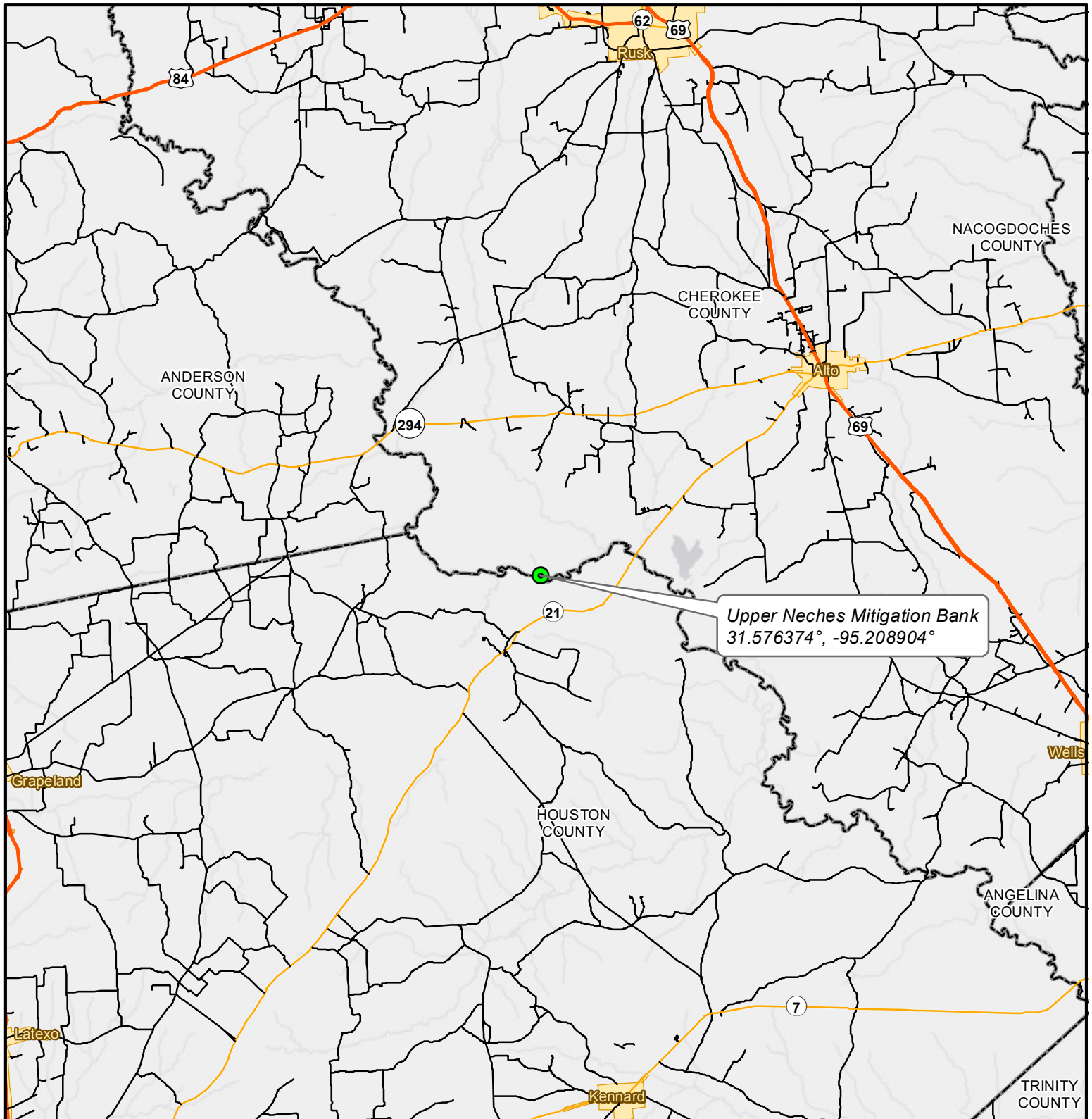
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to allow the public an opportunity to comment on this Bank proposal and to assist the USACE and other members of the IRT in developing the final MBI. For accuracy and completeness of the record, 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 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 September 16, 2015, 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. Eric Dephouse; Regulatory Division, 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) 886-1820. 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



Upper Neches Mitigation Bank
31.576374°, -95.208904°

● UNMB Project Location
 — U.S. Highway
 — State Highway
 — Local Roads
 County Boundary
 City Boundary



FORESTAR RS&H

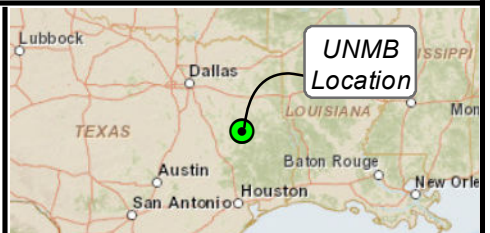
UNMB Project Location

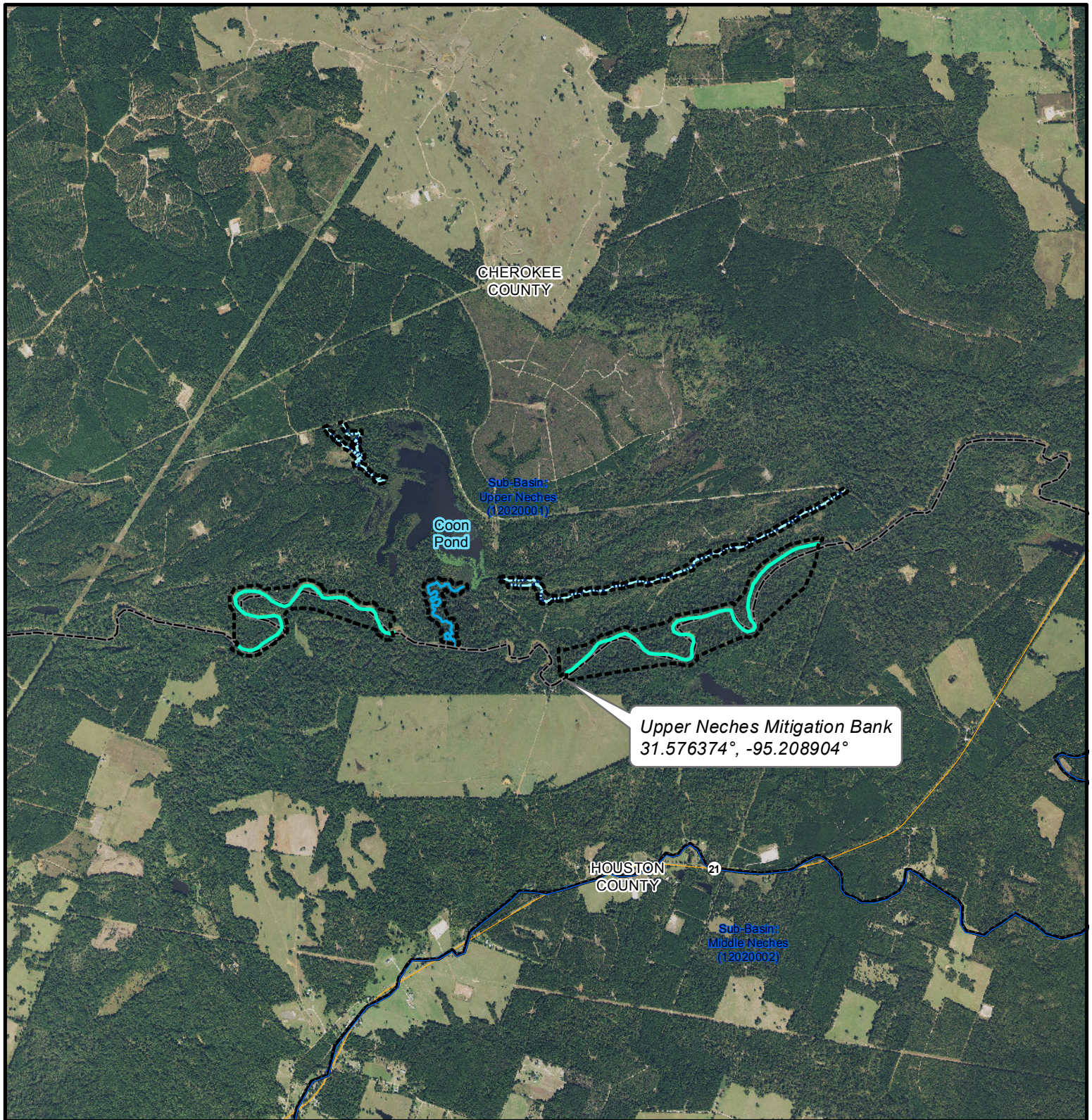
Action	Initials	Date
Created:	EH	8/3/2015
Revised:	EH	8/6/2015
Approved:		
Project:	115-2370-001	

**EXHIBIT 1
Bank Location**

Upper Neches Mitigation Bank
Cherokee and Houston Counties Texas
USACE Project: SWF-2012-00372
Sponsor: Forestar (USA) Real Estate Group, Inc.

COORDINATE SYSTEM: NAD 1983 State Plane Texas Central 4203
SOURCES: Imagery, City, and County Boundaries: ESRI, Roads: TxDOT,
Bank Location: RS&H





— Neches River
 — Unnamed Perennial Stream
 - - - Unnamed Intermittent Stream
 — State Highway
 UNMB Boundary
 County Boundary
 8-digit HUCs

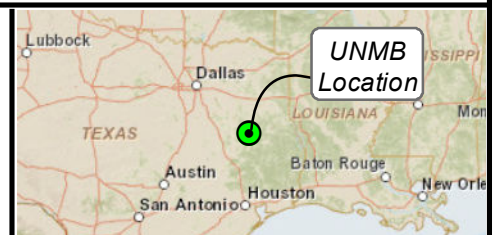
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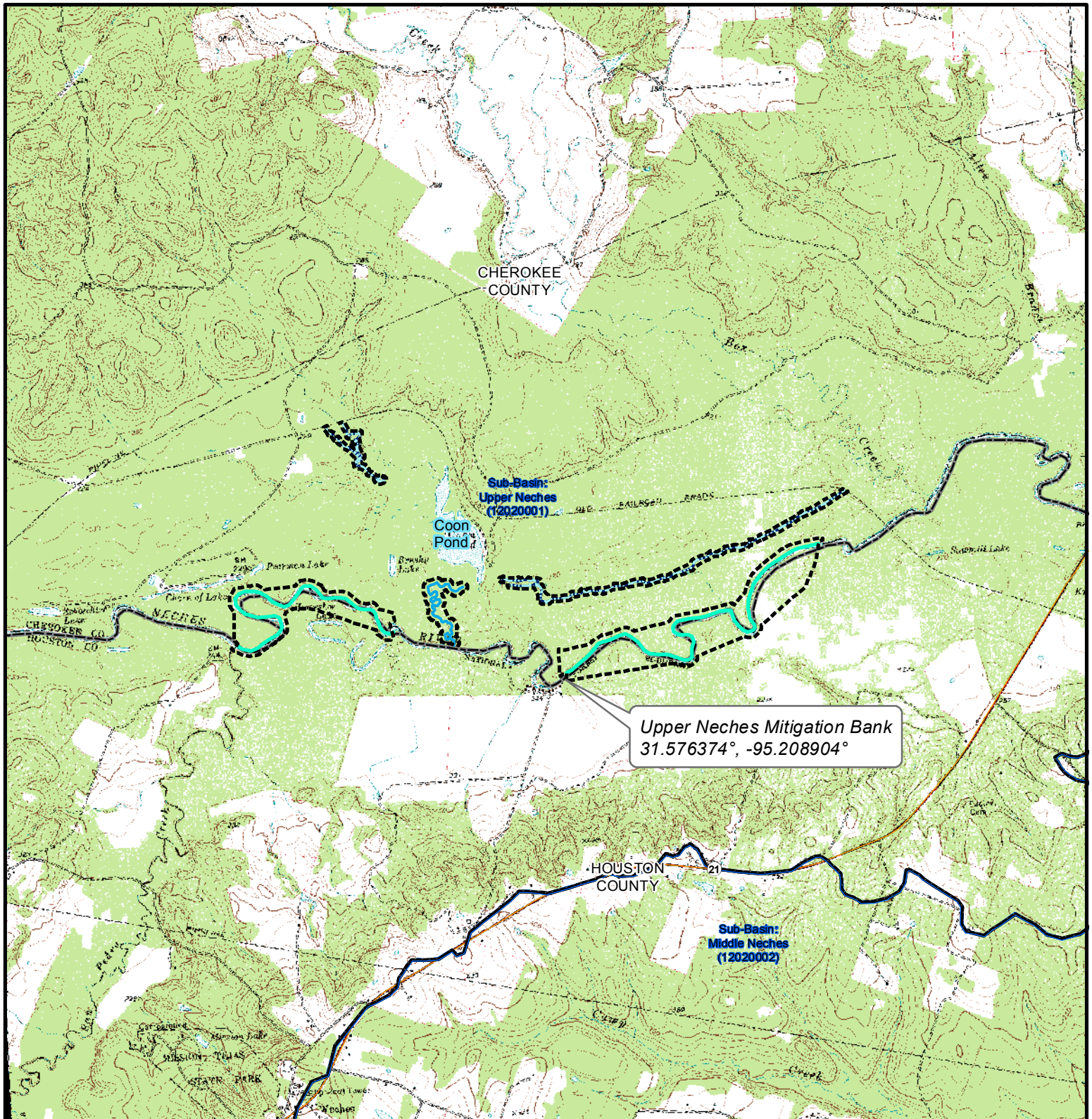


Action	Initials	Date
Created:	EH	7/13/2015
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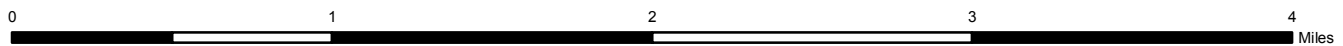
EXHIBIT 2.a
Site Overview - Aerial Photograph
 Upper Neches Mitigation Bank
 Cherokee and Houston Counties Texas
 USACE Project: SWF-2012-00372
 Sponsor: Forestar (USA) Real Estate Group, Inc.

COORDINATE SYSTEM - : NAD 1983 State Plane Texas Central 4203
SOURCES - Imagery: NAIP, County Boundaries: ESRI, Roads: TxDOT, Bank Boundary and Streams/River: RS&H, HUCs: USGS





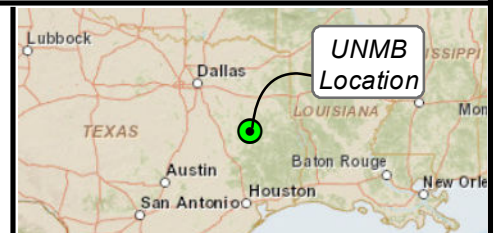
— Neches River
 — Unnamed Perennial Stream
 - - - Unnamed Intermittent Stream
 — State Highway
 UNMB Boundary
 County Boundary
 8-digit HUCs

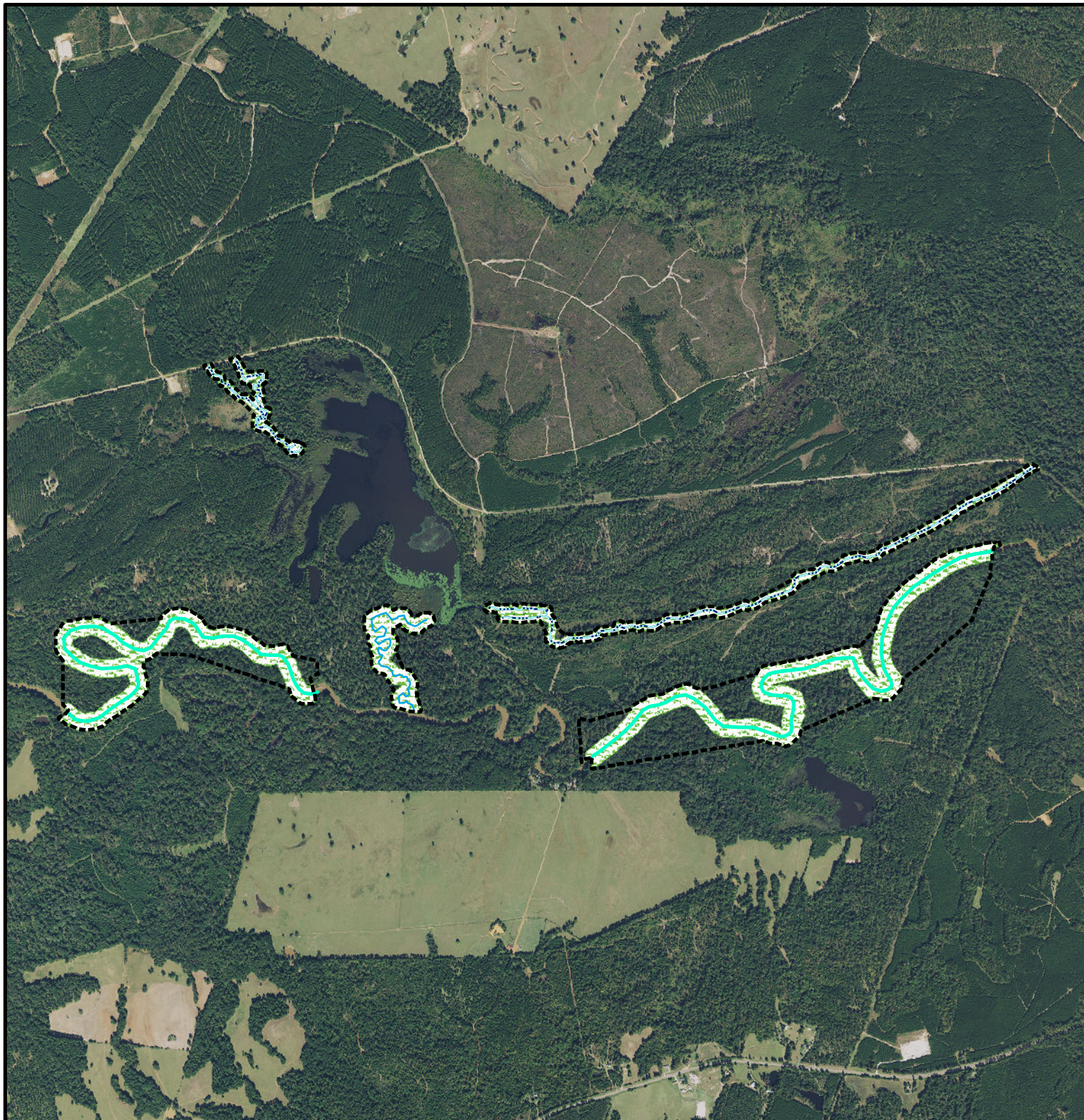


Action	Initials	Date
Created:	EH	7/13/2015
Revised:	EH	8/6/2015
Approved:		
Project:	115-2370-001	

EXHIBIT 2.b
Site Overview -Topographic Map
 Upper Neches Mitigation Bank
 Cherokee and Houston Counties Texas
 USACE Project: SWF-2012-00372
 Sponsor: Forestar (USA) Real Estate Group, Inc.

COORDINATE SYSTEM: - NAD 1983 State Plane Texas Central 4203
SOURCES: Imagery and HUCs: USGS, County Boundaries: ESRI, Roads: TxDOT, Bank Boundary and Streams/River: RS&H

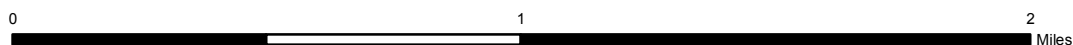




— Neches River - 17,259 Lf
— Perennial Stream - 3,993 Lf

— Intermittent Stream - 14,404 Lf
 Enhanced Buffer - 162.71 Ac

Bank Boundary - 277.26 Ac



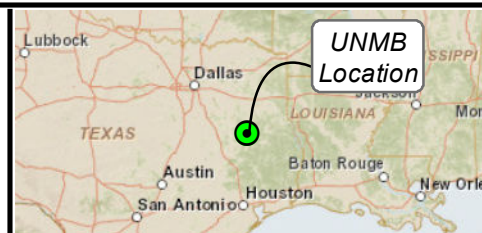
Action	Initials	Date
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Approved:		
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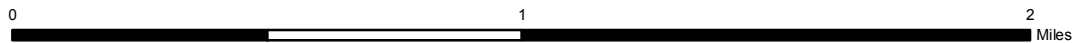
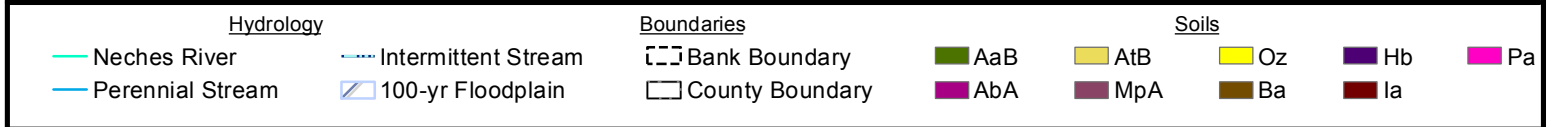
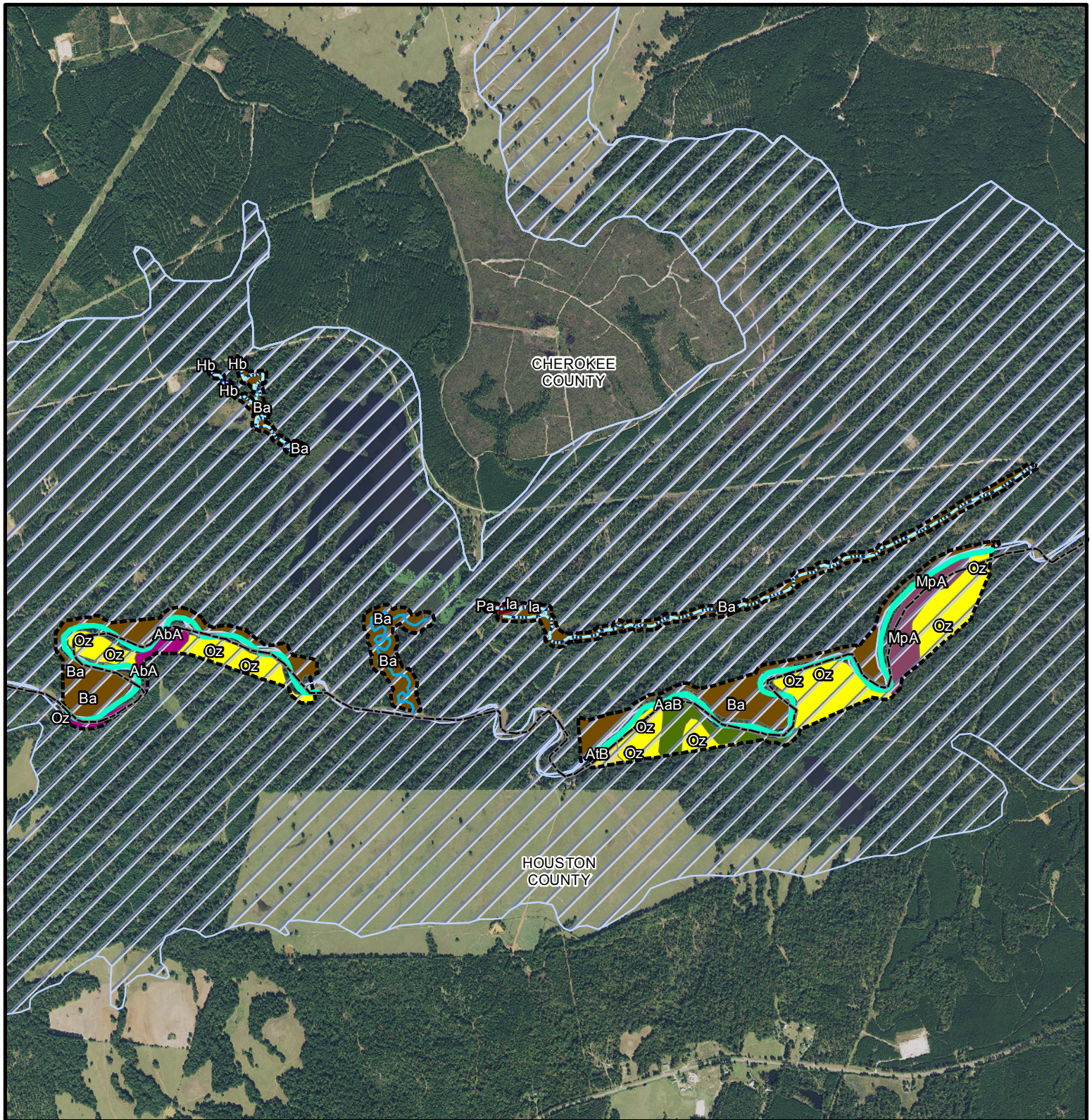
EXHIBIT 3 Restoration Plan

Upper Neches Mitigation Bank
 Cherokee and Houston Counties Texas
 USACE Project: SWF-2012-00372
 Sponsor: Forestar (USA) Real Estate Group, Inc.

COORDINATE SYSTEM - : NAD 1983 State Plane Texas Central 4203

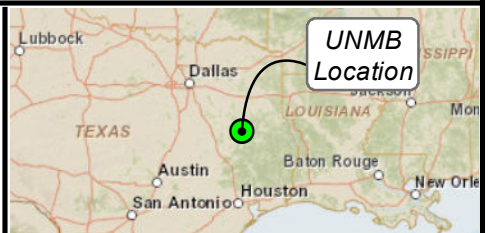
SOURCES - Imagery: NAIP, Bank Boundary, Enhanced Buffers, and Hydrology: RS&H





Action	Initials	Date
Created:	EH	8/3/2015
Revised:	EH	8/6/2015
Approved:		
Project:	115-2370-001	

EXHIBIT 4
Soils
 Upper Neches Mitigation Bank
 Cherokee and Houston Counties Texas
 USACE Project: SWF-2012-00372
 Sponsor: Forestar (USA) Real Estate Group, Inc.
 COORDINATE SYSTEM: NAD 1983 State Plane Texas Central 4203
 SOURCES - Imagery: NAIP, County Boundaries: ESRI, Bank Boundary and Hydrology: RS&H,
 Soils: USGS, Floodplain: FEMA





 Bank Boundary

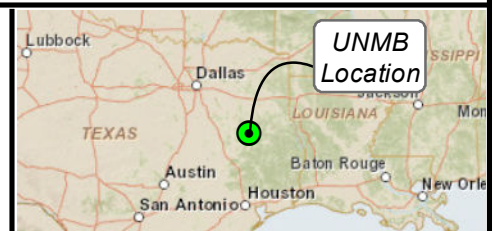
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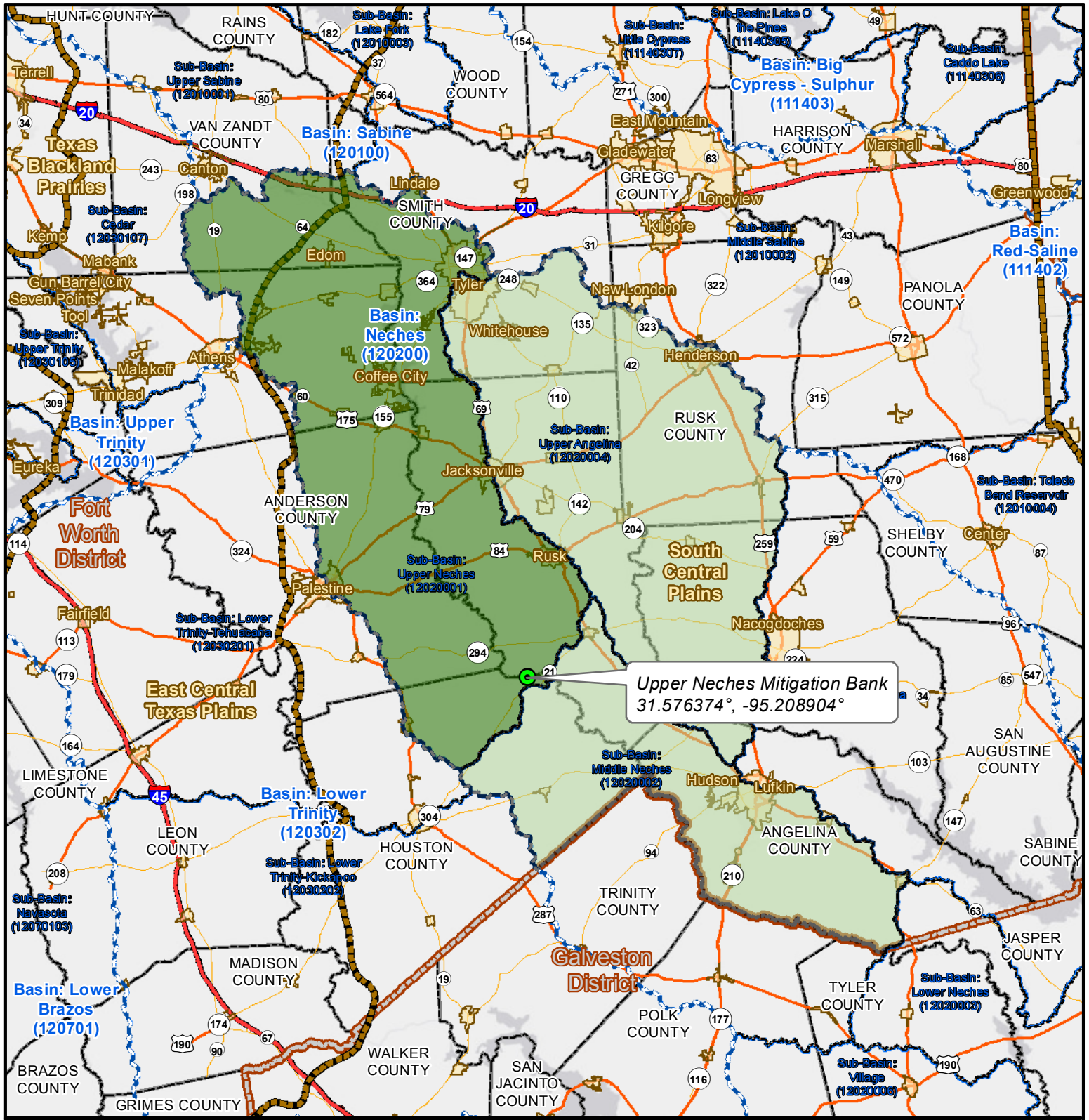


Action	Initials	Date
Created:	EH	8/3/2015
Revised:		
Approved:		
Project:	115-2370-001	

EXHIBIT 5
National Wetlands Inventory Map
 Upper Neches Mitigation Bank
 Cherokee and Houston Counties Texas
 USACE Project: SWF-2012-00372
 Sponsor: Forestar (USA) Real Estate Group, Inc.

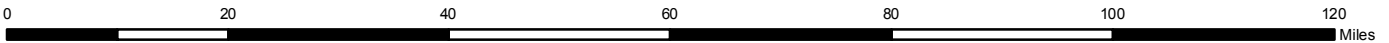
COORDINATE SYSTEM - : NAD 1983 State Plane Texas Central 4203
 SOURCES - Imagery: NWI, Bank Boundary: RS&H





Upper Neches Mitigation Bank
31.576374°, -95.208904°

- UNMB Project Location
- Roadways
 - Interstate Highway
 - U.S. Highway
 - State Highway
- UNMB Service Areas
 - Primary
 - Secondary
- Admin Boundaries
 - Counties
 - Cities
 - USACE Districts
- Ecological Boundaries
 - 6-digit HUCs
 - 8-digit HUCs
 - Level III Ecoregions



Action	Initials	Date
Created:	EH	7/13/2015
Revised:	EH	8/13/2015
Approved:		
Project:	115-2370-001	

EXHIBIT 6
Service Area
Upper Neches Mitigation Bank
Cherokee and Houston Counties Texas
USACE Project: SWF-2012-00372
Sponsor: Forestar (USA) Real Estate Group, Inc.

COORDINATE SYSTEM: - NAD 1983 State Plane Texas Central 4203
SOURCES: Imagery, Cities, and County Boundaries: ESRI, Roads: TxDOT, Service Areas: RS&H, HUCs: USGS, USACE Districts: USACE

