



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

# Public Notice

Applicant: OXBOW Investments, Inc.

Project No.: SWF-2013-00407

Date: May 5, 2015

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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 Number: (817) 886-1733

## **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 establish the Dragon Creek Mitigation Bank (DCMB), a mitigation bank located west of the city of Marquez, Robertson County, Texas.

**APPLICANT:** OXBOW Investments, Inc.  
2140 E. Southlake Blvd. Suite L-#634  
Southlake, Texas 76092  
Attn: Mr. Mark Byrd

**APPLICATION NUMBER:** SWF-2013-00407

**DATE ISSUED:** May 5, 2015

**LOCATION:** The proposed bank site is an approximately 200-acre portion of a larger 298 tract of land, located approximately 4.5 miles west of the city of Marquez, in Robertson County Texas. The Navasota River forms the northern property boundary and Steele Creek Mitigation Bank bounds the site to the south. The site is located on the USGS Marquez, Texas 7.5-minute Topographic Quad Map (1965, Photorevised 1982). The site is located within the USGS Lower Brazos Hydrologic Unit (HUC 120701). A vicinity map and topographic location map (Figures 1 & 2) depict the location of the proposed bank.

**PROJECT DESCRIPTION:** The purpose of the proposed bank is to provide offsite compensatory mitigation for unavoidable impacts to waters of the United States (WOUS), including wetlands, which result from activities authorized under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899, provided such use has met all applicable requirements and is authorized by the U.S. Army Corps of Engineers (USACE). The approximately 200-acre Dragon Creek Mitigation Bank (Bank Site) contains aquatic resources with the potential for restoration, enhancement, and protection. The goals of the proposed bank are to restore historic bottomland hardwood forested wetlands and through natural stream design principles, to restores streams and their associated riparian buffers. Achieving this objective would allow the bank to sell credits to offset unavoidable impacts to aquatic resources such as palustrine forested (PFO) wetlands, palustrine emergent (PEM) wetlands, and streams. Aquatic habitat in the bank site would be designed, constructed, and monitored in an ecologically sound and economically feasible manner. Predicted ecological lift would be quantified, divided, and sold in units referred to as credits.

The overall objective of the bank site is the rehabilitation and enhancement of a historic bottomland hardwood forest and baldcypress-tupelo swamp wetland ecosystem and its associated streams. Stream enhancement would occur through riparian buffer reestablishment and enhancement. Achieving this objective would provide mitigation for unavoidable impacts to aquatic resources such as palustrine forested wetlands, palustrine emergent wetlands, palustrine scrub-shrub wetlands, and perennial and ephemeral streams.

The Bank Site is composed of six general types of vegetation communities. These vegetation communities were classified as herbaceous upland, scrub-shrub upland, forested upland, palustrine emergent wetland, palustrine scrub-shrub wetland, and palustrine forested wetland.

Palustrine emergent wetland communities were delineated within the project area and consist of wetland areas dominated by non-woody vegetation such as grasses and forbs under three feet in height. The dominant herbaceous species include swamp smartweed (*Persicaria hydropiperoides*, OBL), sand spikerush (*Eleocharis montevidensis*, FACW), short bristle horned beak sedge (*Rhynchospora corniculata*, OBL), raven foot sedge (*Carex crus-corvi*, OBL), Hooker's eryngo (*Eryngium hookeri*, FACW), duck potato (*Sagittaria latifolia*, OBL), floating primrose willow (*Ludwigia peploides*, OBL), and annual marsh elder.

Palustrine scrub-shrub wetlands are comprised of a shrub and sapling layer dominated by poison bean (*Sesbania drummondii*, FACW) and water hickory (*Carya aquatica*, OBL). Palustrine forested wetlands occurring in the project area are dominated by mature trees, shrubs, and herbaceous species. The dominant tree species include green ash (*Fraxinus pennsylvanica*, FAC), planertree (*Planera aquatica*, OBL), sugarberry, and water hickory. The site has and continues to be grazed by livestock and managed for hay production. The site is fed hydrologically by precipitation, shallow groundwater tables, and flooding from the Navasota River and Steele Creek.

According to the NRCS Soil Survey for Robertson County, six soil map units are present within the project area (USDA 2012b). The following soil types were found on the site: EdC - Edge fine sandy loam, 1 to 5 percent slopes; EdD2 - Edge fine sandy loam, 5 to 8 percent slopes; Sa - Sandow loam, 0-2 percent slopes, frequently flooded; SnD - Silstid loamy fine sand, 3 to 8 percent slopes; Uh - Uhland, 0 to 1 percent slopes, frequently flodded; Zb - Zilaboy clay, 0 to 1 percent slopes, frequently flooded.

The Bank Site is located within the Navasota River Basin (Hydrologic Unit Code [HUC] 12070103). The floodplain encompasses approximately 66% of the total property and is depicted in Figures 3 & 4. The site continues to be managed for cattle grazing, and bulk hay production. Given the bank's location within the flood plaine of the Navasota River, no major future development is anticipated within the area. The project proximity to the Steele Creek Mitigaiton Bank adds value by increasing the acrage, function, and quality of wetlands in the Navasota River Basin. There are no anticipated changes in surface or groundwater uses/rights.

The proposed service areas for the Dragon Creek Mitigation Bank are restricted to the boundaries of the Fort Worth District of the USACE within the state of Texas. Primary, secondary, and tertiary service areas were determined using the USGS eight-digit Hydrologic Unit Codes (HUCs) and USEPA Level III Ecoregions (Omernik 2004, revised 2007). The primary service area for the proposed bank would be located in the Navasota River Basin, HUC 12020001), within portions of the Blackland Prairie and East Central Texas plains Ecoregions. Parts of Freestone, Limestone, Robertson, Brazos, Grimes, and Leon counties would be included in the primary service area. The proposed secondary service area would be located in the Lower Brazos Little Brazos River Basin (HUC 12070101), within portions of the East Central Texas Plains Ecoregion, and would include parts of Milam, Limestone, Falls, Robertson, Brazos, and Burleson counties. The tertiary service area would include the Middle Brazos Lake Whitney River Basin (HUC 12060202) and the Lower Brazos Little Brazos River Basin (HUC 1207101), within potions of the Blackland Prairie Ecoregion, and would include parts of Limestone, McLennan, Hill, and Washington counties. The proposed primary, secondary, and tertiary service areas are shown on Figure 5.

A mitigation banking instrument (MBI) would be developed in accordance with *Compensatory Mitigation for Losses of Aquatic Resources*, (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, 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 Commission on Environmental Quality, Railroad Commission of Texas, and Texas Parks and Wildlife Department, who comprise the Interagency Review Team (IRT), 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 the proposed bank may be authorized by Nationwide Permit 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

**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 county where the endangered Houston toad (*Bufo houstonensis*), Navasota ladies'-tresses (*Spiranthes parksi*), and large-fruited sand verbena (*Abronia macrocarpa*), are known to occur and where the endangered whooping crane (*Grus americana*), is known to occur or may occur as a migrant. Two additional candidate species, smooth pimpleback (*Quadrula houstonensis*) and Texas fawnsfoot (*Truncilla macrodon*) are also known to occur in this county. Our initial review indicates that the proposed work would have no effects on any federally-listed endangered or threatened species.

**NATIONAL REGISTER OF HISTORIC PLACES:** The area of the proposed Dragon Creek Mitigation Bank has never been formally surveyed for the presence of historic or prehistoric cultural resources. Cultural resources work undertaken at nearby Lake Limestone and along the Navasota River include the presence of deeply buried prehistoric sites, as well as historic sites dating to the middle 19th century. Similar sites should be expected to be identified within the proposed Dragon Creek bank and may potentially be impacted by the proposed work. Additional work to identify and assess cultural resources and will be necessary.

**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 June 5, 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. Brent Jasper; 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) 886-1733. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

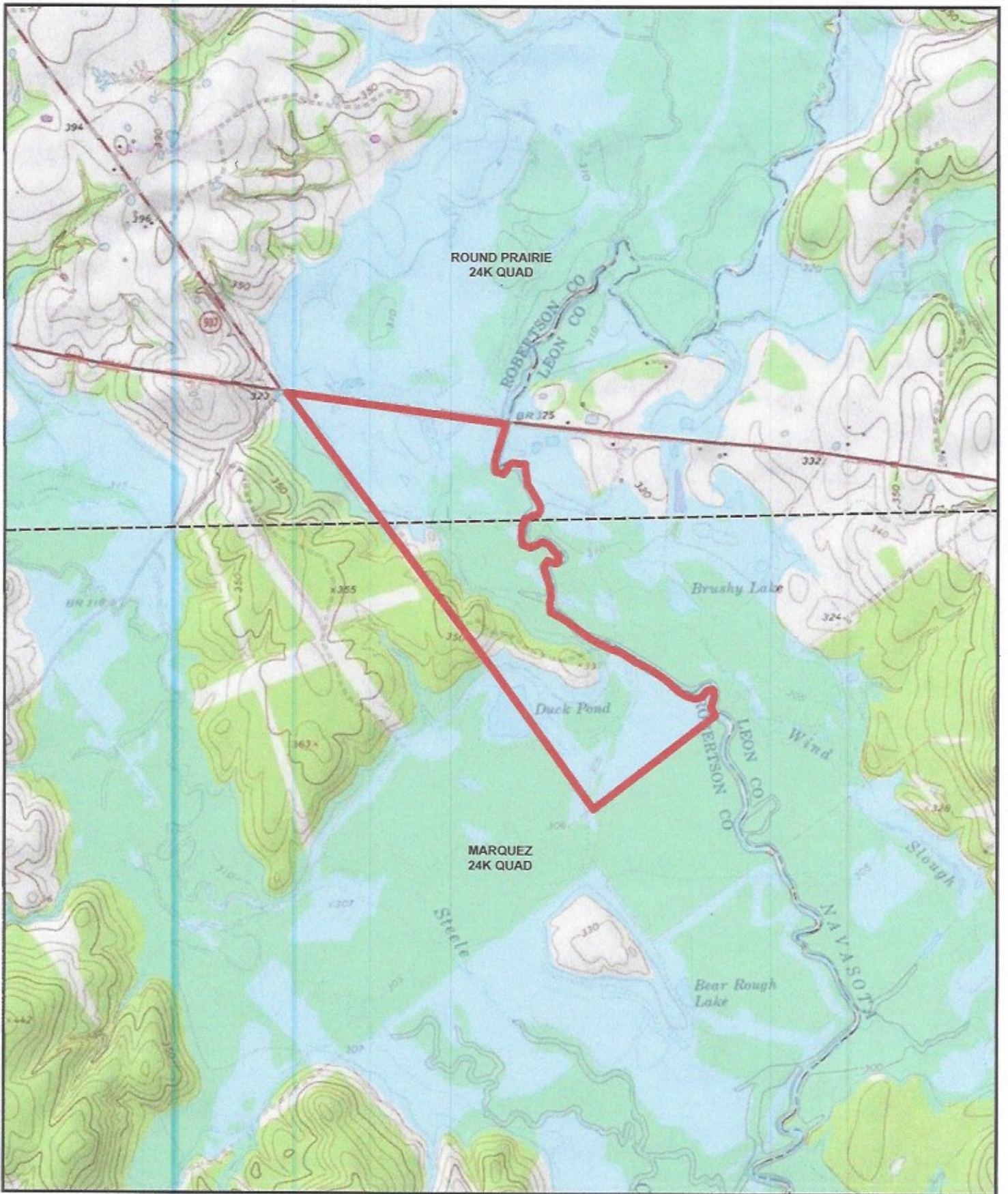
DISTRICT ENGINEER  
FORT WORTH DISTRICT  
CORPS OF ENGINEERS



Dragon Creek Site Vicinity Map  
Robertson County, Texas

Map Source: Google Earth  
Figure 1

Figure 2 of 6  
 SWCA Project 2013-00407 Dragon Creek Wetland Delineation - Figure 1.mxd



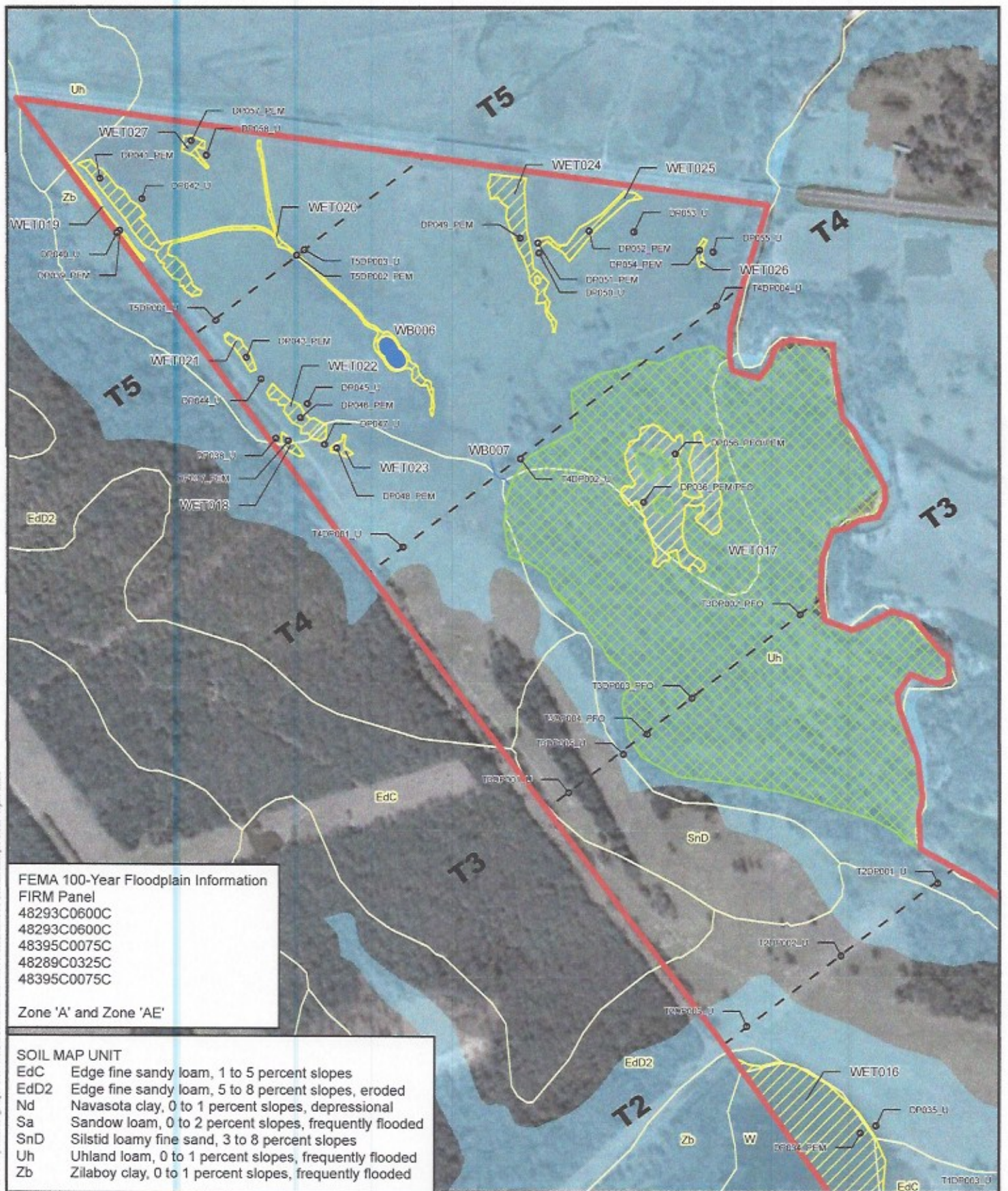
**SWCA**  
 ENVIRONMENTAL CONSULTANTS  
 10245 West Little York, Suite 090  
 Houston, Texas 77040  
 (281) 617-3217 phone  
 (281) 617-3227 fax  
 www.swca.com

**DRAGON CREEK  
 WETLAND DELINEATION**  
 SITE VICINITY  
 ROBERTSON COUNTY, TEXAS

Project Boundary  
 Floodplain Boundary  
 USGS Quad Boundary

USGS Quad Name: Marquez and Round Prairie  
 Scale: 1:24,000  
 Created by: AV  
 Approved by: SR  
 SWCA Project No.: 20551  
 Date Produced: August 20, 2014  
 NAD 1983 StatePlane Texas-South Central FIPS 4204 Feet

FIGURE 2



FEMA 100-Year Floodplain Information  
 FIRM Panel  
 48293C0600C  
 48293C0600C  
 48395C0075C  
 48289C0325C  
 48395C0075C

Zone 'A' and Zone 'AE'

**SOIL MAP UNIT**

EdC Edge fine sandy loam, 1 to 5 percent slopes  
 EdD2 Edge fine sandy loam, 5 to 8 percent slopes, eroded  
 Nd Navasota clay, 0 to 1 percent slopes, depressional  
 Sa Sandow loam, 0 to 2 percent slopes, frequently flooded  
 SnD Silstid loamy fine sand, 3 to 8 percent slopes  
 Uh Upland loam, 0 to 1 percent slopes, frequently flooded  
 Zb Zilaboy clay, 0 to 1 percent slopes, frequently flooded



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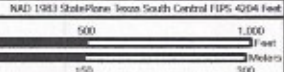
SHEET 1 OF 2

FIGURE 3

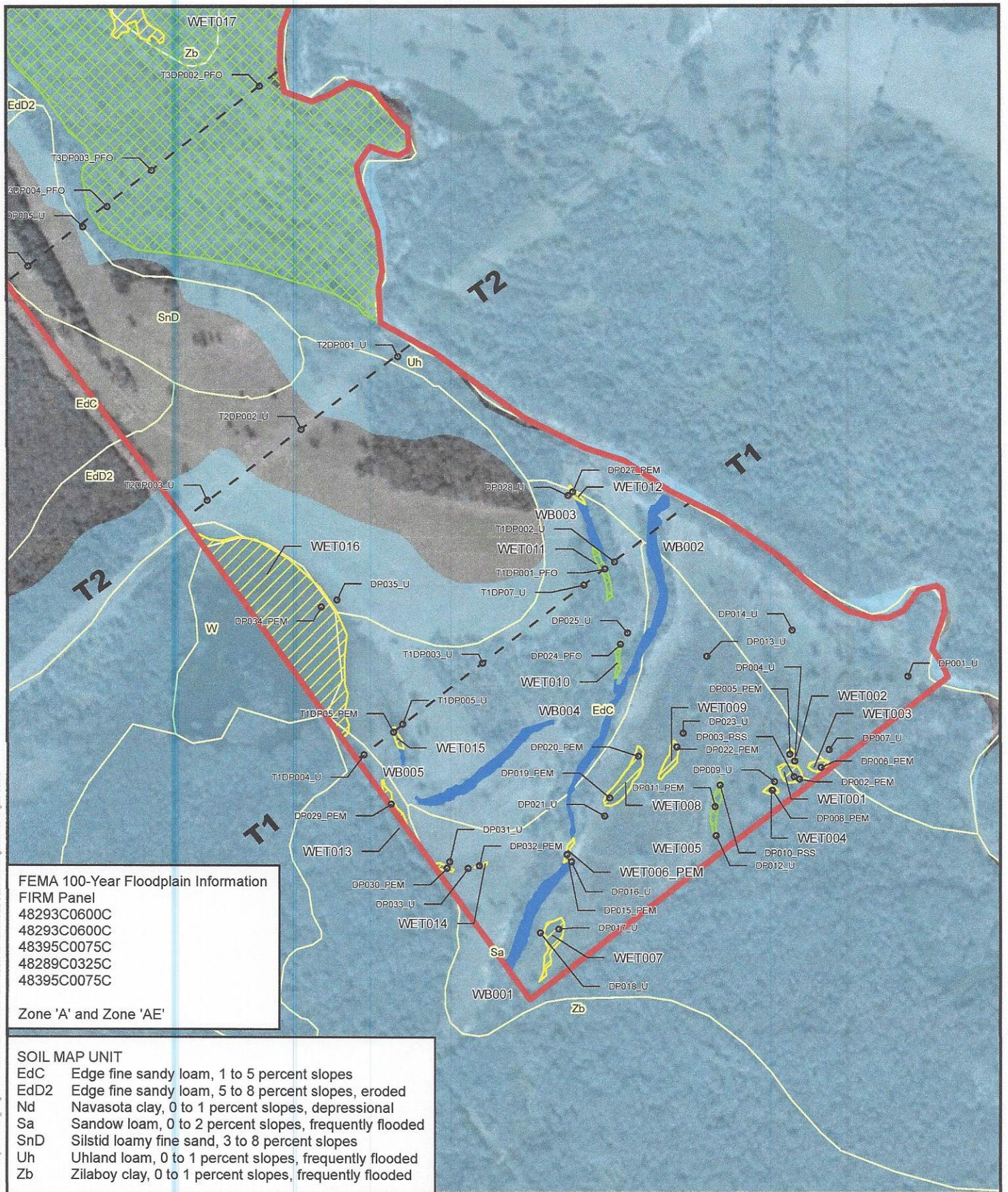
- Forested Wetland
- Emergent Wetland
- Data Point
- Project Boundary
- Transect Line
- Soil Boundary
- Floodplain Boundary



Background:	ESRI World Imagery
Scale:	1:7,000
Created by:	AW
Approved by:	SR
SWCA Project No.:	30551
Date Produced:	September 01, 2014







FEMA 100-Year Floodplain Information  
 FIRM Panel  
 48293C0600C  
 48293C0600C  
 48395C0075C  
 48289C0325C  
 48395C0075C

Zone 'A' and Zone 'AE'

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 WETLAND DELINEATION**

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 ROBERTSON COUNTY, TEXAS

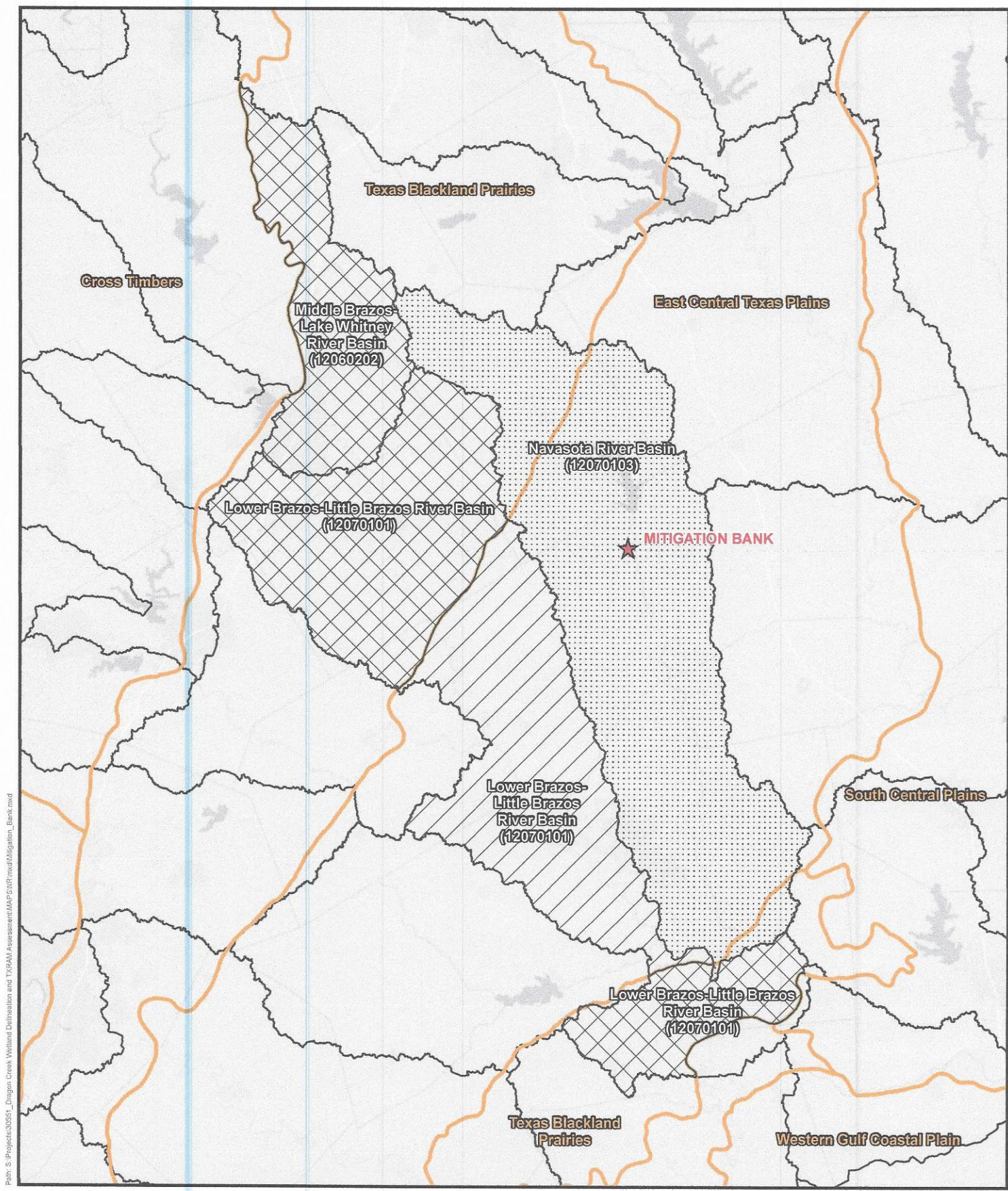
- Forested Wetland
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Background:	ESRI World Imagery
Scale:	1:7,000
Created By:	AV
Approved By:	SR
SWCA Project No.:	30551
Date Produced:	September 08, 2014

NAD 1983 StatePlane Texas South Central FIPS 4204 Feet

SHEET 2 OF 2





Figure 4



Path: S:\Projects\00551\_Dragon Creek Wetland Delineation and TXRAV Assessment\MAPS\SR\mxd\Mitigation\_Bank.mxd

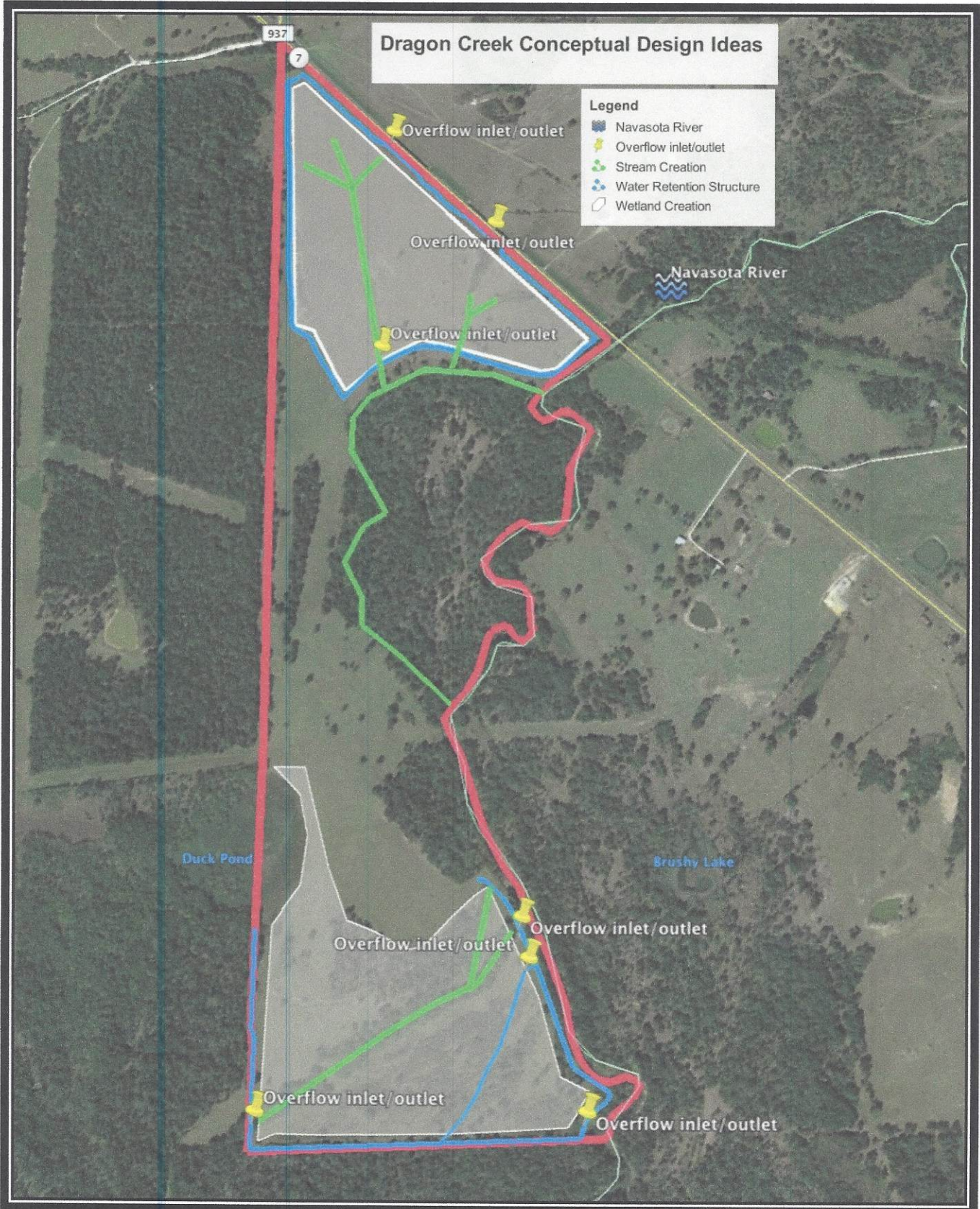
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**DRAGON CREEK MITIGATION BANK**  
SERVICE AREA MAP  
*Figure 5*

-  Primary Service Area
-  Secondary Service Area
-  Tertiary Service Area
-  Level III Ecoregions

Background:	Light Grey Canvas
Scale:	1:1,200,000
Created By:	AB
Approved By:	SR
SWCA Project No.:	30551
Date Produced:	December 04, 2014

NAD 1983 StatePlane Texas South Central FIPS 4204 Feet



Dragon Creek Conceptual Design  
Robertson County, Texas

Map Source: Google Earth  
Figure 6