



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

# Public Notice

Applicant: Hickory Creek MB, LLC

Permit Application No.: SWF-2017-00240

Date: August 15, 2017

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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 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 Hickory Creek Mitigation Bank (HCMB or Bank), a proposed stream mitigation bank that would be located east of Slidell in Denton County, Texas.

**APPLICANT:** Hickory Creek MB, LLC  
Attn: Adam Riggsbee  
P.O. Box 29921  
Austin, TX 78755

**APPLICATION NUMBER:** SWF-2017-00240

**DATE ISSUED:** August 15, 2017

**LOCATION:** The proposed bank is located along North Hickory Creek, including several tributaries, in northwest Denton County, Texas, approximately 0.5 mile east of Slidell along Farm-to-Market 455. The approximate center of the proposed HCMB is located at latitude 33.340188° north and longitude -97.374079° west on the Era SE 7.5-minute United State Geodetic Survey quadrangle map. The site is located on both sides of North Hickory Creek and several of its tributaries within the Elm Fork Trinity watershed (8-digit HUC 12030103) and the Cross Timbers U.S. Environmental Protection Agency (EPA) Level III Ecoregion (Griffin, et al., 2003). The Bank is proposed to encompass approximately 175 acres. A vicinity map of the proposed Bank is provided as Figure 1.

**PROJECT DESCRIPTION:** The Sponsor is proposing the restoration, enhancement, and permanent protection of approximately 21,000 linear feet of intermittent and ephemeral streams and associated riparian habitats within HCMB. The bank site is located within the Elm Fork of the Trinity River watershed. The goal of the Sponsor in developing HCMB is to provide high quality restoration/enhancement of stream ecosystems as compensation for adverse impacts to waters of the United States (WOUS) occurring within the Bank's proposed Service Area. It is anticipated that ecological lift associated would generate In-Channel and Riparian Buffer Credits.

The property is currently utilized as pastureland with some areas used for hay production (Figure 2). Livestock have grazed the property for decades and have unrestricted access to entire site, including all streams and their associated riparian areas.

The soils found within the proposed Bank site are listed as non-hydric and comprised of two types (Figure 3)—Sanger Clay (1 to 3% slopes) and Slidell Clay (1 to 3% slopes). Sanger clays are described as gently sloping, and are found in valley fill areas between limestone ridges. These soils are well drained with very slow permeability and medium runoff. Available water capacity is high and erosion is moderate. These soils are used for crops, pasture and rangeland. Slidell clays are described as gently sloping, and are found in low landscape positions. These soils are well drained with very slow permeability and high water capacity. These soils are used for pasture, cropland and rangeland.

The proposed Bank site consists entirely of native and improved pasture (predominantly bermudagrass, *Cynodon dactylon*) with sparse tree cover (sugarberry, *Celtis laevigata*; osage-orange, *Maclura pomifera*; eastern red cedar, *Juniperus virginiana*; and honey locust, *Gleditsia triacanthos*). Grazing activity is high and has persisted for generations. Grazing is largely concentrated within riparian areas, as upland soils are used predominantly for hay production. Located in the headwater areas of the North Hickory Creek watersheds (Figure 4), the surrounding terrain is characteristic of the Cross Timbers—flat to gently rolling prairie well dissected with stream valleys.

The proposed Bank consists of approximately 21,000 linear feet of intermittent and ephemeral streams (Figure 5), for which channel and riparian re-establishment and rehabilitation are proposed. The Bank's proposed plan expects some gains in overall linear footage of jurisdictional stream; however, such increases are expected to be relatively minor. Sources of stress to channel stability are associated with land cover (cleared riparian areas) and land use (grazing). The Sponsor proposes to utilize natural channel design techniques to re-establish ecologically appropriate and stable channel forms and functions while rehabilitating woody riparian plant communities and permanently restricting land uses. The entire Bank site would be protected in perpetuity through a Conservation Easement, to be held by a 501(3)(c) land trust organization.

Utilizing a watershed approach, the Sponsor conducted a site search within the Elm Fork Trinity watershed to service anticipated development demands for compensatory stream mitigation credits. Numerous sites were identified and landowners were contacted to gage their interests in participating in a conservation project of the nature proposed here. Ultimately, the Bank site was selected due to: 1) the potential for significant aquatic resource gains following restoration activities; 2) the willingness of the landowners to participate and; 3) the site's suitability to serve as a self-sustaining stream mitigation bank.

The Bank's proposed service area is consistent with established guidelines of the Fort Worth District, which is based on 8-digit HUCs and Level III Ecoregions. The proposed service area (Figure 6) includes all of the Elm Fork Trinity HUC (12030103) and the Cross Timbers and Blackland Prairie portions of HUCs 12030102, 12030104, 12030105 and 12030106). Proposed service areas include portions or all of the following counties: Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Hood, Hunt, Johnson, Kaufman, Montague, Parker, Rockwall, Tarrant, and Wise.

A Mitigation Banking Instrument (MBI) would be developed in accordance with 33 CFR Part 332 (Compensatory Mitigation for Losses of Aquatic Resources) and relevant district-level published mitigation policies. The MBI would detail the legal and physical characteristics of the Bank, details on the development of the bank, including work to be performed, and description of bank operations, in addition to other pertinent information. Subjects to be 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 restoration and enhancement activities, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of bank ownership or sponsorship.

The USACE, Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), Texas Commission on Environmental Quality (TCEQ), Railroad Commission of Texas (RRC), and Texas Parks and Wildlife Department (TPWD) comprise the IRT (Interagency Review Team), and will 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 qualify for Nationwide Permit 27 for stream and wetland restoration activities.

**ENDANGERED AND THREATENED SPECIES:** The USACE has reviewed the USFWS's latest published version of the endangered and threatened species to determine if any may occur in the project area. The proposed project is located in a county where the whooping crane (*Grus americana*), the bald eagle (*Haliaeetus leucocephalus*), the piping plover (*Charadrius melodus*), the least tern (*Sterna antillarum*) and the red knot (*Calidris cantus rufa*) are known to occur or may occur. These species are either endangered, threatened or otherwise protected. Our initial review indicated that the proposed work would have no effects on any federally-listed endangered or threatened species.

**NATIONAL REGISTER OF HISTORIC PLACES:** The USACE has reviewed the latest complete public version of the National Register of Historic Places (NRHP) and found no listed properties to be in the project area. The area of the proposed mitigation bank has been formally surveyed for the presence of historic and prehistoric cultural resources. The survey identified one archeological site, which is recommended as ineligible for inclusion in the NRHP by the Sponsor's consultant. The USACE has not yet reviewed this survey and will be coordinating with the Sponsor 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.

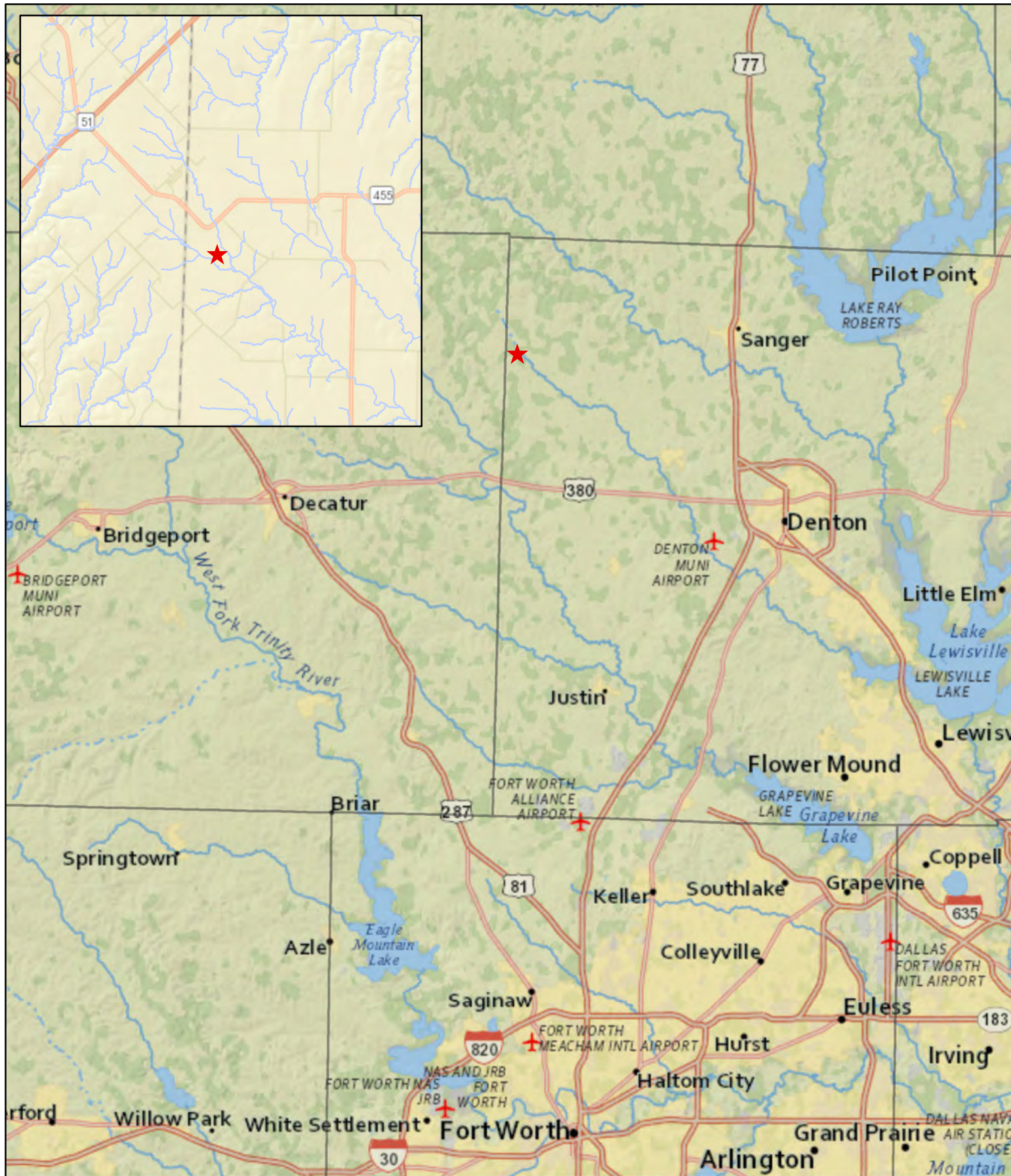
**SOLICITATION OF COMMENTS:** The public notice is being distributed to all known interested persons to allow the public an opportunity to comment on the bank proposal and to assist the USACE and other members of the IRT in developing the final MBI. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient details 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 15, 2017, 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-PER-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 Mr. Brent Jasper, (817)886-1733. Please note that names and addresses of those who submit comments in response to this public notice may be publicly available.

DISTRICT ENGINEER  
FORT WORTH DISTRICT  
CORPS OF ENGINEERS



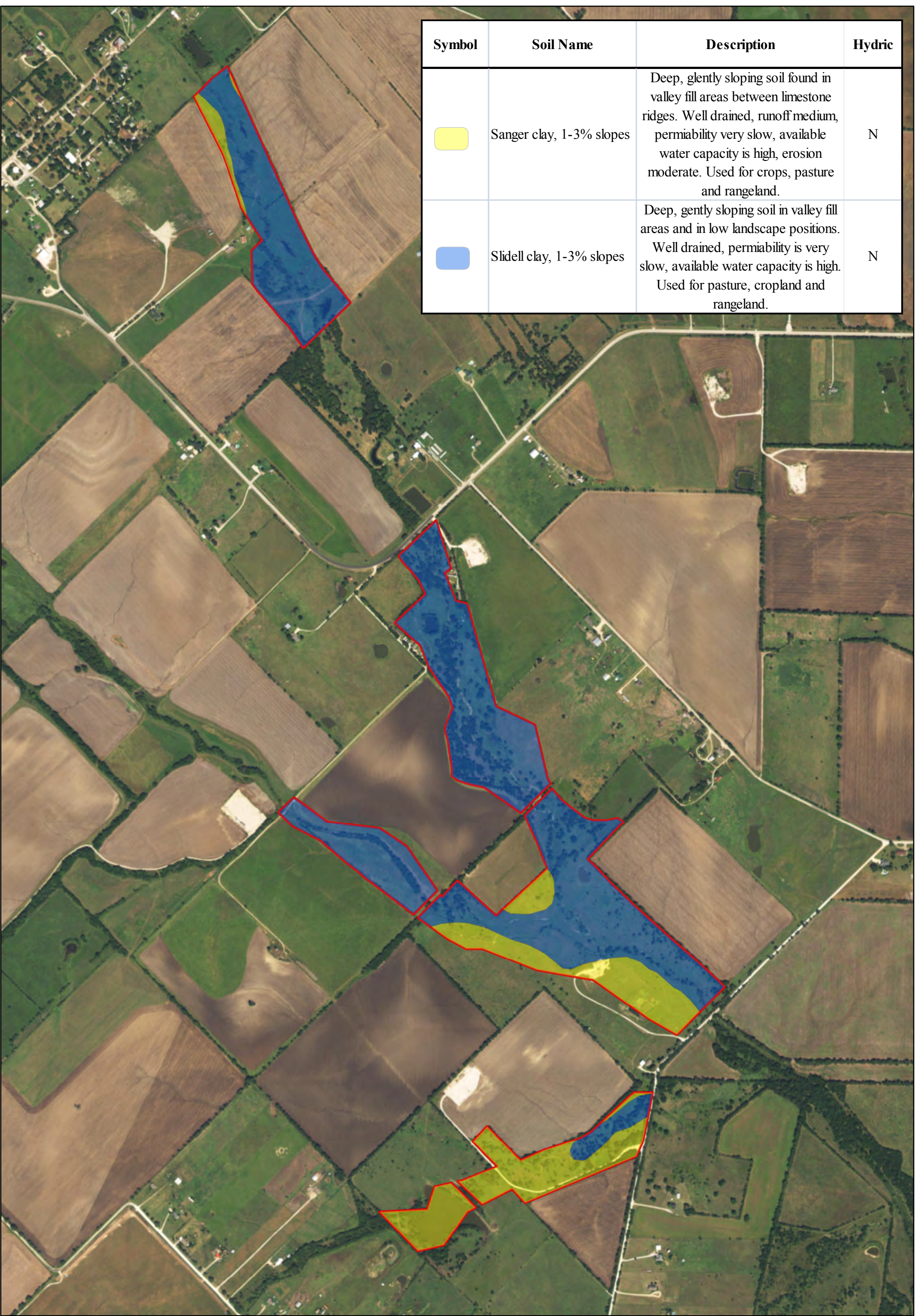


	<b>RiverBank Conservation LLC</b> P.O. Box 29921 Austin, TX 78755 <a href="http://www.riverbankecosystems.com">www.riverbankecosystems.com</a> PHONE: 512.241.3775	SCALE: 1 inch = 41,667 ft. DATE: July 28, 2017 Public Notice	<h2 style="text-align: center;">Hickory Creek Mitigation Bank: General Location</h2> <div style="text-align: center;">  <p>Miles</p> </div>	<h1 style="text-align: center;">FIGURE 1</h1>
	<p><small>This map and all data contained within are supplied as is with no warranty. RiverBank Conservation LLC expressly disclaims responsibility for damages or liability from any claims that may arise out of the use or misuse of this map. It is the sole responsibility of the user to determine if the data on this map is compatible with the user's needs. This map was not created as survey data, nor should it be used as such. It is the user's responsibility to obtain proper survey data, prepared by a licensed surveyor, where required by law.</small></p>			

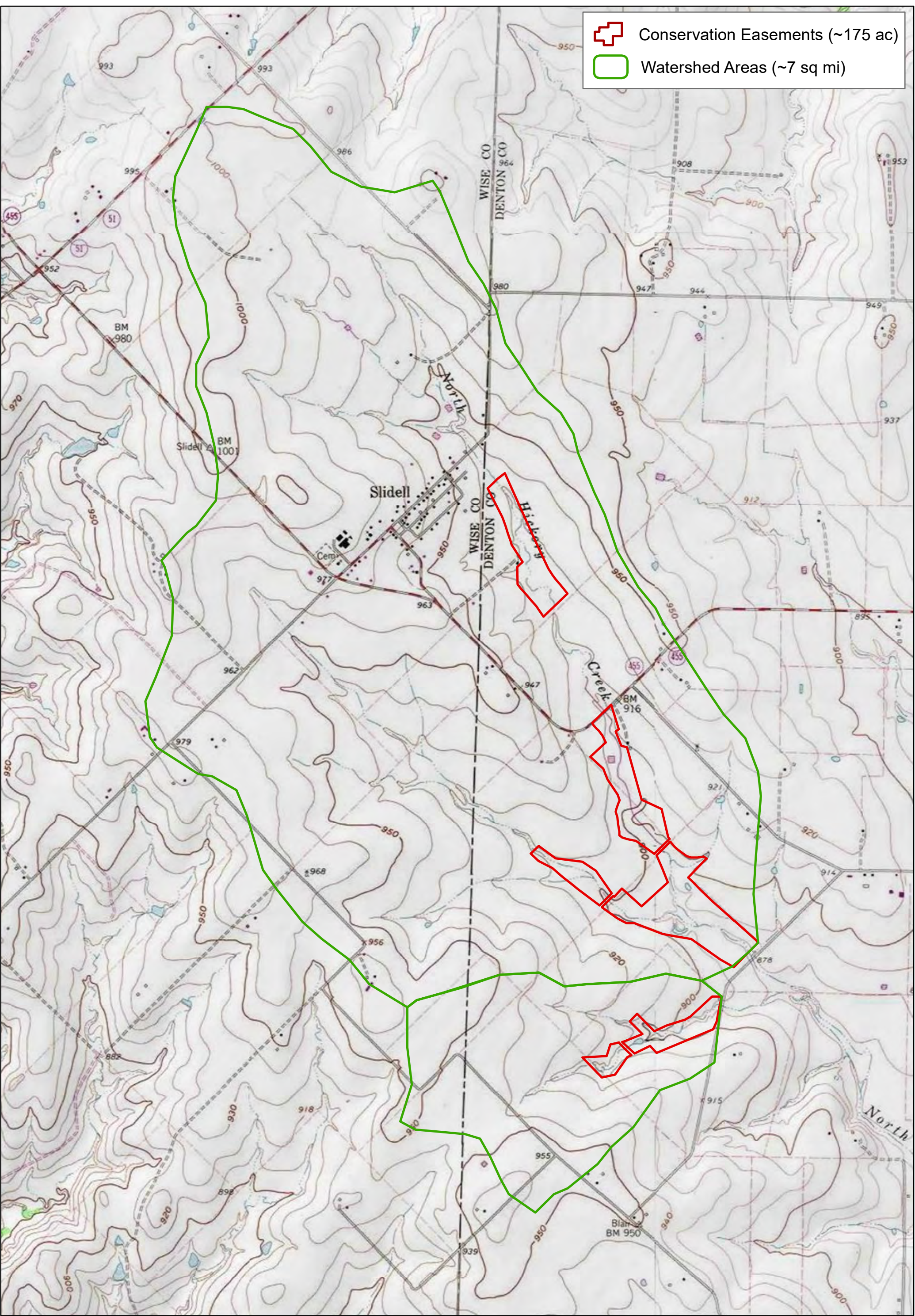




















 Conservation Easements (~175 ac)

 FEMA Floodplain

 Existing Streams

 Manmade Ponds



