



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

Public Notice

Applicant: Luminant Mining Company, LLC

Permit Application No. : SWF-2019-00033

Date: February 7, 2019

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: Darvin Messer

Phone Number: (817) 886-1744

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 under Section 401 of the CWA to discharge dredged and fill material into waters of the United States (U.S.) associated with the expansion of the Kosse Mine in Limestone and Robertson counties, Texas, by Luminant Mining Company, LLC.

APPLICANT: Luminant Mining Company, LLC (Luminant)
c/o Ms. Kimberly Mireles
Senior Director, Environmental Services
Environmental Services Department
6555 Sierra Drive
Irving, Texas 75039

APPLICATION NUMBER: SWF-2019-00033

DATE ISSUED: February 7, 2019

LOCATION: The proposed Project Area is 1,502 acres—of which approximately 906 acres would be impacted by mining activities within an expansion of Area D of the Kosse Mine, Permit No. 50B, in Robertson County, Texas. The Project Area is a proposed expansion of the existing Kosse Mine (approximately 16,563 acres), with the Project Area center being approximately at Latitude 31° 16' 1.55" N and Longitude 96° 26' 52.76" W. The Kosse Mine began extracting lignite (coal) in 2007. The Project Area is approximately eight miles east of the town of Kosse, Texas (see Figures 1-7); contained within the Bald Prairie and Oletha 7.5-minute USGS quadrangle maps; and in the following USGS Hydrologic Units: 120701030203 (Middle Steele Creek), and 120701030204 (Lower Steele Creek). The proposed Project Area is generally contained within the following area: west of an oil well road and various property tracts; south of Heads Creek; north of Robertson County Road 468 and various property tracts; and east of the existing Kosse Mine.

OTHER AGENCY AUTHORIZATIONS: (1) Solid Waste Registration [88189], Texas Commission on Environmental Quality (TCEQ); (2) Texas Pollutant Discharge Elimination System (TPDES) Wastewater Discharge Permit [WQ0002699000], TCEQ; (3) TPDES Storm Water Multi-Sector General Permit No. [TXR05BW81], TCEQ; (4) TPDES Stormwater Construction General Permit [TXR15XC76], TCEQ; (5) Water Rights Permit [5931] TCEQ; (6) Air Quality Permit [78321], TCEQ; (7) Hazardous Waste Identification No. [TXR000081251], Environmental Protection Agency (EPA); (8) Surface Mining Permit [50B], Railroad

Commission of Texas (RCT); and (9) U.S. Army Corps of Engineers (USACE) NWP 21 200500663; (10) USACE Individual Permit (IP) SWF-2007-00055; (11) USACE IP SWF-2012-00349.

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 56,047 cubic yards of fill material into approximately 34.74 acres of waters of the U.S. (WOTUS) in conjunction with the 1,502-acre Kosse Mine Renewal/Expansion of the existing Kosse Mine, Permit No. 50B in Limestone and Robertson counties. Total permanent impacts to WOTUS at the Kosse Mine Renewal/Expansion would occur only in Robertson County and would include 8.52 acres of forested wetlands, 1.72 acres of scrub-shrub wetlands, 17.76 acres of non-forested emergent wetlands, 3.54 acres of impoundments (stock tanks/ponds), and 36,498 linear feet (lf) of ephemeral streams. The proposed project has been designed to avoid impacts to perennial or intermittent streams. The proposed Project Area would consist of 906 acres to be impacted by mining activities (see Figure 3). Surface mining operations would continue with conventional open pits excavated by large draglines and supported by standard earth moving equipment such as front-end loaders, hydraulic excavators, hydraulic backhoes, haulers, motor graders, dozers, end dumps, and scrapers. Infrastructure in support of the operation would include (1) construction of ponds and diversions to control surface water drainage, (2) placement of groundwater well fields to dewater overburden and relieve underburden pressures, (3) relocation of pipelines, (4) closure of one county road, and (5) construction of service roads. Project timing is for mining to continue as permits are approved by regulatory agencies. Various construction projects and mining operations would involve adverse impacts to waters of the U.S., including wetlands, associated with filling or dredging activities.

Continued mining of the Kosse Mine by the proposed Kosse Mine Renewal/Expansion would provide Luminant Generation Company LLC with reliable access to an additional reserve of low cost lignite fuel resources to fuel the nearby Oak Grove Steam Electric Station. In addition, this fuel resource is necessary to provide continuation of reliable and cost effective electric generation for customers and provide base load electric generation capacity for the Electric Reliability Council of Texas (ERCOT) electric grid.

Appropriate and practicable steps would be taken to avoid, minimize, or mitigate the adverse impacts of the proposed project on the aquatic ecosystem. Current planning for the mine indicates avoidance and minimization of adverse impacts to WOTUS would be a significant part of the design of the Surface Mining Control and Reclamation Act (SMCRA) permit and Individual Permit—the primary focus being protection of wetlands and other waters of the U.S. associated with Willow Creek. Approximately 4.18 acres of wetlands, 1.13 acres of ponds, and 17,728 linear feet (1.32 acres) of streams are projected to be avoided. Despite incorporating measures to avoid and minimize impacts to waters of the U.S., the project would result in the loss of approximately 34.74 acres of waters of the U.S. Specifically, 8.52 acres of forested wetlands; 1.72 acres of scrub-shrub wetlands; 17.76 acres of emergent wetlands; 36,498 linear feet (3.20 ac) of ephemeral streams; and 3.54 acres of impoundments (stock tanks/ponds) would be permanently impacted.

The applicant incorporated a number of measures to avoid and minimize impacts to WOTUS.

After consideration of all available options, the applicant proposes to mitigate for unavoidable losses of WOTUS by construction of various waters of the U.S. within the reclaimed mine site. Baseline ecological conditional assessments of proposed aquatic resources impacts sites, existing reclaimed/restored aquatic resources, and regional aquatic resources reference sites were performed utilizing the Texas Rapid Assessment Method (TXRAM) version 2.0. Proposed mitigation work would utilize principles of natural channel design and fluvial geomorphology to reclaim/restore stream and wetland hydrology and buffers with the requirement that all created/restored waters meet the definition of WOTUS. Stream design information would be submitted for USACE and resource agency review. The information would include but not be limited to plan, profile, and dimension measurements based on appropriate regional hydrographic and geomorphological data, and successful as-built streams/systems on and/or near the mine site.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U.S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U.S. 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. The Kosse Mine expansion is one of the foreseeable actions identified in Study Area 3 of the Regional Environmental Impact Statement for Surface Coal and Lignite Mining in Texas released April 2016 by the Fort Worth District. 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 incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier II project criteria. Tier II projects are large projects that affect more than 3 acres of waters of the

United States and/or 1,500 linear feet or more of streams. They also include projects that impact rare and ecologically significant wetlands and would not qualify for a Tier I review or for which the applicant elects not to incorporate Tier I Best Management Practices (BMPs), including the applicant choosing to use alternative BMPs. Accordingly, a request for 401 certification is necessary, and there will be additional TCEQ review.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's (USFWS) latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project is located in Robertson County, where the following species are listed as endangered by the USFWS: Houston toad (*Bufo houstonensis*), interior least tern (*Sterna antillarum athalassos*), whooping crane (*Grus americana*), large-fruited sand verbena (*Abronia macrocarpa*), and Navasota ladies' tresses (*Spiranthes parksii*). Listed by the USFWS as endangered under the Endangered Species Act (ESA) but not identified as potentially occurring in the project area are the sharpnose shiner (*Notropis oxyrhynchus*), small-eye shiner (*Notropis buccula*), and the red wolf (*Canis rufus*). The piping plover (*Charadrius melodus*) and the red knot (*Calidris canutus rufa*) are listed by the USFWS as threatened in Robertson County. No sightings of federally listed threatened or endangered species or species of special concern have occurred or were recorded within the limits of the proposed Project Area during environmental baseline studies and field reconnaissance, and initial review indicates that the proposed work would have no adverse effects on any federally-listed endangered or threatened species.

A concurrent evaluation process with the RCT to allow surface coal mining impacts for Kosse Mine to continue was initiated in the third quarter of 2018 with submittal of the Renewal/Revision/Expansion application for RCT Permit No. 50B. Additional background information is contained in that application. As part of the RCT's implementation of its program, it is required to ensure actions it authorizes comply with the ESA as detailed in the U.S. Fish and Wildlife Service's September 24, 1996, Programmatic Biological Opinion (BO) and Conference Report to Office of Surface Mining (OSM) which addresses the continuation and approval of surface coal mining operations under state and Federal regulatory programs adopted pursuant to SMCRA. The consultation and resulting BO were based on OSM's Federal action(s) of approval of state and Federal regulatory program adoption. Such efforts to comply with the ESA by RCT and/or OSM would ensure that USACE's responsibilities for ESA compliance associated with evaluation of this Section 404 permit application are fully addressed. Also supporting the sufficiency of compliance with the ESA is that the scope of OSM/RCT control and responsibility is larger than that of the USACE.

NATIONAL REGISTER OF HISTORIC PLACES (NRHP): The applicant proposes to address historic properties and cultural resources in accordance with the requirements of Section 106 of the National Historic Preservation Act and through direct consultation with applicable agency officials and other stakeholders. An integral part of the SMCRA permit application process involves comprehensive cultural resources surveys for, at a minimum, the five-year term project area to determine the presence or evidence of significant historic or archaeological sites within the project area that could be affected by the proposed mining activities. Several historic properties and cultural resources sites have been identified in the region. However, no cultural

resources sites listed on the National Register of Historic Places (NRHP), eligible for listing on the NRHP, or with an unknown NRHP status will be impacted by mine-related activities unless the proper approvals are received from the Texas Historical Commission, Railroad Commission of Texas, and if necessary, the Environmental Protection Agency.

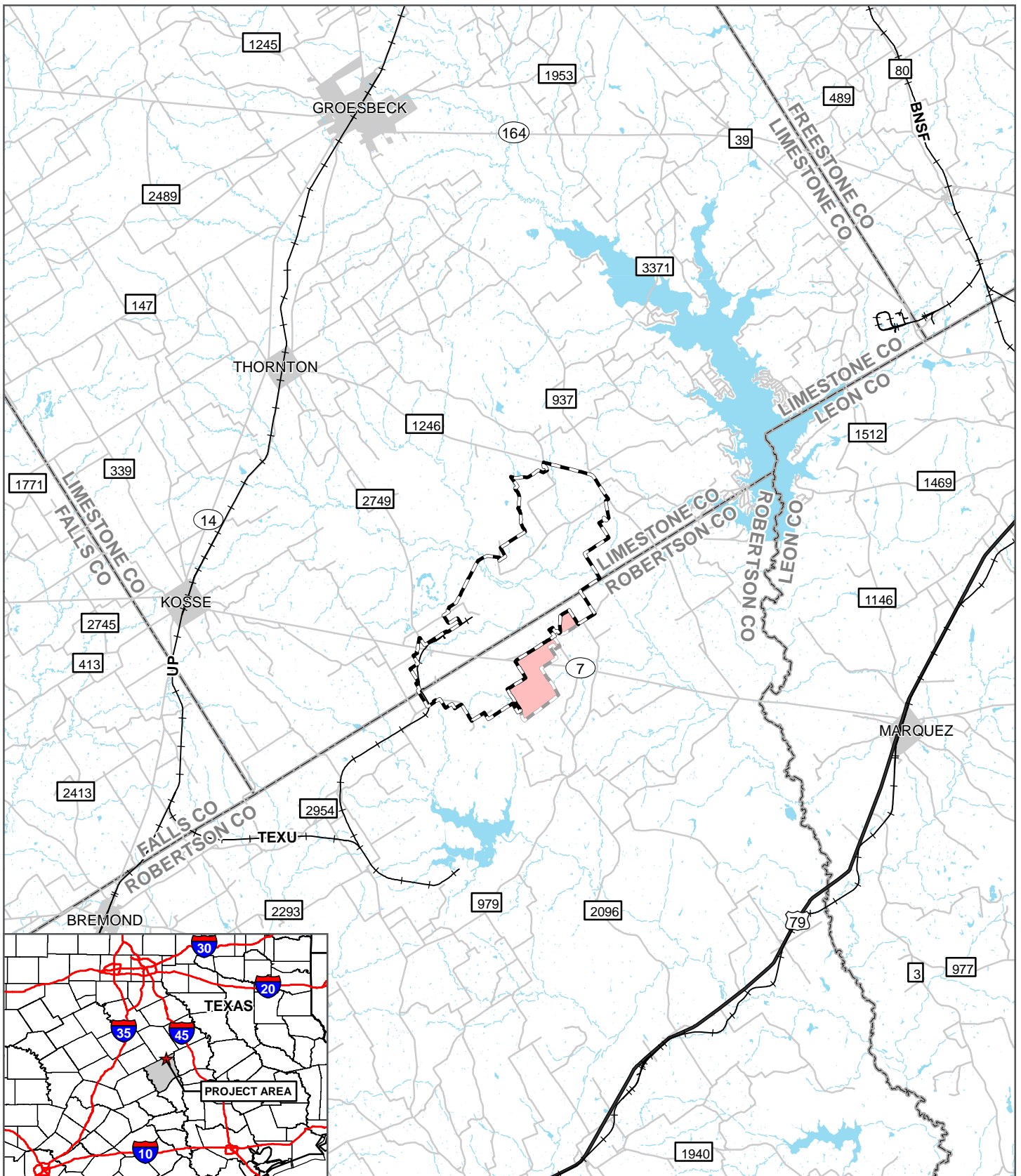
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review 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 facts 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 March 11, 2019, 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: 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 Lanham 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) 886-1731. 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



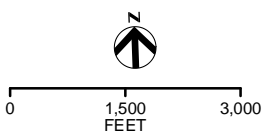
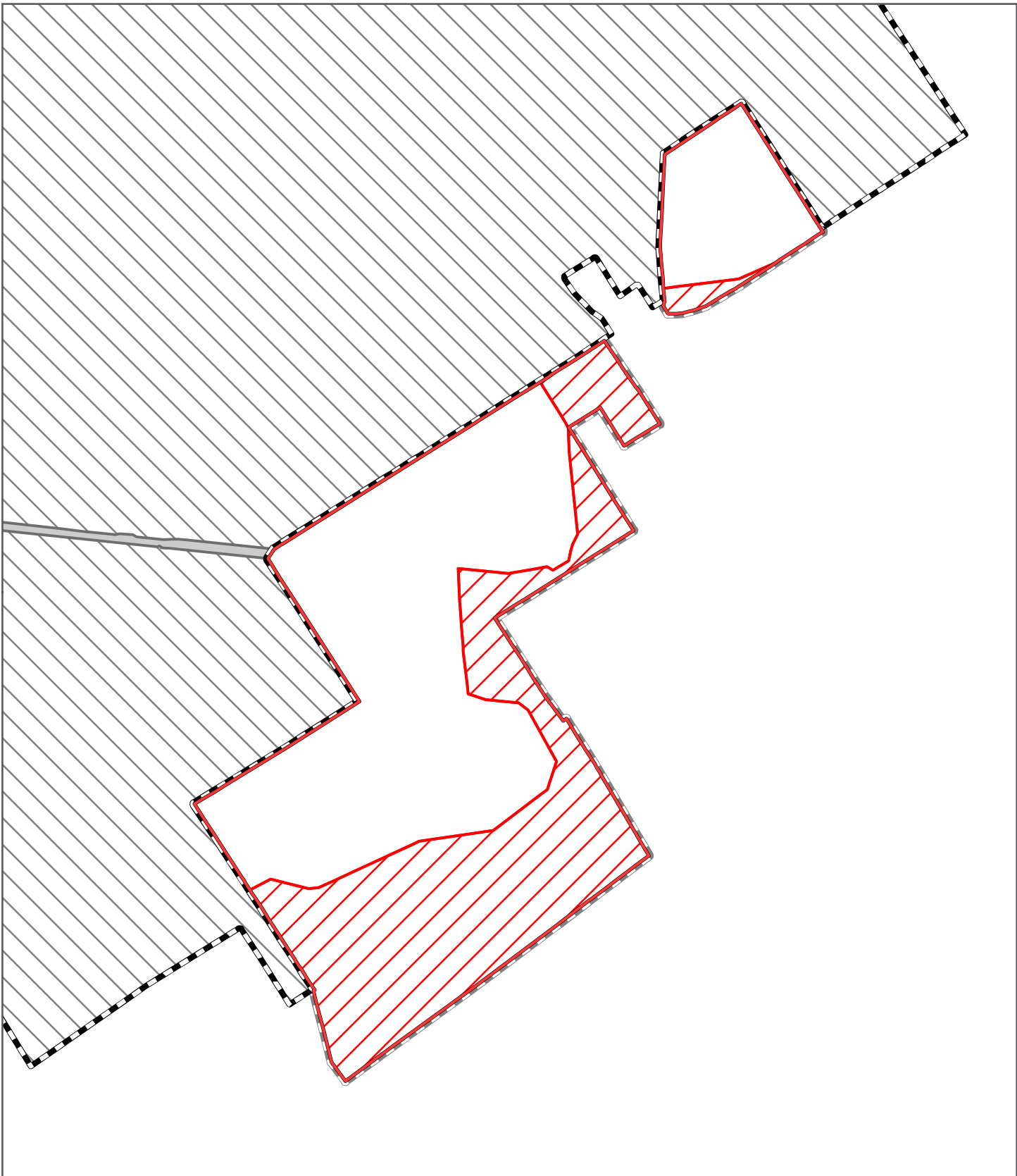
- KOSSE MINE RRC PERMIT 50B BOUNDARY
- PROPOSED RRC EXPANSION
- PROPOSED PROJECT AREA
- INTERSTATE HIGHWAY
- U.S. HIGHWAY
- ROAD
- RAILROAD
- STREAM (NHD)
- WATERBODY (NHD)
- COUNTY BOUNDARY
- CITY LIMITS








GENERAL LOCATION

INDIVIDUAL PERMIT
KOSSE MINE EXPANSION

SWF-2019-00033

ATTACHMENT G
FIGURE 1



-  KOSSE MINE RRC PERMIT 50B BOUNDARY
-  PROPOSED RRC EXPANSION
-  PROPOSED PROJECT AREA
-  PROPOSED IMPACT AREA
-  PROPOSED AVOIDANCE AREA
-  PREVIOUSLY AUTHORIZED / IMPACTED AREA
-  UNDISTURBED AREA









PREVIOUS/CURRENT USAGE AUTHORIZATIONS
 INDIVIDUAL PERMIT
 KOSSE MINE EXPANSION
 SWF-2019-00033

ATTACHMENT G
 FIGURE 2





0 1,500 3,000
FEET

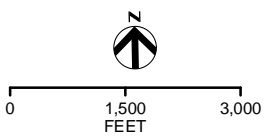
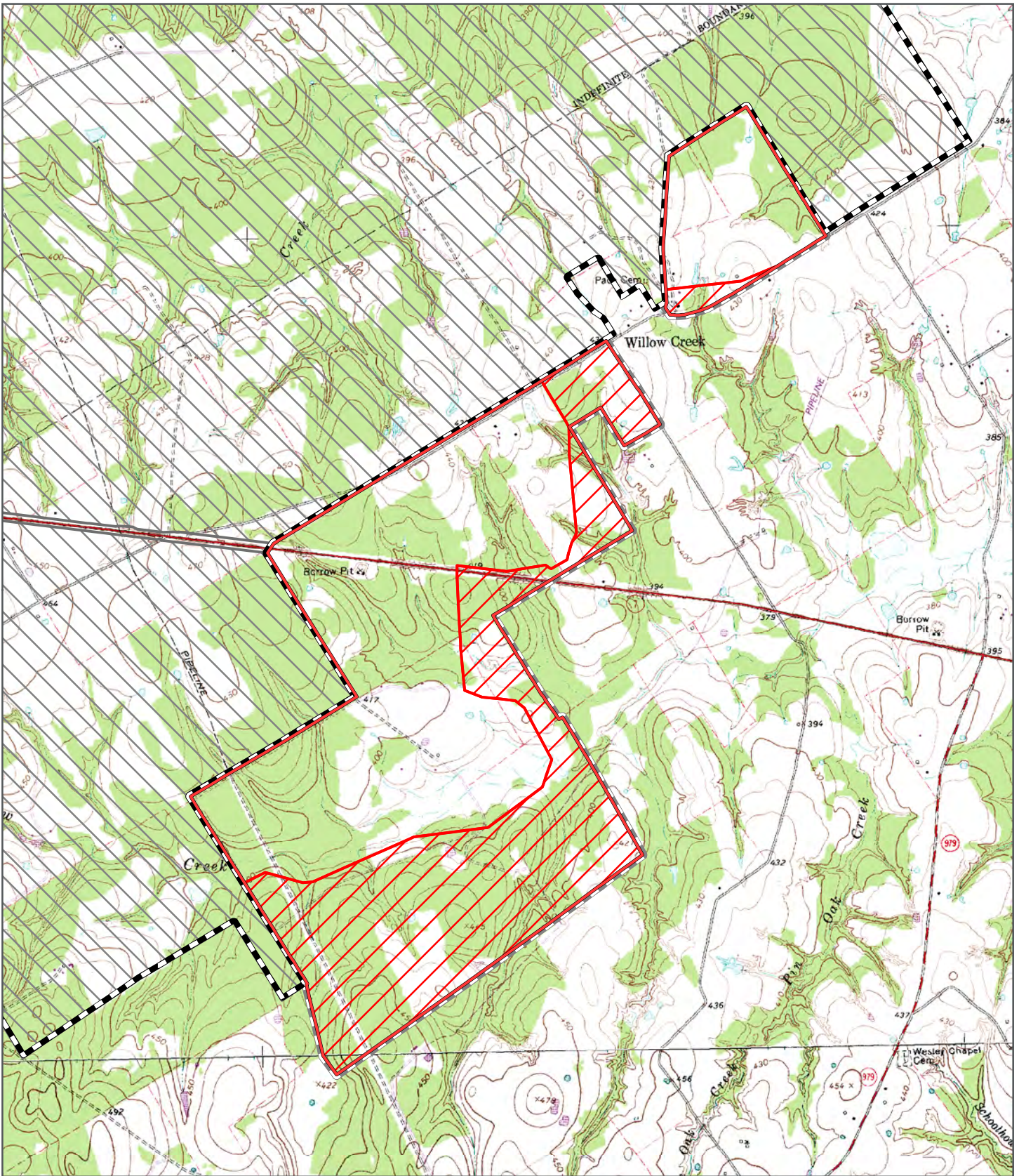
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-  UNDISTURBED AREA
-  MINE BLOCKS









PROJECTED SEQUENCE OF MINING

INDIVIDUAL PERMIT
KOSSE MINE EXPANSION
SWF-2019-00033

ATTACHMENT G
FIGURE 3

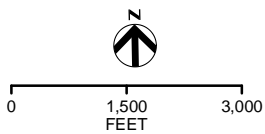
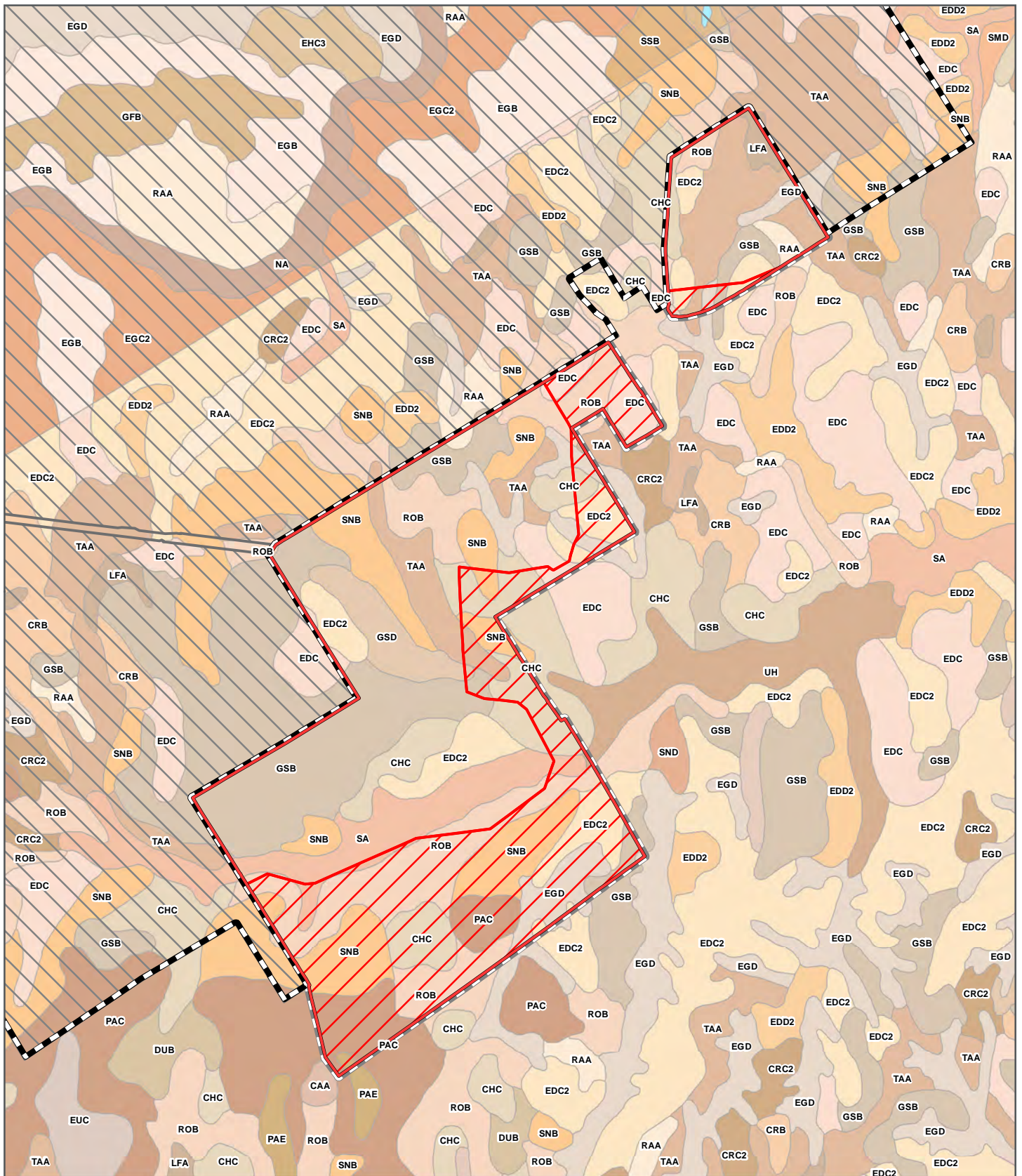


-  KOSSE MINE RRC PERMIT 50B BOUNDARY
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-  PREVIOUSLY AUTHORIZED/IMPACTED AREA (OUTSIDE PROJECT AREA)

TOPOGRAPHIC FEATURES
 INDIVIDUAL PERMIT
 KOSSE MINE EXPANSION
 SWF-2019-00033

ATTACHMENT G
 FIGURE 4



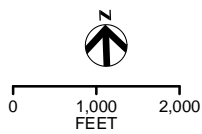
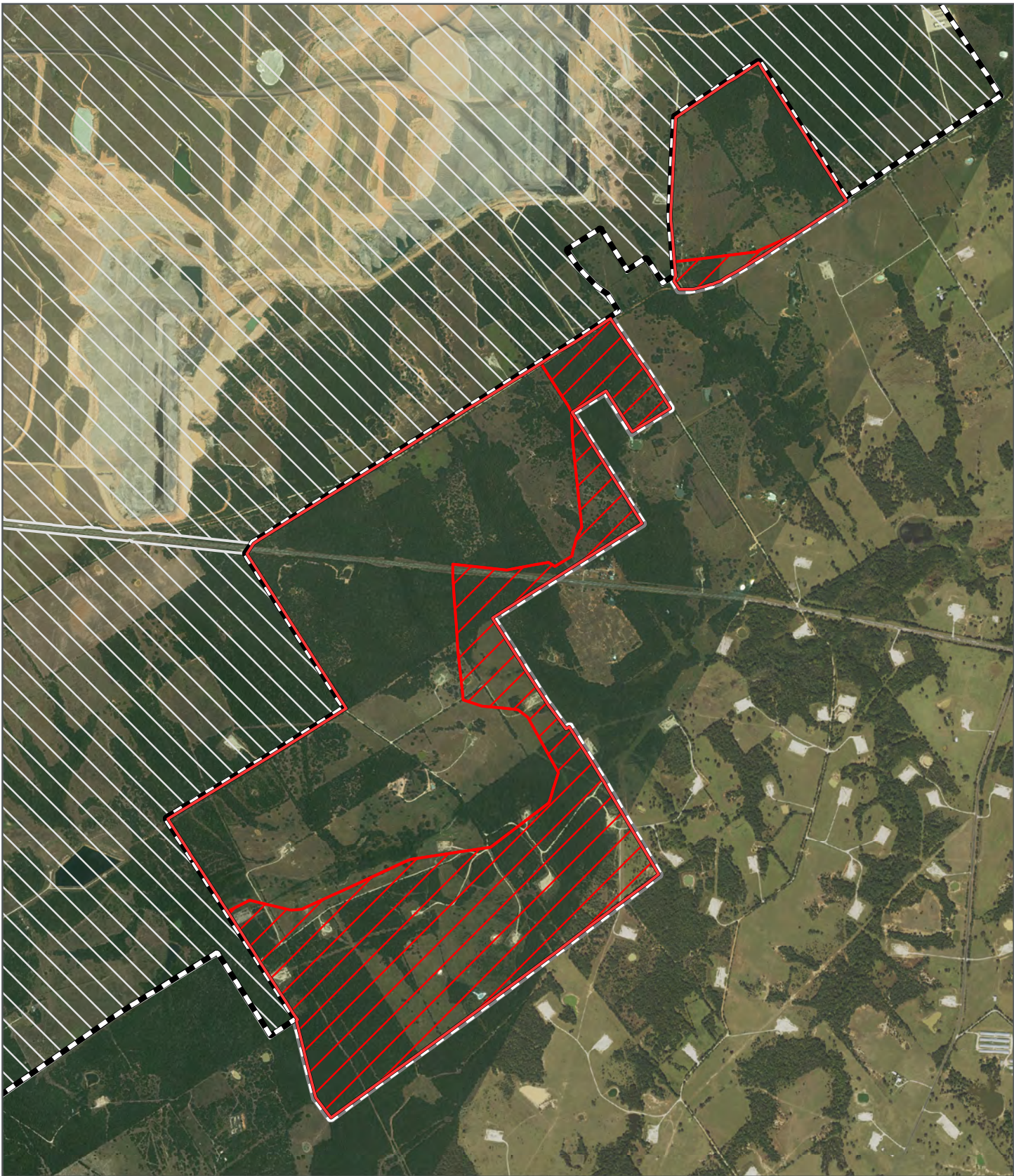








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SOILS
 INDIVIDUAL PERMIT
 KOSSE MINE EXPANSION
SWF-2019-00033

ATTACHMENT G
FIGURE 5





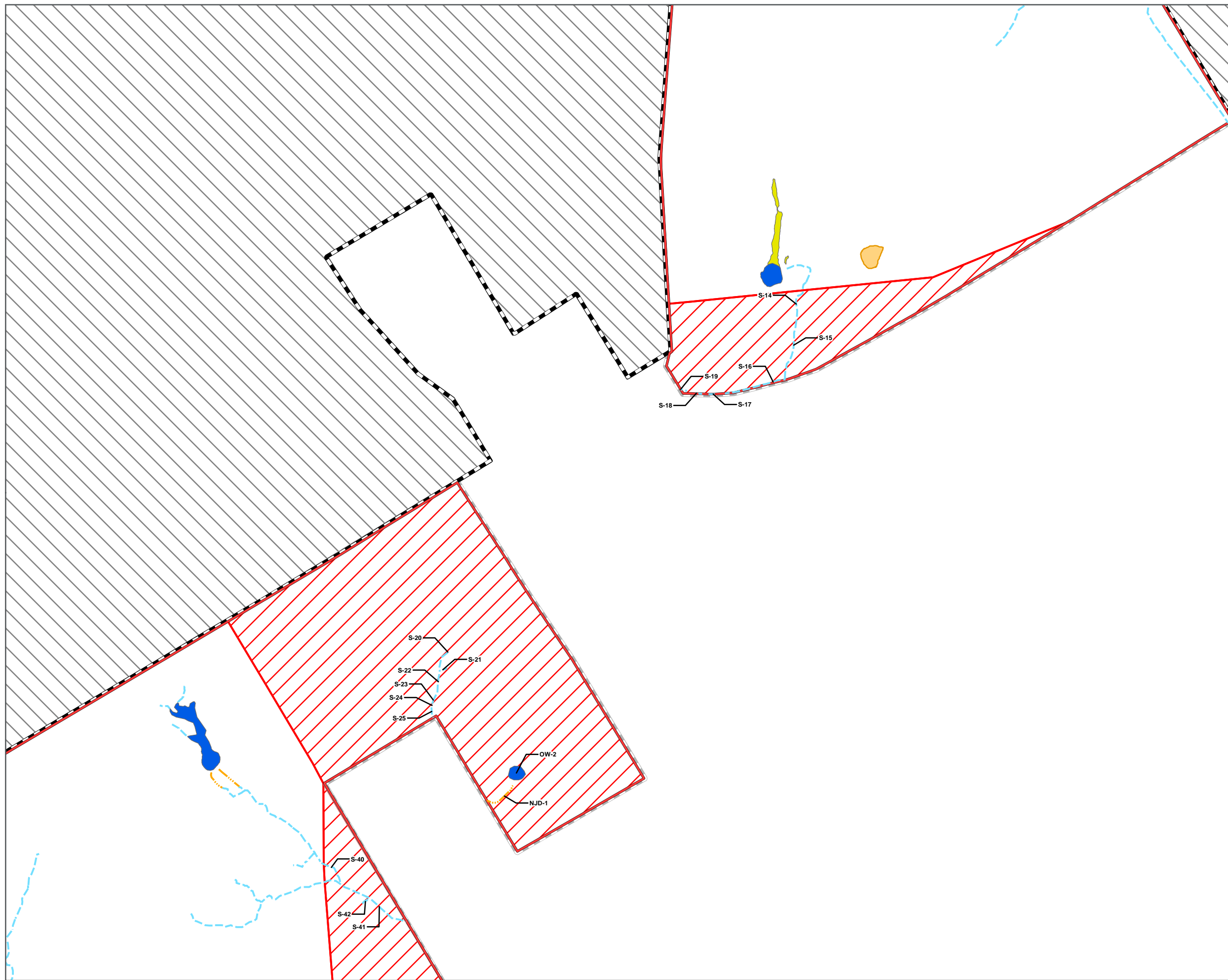
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AERIAL PHOTOGRAPH
 INDIVIDUAL PERMIT
 KOSSE MINE EXPANSION
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ATTACHMENT G
 FIGURE 6



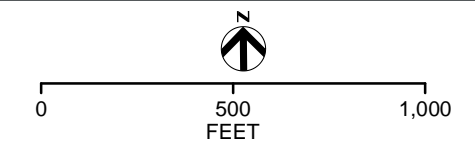
AERIAL SOURCE: LUMINANT, 2018 AND NATIONAL AGRICULTURE IMAGERY PROGRAM, 2016

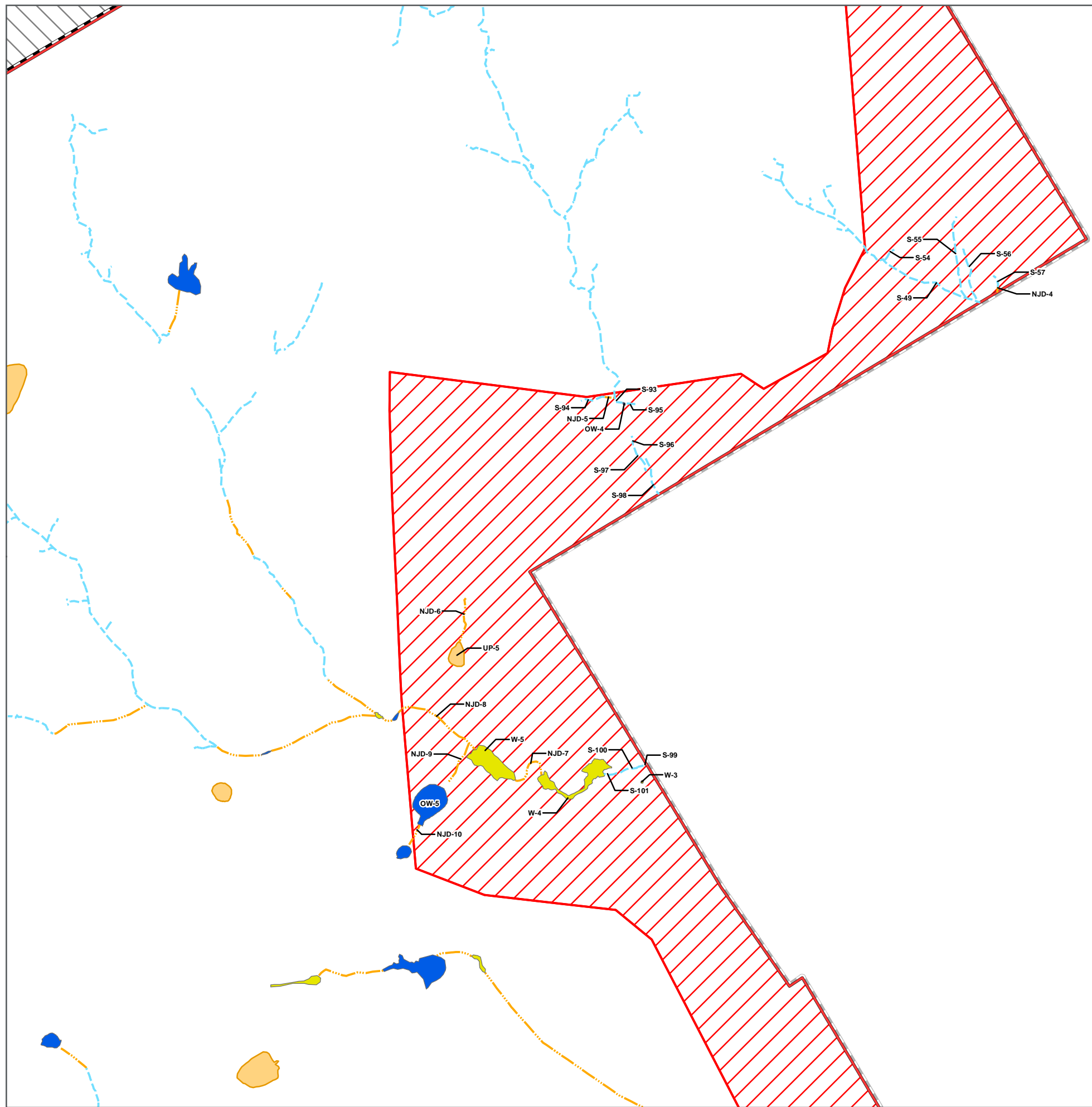


- WATERS OF THE U.S.**
- EPHEMERAL STREAM
 - INTERMITTENT STREAM
 - FORESTED WETLAND
 - SCRUB-SHRUB WETLAND
 - EMERGENT WETLAND
 - OPEN WATER
- FEATURES NOT WATERS OF THE U.S.**
- KOSSE MINE RRC PERMIT 50B BOUNDARY
 - PROPOSED RRC EXPANSION
 - PROPOSED PROJECT AREA
 - PROPOSED IMPACT AREA
 - PROPOSED AVOIDANCE AREA
 - PREVIOUSLY AUTHORIZED / IMPACTED AREA
 - UNDISTURBED AREA
 - NON-JURISDICTIONAL DRAINAGE
 - NON-JURISDICTIONAL WETLAND
 - UPLAND POND

NOTE: WATERS OF THE U.S. WITHIN THE PROPOSED PROJECT AREA DELINEATED BY BLANTON AND ASSOCIATES. (AUGUST 2018)

AVOIDANCE AREA
INDIVIDUAL PERMIT
KOSSE MINE EXPANSION
SWF-2019-00033

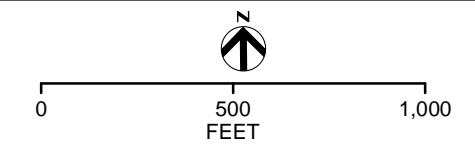




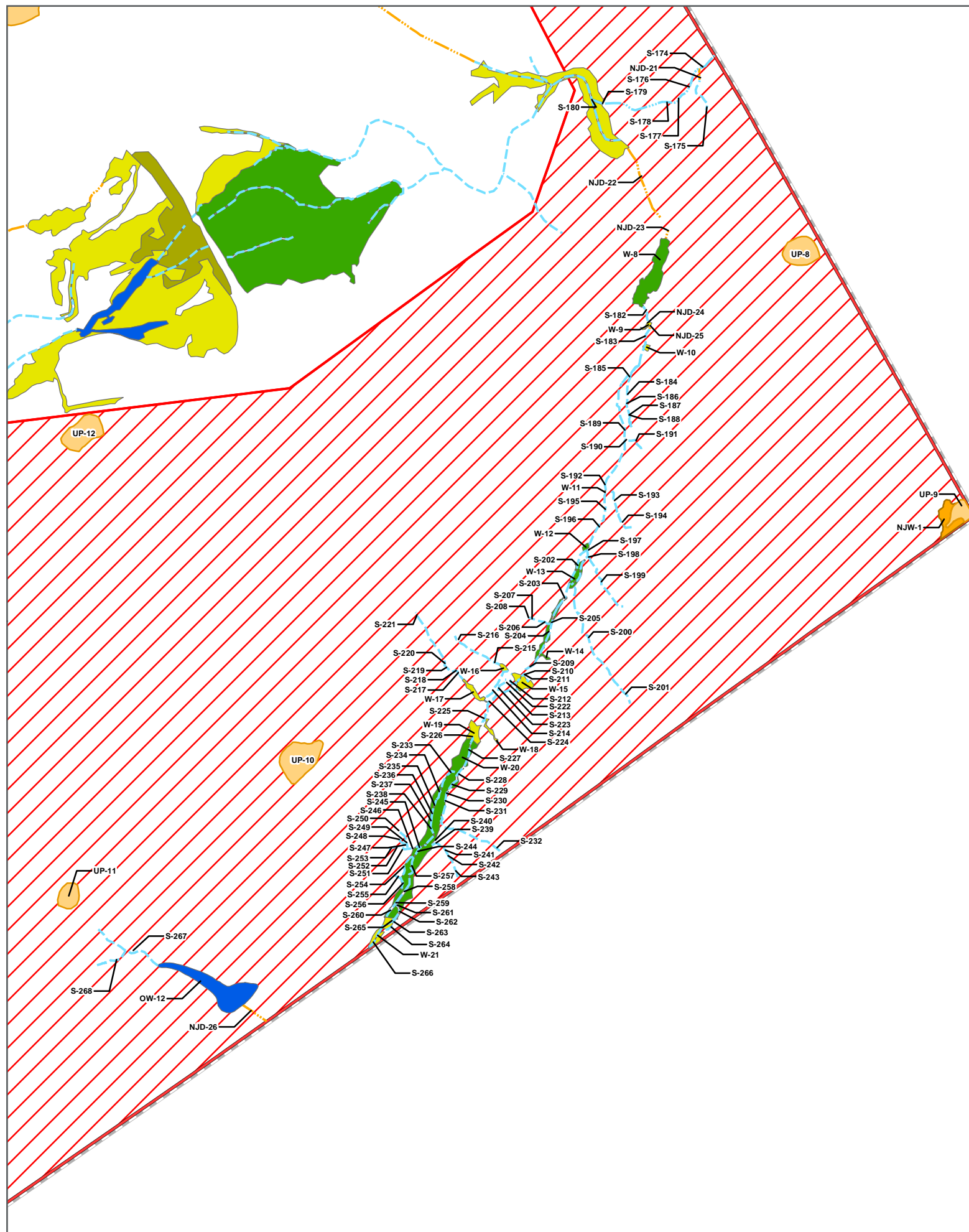
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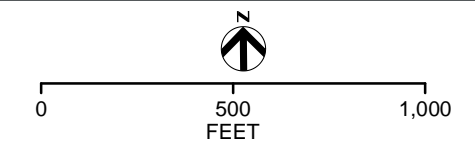
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 FIGURE 7-2



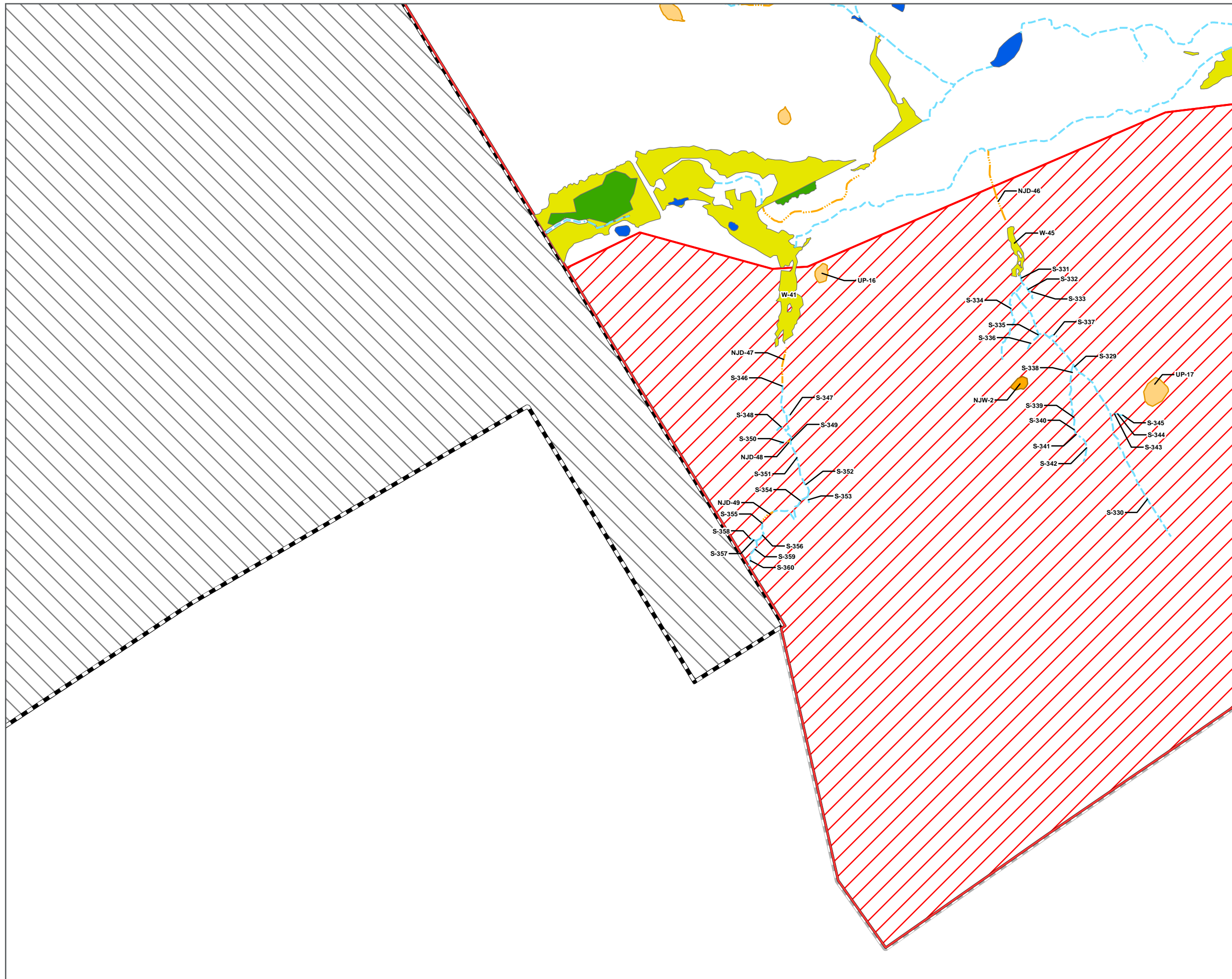
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KOSSE MINE EXPANSION
SWF-2019-00033



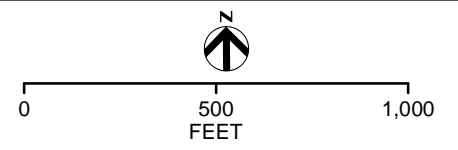
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FIGURE 7-3

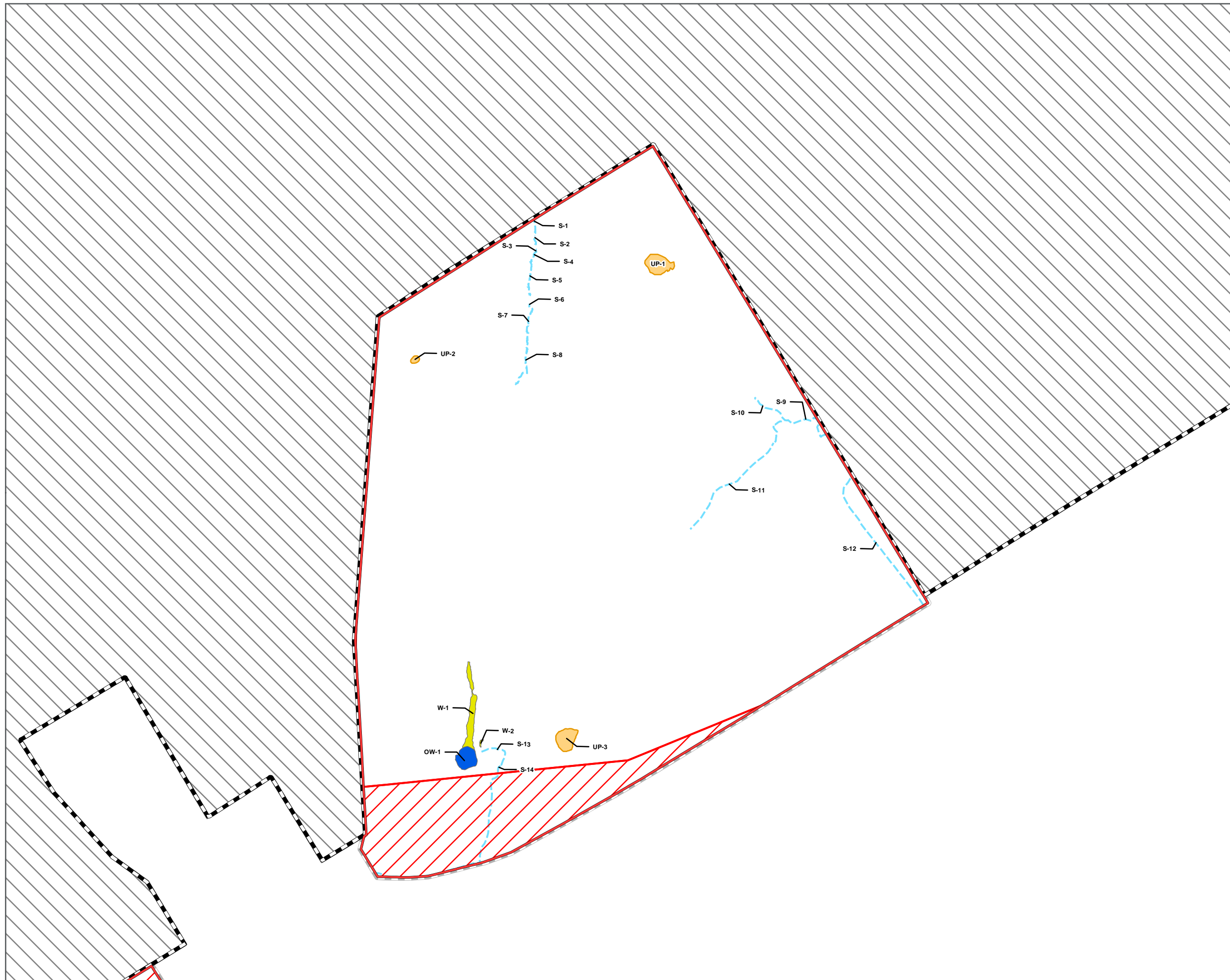


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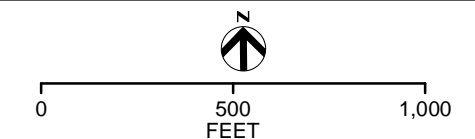


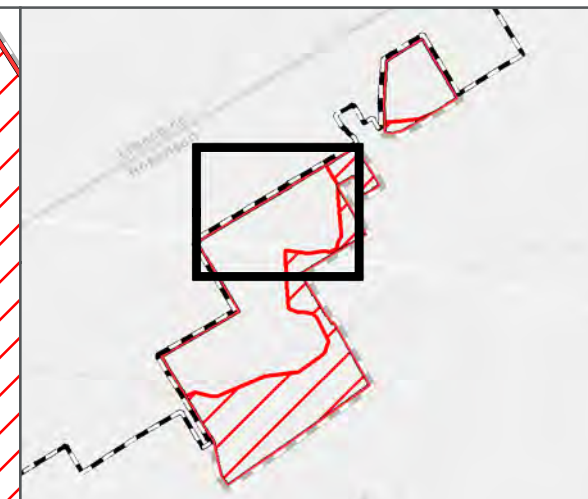
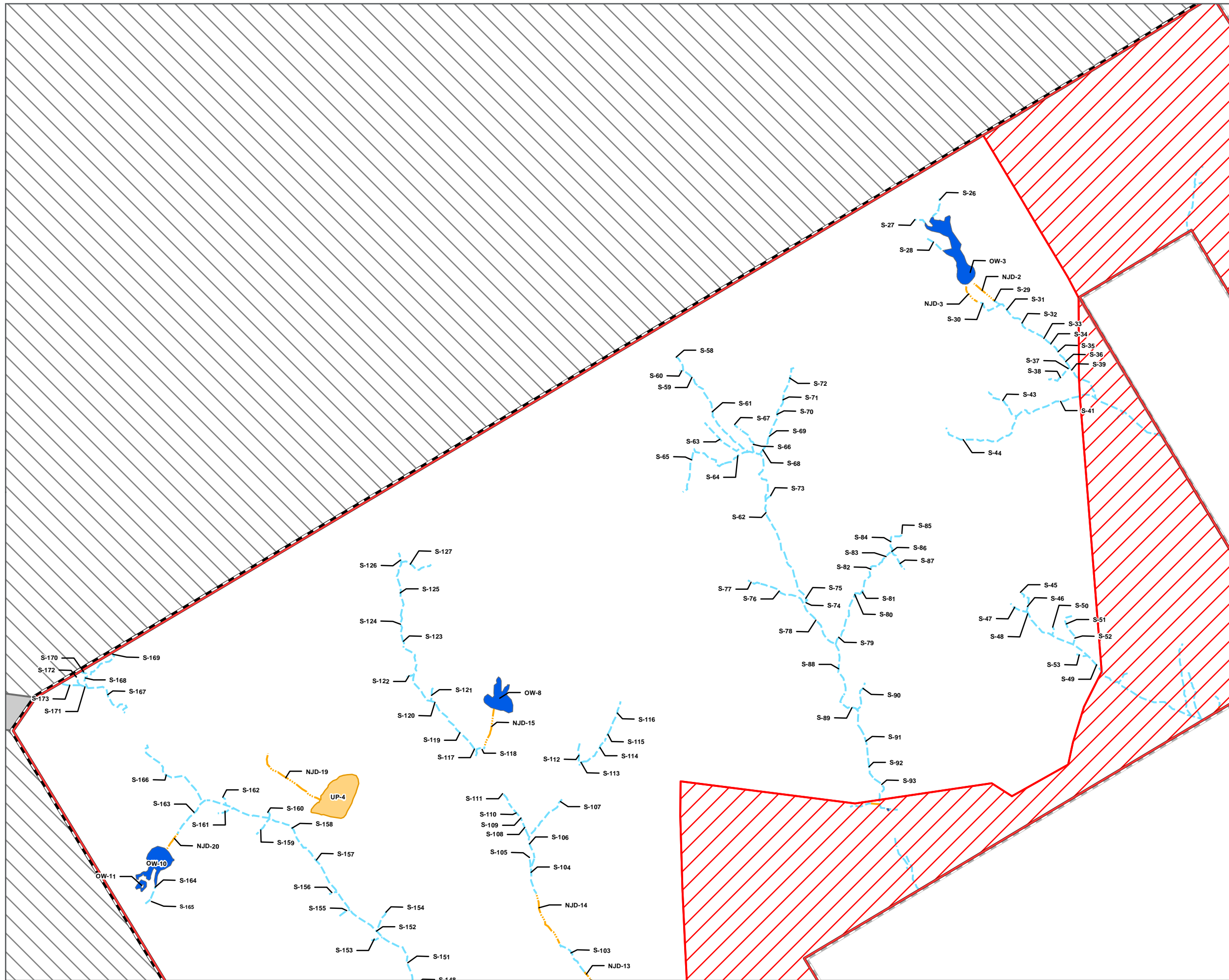


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**IMPACT AREA
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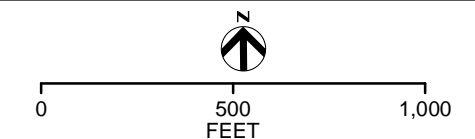




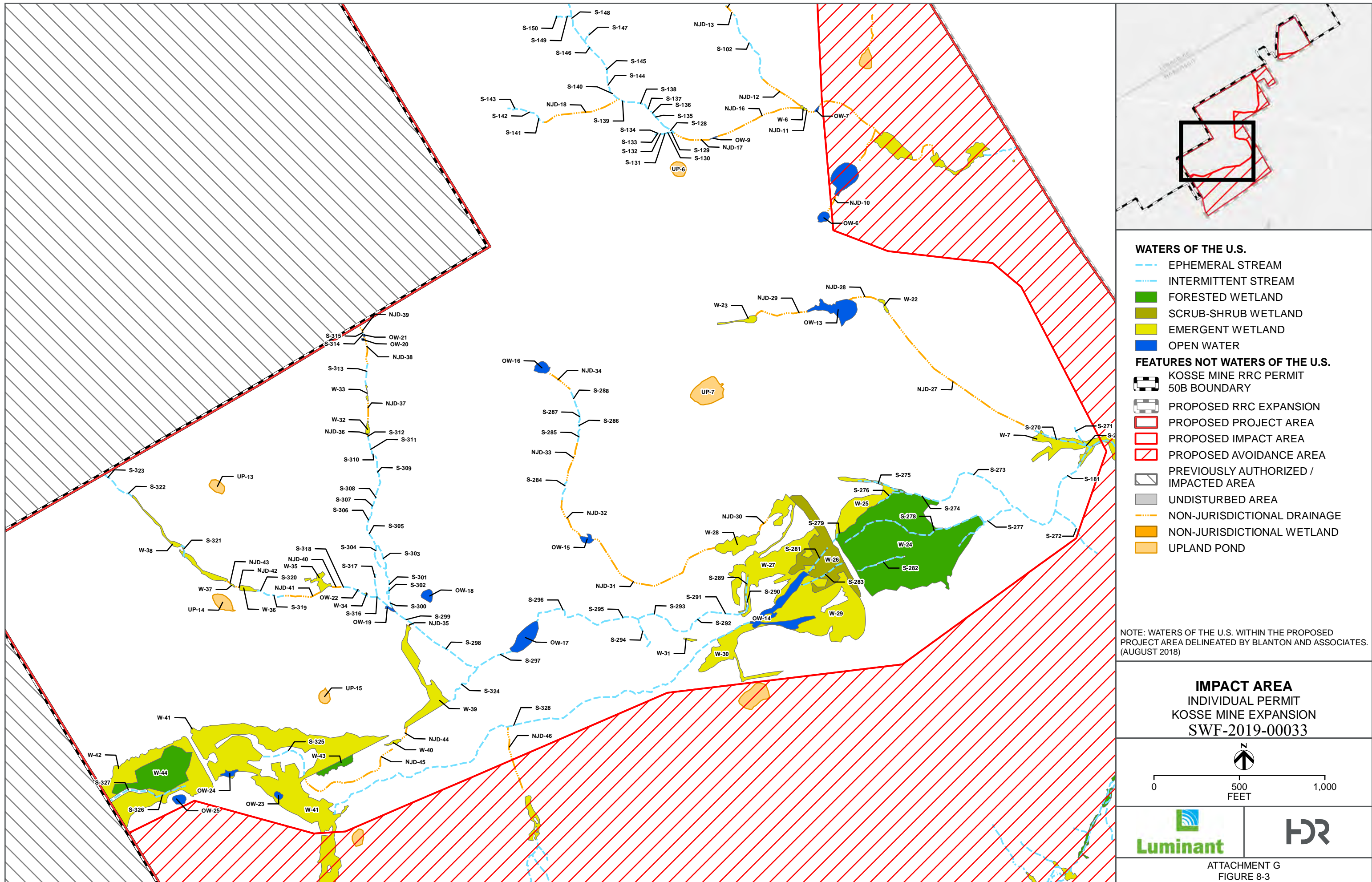
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 - EMERGENT WETLAND
 - OPEN WATER
- FEATURES NOT WATERS OF THE U.S.**
- KOSSE MINE RRC PERMIT 50B BOUNDARY
 - PROPOSED RRC EXPANSION
 - PROPOSED PROJECT AREA
 - PROPOSED IMPACT AREA
 - PROPOSED AVOIDANCE AREA
 - PREVIOUSLY AUTHORIZED / IMPACTED AREA
 - UNDISTURBED AREA
 - NON-JURISDICTIONAL DRAINAGE
 - NON-JURISDICTIONAL WETLAND
 - UPLAND POND

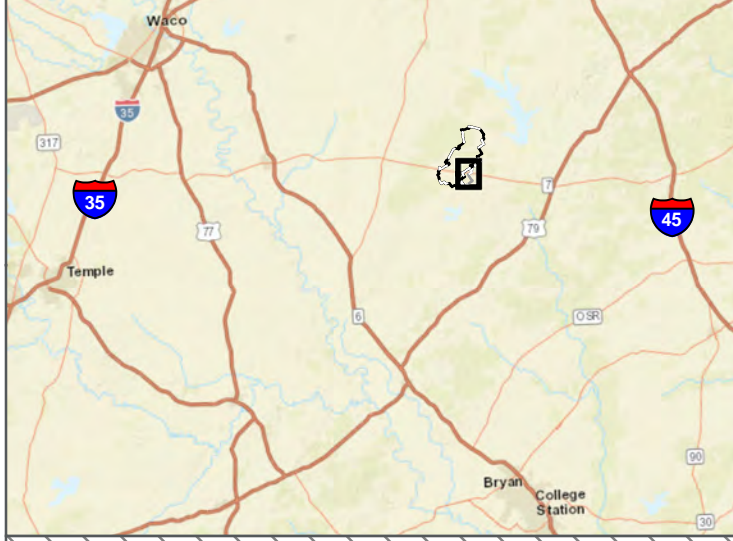
NOTE: WATERS OF THE U.S. WITHIN THE PROPOSED PROJECT AREA DELINEATED BY BLANTON AND ASSOCIATES. (AUGUST 2018)

**IMPACT AREA
INDIVIDUAL PERMIT
KOSSE MINE EXPANSION
SWF-2019-00033**

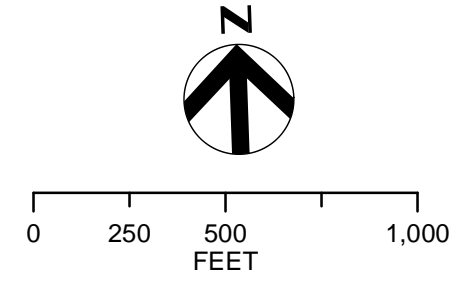


ATTACHMENT G
FIGURE 8-2





- | | | | | |
|---------------------------|-------------------------|--|------------------------------|------------------------------------|
| WATERS OF THE U.S. | FORESTED WETLAND | FEATURES NOT WATERS OF THE U.S. | PROPOSED PROJECT AREA | NON-JURISDICTIONAL DRAINAGE |
| EPHEMERAL STREAM | FORESTED WETLAND | KOSSE MINE RRC PERMIT SOB BOUNDARY | PROPOSED IMPACT AREA | NON-JURISDICTIONAL WETLAND |
| INTERMITTENT STREAM | SCRUB-SHRUB WETLAND | PROPOSED RRC EXPANSION | PROPOSED AVOIDANCE AREA | UPLAND POND |
| | EMERGENT WETLAND | PREVIOUSLY AUTHORIZED / IMPACTED AREA | | |
| | OPEN WATER | UNDISTURBED AREA | | |



ATTACHMENT G
 PLATE 1

NOTE: WATERS OF THE U.S. WITHIN THE PROPOSED PROJECT AREA DELINEATED BY BLANTON AND ASSOCIATES. (AUGUST 2018)

