



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

Public Notice

Applicant: RES Brushy Creek, LLC

Project No.: SWF-2023-00398

Date: February 13, 2025

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 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 by RES Brushy Creek, LLC c/o Resource Environmental Solutions, LLC, to establish the Brushy Creek Mitigation Bank (BCMB or Bank), a mitigation bank that would be located approximately 20 miles east of Pflugerville in southeast Williamson County, Texas.

APPLICANT: RES Brushy Creek, LLC c/o Resource Environmental Solutions, LLC
Brandon Hall, Regulatory Specialist
6575 West Loop South, Suite 300
Bellaire, TX 77401

APPLICATION NUMBER: SWF-2023-00398

DATE ISSUED: February 13, 2025

LOCATION: The proposed bank is located just south of Dry Brushy Creek in southeast Williamson County, Texas approximately 20 miles east of Pflugerville (Figure 1). The approximate center of the proposed Bank is located at coordinates 30.475556° north latitude and -97.288056° west longitude as mapped on the *Structure 7.5*-minute U.S. Geological Survey quadrangle. The site is located within the San Gabriel River watershed (8-digit Hydrologic Unit Code [HUC] 12070205) and the Texas Blackland Prairies U.S. Environmental Protection Agency (EPA) Level III Ecoregion. Maps of the proposed BCMB are provided as Figures 1 -9.

PROJECT DESCRIPTION: The Sponsor is proposing re-establishment and permanent protection of approximately 16,930 linear feet of historic/degraded stream channels and their associated riparian buffers within BCMB. The bank site is located within the San Gabriel River watershed of the Brazos River Basin. The goal of the Sponsor in developing BCMB is to provide high-quality restoration of stream ecosystems as compensation for adverse impacts to stream Waters of the United States (WOTUS) to occur within the Bank's proposed service area. It is anticipated that associated ecological lift would generate in-channel intermittent stream credits.

Stream restoration would be accomplished through the following objectives:

- Re-establish natural hydrology and hydraulics to approximately 16,930 linear feet of historic/degraded stream channels by restoring the channel pattern, profile, and dimension;
- Install native vegetation along the restored stream corridor to promote soil stability, increase species diversity, and enhance water quality;
- Protect the restored stream by placing the approximately 124.7-acre site under a perpetual conservation easement;

- Ensure the long-term viability and sustainability of the Bank through active monitoring, maintenance, and any necessary adaptive management activities.

The purpose of BCMB is to provide potential permittees with mitigation credits needed to compensate for unavoidable impacts to stream 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). Included in the Bank's service areas are highly populated and growing communities north and east of Austin where, according to the Regulatory In-lieu Fee and Bank Tracking System, limited stream mitigation credits are currently available.

The proposed service area includes stream habitats located within the U.S. Army Corps of Engineers (USACE), Fort Worth District and the Brazos River Basin. The Bank's primary service area will include the entirety of the San Gabriel River 8-digit HUC watershed (HUC 12070205), including portions of Williamson, Milam, Bell, and Burnet counties. The secondary service area will include the portions of adjacent 8-digit HUCs that are within both the Brazos River Basin and the "Texas Blackland Prairies" Level III Ecoregion, including portions of the Lampasas (HUC 12070203) and Little (HUC 12070204) watersheds and portions of Williamson, Milam, McLennan, Falls, and Bell counties. The tertiary service area will include the portions of 8-digit HUCs adjacent to San Gabriel that are within both the Brazos River Basin and either the "Cross Timbers" or "East Central Texas Plains" Level III Ecoregion (Attachment A Figure 2), including portions of Williamson, Lee, Bastrop, Washington, Burleson, Milam, Bell, Coryell, Lampasas, Hamilton, Mills, and Burnet counties.

The proposed Bank area is linear in shape and contains portions of historic/degraded tributaries to Dry Brushy Creek (Attachment A Figure 3). Fragmented scour features broken up by uplands are located in the valley bottoms and suggest the former existence of flowing streams. Overgrazing and erosion are evident on the site. Restoration of these historic streams and the riparian floodplain ecosystem will reconnect fragmented reaches and allow historic flow and ecological functions to return to the watershed (Attachment A Figure 9). The immediate upslope vicinity of the Bank is primarily used as cropland and for cattle grazing, while the proposed Bank area itself is used for cattle grazing and hay production. Uphill portions of the Site were terraced prior to 1953 to slow erosion of soil downslope into disjunct sections of former stream (Attachment A Figure 4a-f and Figure 8). Regional land use changes and associated landscape alterations have resulted in reduced floodplain connection between Dry Brushy Creek and its historic floodplain. The U.S. Fish and Wildlife Service (USFWS) National Wetland Inventory map illustrates the potential presence of riverine and freshwater pond features (Attachment A Figure 7). Soils at the site are mapped by the Natural Resource Conservation Service (NRCS) as clay and clay loam (Soil Survey Staff, n.d.). The dominant soil types include DeLeon soils and Heiden clays (Attachment A Figures 5-6).

All mitigation creditable areas within the Bank boundary would be protected in perpetuity through a conservation easement administered by a credible land trust. 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, 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. EPA, USFWS, Texas Parks and Wildlife Department, 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 USFWS latest published version of endangered and threatened species to determine if any might occur in the project area. Seven endangered, two threatened, and one proposed endangered species have the potential to exist in the region. Endangered species include golden-cheeked warbler (*Setophaga chrysoparia*), whooping crane (*Grus americana*), Balcones spike (*Fusconaia iheringi*), Bone Cave harvestman (*Texella reyesi*), Tooth Cave spider (*Tayshaneta myopica*), Coffin Cave mold beetle (*Batrisodes texanus*), and the Tooth Cave ground beetle (*Rhadine persephone*). Threatened species include piping plover (*Charadrius melodus*), and rufa red knot (*Calidris canutus rufa*). Proposed endangered species include the tricolored bat (*Perimyotis subflavus*).

After review, no designated, proposed, or appropriate habitats currently exist on-site for any endangered, threatened, or proposed species. No appropriate stop-over habitats for these migrating shorebirds, juniper woodland for golden-cheeked warbler, or mapped karst geology for these cave species are located within the Bank. Historic/degraded streams on-site are not appropriate habitats for the Balcones spike. Existing aquatic habitats on-site currently provide neither the connectivity nor consistent water flow required to support Balcones spike. Wooded areas within the Bank are sparse and have open canopy cover with few tall, hardwood species and therefore, provide unsuitable roosting habitat for tricolored bats. Proposed restoration activities would provide a net benefit to the species listed above, should they ever inhabit the Bank in the future. The Bank is located outside critical habitats for the species listed, and implementation of the restoration plan is expected to have no effect on threatened or endangered species.

NATIONAL REGISTER OF HISTORIC PLACES: In accordance with 36 CFR 800 and 33 CFR 325, the District Engineer has consulted the latest version of the National Register of Historic Places (NRHP). A cultural resources desktop assessment has been conducted to identify and evaluate the likelihood of encountering archeological artifacts or historic properties that could potentially be adversely affected by the proposed Bank restoration work. During this assessment, no NRHP-listed properties were located within the Bank site. 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 March 14, 2025, 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-2023-00398" 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

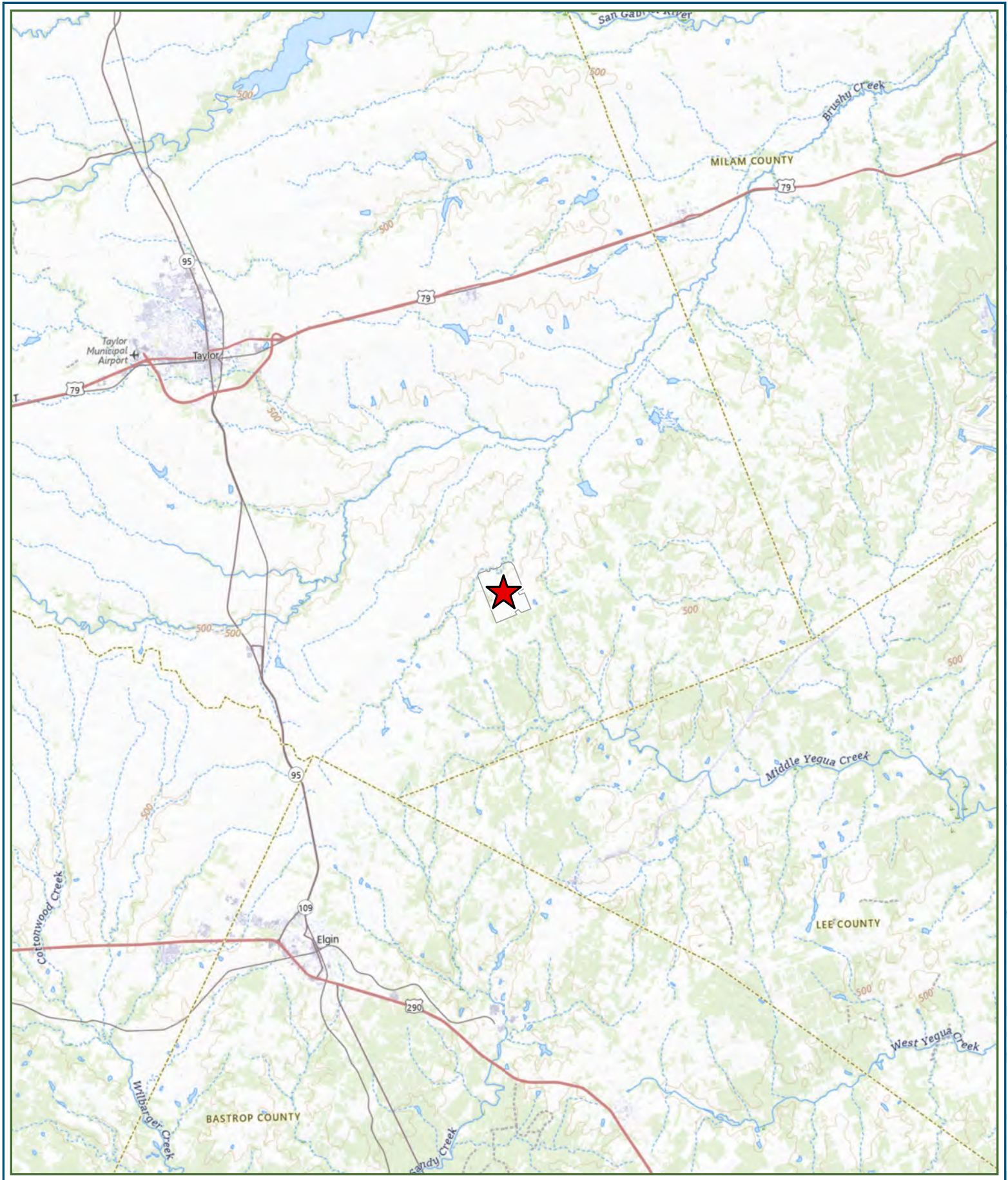
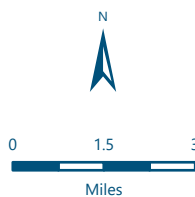


Figure 1
Vicinity Map

Brushy Creek Mitigation Bank
Williamson County, Texas
97.286°W 30.4781°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.
Data Source: TNIRIS, USGS
Spatial Reference: NAD 1983 2011 StatePlane Texas Central FIPS 4203 Ft US
Date Exported: 6/12/2024
Project Number: 109808



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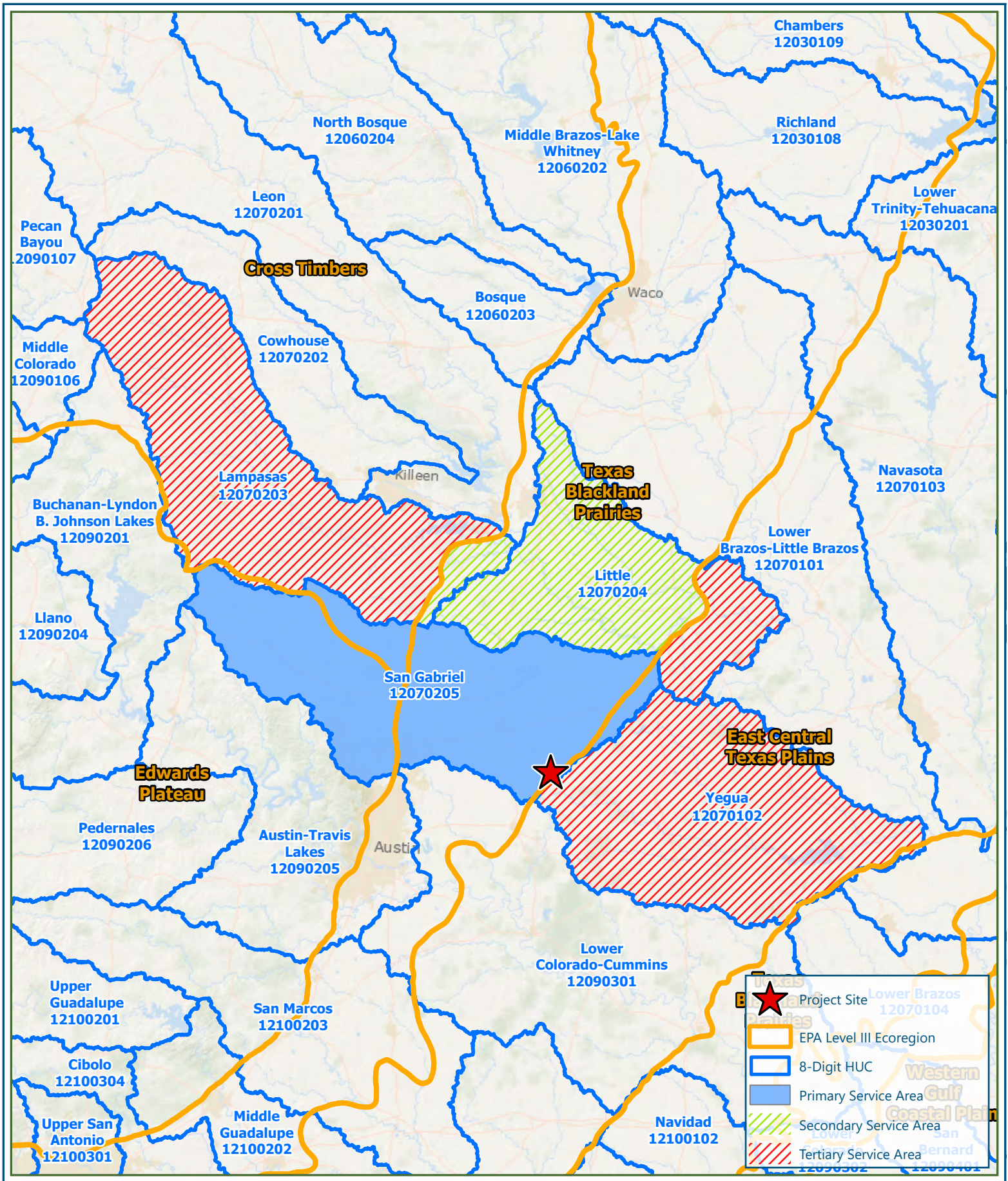
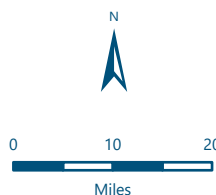


Figure 2
Service Area

Brushy Creek Mitigation Bank
Williamson County, Texas
97.4264°W 30.878°N



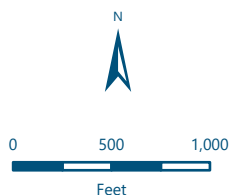
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Data Source: TNRI, USGS
Spatial Reference: NAD 1983 UTM Zone 15N
Date Exported: 7/17/2024
Project Number: 109808





Figure 3
Drone Imagery - 2024

Brushy Creek Mitigation Bank
Williamson County, Texas
97.286°W 30.4781°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.

Data Source: TNIRIS, Google Imagery

Spatial Reference:

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Date Exported: 7/30/2024

Project Number: 109808



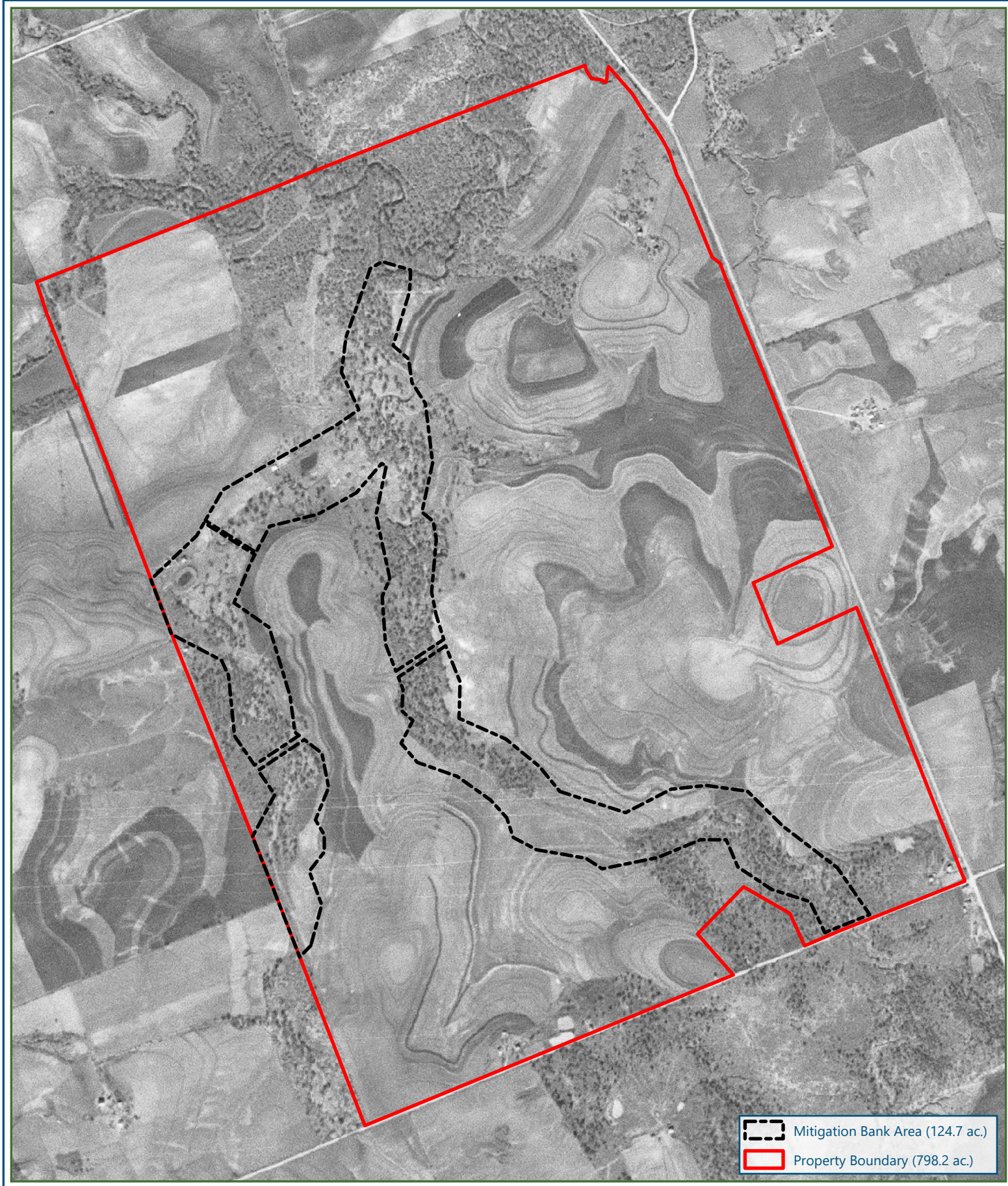
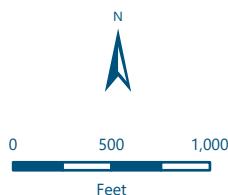


Figure 4a
Historic Aerial - 1953

Brushy Creek Mitigation Bank
Williamson County, Texas
97.286°W 30.4781°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.

Data Source: TNIRIS, USDA Imagery

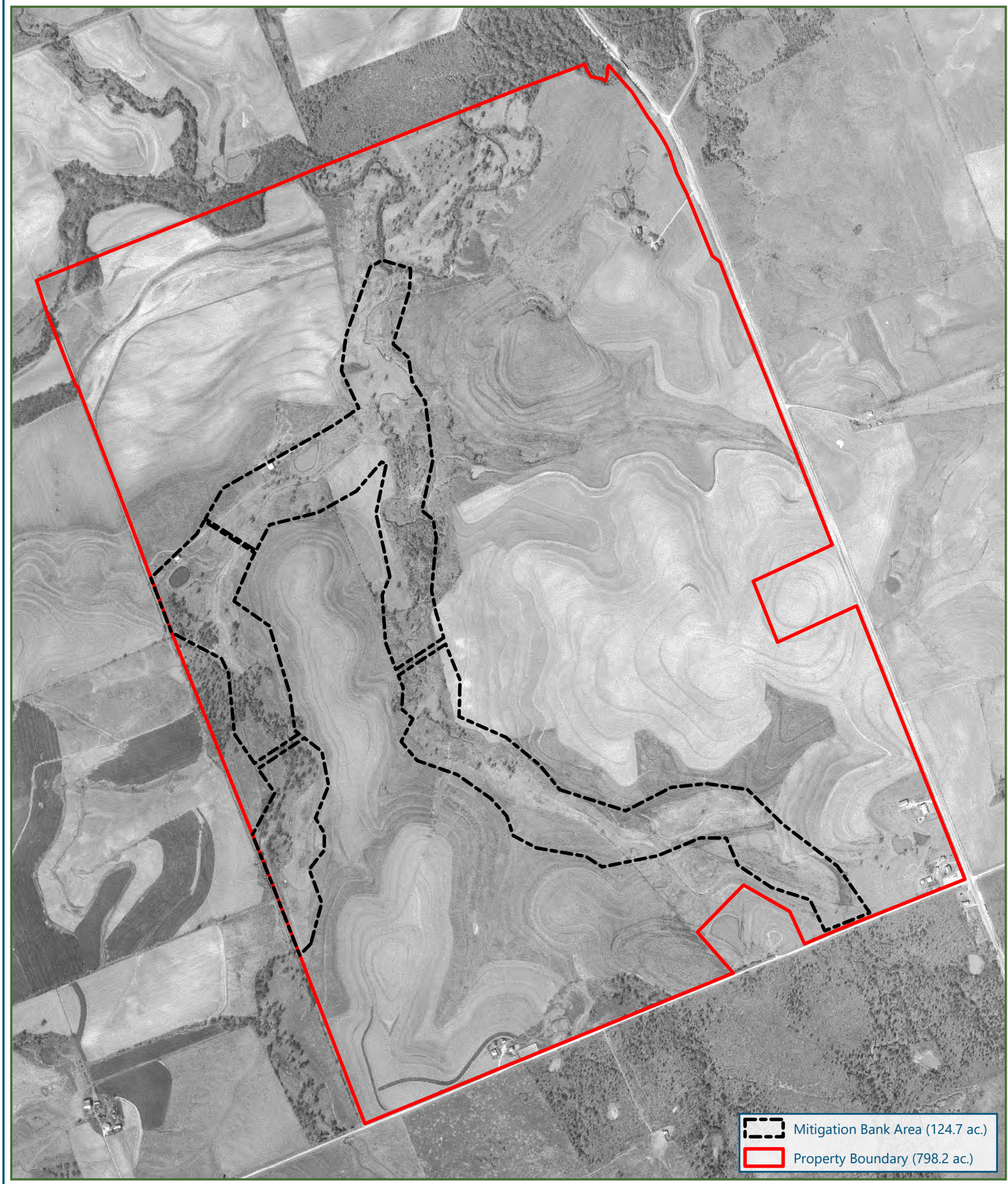
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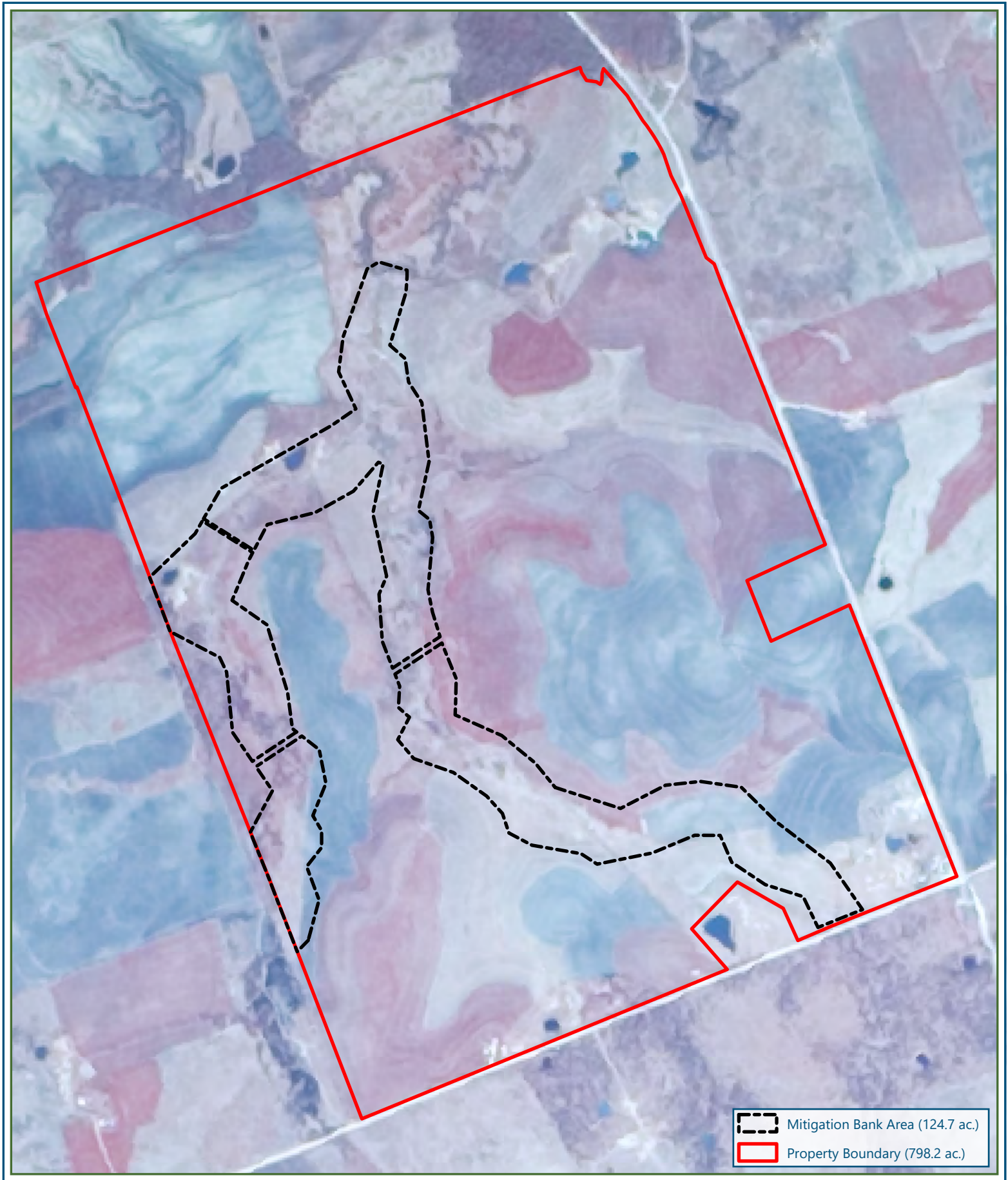
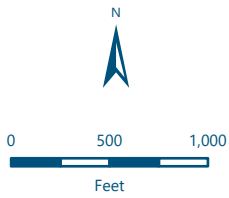


Figure 4c
Historic Color Infrared Aerial - 1982

Brushy Creek Mitigation Bank
Williamson County, Texas
97.286°W 30.4781°N



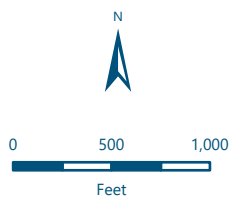
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Data Source: TNRIS, USDA Imagery
Spatial Reference: NAD 1983 2011 StatePlane Texas Central FIPS 4203 Ft US
Date Exported: 7/30/2024
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Figure 4d
Historic Color Infrared Aerial - 1995

Brushy Creek Mitigation Bank
 Williamson County, Texas
 97.286°W 30.4781°N



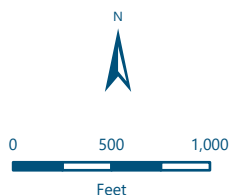
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Date Exported: 7/30/2024
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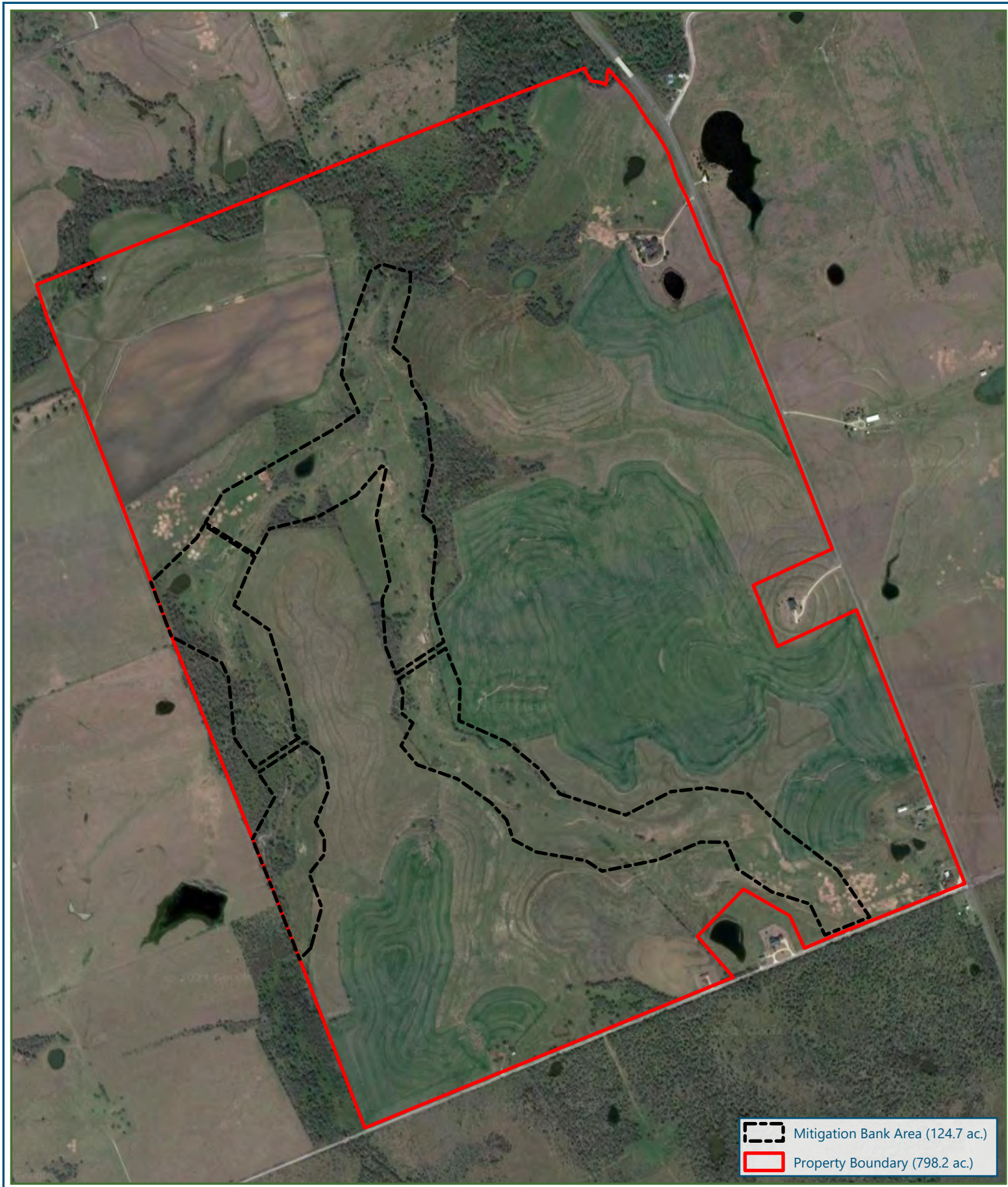
Figure 4e
Historic Aerial - 2010

Brushy Creek Mitigation Bank
Williamson County, Texas
97.286°W 30.4781°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.
Data Source: TNIRIS, USDA Imagery
Spatial Reference: NAD 1983 2011 StatePlane Texas Central FIPS 4203 Ft US
Date Exported: 7/30/2024
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

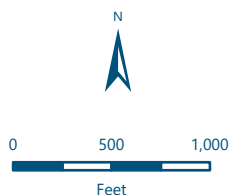
 Mitigation Bank Area (124.7 ac.)
 Property Boundary (798.2 ac.)

Figure 4f
Historic Aerial - 2023

Brushy Creek Mitigation Bank
Williamson County, Texas
97.286°W 30.4781°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.
Data Source: TNRIS, Google Imagery
Spatial Reference:
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Date Exported: 7/30/2024
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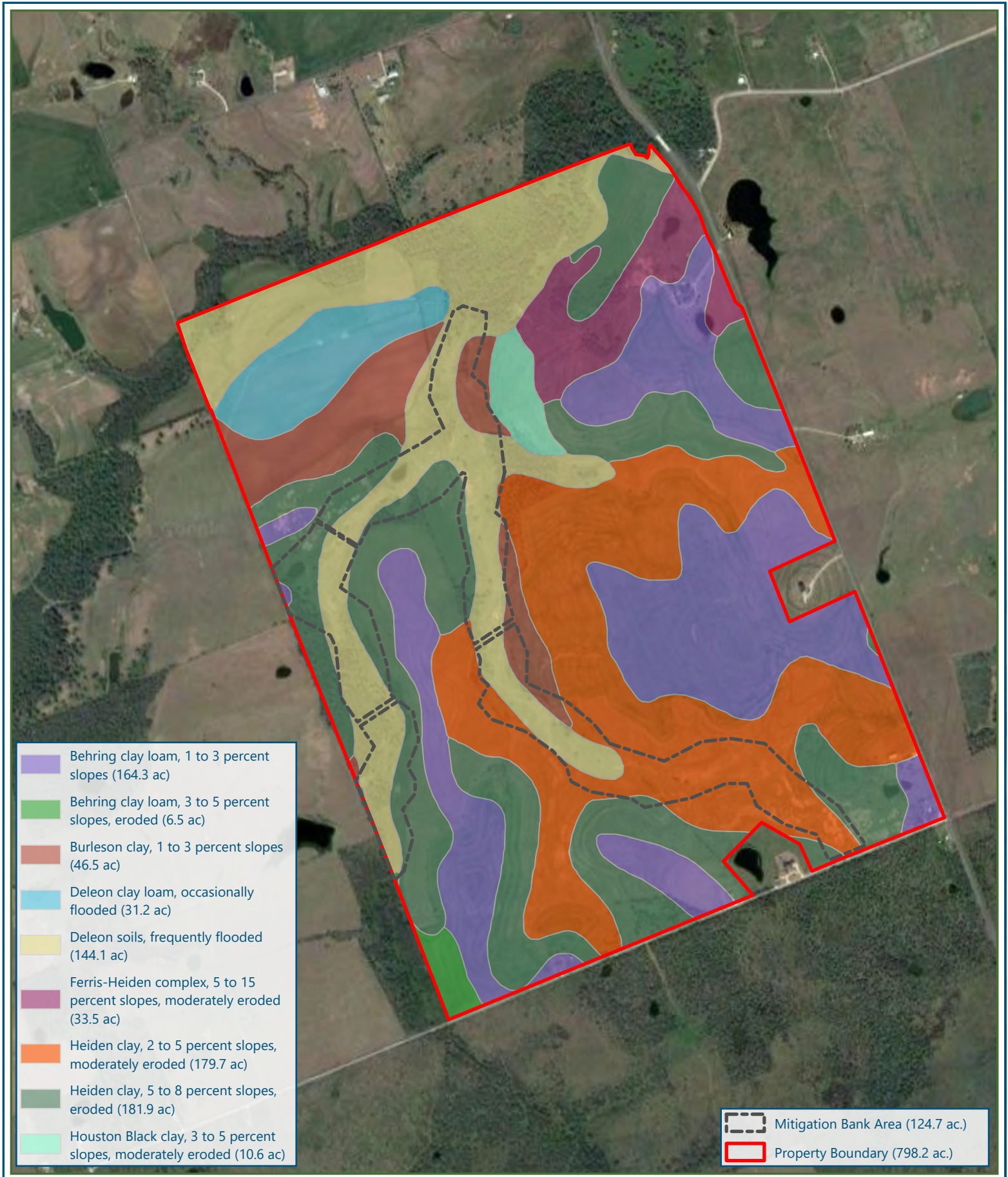
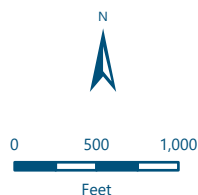


Figure 5
Property Soils

Brushy Creek Mitigation Bank

Williamson County, Texas
97.2879°W 30.4779°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.

Data Source: USDA SSURGO

Spatial Reference:

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4203 Ft US

Date Exported: 7/30/2024

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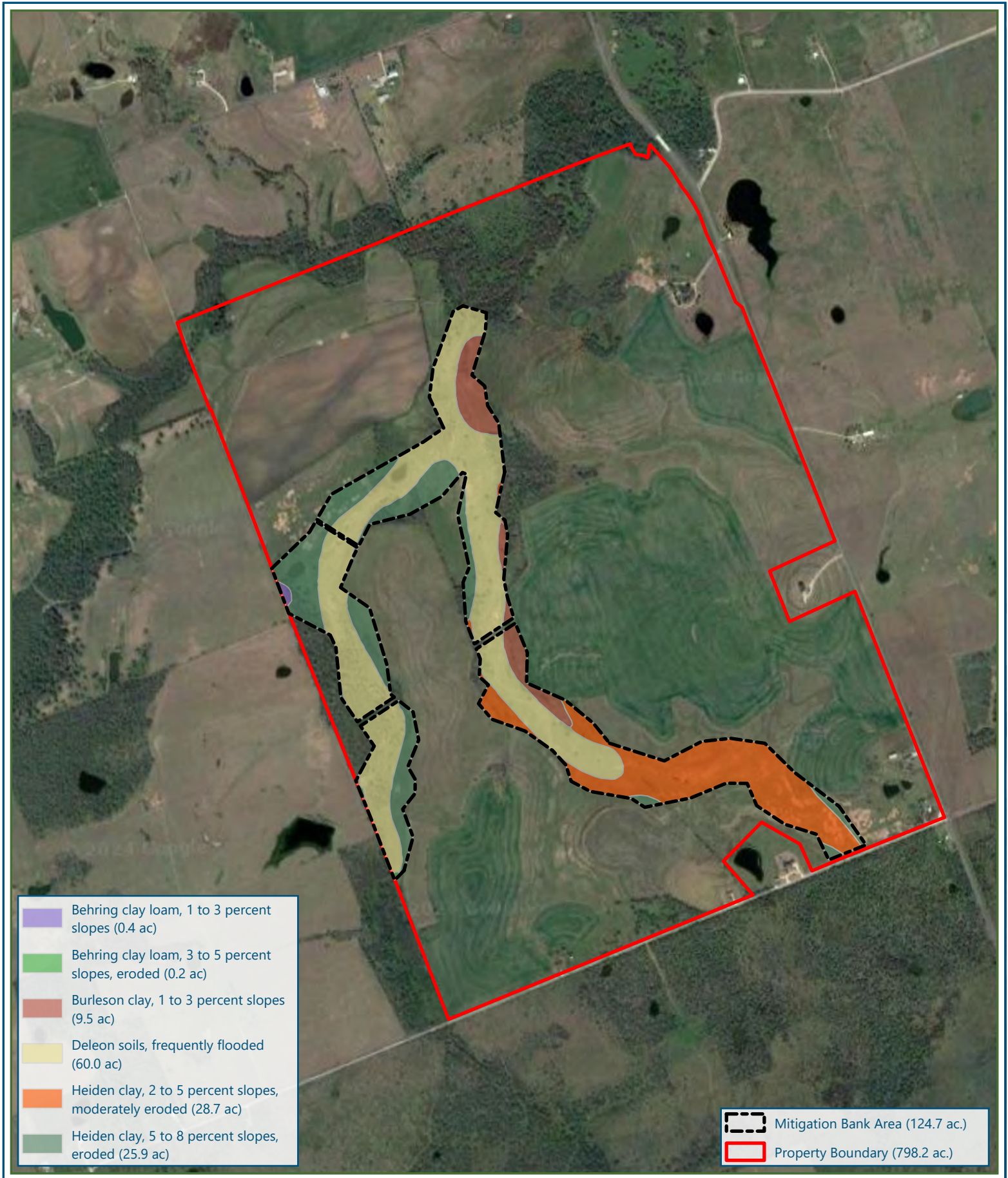
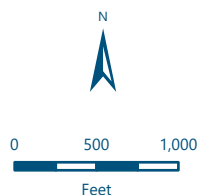


Figure 6
Easement Area Soils

Brushy Creek Mitigation Bank
Williamson County, Texas
97.2879°W 30.4779°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.

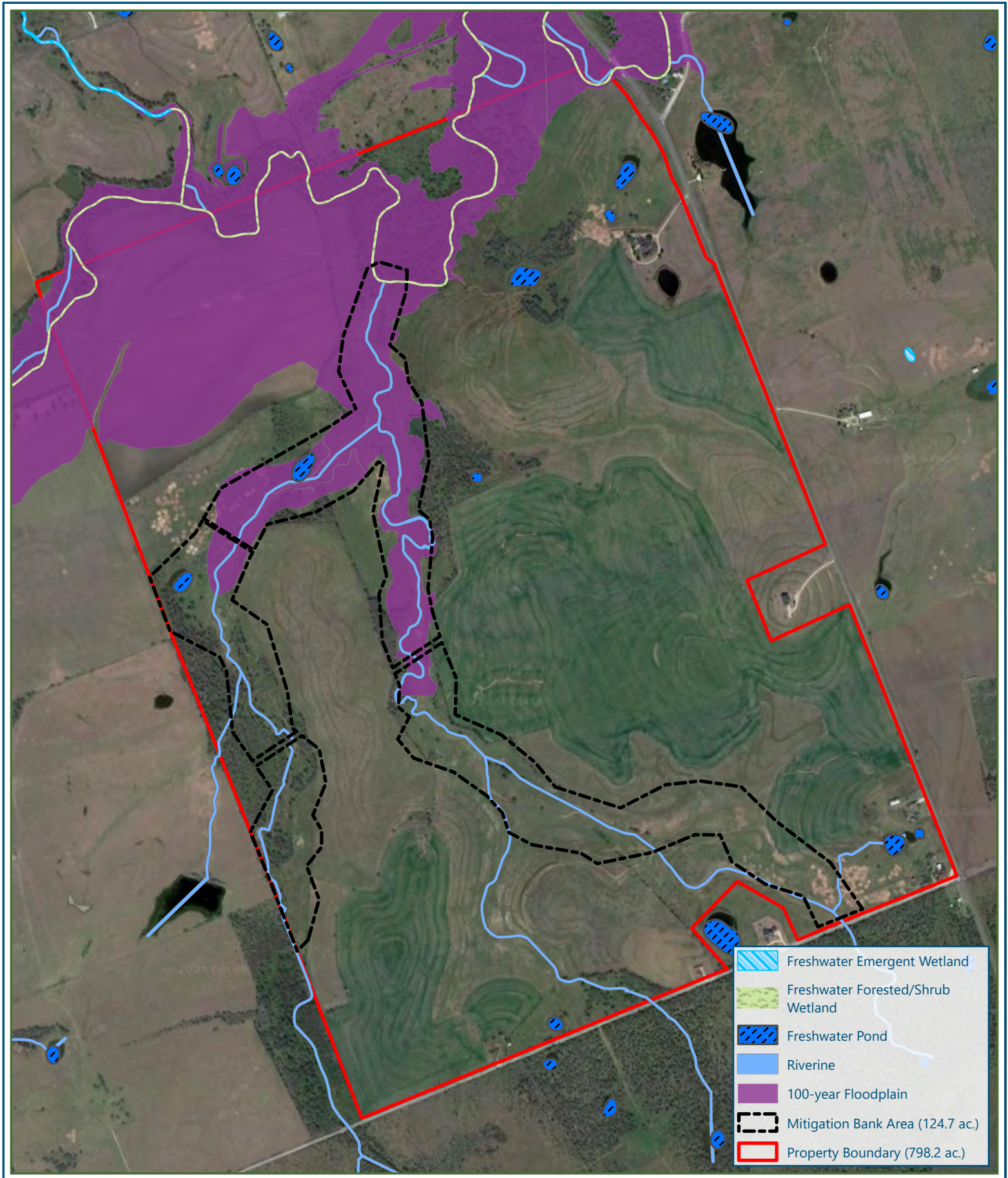
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Date Exported: 7/30/2024

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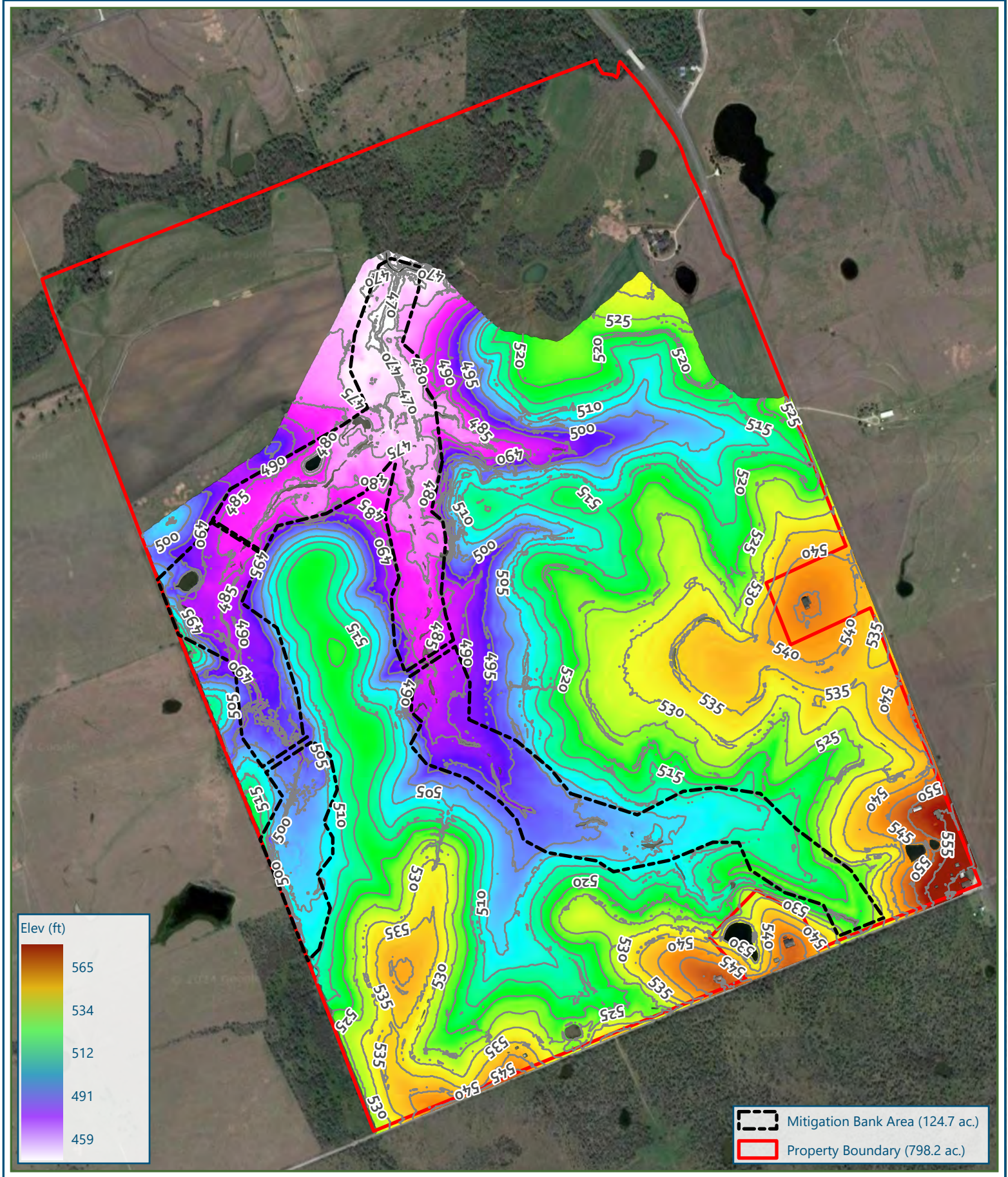
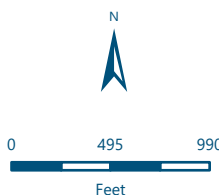


Figure 8
LiDAR Elevation

Brushy Creek Mitigation Bank
Williamson County, Texas
97.2863°W 30.4782°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.
Data Source: Drone Imagery
Spatial Reference:
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4203 Ft US
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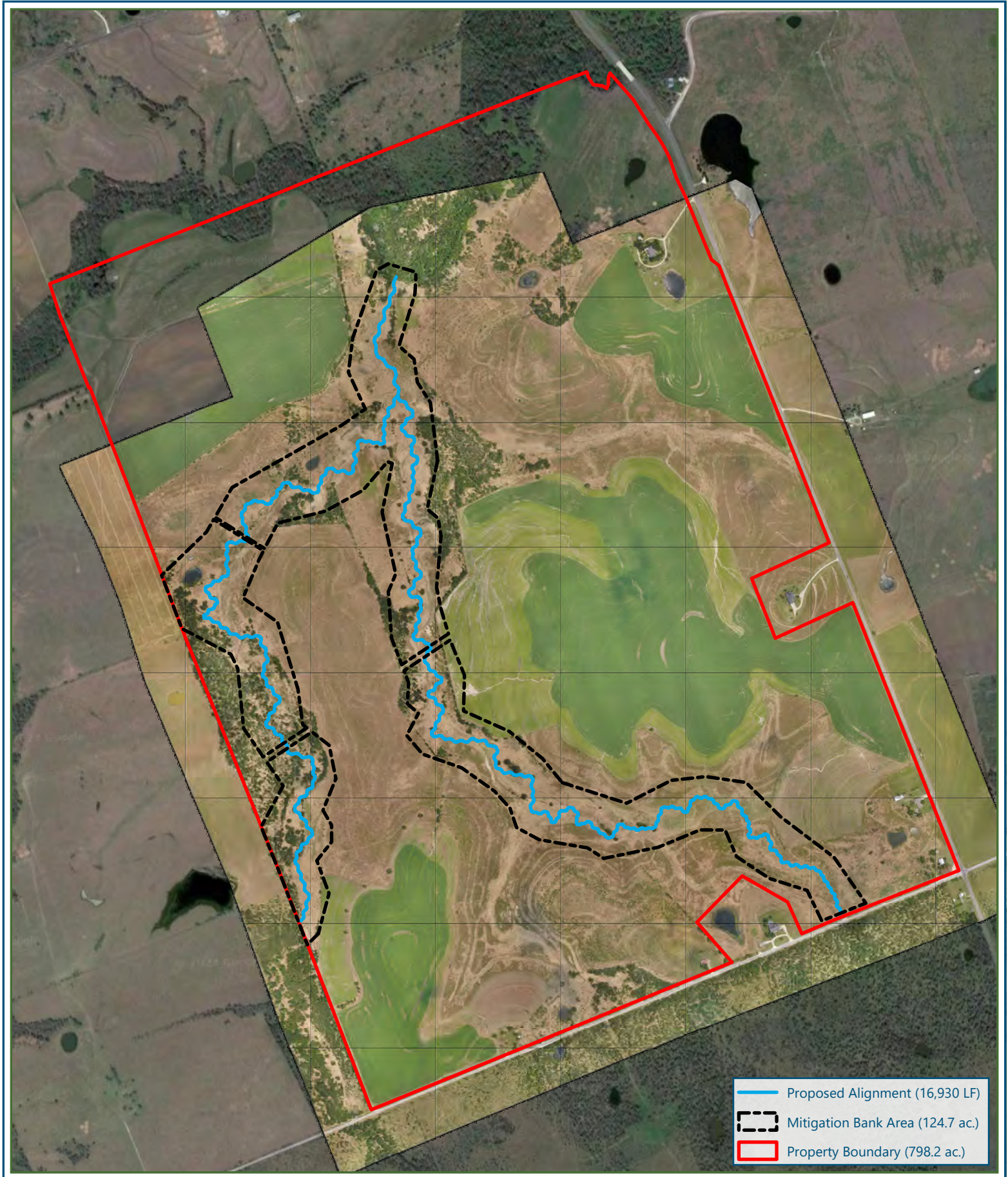
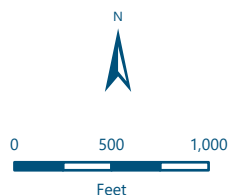


Figure 9
Proposed Concept

Brushy Creek Mitigation Bank
Williamson County, Texas
97.2862°W 30.4781°N



Reference: Project limits are approximate. This information is not to be used as final legal boundaries.

Data Source: RES Design

Spatial Reference:

NAD 1983 2011 StatePlane Texas Central FIPS 4203 Ft US

Date Exported: 7/30/2024

Project Number: 109808



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