



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

# Public Notice

Applicant: Luminant Mining Company, LLC

Permit Application No.: SWF-2010-00276

Date: December 13, 2011

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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: 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: \*\*This notice is being reissued to correct the closing date for receipt of comments.\*\*** 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 construction of the Martin Lake Liberty Mine in Rusk County, Texas by Luminant Mining Company, LLC (Luminant).

**APPLICANT:** Luminant Mining Company, LLC  
C/o Mr. Sid Stroud, Director, Environmental Mining  
Luminant Power, Environmental Services Department  
500 N. Akard  
Dallas, Texas 75201

**APPLICATION NUMBER:** SWF-2010-00276

**DATE ISSUED:** December 13, 2011

**LOCATION:** The proposed mine permit are covers 3,866 acres in Rusk County, Texas with the mine center being approximately at Latitude 32° 13' 44" N and Longitude 94° 36' 14" W. The mine is approximately seven miles southwest of the town of Tatum, Texas (see Figures 1-6 of 6) and spans the Tatum and Fair Play 7.5-minute USGS quadrangle maps and is in the USGS Hydrologic Unit 1201000208. The proposed mine is west of the existing Luminant Martin Lake Mine and the Martin Creek Reservoir, southwest of Tatum, north of Farm-to Market Road (FM) 1251, and east-southeast of State Highway 43.

**OTHER AGENCY AUTHORIZATIONS:** (1) State Water Quality Certification, Texas Commission on Environmental Quality (TCEQ); (2) Texas Pollutant Discharge Elimination System (TPDES) Wastewater Discharge Permit [02644], TCEQ; (3) Water Rights Exemption, TCEQ; (4) TPDES Stormwater Notice of Intent for Construction Activities [TXR150000], TCEQ; (5) Stormwater General Permit for Industrial Activities [TXR050000] (pending), TCEQ; (6) Hazardous Waste Permit [821298], Environmental Protection Agency (EPA); (7) Surface Mining Permit (pending), Railroad Commission of Texas (RCT); and (8) Solid Waste Registration [pending], TCEQ.

**PROJECT DESCRIPTION:** The applicant proposes to construct, operate, and reclaim an expansion of the existing Martin Lake Mine to a new 3,866-acre area west of the existing mine in Rusk County. Surface mining operations would continue with conventional open pits excavated

by large draglines and supported by standard earth moving equipment such as loading shovels, dozers, end dumps, and scrapers. Infrastructure in support of the operation would include (1) construction of a transportation corridor that would accommodate a lignite haulroad (approximately 2.8 miles) and a temporary dragline walkway (approximately 6.1 miles that will be reclaimed after the draglines are walked), (2) construction of ponds and diversions to control surface water drainage, (3) placement of groundwater well fields to dewater overburden and relieve underburden pressures, (4) construction of service roads, and (5) closure and/or relocation of a number of county and FM roads to facilitate mine operations and protect public safety. Project timing is for construction of infrastructure to begin in 2012 with mining to start in 2013. The total estimated life of the proposed mine expansion is 10 years. Various construction projects and mining operations would involve adverse impacts to waters of the U.S., including wetlands, associated with filling or dredging activities.

Expansion of the Martin Lake Mine to the proposed Martin Lake Liberty Mine would provide Luminant Generation Company, LLC reliable access to an additional reserve of low cost lignite fuel resource to fuel the adjacent Martin Lake Steam Electric Station. In addition, this fuel resource is necessary to provide continuation of reliable and cost effective electric generation for customers and provides 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. Despite incorporating measures to avoid and minimize impacts to waters of the U.S., the project would result in the permanent loss of 67.95 acres and the temporary loss of 14.03 waters of the U.S. Permanent impacts are proposed to 23.05 acres forested wetlands, 14.0 acres of non-forested wetlands, 23.79 acres of impoundments (stock tanks/ponds); 88,896 linear feet (lf) of streams, including 12,285 lf of perennial, 39,552 lf of intermittent and 37,059 lf of ephemeral streams (7.11 acres of stream subtotal). Temporary impacts are proposed to 11.14 acres forested wetlands, 0.80 acre of non-forested wetlands, 0.63 acre of impoundments (stock tanks/ponds); 4,610 lf of streams, including 2,128 lf of perennial, 774 lf of intermittent and 1,708 lf of ephemeral streams (1.46 acres of stream subtotal). After consideration of all available options, the applicant proposes to mitigate for unavoidable losses of waters of the U.S. by construction of various waters of the U.S. within the reclaimed mine site. Baseline ecological conditional assessments of proposed aquatic resource impact sites, existing reclaimed/restored aquatic resources and regional aquatic resource reference sites were performed utilizing the Texas Rapid Assessment Method (TXRAM). Additionally, future conditions of aquatic resource restoration sites are predicted using TXRAM. Proposed mitigation work would utilize principles of natural channel design and fluvial geomorphology to reclaim/restore stream and wetland hydrology and buffers.

**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.

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 three (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 Rusk County where the bald eagle (*Haliaeetus leucocephalus*) and Louisiana black bear (*Ursus americanus luteolus*) are listed; the bald eagle is listed in recovery and in the final stages of monitoring while the Louisiana black bear is listed as threatened. USACE's initial review indicates that the proposed mine would have no effect on any of the federally-listed endangered species.

No sightings of state or federal listed threatened or endangered species or species of special concern have occurred or were recorded within the limits of the proposed Liberty Mine 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.

**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 permit application process involves comprehensive cultural resource surveys for, at a minimum, the five-year project area term 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 resource sites have been identified in the region. However, no currently known cultural resources listed on the NRHP, eligible for listing on the NRHP, or with an unknown NRHP status will be impacted by mine-related activities without coordination with the Texas Historical Commission and the USACE.

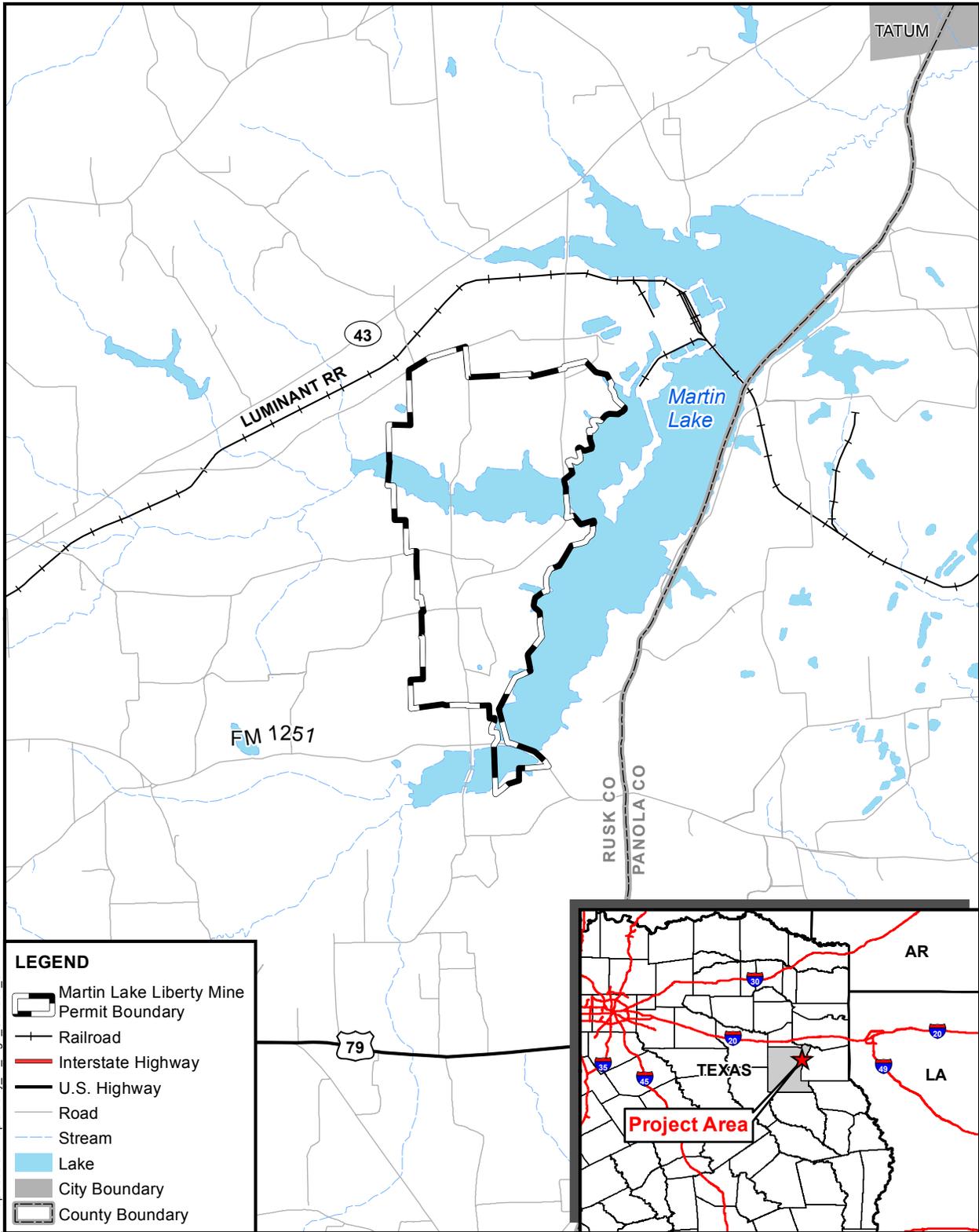
**FLOODPLAIN MANAGEMENT:** The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review 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 January 27, 2012, 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 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 (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

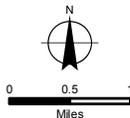


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**LEGEND**

- Martin Lake Liberty Mine Permit Boundary
- Railroad
- Interstate Highway
- U.S. Highway
- Road
- Stream
- Lake
- City Boundary
- County Boundary

**MARTIN LAKE LIBERTY MINE**  
**INDIVIDUAL PERMIT**  
**GENERAL LOCATION MAP**

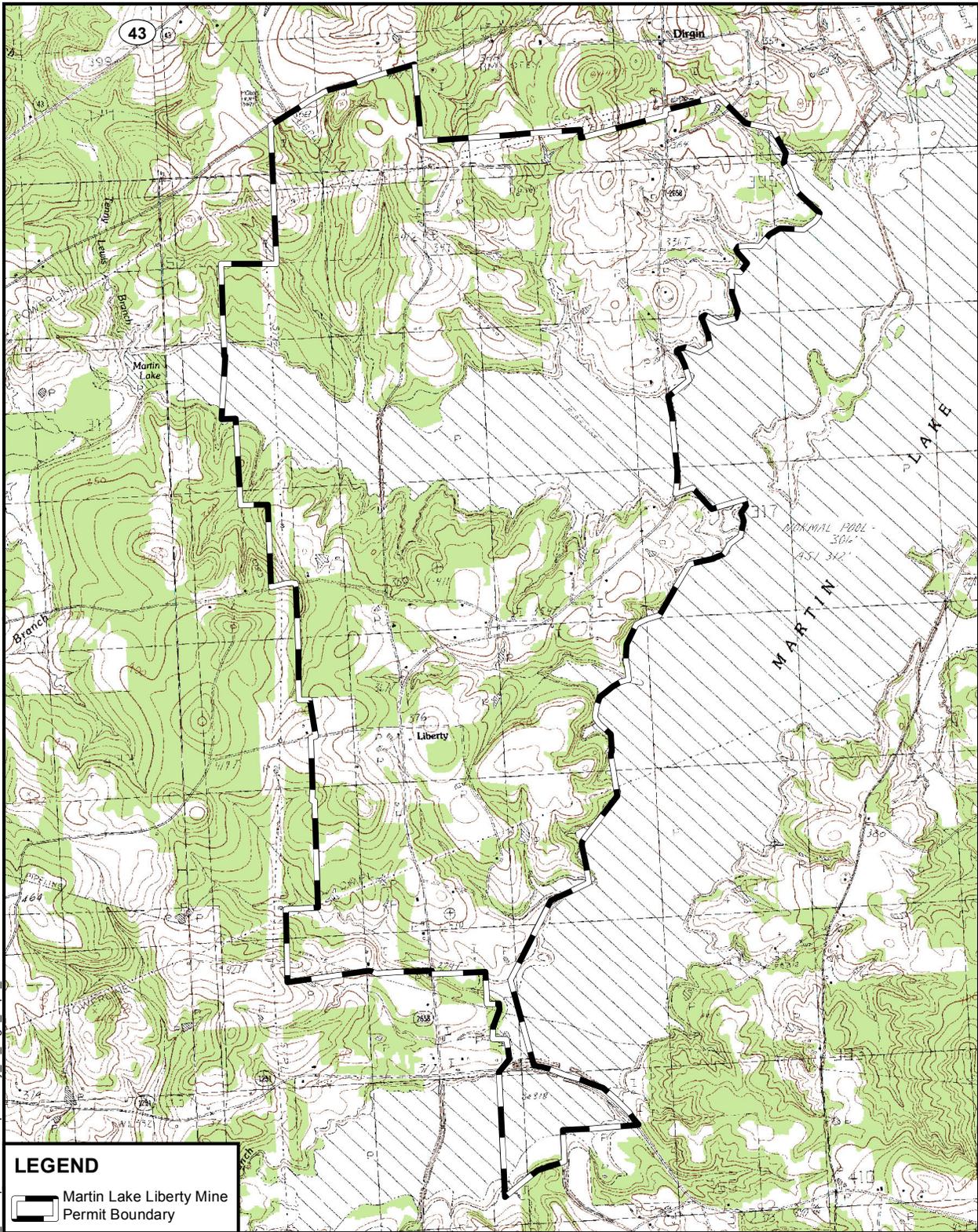


**HDR** HDR Engineering, Inc.  
 17111 Preston Rd. Suite 200  
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 972-960-4400

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FIGURE 1 OF 6

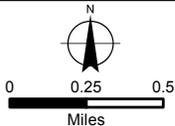
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**LEGEND**

-  Martin Lake Liberty Mine
-  Permit Boundary

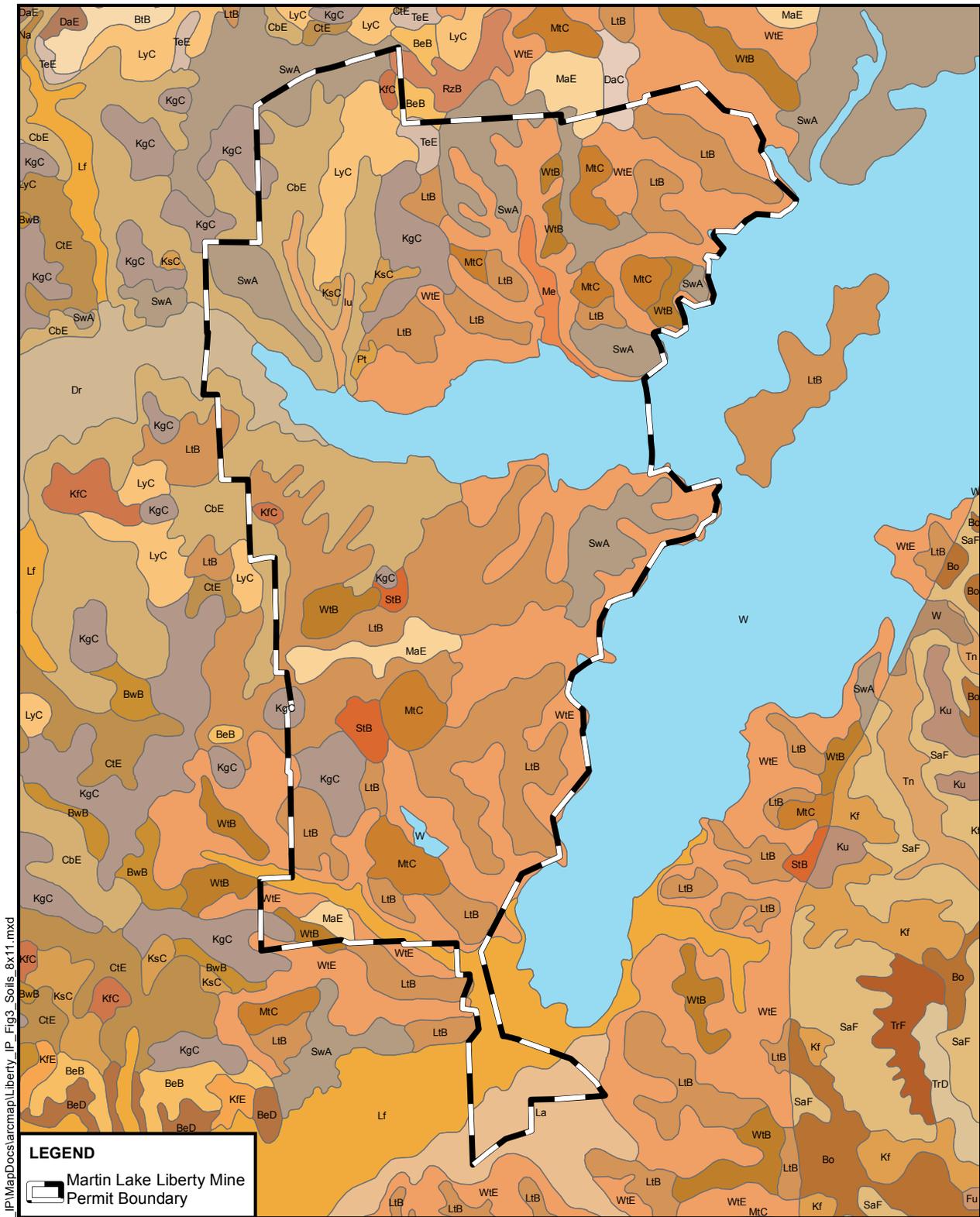
**MARTIN LAKE LIBERTY MINE**  
 INDIVIDUAL PERMIT  
 TOPOGRAPHIC FEATURES



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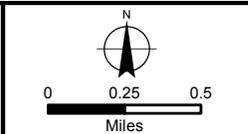
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FIGURE 2 OF 6



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**MARTIN LAKE LIBERTY MINE**  
**INDIVIDUAL PERMIT**  
**SOIL FEATURES**

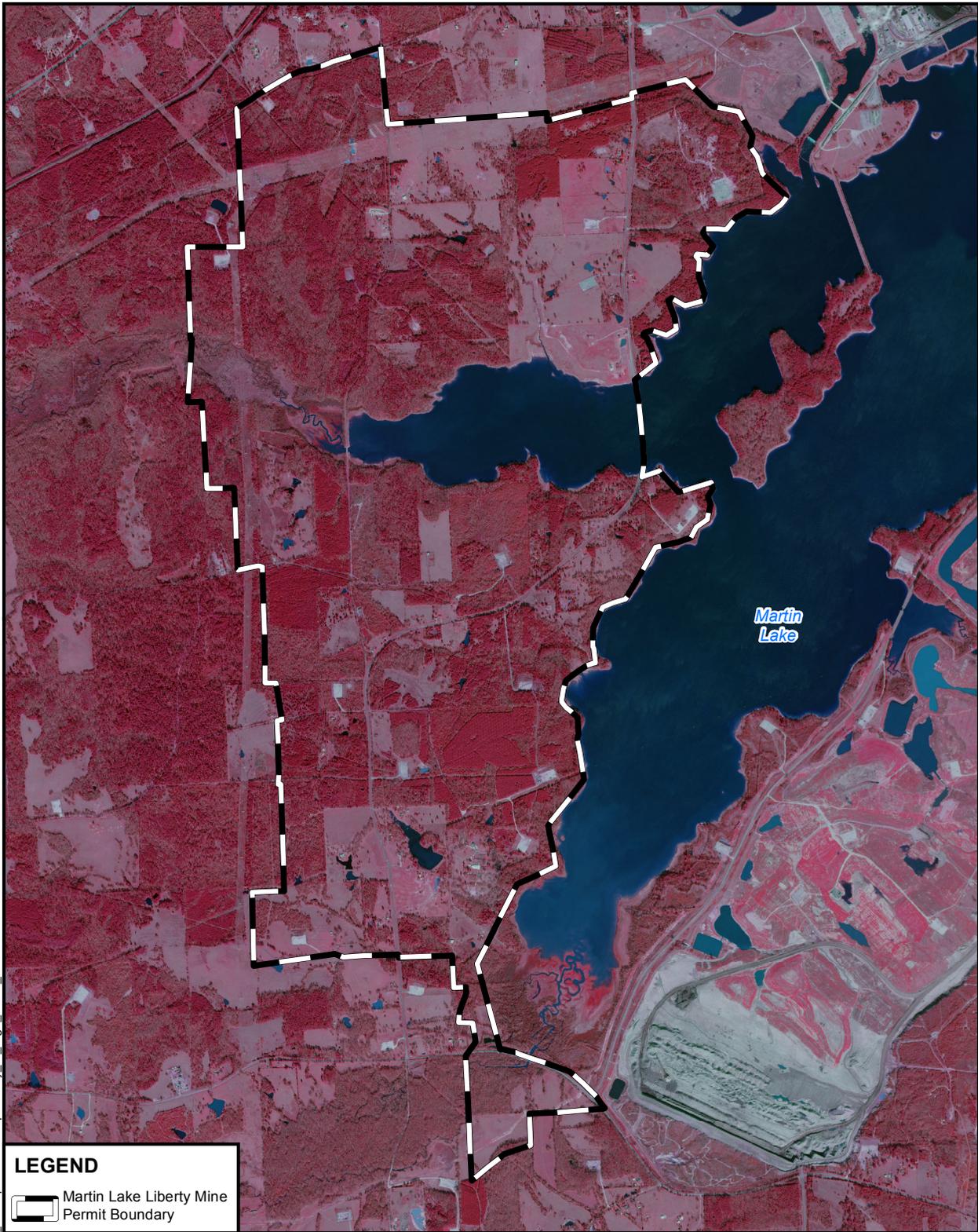


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FIGURE 3 OF 6

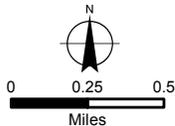
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**LEGEND**

 Martin Lake Liberty Mine  
Permit Boundary

**MARTIN LAKE LIBERTY MINE**  
INDIVIDUAL PERMIT  
AERIAL PHOTOGRAPH

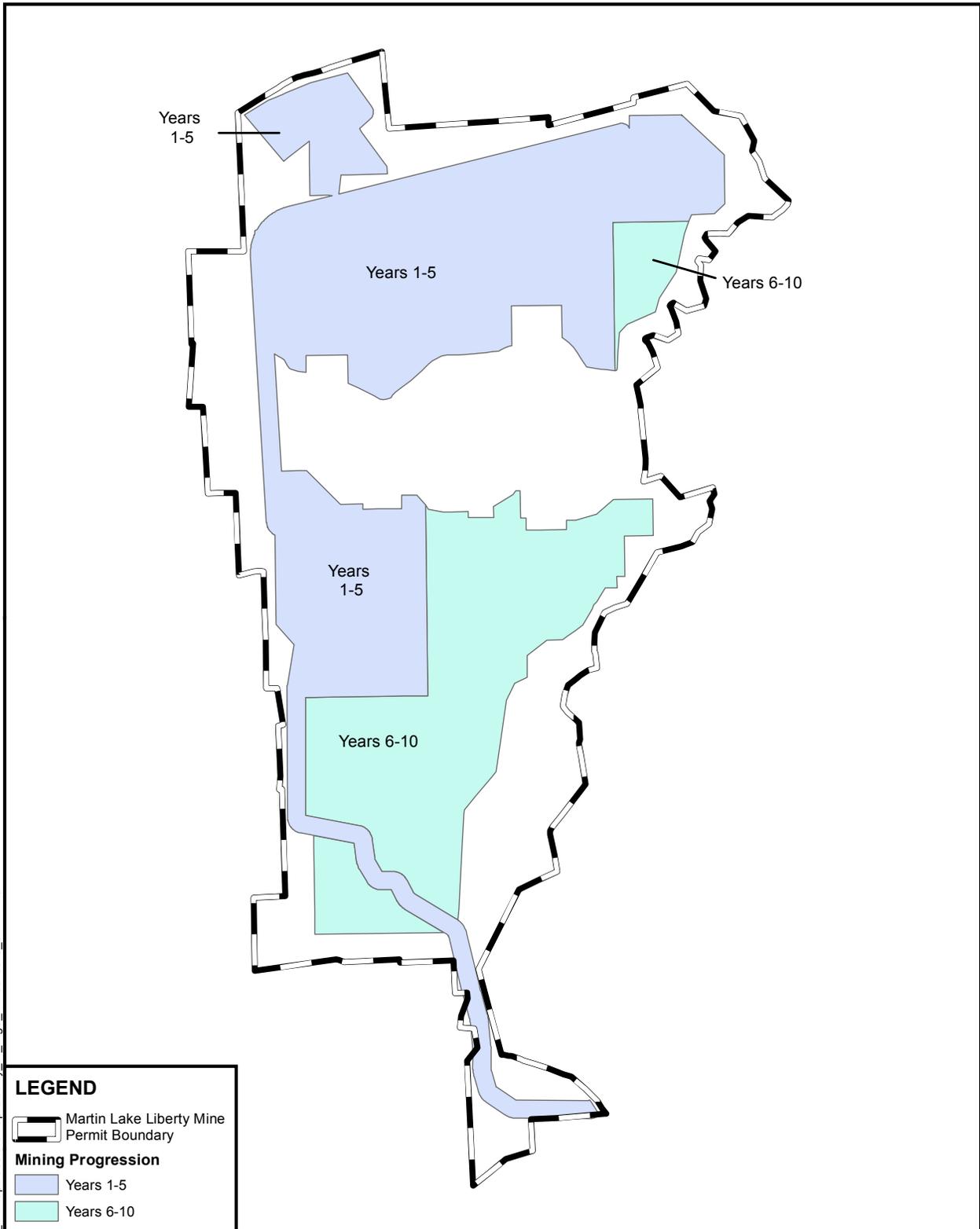


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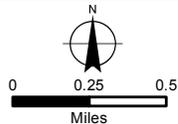
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FIGURE 4 OF 6

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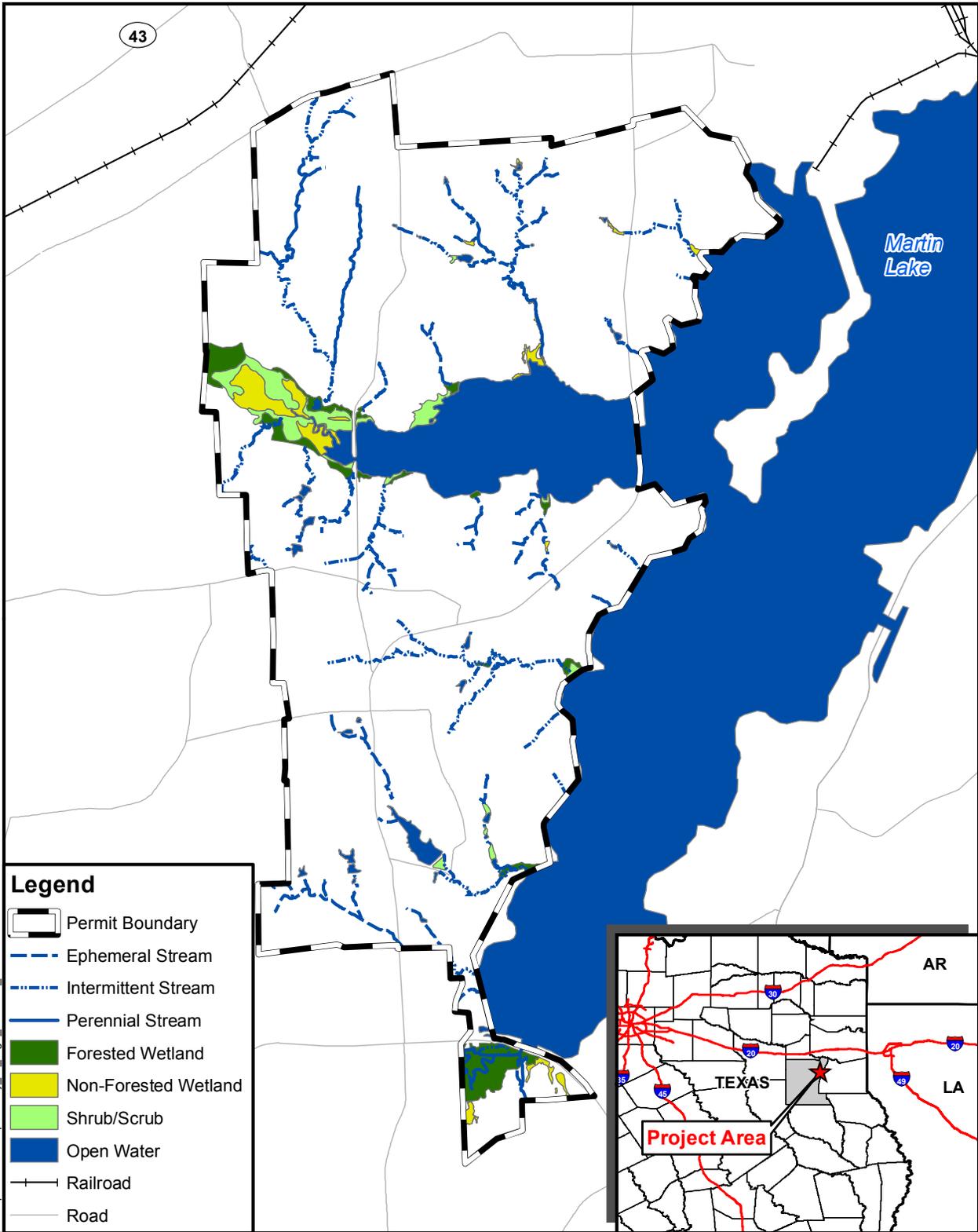
**MARTIN LAKE LIBERTY MINE**  
**INDIVIDUAL PERMIT**  
PROJECTED MINING AREAS AND  
SEQUENCE OF MINING



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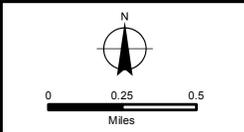
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FIGURE 5 OF 6



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**MARTIN LAKE LIBERTY MINE**  
**INDIVIDUAL PERMIT**  
**WATERS OF THE U.S.**



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FIGURE 6 OF 6