Public Notice

Applicant: **Mr. Mark Stahl**

Permit Application No.: **SWF-2007-00049**

Date: **December 31, 2008**

US Army Corps of Engineers
Fort Worth District

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. Wayne Lea

Phone Number: (817) 886-1732

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 associated with the construction of the Trans Texas Gateway II industrial/distribution complex in Hutchins, Dallas County, Texas by Construction Management Advisors.

APPLICANT: Mr. Mark Stahl
Vice President, Development Services
Construction Management Advisors
511 Yaupon Drive, Suite B
Garland, Texas 75044

APPLICATION NUMBER: SWF-2007-00049

DATE ISSUED: December 31, 2008

LOCATION: The project area is approximately 84 acres in size and is located in the City of Hutchins, Dallas County, Texas at the northeast corner of Interstate Highway (IH) 45 and Cleveland Road East (Sheet 1 of 12). The proposed project would be located approximately at UTM coordinates - 32.65729 North and 96.71185 West (Zone 14) on the Hutchins 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 12030105.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION:

The proposed project is an industrial/distribution complex with roads and associated attendant features (Sheet 5 of 12). The industrial/distribution center would consist of three buildings of different sizes. The project would include loading docks on both sides of the buildings (cross-docking) with required parking for employees, visitors, and trucks and trailers. Access would be constructed to the northbound access roads for IH 45 and culvert bridge access to Cleveland Road. The culvert bridge crossing would provide access to Cleveland Road through an adjacent warehouse development (owned by the applicant). This Cleveland Road access is required primarily for southbound access to IH 45. The proposed project was developed under the following

constraints, (1) the channel currently bisects the property into eastern and western portions; (2) this channel has an associated floodplain and floodway, which require modification to utilize the site; and (3) due to the developed conditions west of IH 45 and east of the project site, the property has a unique drainage pattern that must be accommodated in the fully developed conditions.

Adjacent land uses were investigated to determine an appropriate location for the development of this industrial/distribution complex. The applicant identified all available properties along IH 45, south of IH 20 that could be developed into this product type. From this analysis it was discovered that properties of the size and location necessary were currently under development, had been acquired for developments of this type, or were otherwise unavailable. Sheet 2 of 12 identifies all properties that were investigated at the time of property purchase.

Additionally, this region was specifically explored for this product type based on the planned development of the Union Pacific (UP) Intermodal Freight Center along IH 45 and the proposed Burlington Northern Santa Fe (BNSF) Intermodal Freight Center along Bonnie View Road. These two developments spurred all additional developments that would utilize the facilities of UP and BNSF to distribute goods throughout the Southern and Middle Plains of the United States. This combination of intermodal facilities along a major interstate highway provides a unique area to become a primary inland distribution port for the Southern and Middle Plains of the United States. The project site was chosen due to its location with access to major thoroughfares that connect to Interstate Highways (45, 20, 635, and 35E) and close access to rail lines.

The alternatives analysis required a functional plan that accounted for all the development constraints. Given that the surrounding areas are already developed or currently under development, economically feasible alternative locations within the Dallas Logistics Hub area were not available. The property was conceptually designed utilizing the constraints (identified above), tenant demands, site grading (i.e., balancing cut-and-fill), and site layout (i.e., efficiency of operations). There have been several alternatives evaluated; however, they all have the same unavoidable impacts to waters of the United States. The differences between these alternatives are building, parking, truck court, rail line, and loading dock configurations.

The project site is generally rectangular with IH 45 comprising a diagonal southwestern boundary of the project site and the water features crossing in an alternate diagonal path (southwest to northeast) bisecting the project site. Therefore, the relatively small project site (84 acres) in association to the channel and floodplain, provide minimal opportunities to avoid or minimize ecological impacts. The location of the water features leave only three general alternatives available for development (Sheets 5 through 7 of 12): (Option 1) build on-site, relocate the waters; (Option 2) no build within the waters; and (Option 3) partial site development within the waters. The applicant's preferred alternative is Option 1. Option 2 and 3 are not an optimal choice because of the overall negative benefit:cost ratio given the price of the land, the construction costs, and other costs associated with development. Option 1 provides an economically feasible development, with on-site mitigation to compensate for all unavoidable impacts.

Seven water features meet a definition of a water of the United States - Tributaries 1, 2, and 3, Pond 1, and Wetlands 1, 2, and 3 (Sheets 3 and 4 of 12). The overall drainage feature (i.e., Tributaries 1 through 3) flows into a channelized portion of Fivemile Creek just north of the project site. Fivemile Creek flows into the Trinity River; which is considered a navigable water.

Table 1 provides a quantitative summary of the waters of the United States on the site and the proposed impacts to them. While the following text provides a qualitative description of these jurisdictional waters and proposed impacts.

Table 1.

Dimensions of Existing Water Features and the Proposed Estimated Impacts

Water Identification	Hydraulic Characteristics	Length (Linear Feet)		Area (Acre)	
		Existing	Impacted	Existing	Impacted
Tributary 1	Ephemeral	603	603	0.1403	0.1403
Tributary 2	Ephemeral	794	794	0.0729	0.0729
Tributary 3	Ephemeral	868	23	0.3242	0.0101
Pond 1	Semi-Permanent	NA	NA	0.9235	0.5820
Wetland 1	Emergent Saturated/Inundated	NA	NA	2.2217	2.2217
Wetland 2	Forested/Saturated/ Inundated	NA	NA	3.0252	3.0252
Wetland 3	Shrub-scrub/Saturated	NA	NA	0.3307	0.3307
	Total	**2,265**	**1,420**	**7.0385**	**6.3829**

Tributaries 1 through 3 are the main drainage features that bisect the project site in a southwest to northeast direction. The water flow in these channels is estimated to be ephemeral, based on the depth to groundwater according to the soil survey and a geotechnical evaluation. The ordinary high water marks (OHWM) range between 8 to 10 feet. There are various large debris dams in the central portion of Tributary 1 within the project site. These dams resulted in the formation of Pond 1 and all wetlands. The limits of the tributaries were delineated intermittently within the forested wetland (Wetland 2) through the middle of the site. The upland riparian corridor associated with Tributary 1 is dominated by American elm (*Ulmus americana*), greenbrier (*Smilax* sp.), green ash (*Fraxinus pennsylvanica*), cedar elm (*Ulmus crassifolia*), Osage orange (*Maclura pomifera*), and Canada wildrye (*Elymus canadensis*).

Pond 1 is an impoundment of Tributary 1 in the central portion of the project site. There is a series of large debris dams at the northern end of Pond 1 (downstream side) that appears to restrict the flow of Tributary 1 through the project site. These debris piles were active beaver dams that changed the conditions from a lentic to a lotic environment, which appears to be the new normal conditions of the site.

Wetland 1 is a shallow depressional area in the landscape adjacent to Pond 1. It appears that water enters this depressed area during large storm events and then is impounded by a large beaver dam across Tributary 1/Pond 1 and a small berm associated with a fence line. The plant community in Wetland 1 is largely dominated by cattail (*Typha domingensis*), spike rush (*Eleocharis* sp.), Vasey's grass (*Paspalum urvillei*), cocklebur (*Xanthium strumarium*), annual sumpweed (*Iva annua*), and giant ragweed (*Ambrosia trifida*) in the herbaceous layer and American elm and black willow (*Salix nigra*) in the shrub canopy.

Wetland 2 is identified and delineated in adjacency with Tributary 1. Wetland 2 is in a low, wooded area that has small braided channels that ultimately connect to Tributary 1. There is a distinct shift from these low areas (dominated by stands of even aged green ash) to upland areas that are dominated by a mix of hardwoods (i.e., Osage orange, hackberry, cedar elm, etc.).

Wetland 3 is a shrub-scrub dominated wetland identified and delineated on the northwest corner of the beaver dam of Pond 1. This wetland is situated along the lower portion of a hill that abuts the pond fringe; however, it does not appear to have a hydrologic influence between either of these two water features (i.e., the pond does not saturate the hill and Wetland 3 does not contribute flow to the pond, other than during rainstorms). This wetland is dominated by shrubs that have been routinely suppressed by beavers feeding on them. The species composition is dominated by cedar elm, green ash, and giant ragweed.

The site layout would result in unavoidable impacts to nearly all water features on the project site (Sheet 8 of 12). These impacts would be the result of placing compacted soil into Pond 1 (0.5820 acre), all wetlands (5.5776 acre), and a portion of the tributaries (1,420 linear feet [0.2233 acre]) for a total of 6.3829 acres of impacts. All existing water flows would be redirected into the realigned tributary along the eastern side of the property. There would be an estimated 15,000 cubic yards of compacted earthen fill material placed below the plane of the ordinary high water mark.

The applicant's mitigation plan proposes to compensate for the spatial and temporal loss of aquatic functions through (1) creation of a stream and riparian corridor to replace the existing tributary within the site; (2) creation of wetland areas within the floodplain to maintain the filtration and wildlife habitat functions; (3) creation of a valley storage area above the wetland; and (4) creation of vegetated buffer areas within the floodplain to a native prairie grass mix to increase sediment and nutrient filtration ability within the floodplain and to provide greater diversity of wildlife habitat (Sheets 9 through 12 of 12). The proposed mitigation areas include the Stream and Riparian Corridor Mitigation Area (4.5082 acres); Forested Wetland Mitigation Area (4.7178 acres); Shrub/Scrub Wetland Mitigation Area (1.1795 acres); and East and West Valley Storage Mitigation Areas (2.2161 acres); for a total of 12.6216 acres. The following provides details on each of the mitigation types.

- **Stream and Riparian Corridor Mitigation Area** – Approximately 2,462 linear feet or 4.5082 acre of stream and riparian corridor. The stream was designed utilizing characteristics from the bankfull morphology of the existing channel. The proposed bankfull was designed to accommodate typical flows (i.e., 8 feet wide and 24 inches deep). The riparian corridor varied from 55 to 125 feet in width, which would be vegetated with native prairie species and riparian trees and shrubs.
- **Wetland Complex Mitigation Area** – Approximately 4.7178 acres of Forested Wetland and 1.1795 acres of Shrub/Scrub Wetland. To facilitate this design the overall wetland would be graded to allow inundation of three inches and a network of interconnected valleys would be excavated. The result of these valleys would create a mosaic of tree planting mounds that would receive hydrology through inundation and prolonged saturation from these valleys. These valleys would be graded so that they would have a maximum depth of 18 inches of water and would act as a water source for the tree mound areas. The specifications associated with this design are specific to create the necessary

hydroperiod for a forested wetland. The tree mound areas would constitute approximately 80 percent of the area and would not be greater than 30 feet in diameter (i.e., the center of the mound would never be any greater than 15 feet from a valley). The valleys would all be interconnected and will account for approximately 20 percent of the wetland area. The valleys would be typically five feet wide but could extend to 10 feet at a maximum. The interface between the tree mound and valleys would be graded at a 1:1 slope to maximize the volume of water storage on the site.

- **Valley Storage Mitigation Area** – Approximately 8.1134 acres, but this includes the 5.8973 acres of wetlands (identified above). The 2.2161 acres of non-wetland areas would be seeded in native prairie grasses. There would be two separate valley storage areas connecting to the proposed stream and riparian corridor mitigation areas.

The approximately 12.6216 acres of stream and riparian corridor and wetland complex that are being proposed for on-site compensatory mitigation would be protected in perpetuity, as a stream and wildlife preservation area.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, 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 would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required.

Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. **Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087.** The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The complete application may be reviewed in the USACE's office. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

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 Dallas County where the least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), black-capped vireo (*Vireo atricapilla*), golden-cheeked warbler (*Dendroica chrysoparia*), and whooping crane (*Grus americana*) are known to occur or may occur as migrants. The least tern, golden-cheeked warbler, black-capped vireo, and whooping crane are endangered species and the piping plover is a threatened species. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The USACE has reviewed the latest complete published version of the National Register of Historic Places and found no listed properties to be in the project area. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit.

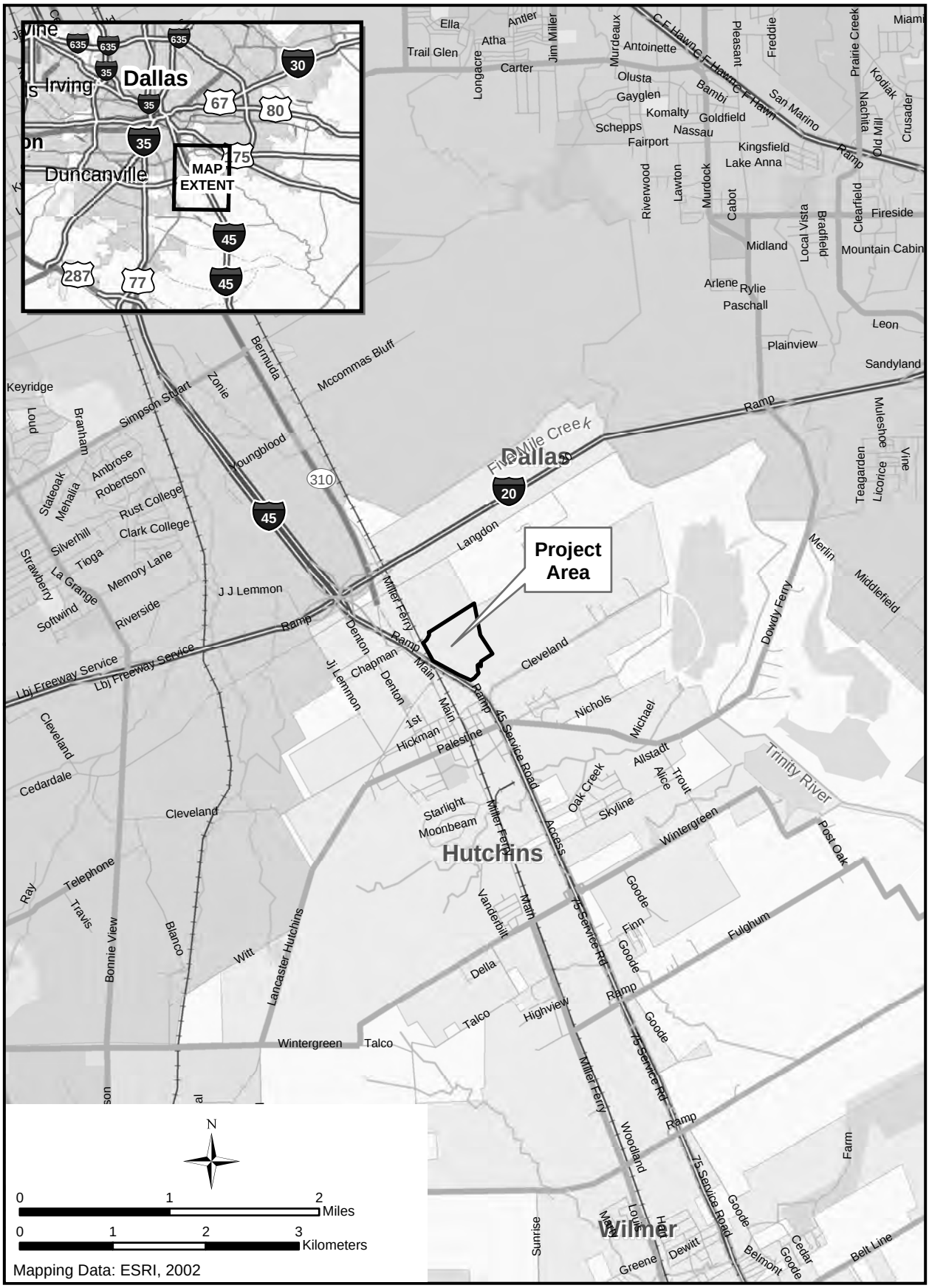
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review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

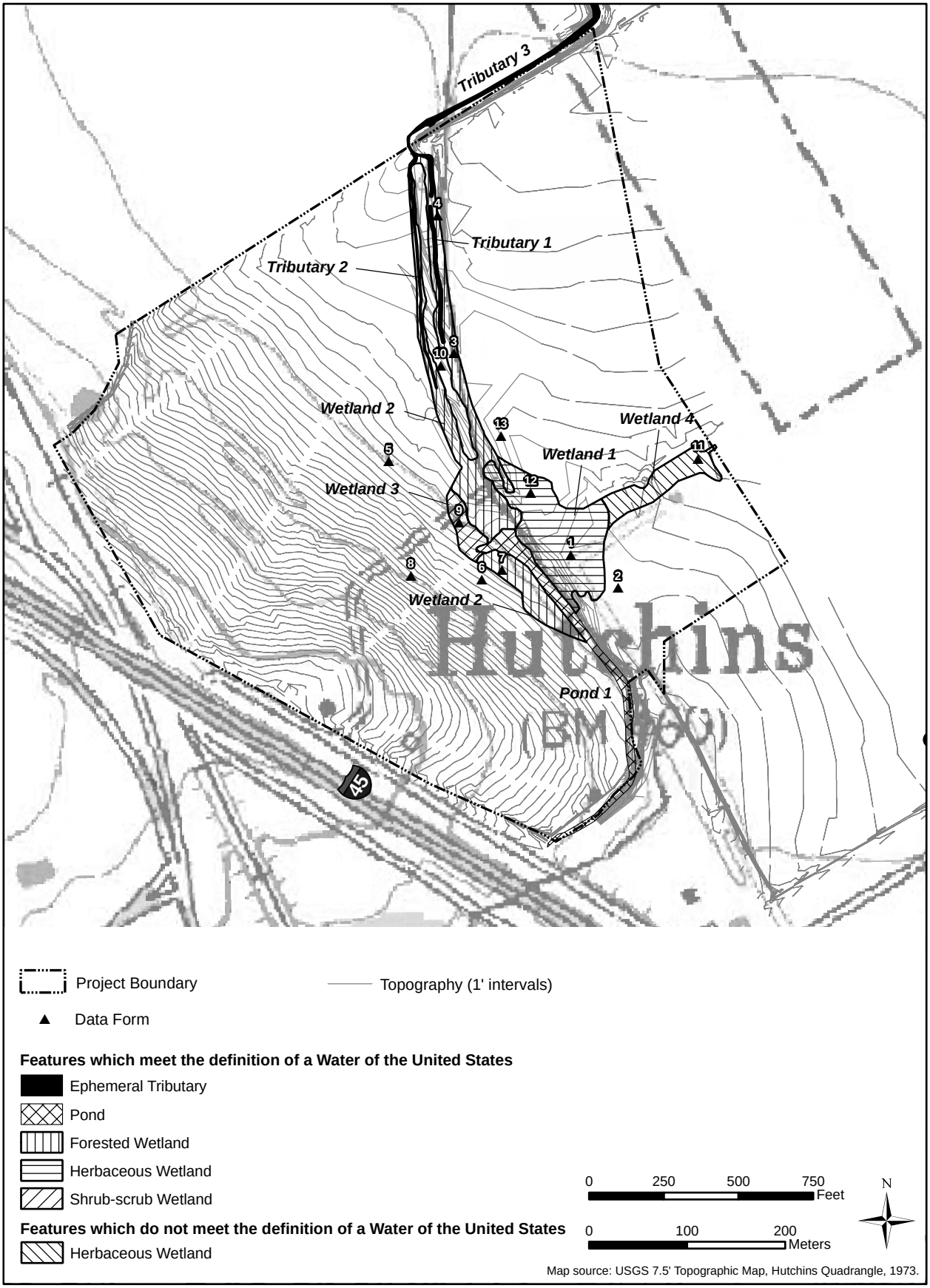
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before January 30, 2009, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments 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. Wayne Lea; 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

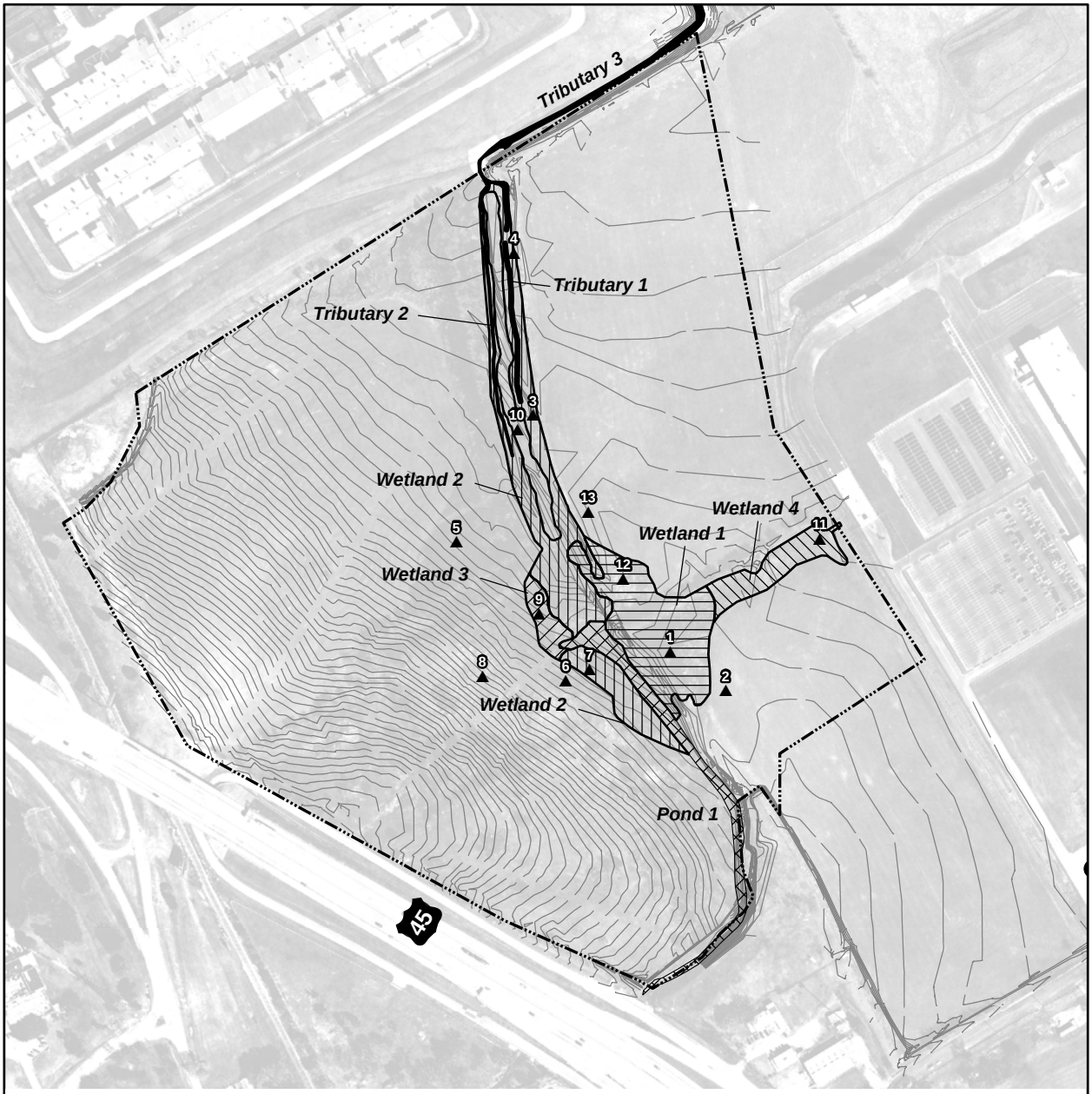


Sheet 1 of 12. General Location Map.

Sheet 2 of 12. Alternative Sites Evaluated for Proposed Project.



Sheet 3 of 12. Waters of the United States within the Project Area.



Project Boundary

Topography (1' intervals)

▲ Data Form

Features which meet the definition of a Water of the United States

Ephemeral Tributary

Pond

Forested Wetland

Herbaceous Wetland

Shrub-scrub Wetland

Features which do not meet the definition of a Water of the United States

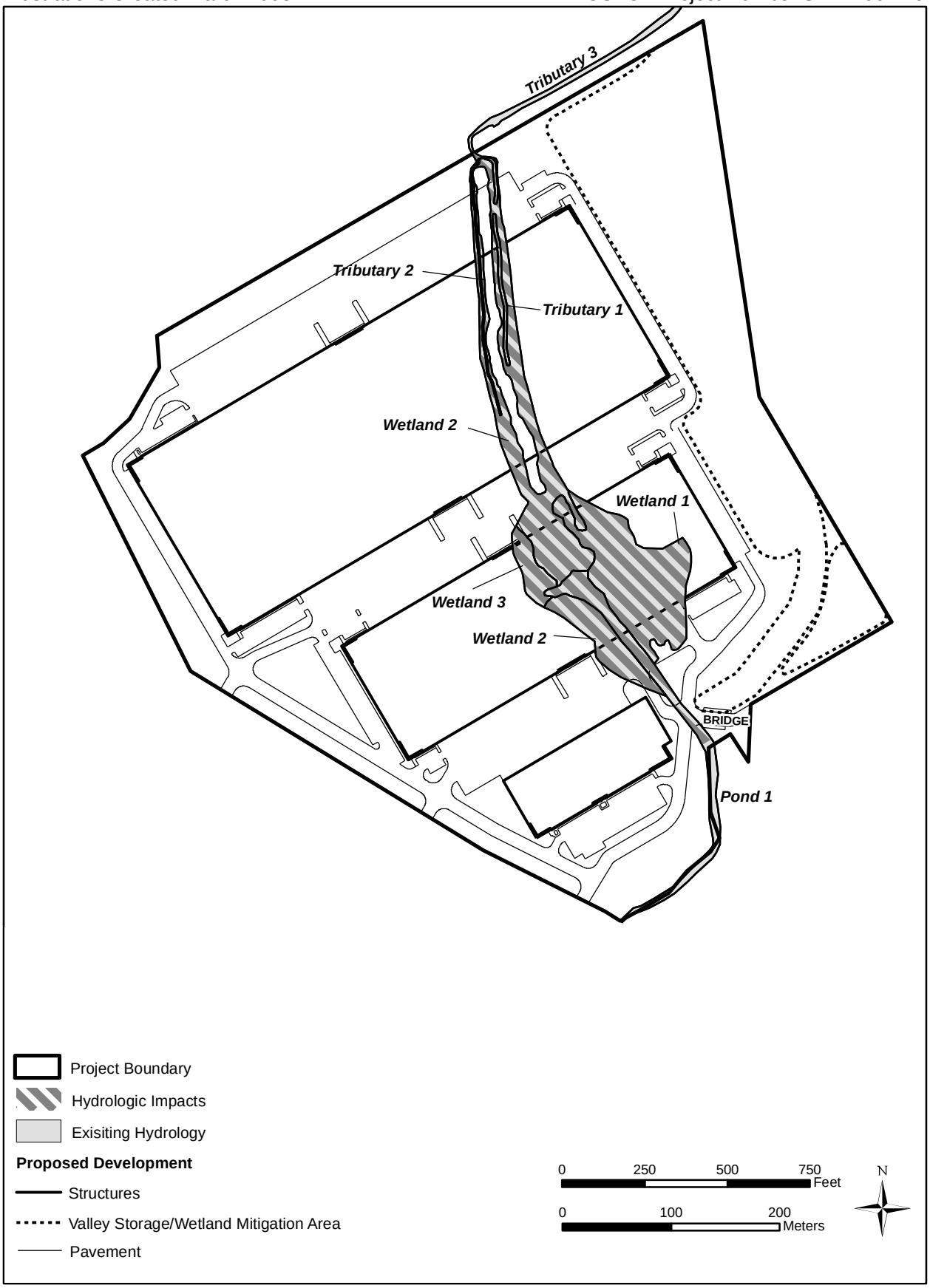
Herbaceous Wetland

0 250 500 750 Feet

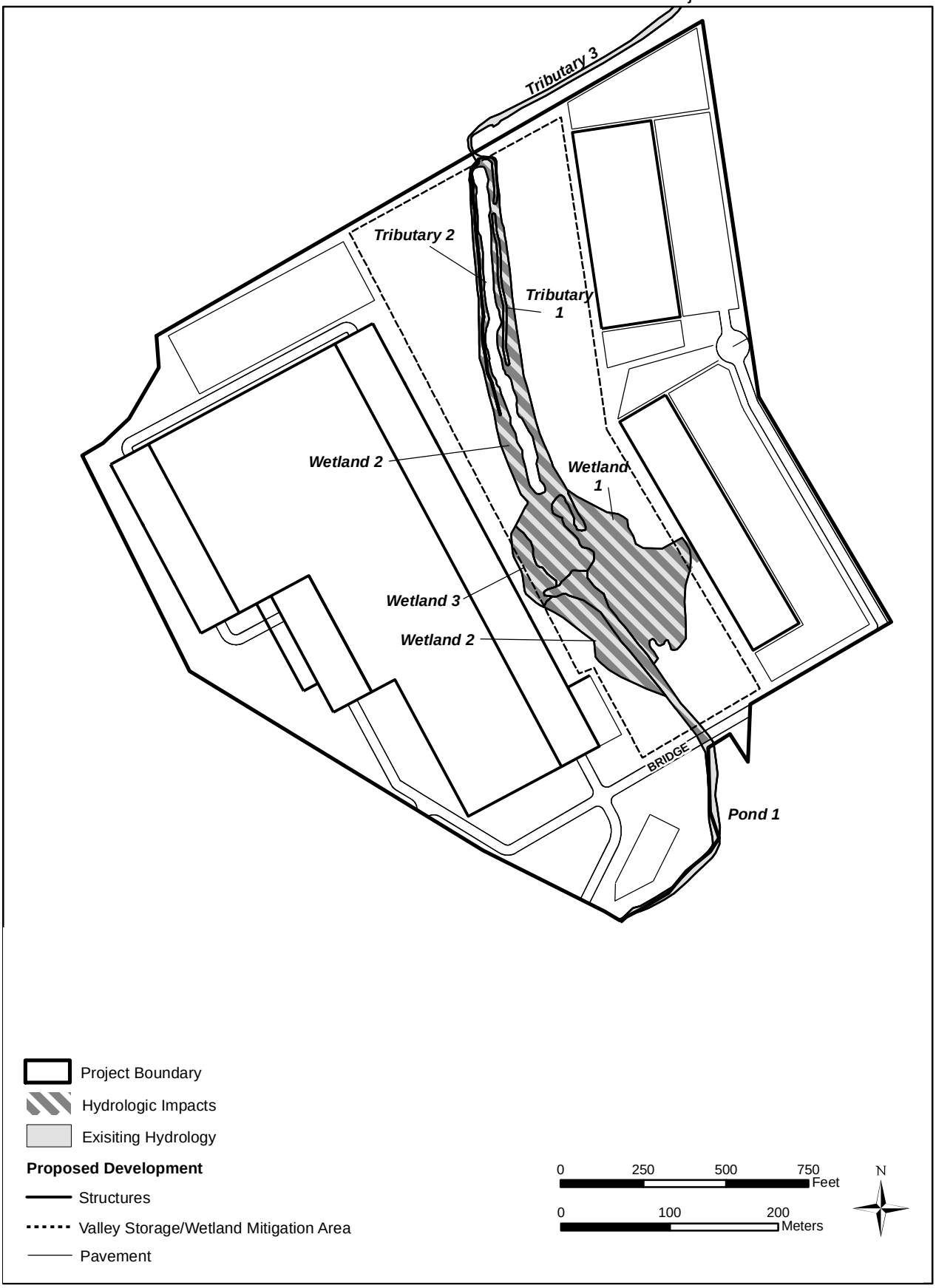
0 100 200 Meters

N

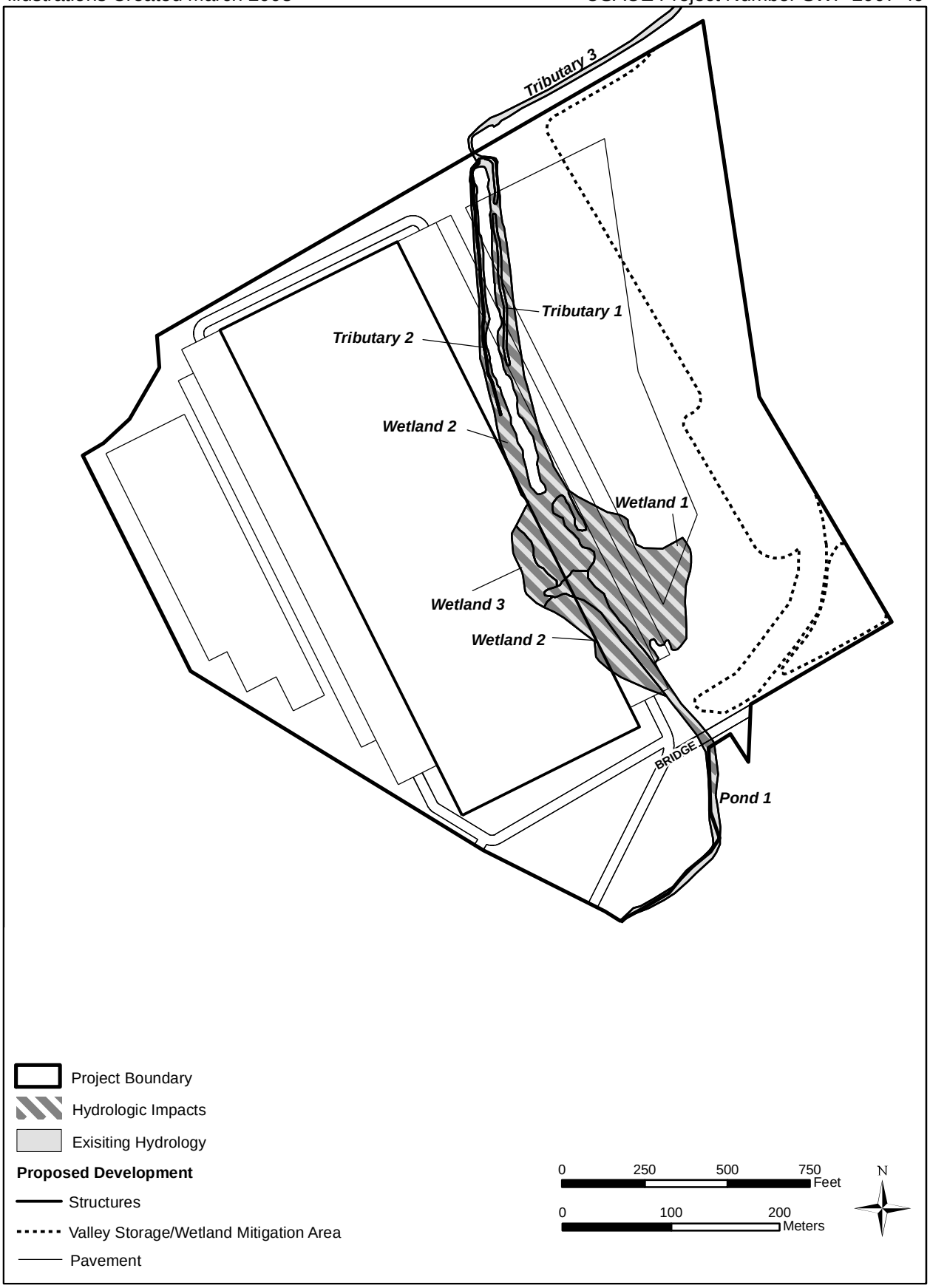
Sheet 4 of 12. Waters of the United States within the Project Area.



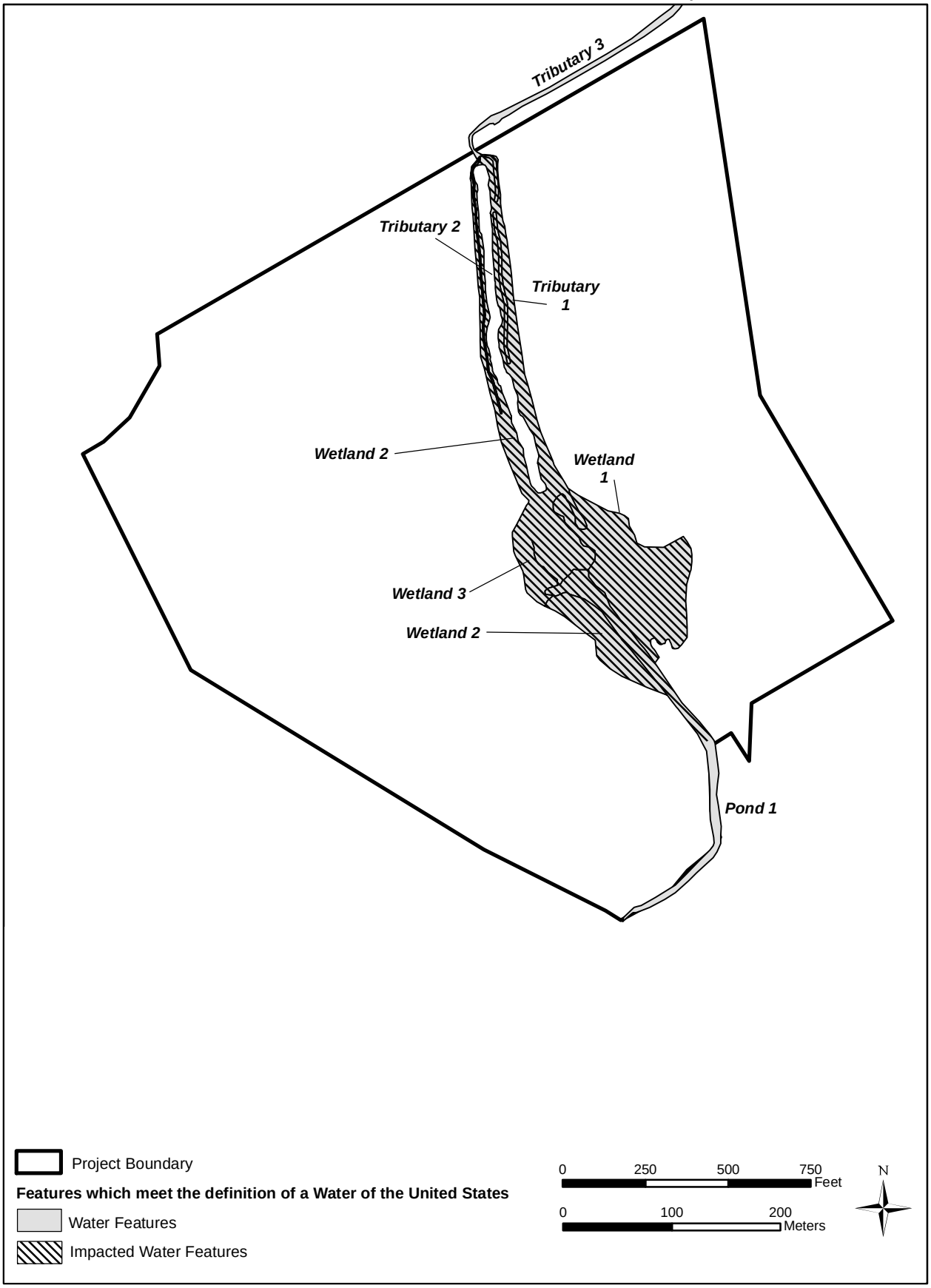
Sheet 5 of 12. Impacts to Waters of the United States and Proposed Site Plan for Trans Texas Gateway Project.



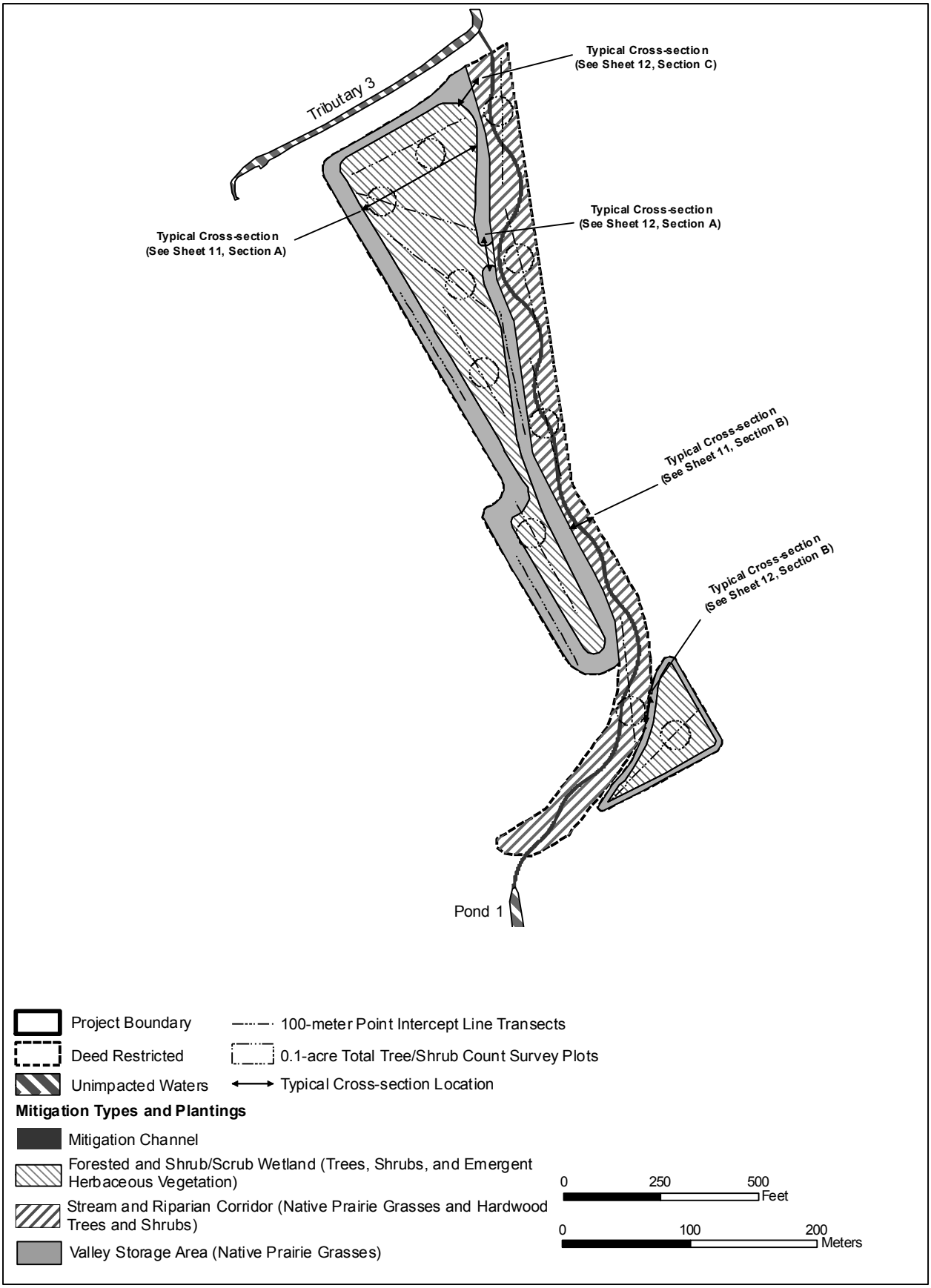
Sheet 6 of 12 - Impacts to Waters of the United States and Proposed Alternate Option 2 Development Plan.



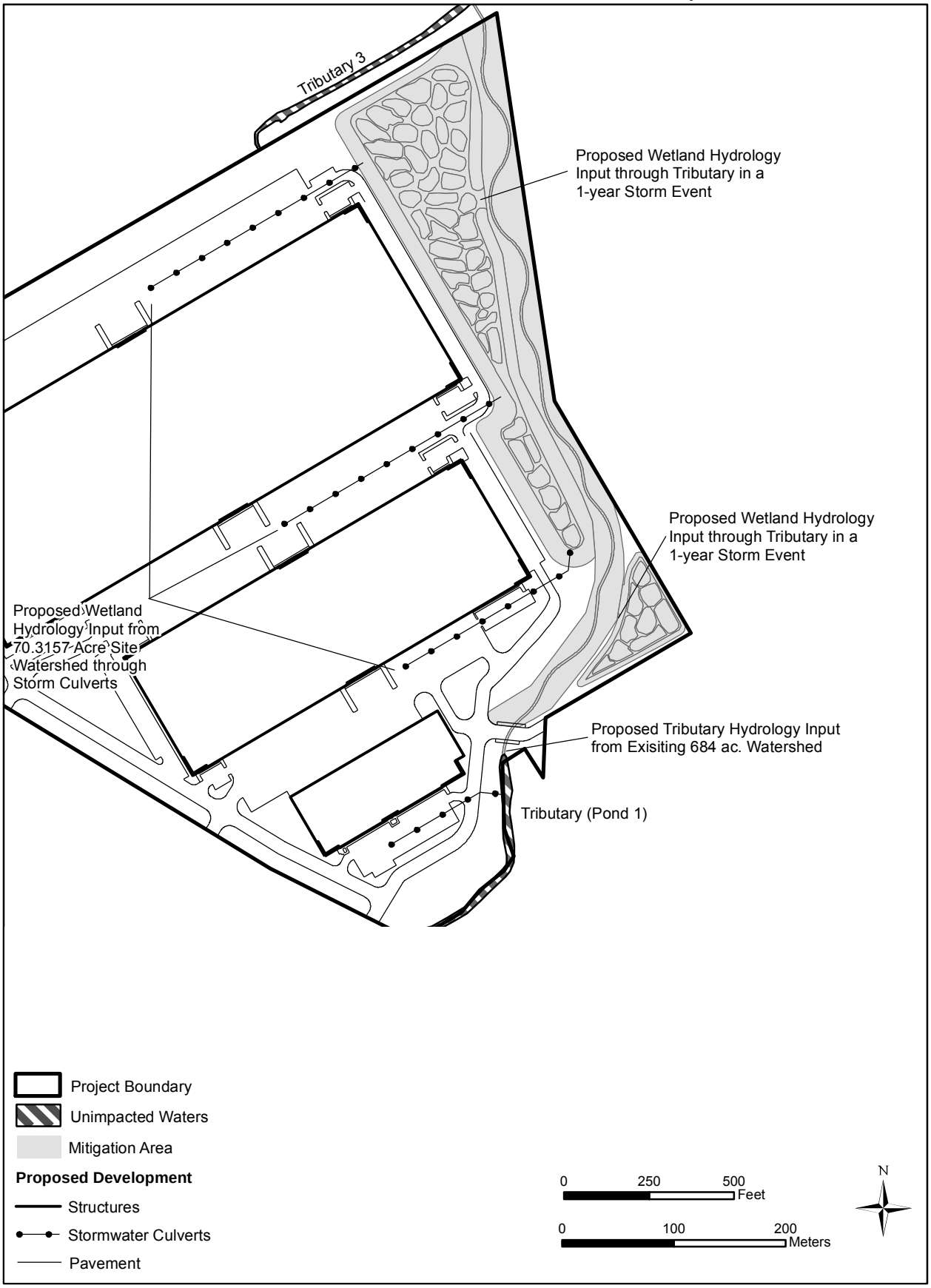
Sheet 7 of 12 - Impacts to Waters of the United States and Proposed Alternate Option 3 Development Plan.



Sheet 8 of 12 -- Unavoidable impacts to waters of the United States from the Proposed Site Plan.



Sheet 9 of 12 – Proposed Mitigation Areas and Planting Types and Deed Restriction.

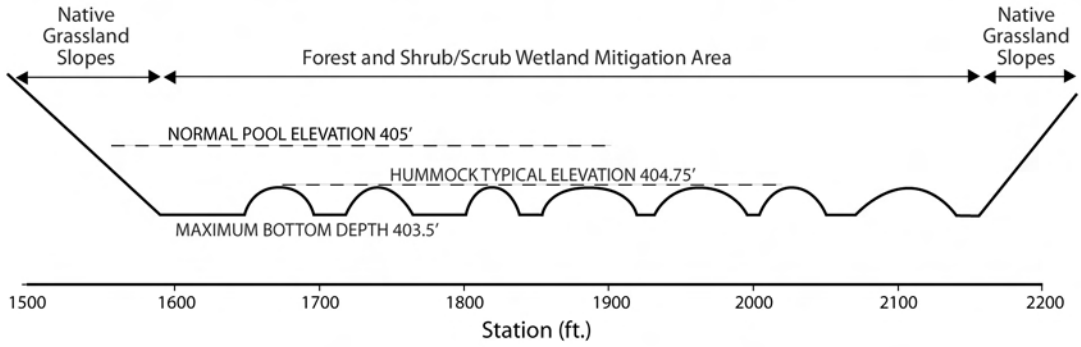


Sheet 10 of 12 – Proposed Mitigation Hydrology.

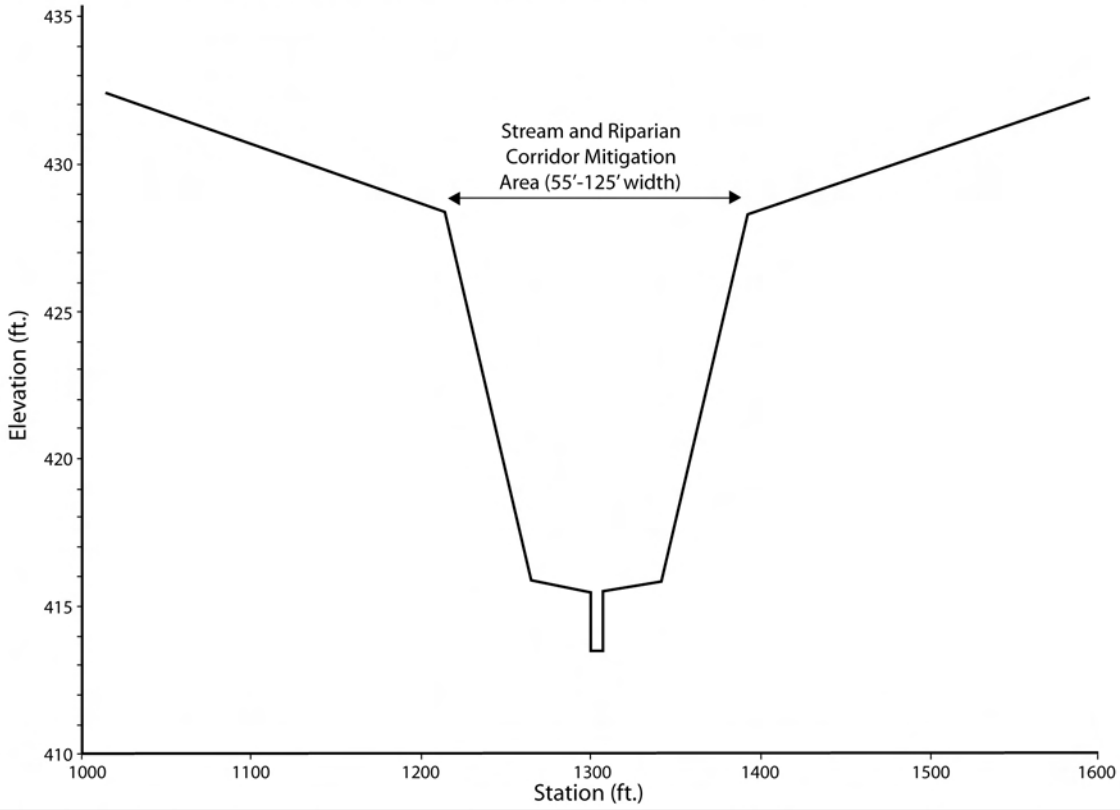
A. FLOODWAY CROSS SECTION - WETLAND AND RIPARIAN MITIGATION

Tree Mound Areas: 80% of bottom;
Top of mound at 404.75 feet Irregularly shaped;
Variable sized; No greater than 30 ft diameter

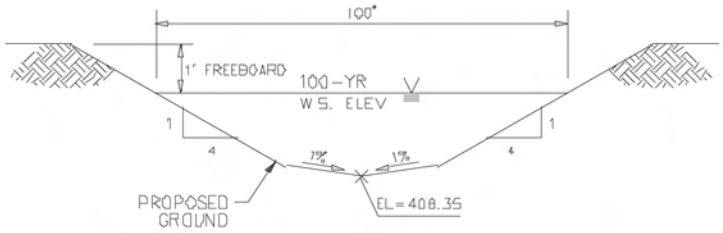
Valleys/ Intermound Areas: 20% of bottom;
Valley Depth at 403.5 feet Irregularly shaped;
Valleys all interconnect throughout as one pool;
No greater than 10 ft wide, typical 5 ft wide



B. FLOODWAY CROSS SECTION - STREAM AND RIPARIAN COORIDOR

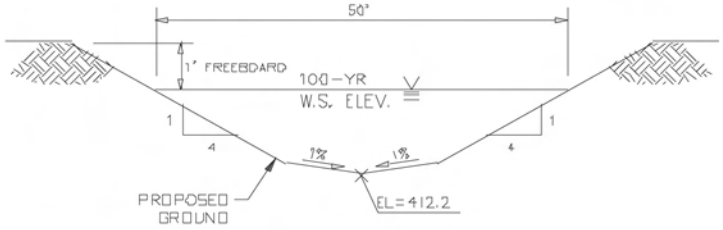


Sheet 11 of 12 - Conceptual Cross-sectional Views of Wetland Mitigation Types (not to scale).



A Large Northwestern Wetland Connection

NOT TO SCALE



B Small Eastern Wetland Connection

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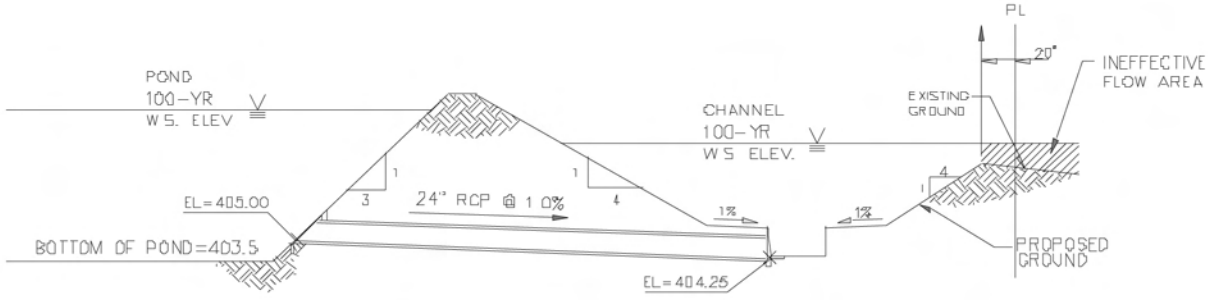

C 24" ACF for Low Flows Between Large Wetland and Tributary

NOT TO SCALE

Sheet 12 of 12. Typical Cross-sections (not to scale).