



# Public Notice

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

Applicant: City of Lufkin 4-B Economic Development  
Corporation

Permit Application No.: SWF-2009-00438

Date: November 19, 2009

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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 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. 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 associated with the construction of a commercial development in Angelina County, Lufkin, Texas.

**APPLICANT:** Mr. Jim Wehmeier  
City of Lufkin 4-B Economic Development Corporation  
P.O. Drawer 190  
Lufkin, Texas 75902-0190

**APPLICATION NUMBER:** SWF-2009-00438

**DATE ISSUED:** November 19, 2009

**LOCATION:** The proposed commercial development would be located on a 156 acre property tract northwest of the Loop 287 and Atkinson Road intersection in the City of Lufkin, Angelina County, Texas (Sheets 1 and 2 of 14). The proposed project would be located approximately at UTM coordinates 338997 East and 3470568 North on the Lufkin 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 120200 - Neches.

**OTHER AGENCY AUTHORIZATIONS:** Section 401 State Water Quality Certification

**PROJECT DESCRIPTION:** The applicant proposes to construct a commercial development, the Lufkin Industrial Rail Park, in the City of Lufkin (Sheets 8-13 of 14). The proposed project would consist of commercial and retail structures, along with supporting infrastructures, such as roads, parking areas and utilities. The purpose of the proposed project would be to provide economic development and employment opportunity and necessary services in the City of Lufkin and Angelina County. The proposed project need would be to strengthen the economic base of the City of Lufkin.

Construction of building sites and a storm water retention basin would impact reaches of Paper Mill Creek, a tributary to the Angelina River, and its adjacent wetlands and open water ponds. The applicant proposes discharging approximately 9,300 cubic yards of fill material into 3.38 acres of waters of the United States and excavate 0.64 acres of jurisdictional waters. Included in these totals are approximately 10,800 feet (2.57 acres) of intermittent stream, approximately 0.39

acre of emergent wetland and approximately 1.06 acre of open water pond (Sheets 3-7 of 14). Adverse impacts to waters of the United States would total 4.02 acres. Attachments to this notice depict the project location and geographic site information. Also depicted are approximately 0.08 acres of waters avoided and waters proposed to be impacted on the site and representative cross-sectional surveys of the project.

All surface drainage within the proposed project site is ultimately conveyed to Papermill Creek, a perennial tributary of the Angelina River. The tributaries and main stem of the stream flow in a general westerly and northerly direction through the emergent wetland and open water pond and continuing off site. The emergent wetland area is dominated by a vegetation cover of swamp smartweed (*Polygonum hydropiperoides*), rattlebox (*Sesbania drummondii*) and marsh seedbox (*Ludwegia palustris*). The Federal Emergency Management Agency (FEMA) floodplain maps indicate that the western portion of the subject property does lie within the 100-year floodplain of Papermill Creek (Sheet 5 of 14).

The applicant believes that this 156 acre tract provides the most practicable site for the proposed commercial development, considering such constraints as size, location, infrastructure availability and access to railroad transportation. There were no other comparable properties available in the proposed project vicinity with similar factors that would serve the commercial needs of the City of Lufkin.

The applicant considered a no-build and reconfigured site alternatives during the project planning process. The no-build alternative was eliminated because all investments in planning and engineering the commercial development would be lost while the purpose and need for the project would not be met. Other site configurations were discarded due to site topography and grade requirements for the treatment of stormwater runoff.

The applicant has proposed the use of best management practices (BMP's) during construction compliant with the Texas Commission on Environmental Quality (TCEQ) Storm Water Pollution Prevention Plan (SWPPP) requirements.

The applicant's proposed compensatory mitigation plan consists of the purchase 6.0 credits from the Pineywoods Mitigation Bank (PMB) to offset unavoidable adverse impacts to 4.02 acres of waters. PMB primary service area includes the area of the proposed project and would replace aquatic functions lost due the project within the Neches Hydrologic Unit and South Central Plains ecoregion.

**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 TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting 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 Angelina County where the bald eagle (*Haliaeetus leucocephalus*), Louisiana black bear (*Ursus americanus*), Louisiana pine snake (*Pituophis ruthveni*) and red-cockaded woodpecker (*Picoides borealis*) are known to occur or may occur as migrants. The red-cockaded woodpecker is an endangered species; the bald eagle has been delisted and is being monitored; The Louisiana black bear is a threatened species; and the Louisiana pine snake is a candidate for listing. 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. The project area is currently being researched for any historical and/or cultural significance. Upon completion of the research, and pending its discoveries, the application information will be supplemented.

**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.

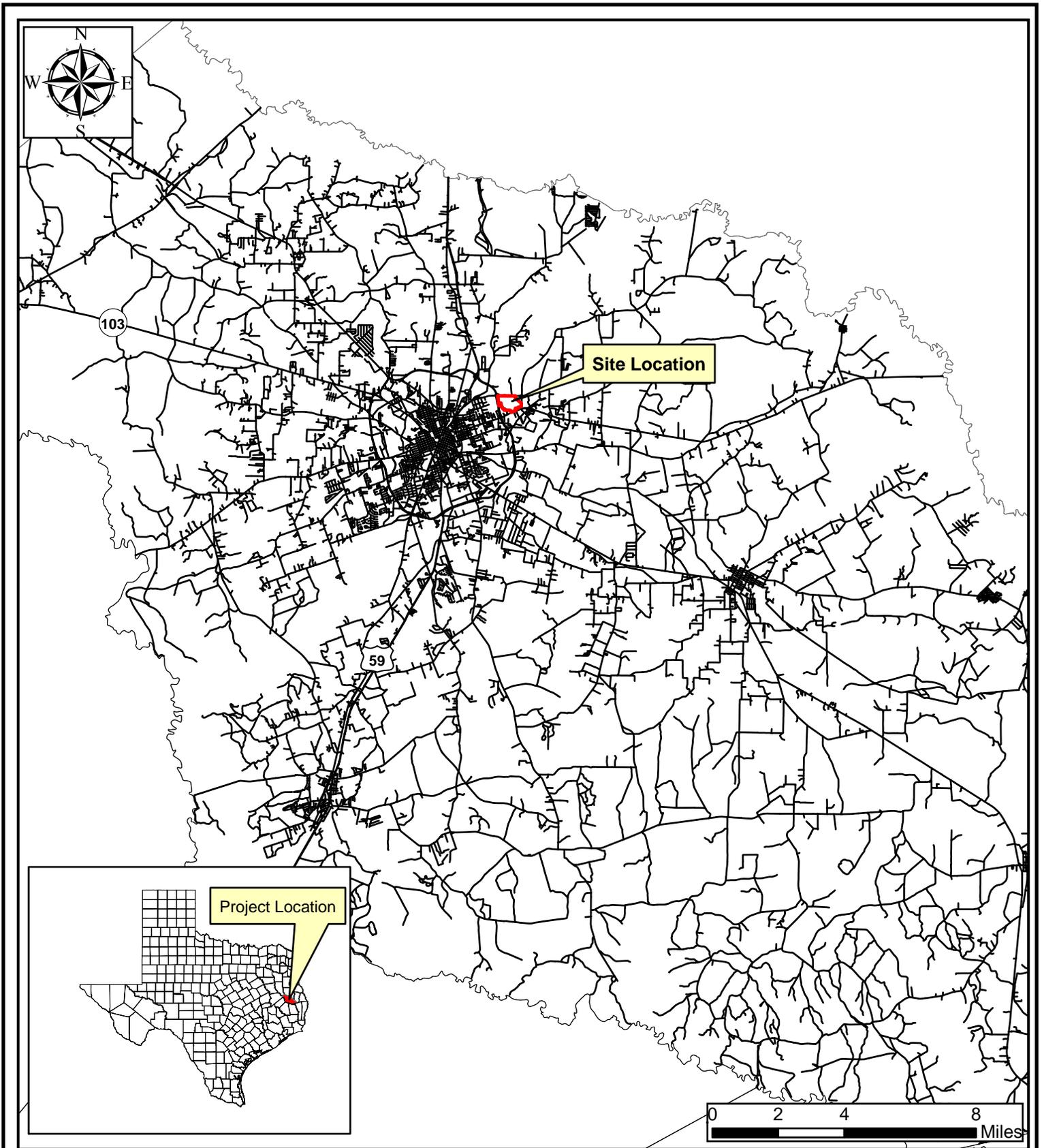
**SOLICITATION OF COMMENTS:** The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should 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 December 21, 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 ; 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



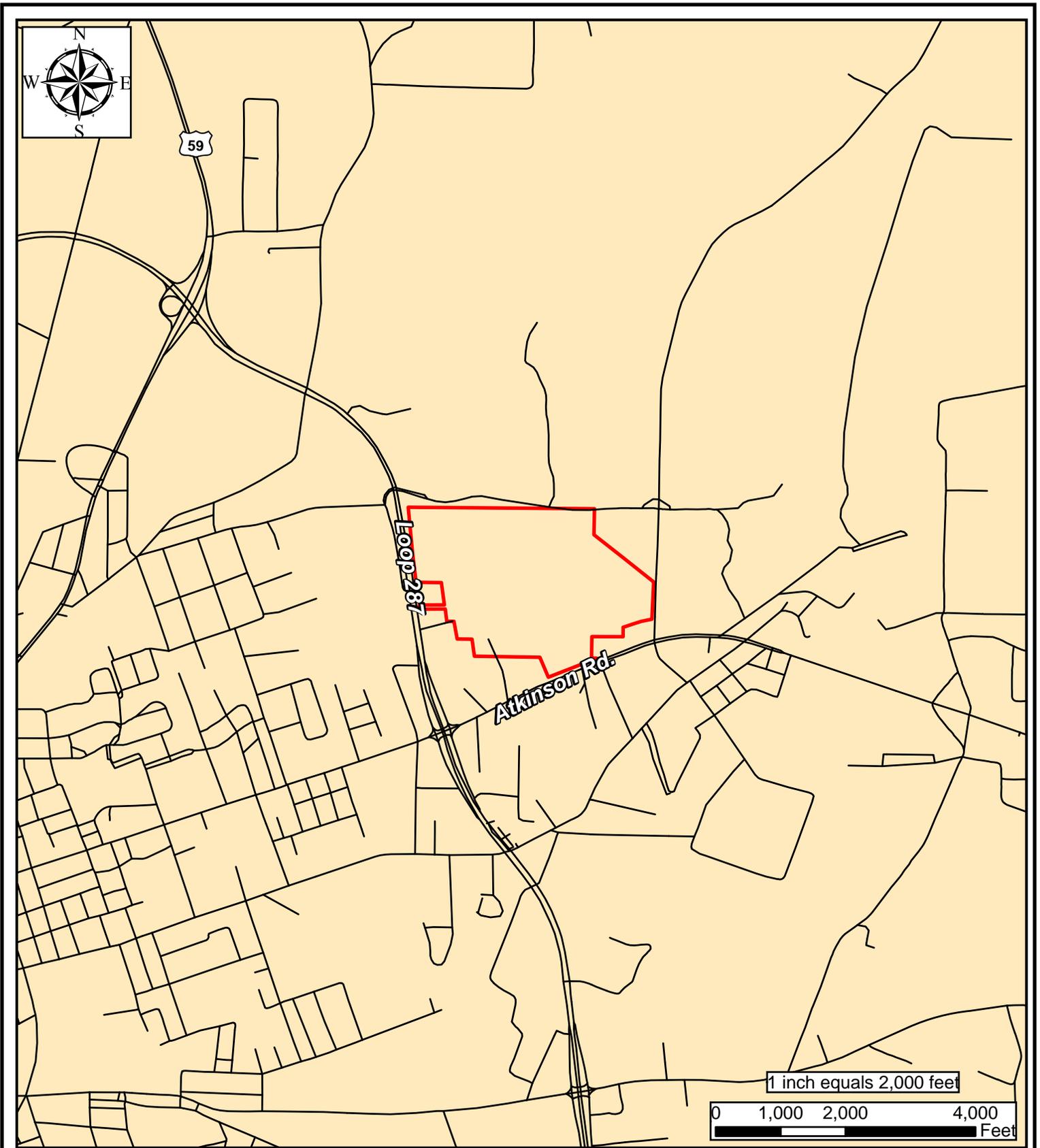
**SITE LOCATION REGIONAL MAP**

Project #: **6631p**  
 For: **City of Lufkin 4-B Economic Development Corporation**  
 Location: **Loop 287 & Atkinson Rd.**  
**Lufkin, Angelina County, Texas**

*Revisions*  
 Nov. 17, 2009 by MDB  
 #1 of 14

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 14701 ST. MARY'S LANE, SUITE 400 HOUSTON, TX 77079  
 PHONE (281) 589-0898 <http://www.bergoliver.com>





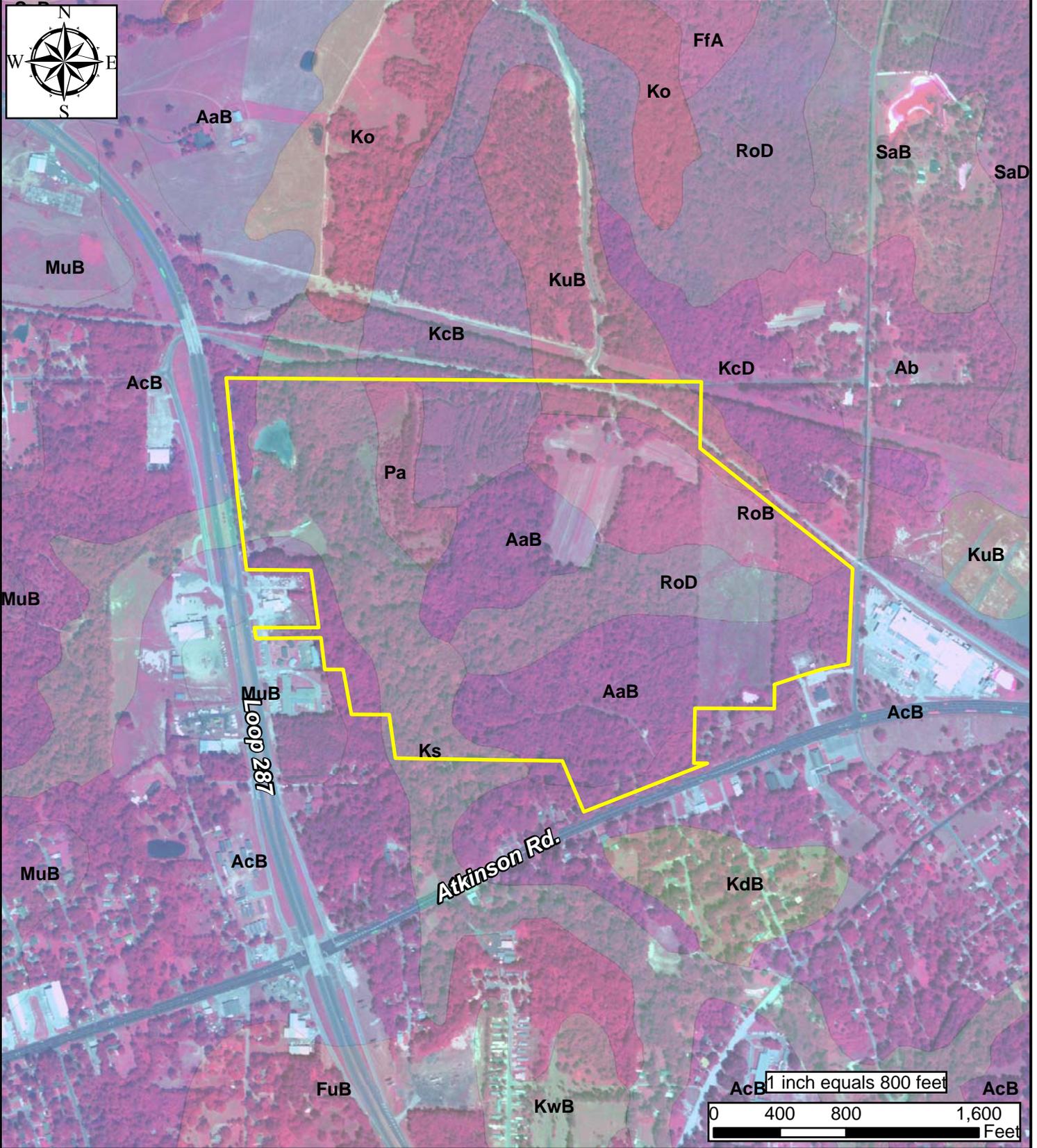
**USGS TOPOGRAPHY AERIAL  
SITE LOCATION MAP**

**Project #:** 6631  
**For:** City of Lufkin 4-B Economic Development Corporation  
**Location:** Loop 287 & Atkinson Rd.  
 Lufkin, Angelina County, Texas

*Revisions*  
 Nov. 17, 2009 by MDB  
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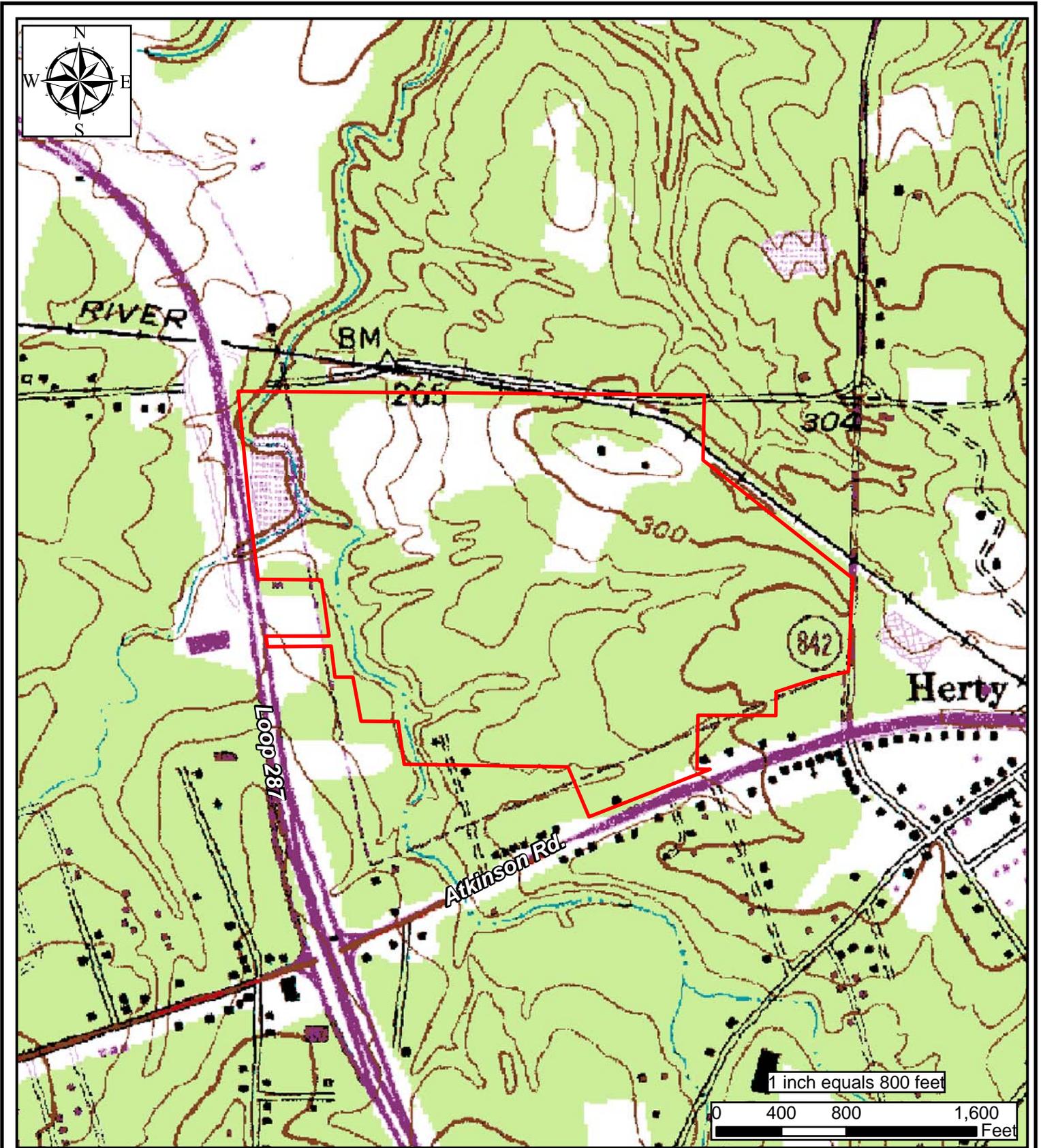
***NRCS SOILS ON 2004 INFRARED AERIAL  
SITE LOCATION MAP***

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 For: **City of Lufkin 4-B Economic Development Corporation**  
 Location: **Loop 287 & Atkinson Rd.**  
**Lufkin, Angelina County, Texas**

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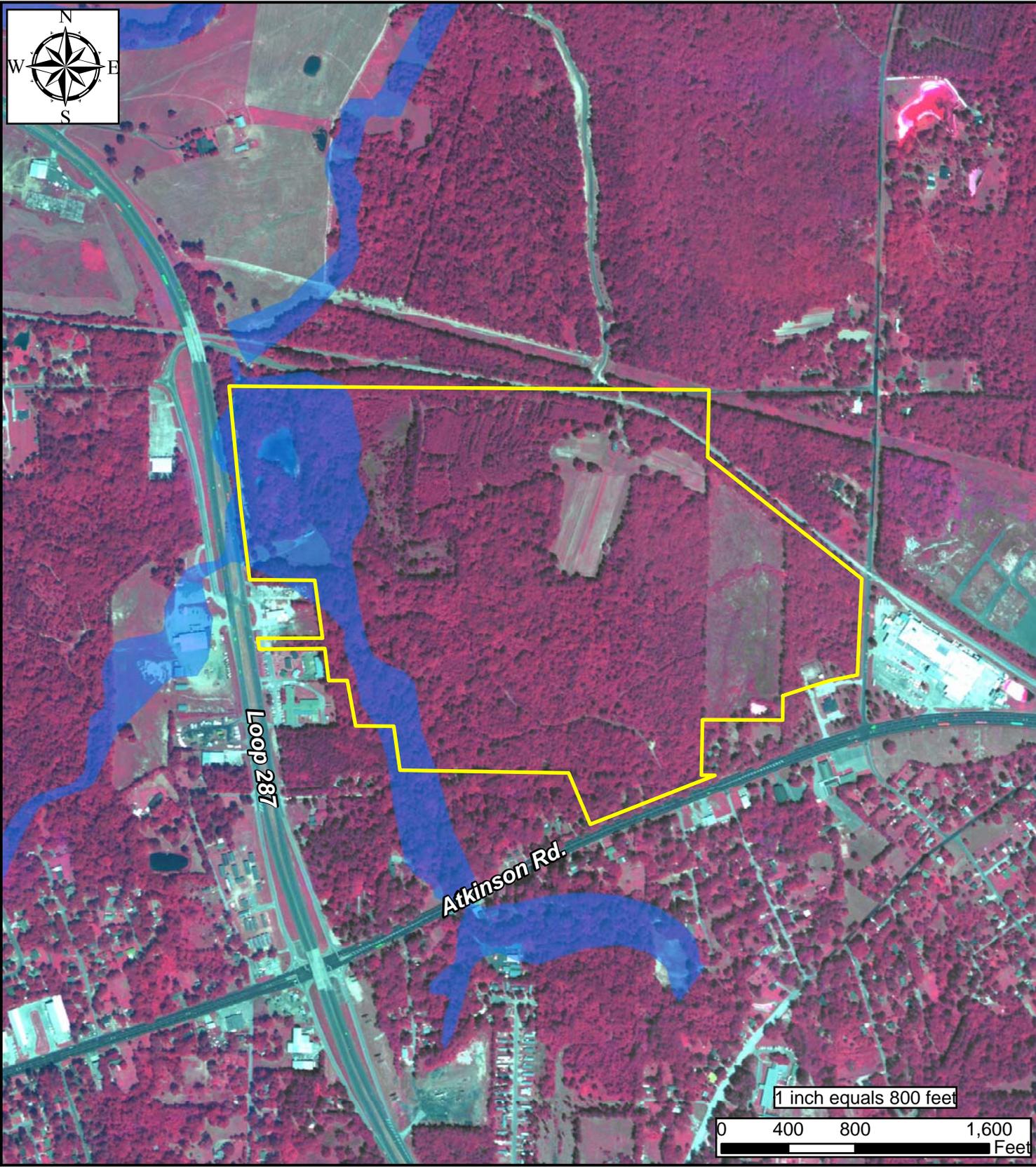
**USGS TOPOGRAPHY AERIAL  
SITE LOCATION MAP**

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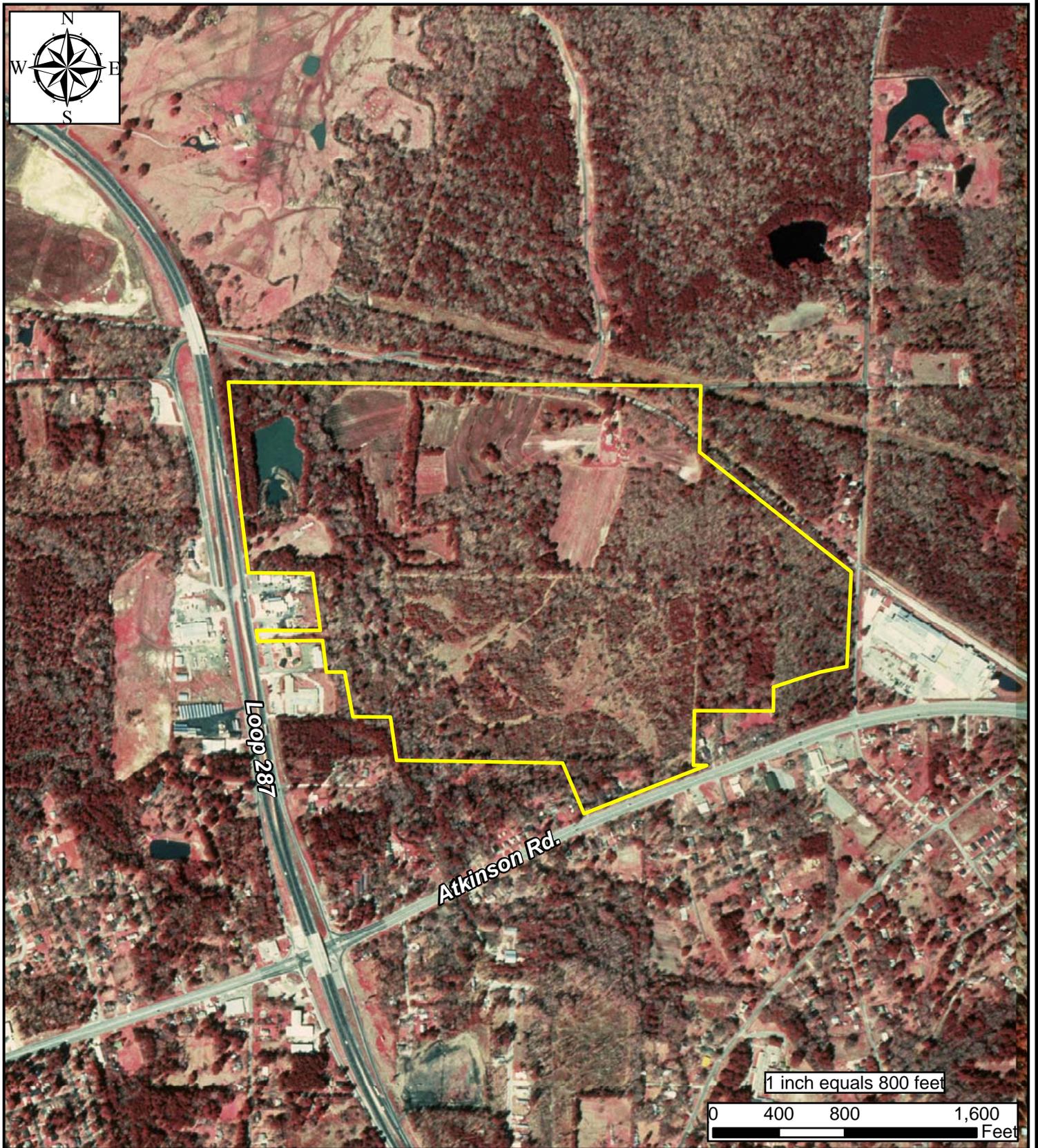
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**FEMA 100-YEAR FLOODPLAIN ON 2004 INFRARED AERIAL  
SITE LOCATION MAP**

<b>Project #:</b>	<b>6631</b>	<i>Revisions</i>	<b>BERG•OLIVER ASSOCIATES, INC.</b>	
<b>For:</b>	<b>City of Lufkin 4-B Economic Development Corporation</b>	Nov. 17, 2009 by MDB	<b>ENVIRONMENTAL SCIENCE, ENGINEERING &amp; LAND USE CONSULTANTS</b>	
<b>Location:</b>	<b>Loop 287 &amp; Atkinson Rd.</b>	#5 of 14	14701 ST. MARY'S LANE, SUITE 400 HOUSTON, TX 77079	
	<b>Lufkin, Angelina County, Texas</b>		PHONE (281) 589-0898 <a href="http://www.bergoliver.com">http://www.bergoliver.com</a>	



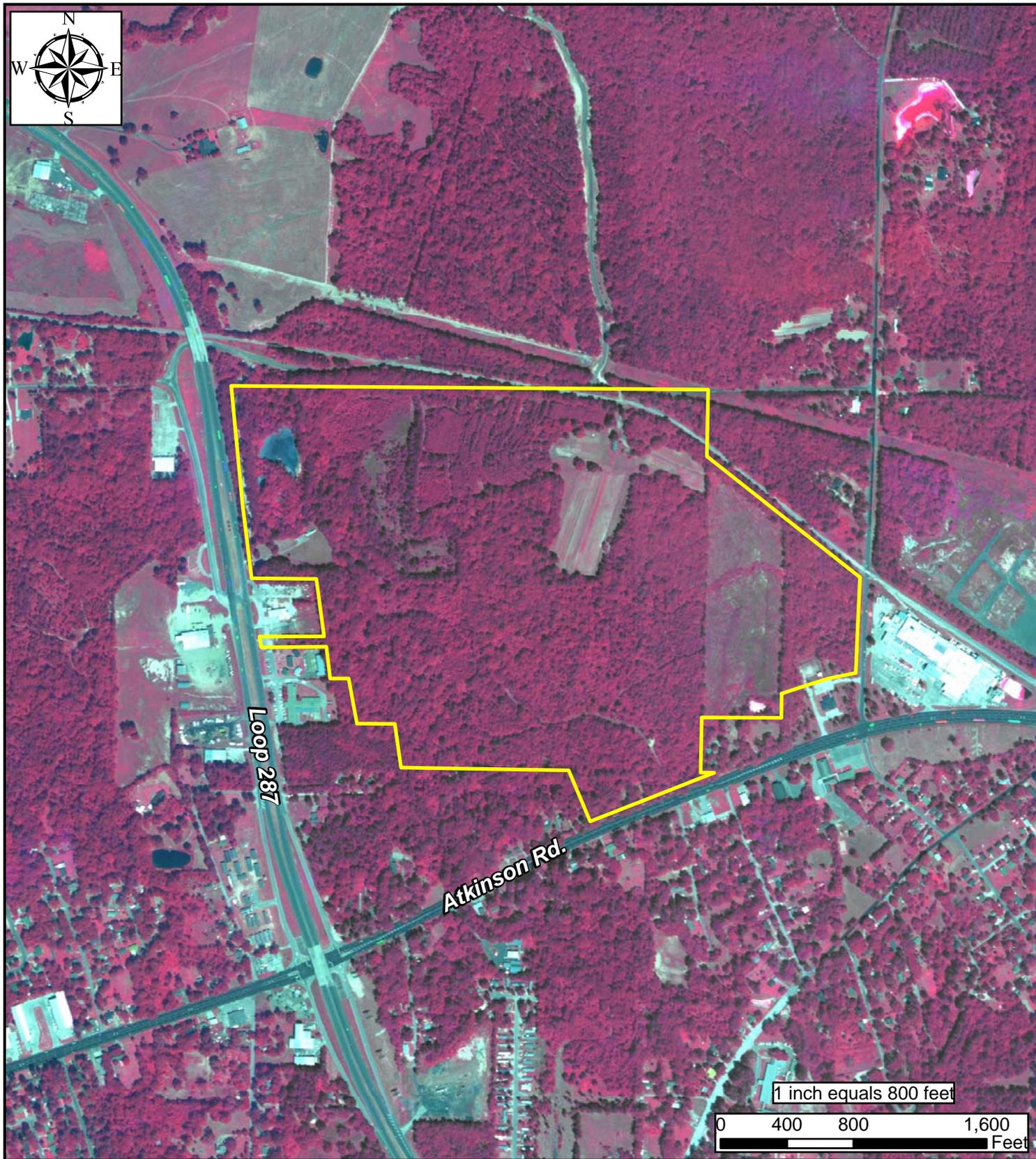
**1995 INFRARED AERIAL  
SITE LOCATION MAP**

<b>Project #:</b>	<b>6631</b>
<b>For:</b>	<b>City of Lufkin 4-B Economic Development Corporation</b>
<b>Location:</b>	<b>Loop 287 &amp; Atkinson Rd. Lufkin, Angelina County, Texas</b>

<i>Revisions</i>
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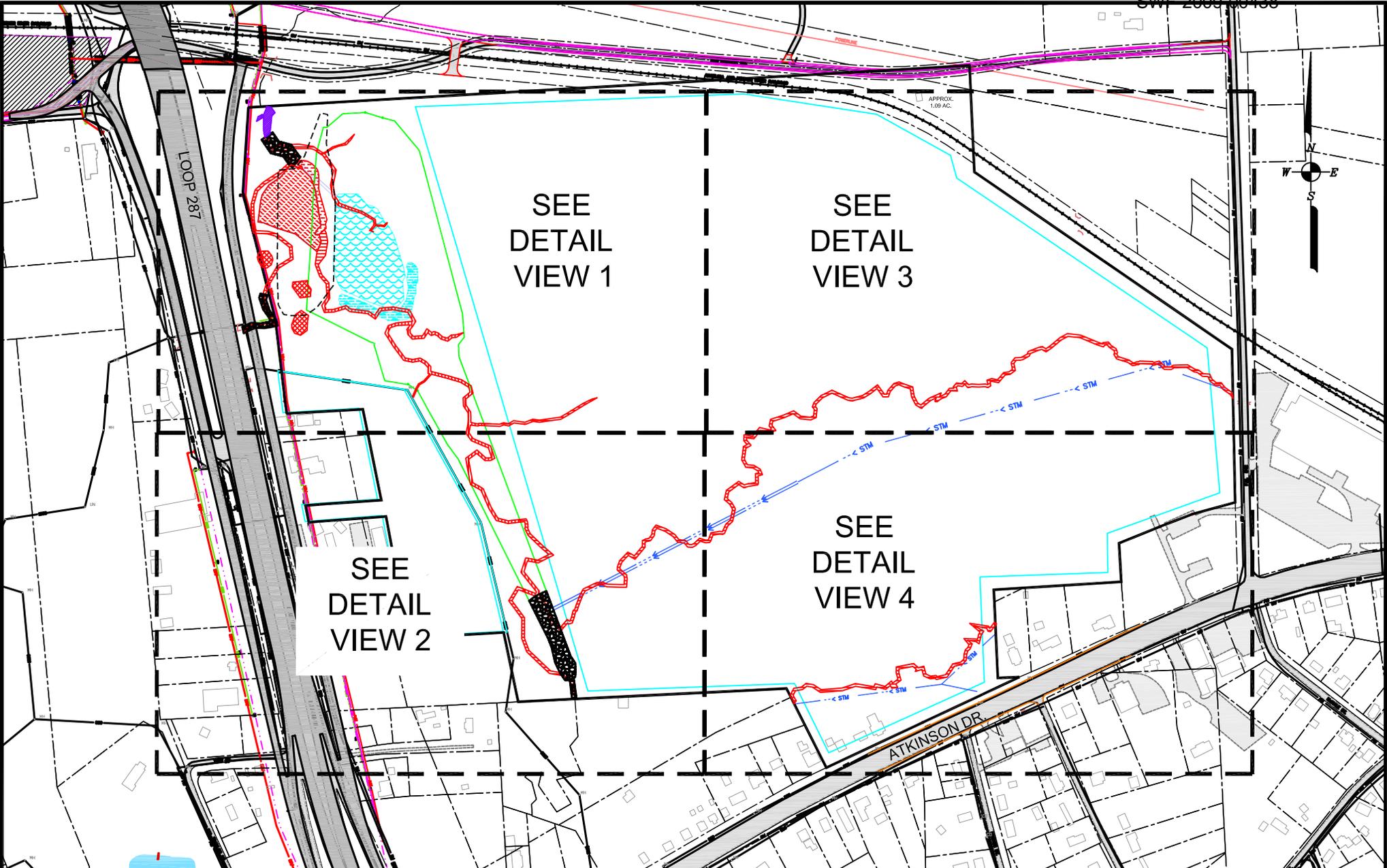
**2004 INFRARED AERIAL  
SITE LOCATION MAP**

<b>Project #:</b>	<b>6631</b>
<b>For:</b>	<b>City of Lufkin 4-B Economic Development Corporation</b>
<b>Location:</b>	<b>Loop 287 &amp; Atkinson Rd. Lufkin, Angelina County, Texas</b>

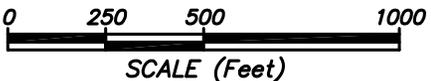
<i>Revisions</i>
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**PROPOSED SITE DEVELOPMENT  
OVERVIEW**

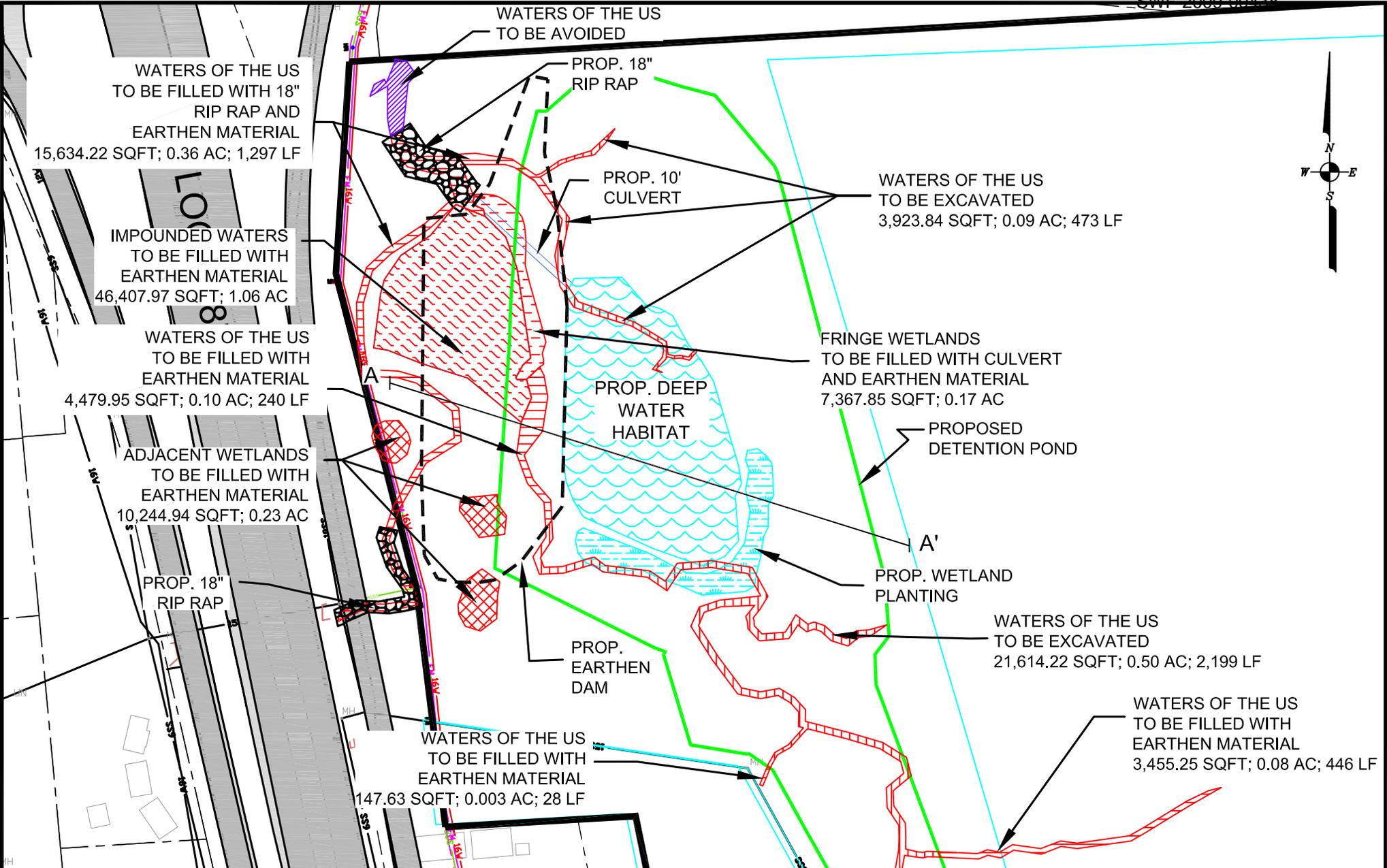


**PROJECT #:** 6631P  
**FOR:** CITY OF LUFKIN 4-B ECONOMIC DEVELOPMENT CORPORATION  
**LOCATION:** LOOP 287 & SH 103  
 ANGELINA COUNTY, TEXAS

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**PROPOSED SITE DEVELOPMENT  
DETAIL VIEW 1**

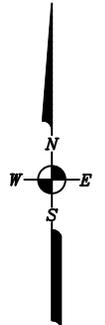
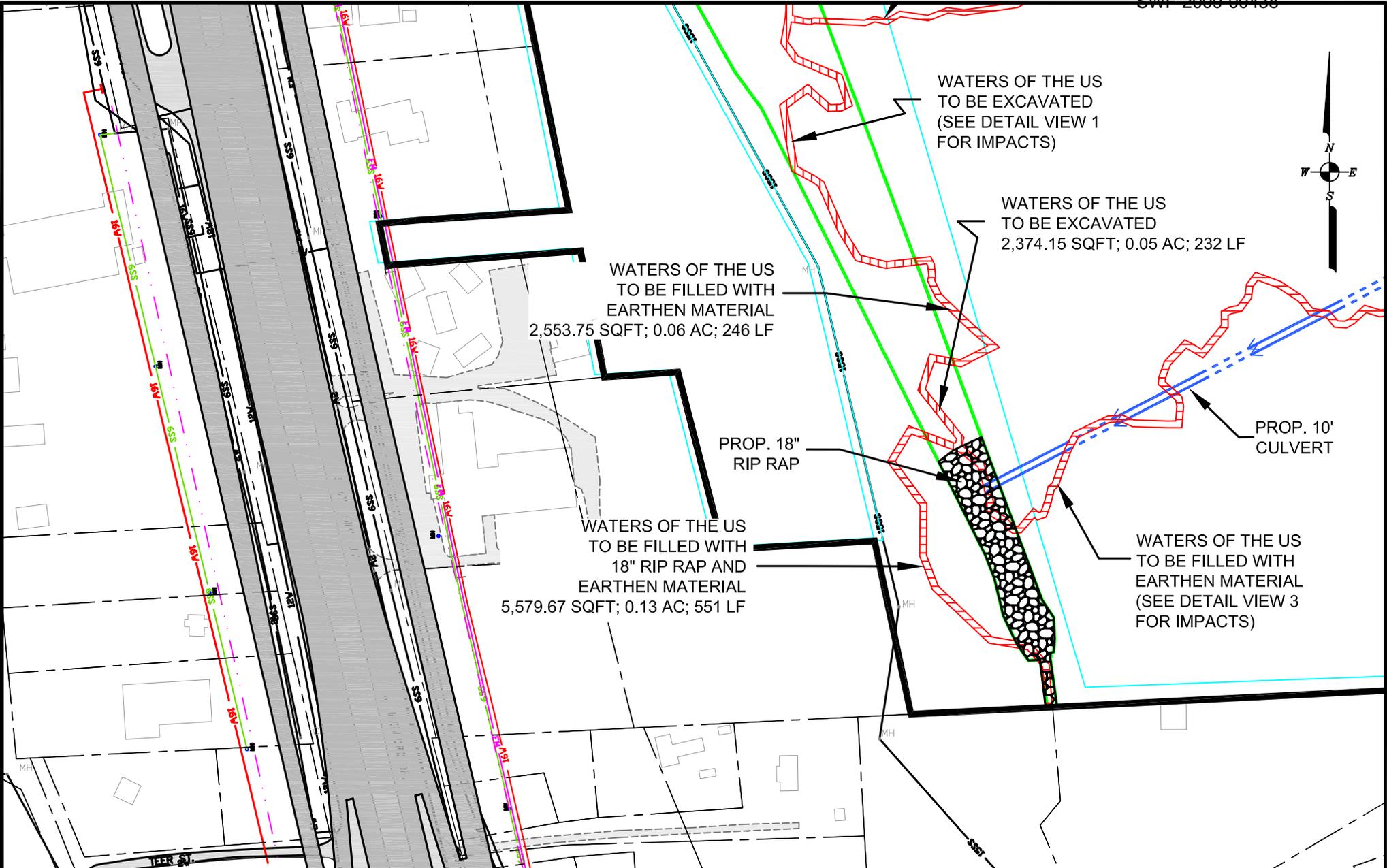


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**LOCATION:** LOOP 287 & SH 103  
 ANGELINA COUNTY, TEXAS

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**PROPOSED SITE DEVELOPMENT  
DETAIL VIEW 2**



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**LOCATION:** LOOP 287 & SH 103  
 ANGELINA COUNTY, TEXAS

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APPROX.  
1.09 AC.



WATERS OF THE US  
TO BE FILLED  
WITH EARTHEN MATERIAL  
40,728.99 SQFT; 0.93 AC; 3,975 LF

PROP. 10'  
CULVERT

### PROPOSED SITE DEVELOPMENT DETAIL VIEW 3

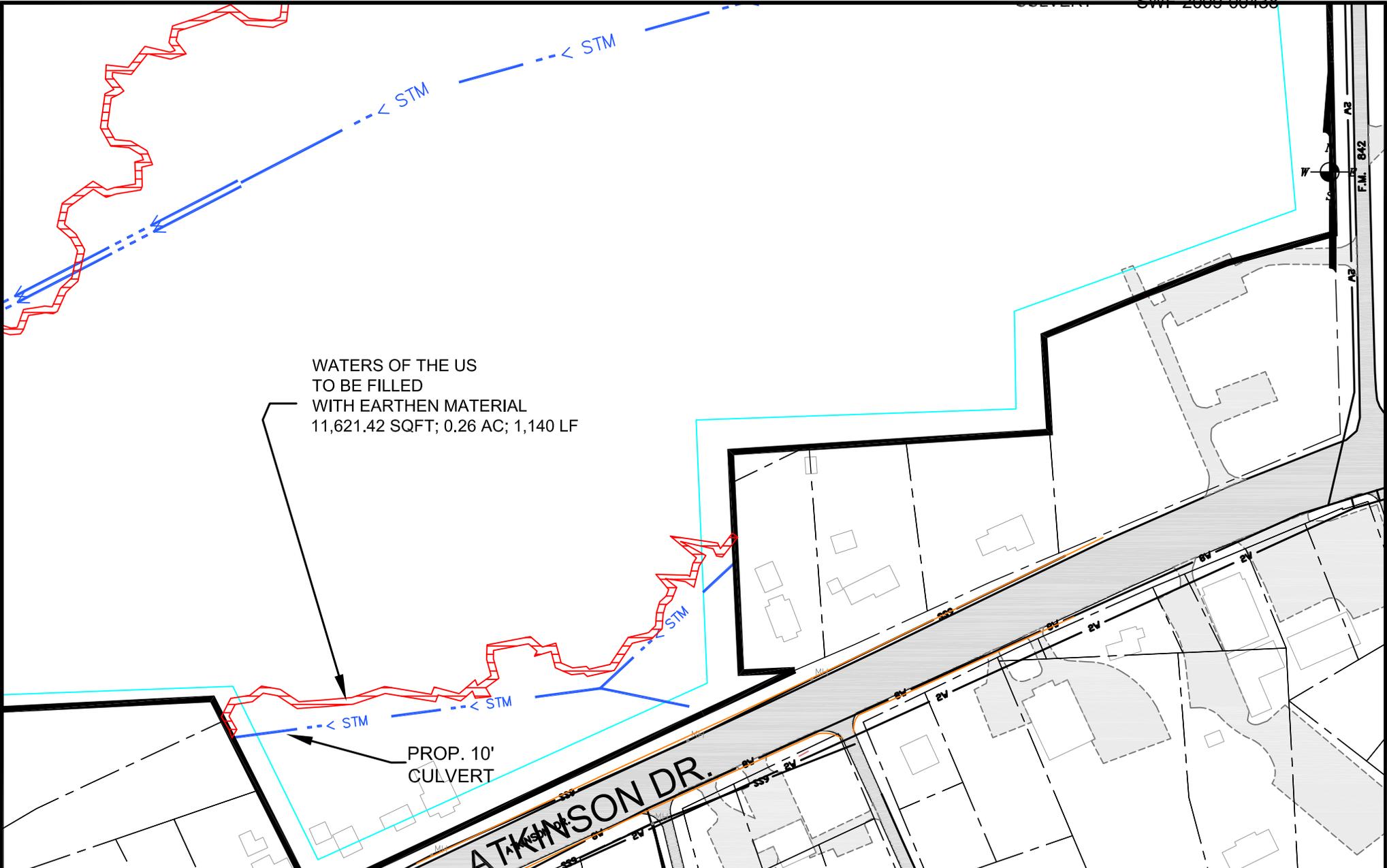


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**FOR:** CITY OF LUFKIN 4-B ECONOMIC DEVELOPMENT CORPORATION  
**LOCATION:** LOOP 287 & SH 103  
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**PROPOSED SITE DEVELOPMENT  
DETAIL VIEW 4**



**PROJECT #:** 6631P  
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**LOCATION:** LOOP 287 & SH 103  
 ANGELINA COUNTY, TEXAS

REVISIONS:
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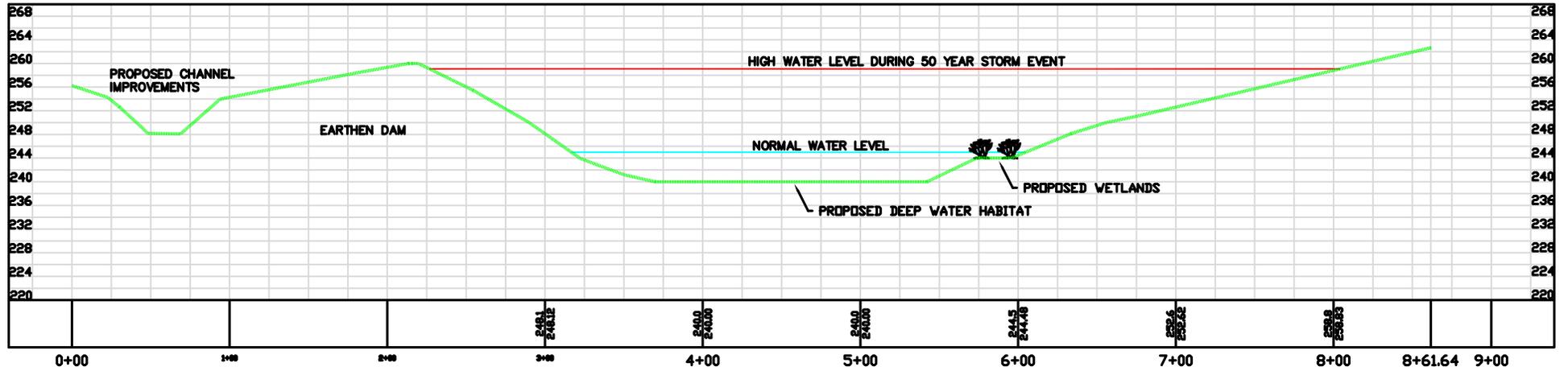
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A

A'

POND SECTION A-A PROFILE



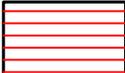
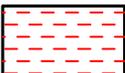
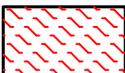
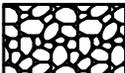
**PROPOSED CROSS SECTION  
A-A'**

**PROJECT #:** 6631P  
**FOR:** CITY OF LUFKIN 4-B ECONOMIC DEVELOPMENT CORPORATION  
**LOCATION:** LOOP 287 & SH 103  
 ANGELINA COUNTY, TEXAS

REVISIONS:
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LEGEND		ACREAGE
	WATERS OF THE UNITED STATES TO BE AVOIDED (JURISDICTIONAL)	0.08
<b>TOTAL JURISDICTIONAL ACREAGE TO BE AVOIDED</b>		<b>00.08</b>
	WATERS OF THE UNITED STATES TO BE FILLED (JURISDICTIONAL)	1.923 (7,923 LF)
	ADJACENT WETLANDS TO BE FILLED (JURISDICTIONAL)	0.23
	FRINGE WETLANDS TO BE FILLED (JURISDICTIONAL)	0.17
	IMPOUNDED WATERS TO BE FILLED (JURISDICTIONAL)	1.06
<b>TOTAL JURISDICTIONAL ACREAGE TO BE FILLED</b>		<b>3.383</b>
	WATERS OF THE UNITED STATES TO BE EXCAVATED (JURISDICTIONAL)	0.64 (2,904 LF)
<b>TOTAL JURISDICTIONAL ACREAGE TO BE EXCAVATED</b>		<b>0.64</b>
	RIP RAP	
	EARTHEN DAM	

**NOTES AND LEGEND PAGE**

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REVISIONS:
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