



Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
1645 South 101st East Avenue
Tulsa, OK 74128-4609

SWT-2008-684
Public Notice No.

December 14, 2009
Public Notice Date

January 13, 2010
Expiration Date

PURPOSE

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

SECTION 10

The U.S. Army Corps of Engineers is directed by Congress through 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 through Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

NOTICE TO PUBLISHERS

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DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, TULSA DISTRICT
1645 SOUTH 101ST EAST AVENUE
TULSA, OKLAHOMA 74128-4609

Application No. SWT-2008-684

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS (CORPS)
TULSA AND FORT WORTH DISTRICTS
30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received a proposal to create an approximately 1,672-acre wetland mitigation bank known as the Pecan Bayou Mitigation Bank, Mud Creek Unit (PBMB, MCU). The purpose of this work is the creation of a mitigation bank.

Name of Applicant: Mr. J. L. Woolley
DeKalb Highway 259, LLC
c/o Triple J Investments, Inc
430 North Center Street
Longview, TX 75601

Name of Agent: Mr. Allen McReynolds, President
Mitigation Strategies, LLC
Post Office Box 2862
Longview, TX 75606

Location: The proposed mitigation bank consists of one tract of land located at Lat 33.546988°, Lon - 94.632432° north of De Kalb, Bowie County, Texas. The proposed band is east of Highway 259, west of Farm to Market 2735, and north of County Road 3213. The project site can be found on the Oak Grove and De Kalb, Texas, 7.5 Minute USGS Quadrangle maps.

Project Description: The proposed PBMB, MCU consists of one tract of land totaling 1,672 acres. The land is currently being utilized as a pine plantation and hunting lease. Prior disturbances and historic photographs indicate the site has been under some form of active agriculture and/or timber production. The proposed bank has been actively managed as a pine plantation since 1996. Since that time, all but approximately 330 acres of a mature bottomland hardwood forest have been converted to pine forest. Hydrology within the unit consists of precipitation and sheet flow from the surrounding area. This area is relatively flat with less than 10 feet of elevation change over the entire project site according to the USGS 7.5 minute quadrangle map.

The soils in the proposed PBMB, MCU are dominated by the Wrightsville-Rodessa soil complex. This classification makes up over 95 percent of the soils within the proposed unit. The U.S. Department of Agriculture, Natural Resources Conservation Service characterizes this soil as deep, poorly drained, and loamy with slopes ranging from 0 to 1 percent. Other soils within the area are Annona Loam and McKamie Loam.

Project Setting: The proposed mitigation bank is located within the South Central Plains EPA Ecoregion (Level III). It lies within the Atlantic and Gulf Coastal Plain Region, supplement to the Corps Wetland Determination Manual.

The bank sponsor proposes a primary service area and secondary service area. The proposed primary service area of the proposed mitigation bank, would be the Pecan-Waterhole Water shed – HUC 11140106 in Bowie, Red River, and Lamar Counties within the Tulsa District within Texas. The proposed secondary service area is to include a portion of the Sulfur River Basin to include Grayson, Fannin, and Lamar Counties in Texas with the Fort Worth District.

A mitigation banking instrument (MBI) would be developed in accordance with Compensatory Mitigation for Losses of Aquatic Resources (Federal Register, April 10, 2008, Vol.73, No. 70, pp 19670-19705). The MBI would detail the legal and physical characteristics of the bank, proposed bank establishment and operational requirements. Subjects addressed in detail in the MBI would include development of the site, service area, credit determination, financial assurances, scope of agreement, purpose and goals of the bank, baseline conditions, performance standards, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of bank ownership or sponsorship. The Corps, U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), Texas Commission on Environmental Quality, Railroad Commission of Texas, and Texas Parks and Wildlife Department, who comprise the Interagency Review Team (IRT), would be involved in developing the MBI and may be signatories to the final document.

Implementation of the proposed mitigation work would require Department of Army Authorization under Section 404 of the Clean Water Act. Based on preliminary evaluation by the Corps, it appears the proposed bank may be authorized by Nationwide Permit 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 9). The application is on file and may be viewed during normal working hours at the Tulsa District, U.S. Army Corps of Engineers, 1645 South 101st East Avenue, Tulsa, Oklahoma. If additional information is desired, it may be obtained from Mr. Dale Davidson, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

Prospectus: This notice is a summary of the completed prospectus. A copy of the full prospectus is available to the public upon request. Copies of comments from this public notice will be forwarded to the IRT members and sponsor at the close of this notice. If a Department of Army permit is required, this notice satisfies the public notice provision of the permit processing provision.

Cultural Resources: The DE has consulted the National Register of Historic Places (Register), and it has been determined that there are no properties currently listed in the Register which would be directly affected by the proposed work. The DE has also consulted the listing of Eligibility Determinations for Texas and determined that the proposed project is not in the vicinity of properties eligible for listing. This public notice is also being sent to the State Historic Preservation Officer and to Native American Tribal Governments to reveal if other known historic or archeological resources that might be eligible for listing in the National Register exist in the project area and which could be directly affected by the proposed work. This coordination is being done to fulfill our requirements under the National Historic Preservation Act of 1966 and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which might be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 (Public Law 89-665), as amended, and 36 CFR Part 800, in accordance with implementing regulations 33 CFR 325, Appendix C.

The DE has consulted the National Register of Historic Places regarding the potential effects from the proposed action. The DE will comply with the requirements of the National Historic Preservation Act for any known or presently unknown historic or archeological resources that may exist in the project vicinity and which could be directly affected by the proposed work. This public notice is being sent to all known interested persons in order to allow the public an opportunity to comment on this bank proposal and to assist the Corps and the 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.

Threatened and Endangered Species: The following Federally-listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: Bald Eagle (*Haliaeetus leucocephalus*), Least Tern (*Sterna antillarum*), and Louisiana Black Bear (*Ursus americanus luteolus*). A copy of this notice is being furnished to the USFWS and appropriate Federal and State agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Our preliminary determination is that the proposed activity will not affect listed Threatened or Endangered Species or their critical habitat.

Flood Plain Management: The Corps 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.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the National concern for both protection and utilization of important resources. The benefit 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 the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the EPA's 404(b)(1) guidelines. Subject to the 404(b)(1) guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: The Corps 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. Comments concerning the issuance of this permit should be received by the DE not later than 30 days from the date of this public notice. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, 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

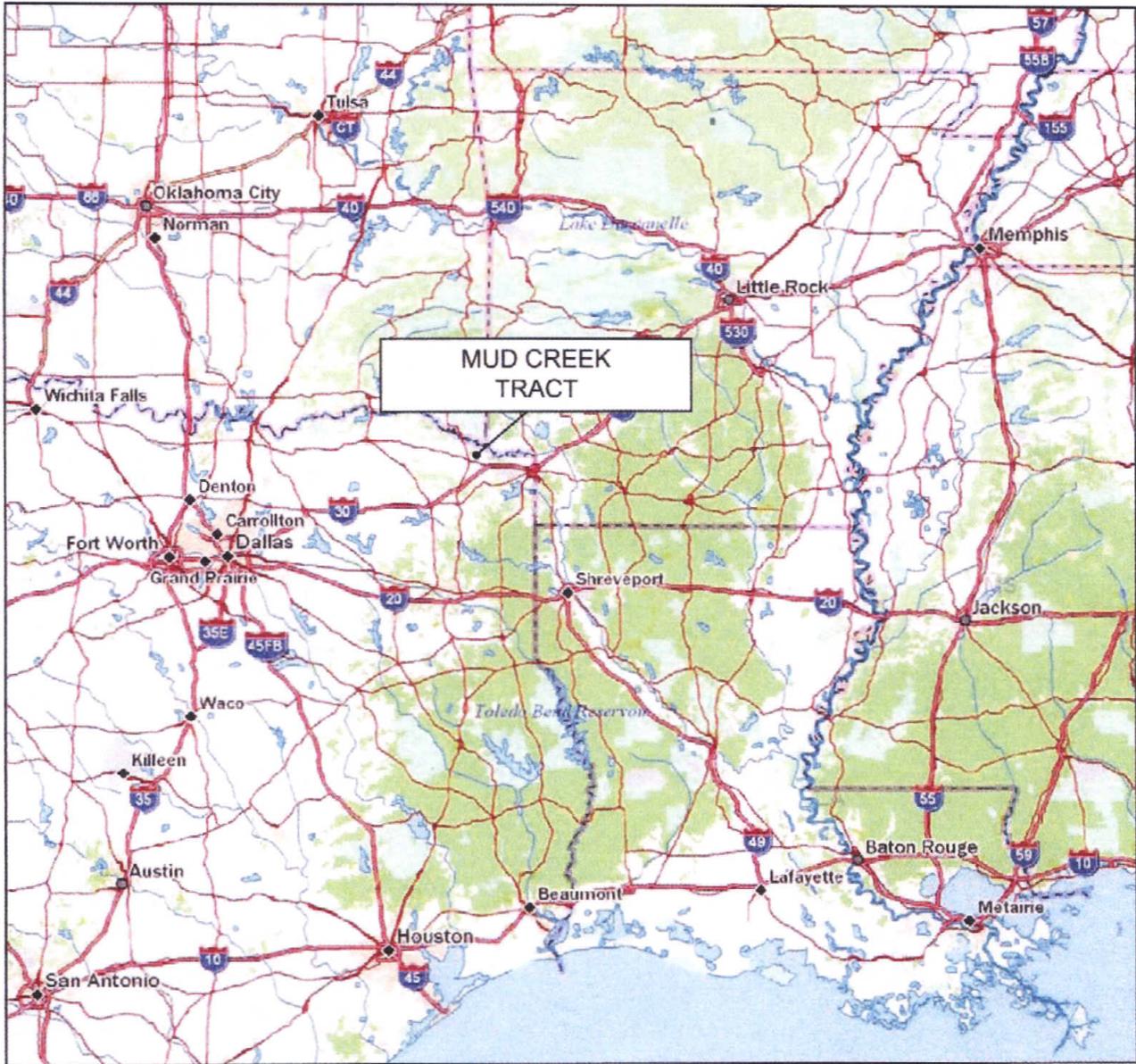
the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.



David A. Manning
Chief, Regulatory Office

Enclosures

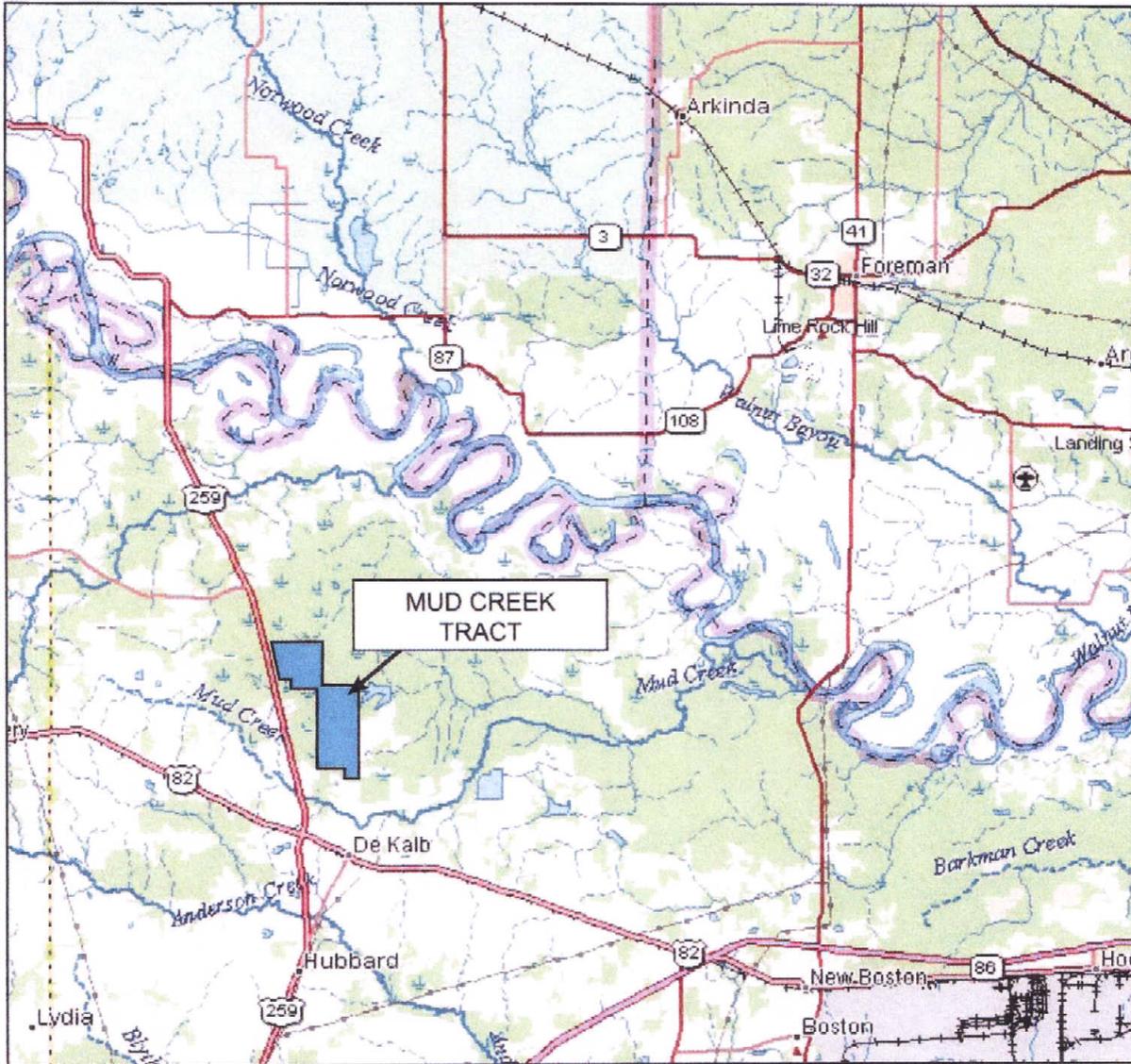
SWT-2008-0684
De Kalb Highway 259, LLC
Pecan Bayou Mitigation Bank, Mud Creek Unit
Enclosure 1 of 9



SHEET 1
VICINITY MAP OF THE PECAN BAYOU MITIGATION BANK
DEKALB, BOWIE COUNTY TEXAS

		<p>MITIGATION STRATEGIES LLC P.O. BOX 2862 LONGVIEW, TX 75606</p>
APPLICANT: MITIGATION STRATEGIES, LLC	USACE PROJECT NUMBER: ORK-202008-684	DATE: 08/20/2009

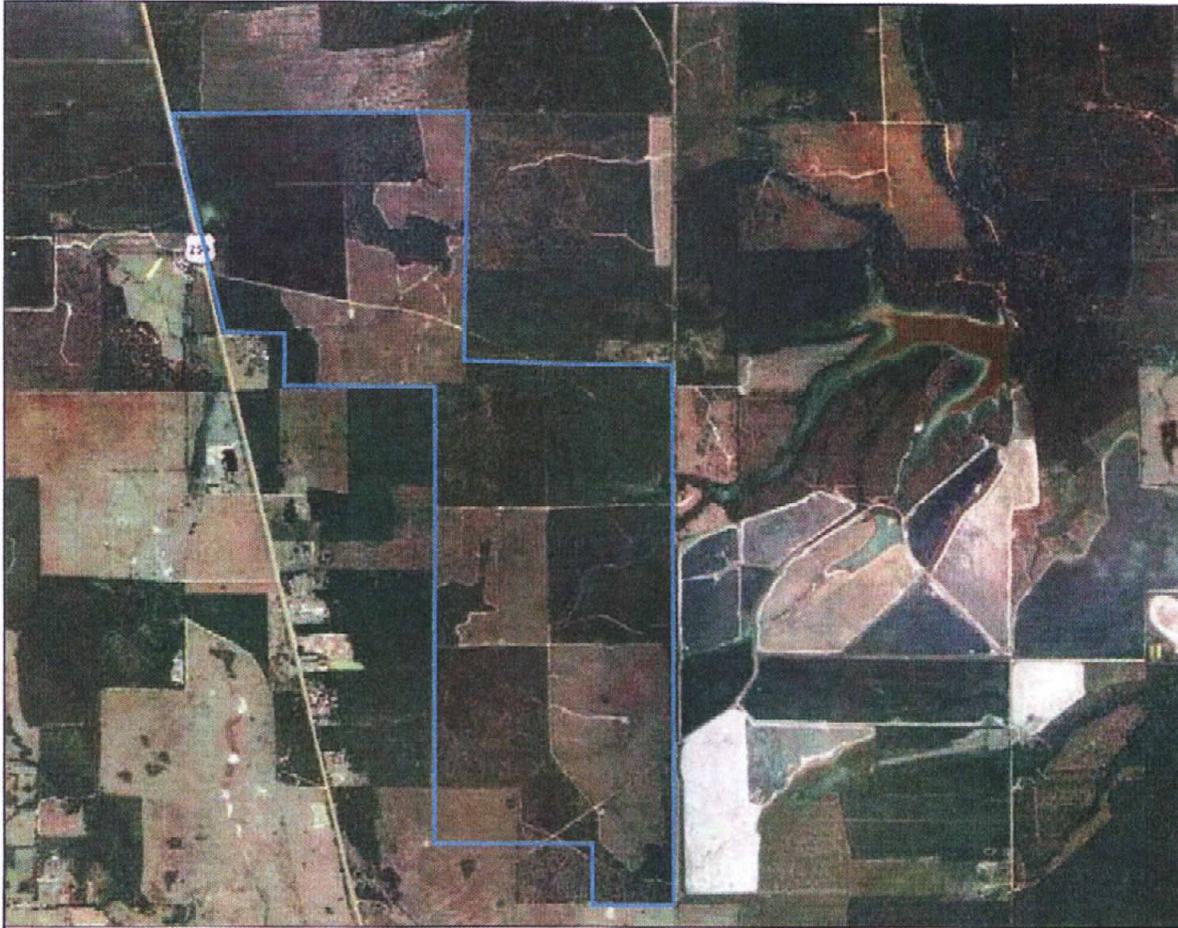
SWT-2008-0684
De Kalb Highway 259. LLC
Pecan Bayou Mitigation Bank, Mud Creek Unit
Enclosure 2 of 9



SHEET 2
LOCATION MAP OF THE PECAN BAYOU MITIGATION BANK
DEKALB, BOWIE COUNTY TEXAS

APPLICANT: MITIGATION STRATEGIES, LLC	USACE PROJECT NUMBER: ORK-202008-684	MITIGATION STRATEGIES LLC P.O. BOX 2862 LONGVIEW, TX 75606
		DATE: 08/20/2009

SWT-2008-0684
De Kalb Highway 259, LLC
Pecan Bayou Mitigation Bank, Mud Creek Unit
Enclosure 4 of 9



AERIAL PHOTOGRAPH OF MUD CREEK TRACT, PECAN BAYOU MITIGATION BANK
LOCATED ON FLAT UPLAND DIVIDE BETWEEN MUD CREEK AND HOLLY CREEK, TRIBUTARIES OF THE RED RIVER.

SHEET 4
AERIAL MAP OF THE PECAN BAYOU MITIGATION BANK
DEKALB, BOWIE COUNTY TEXAS



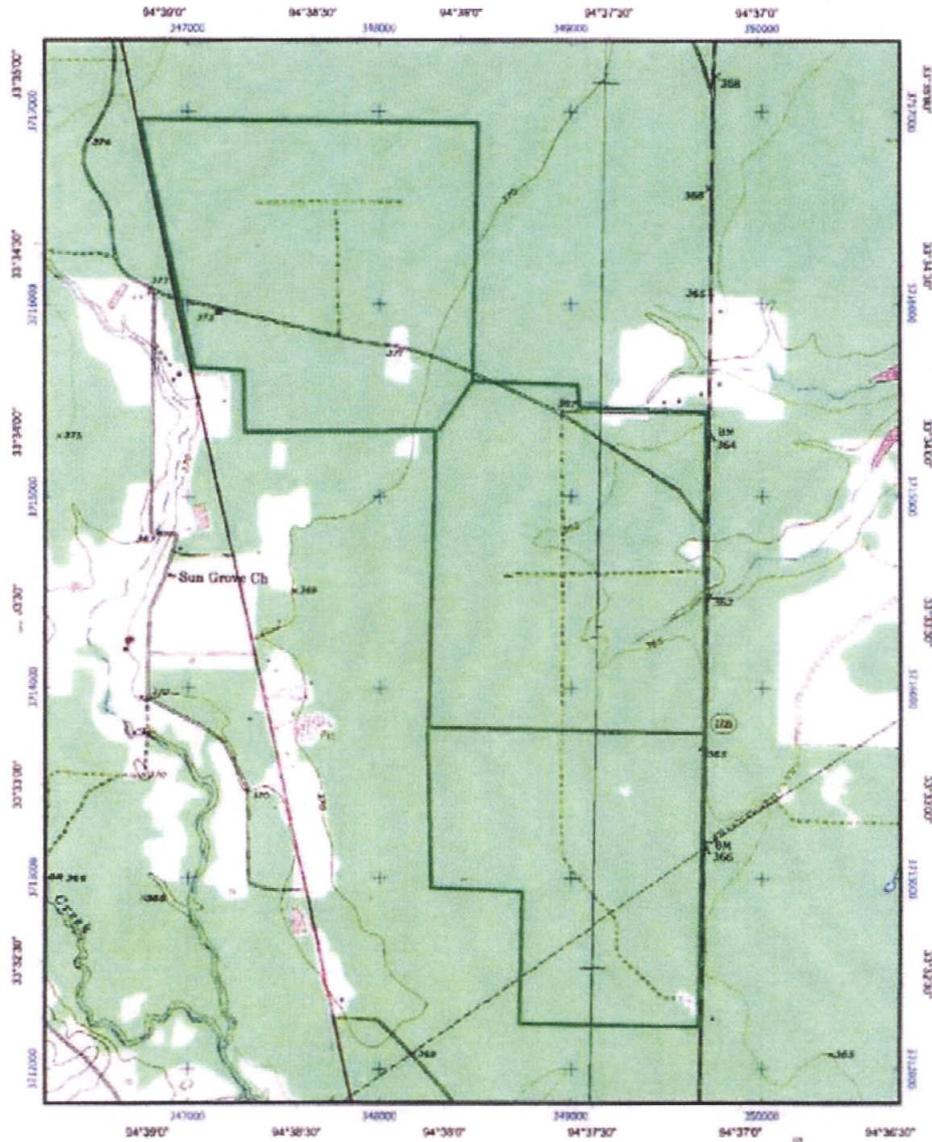
MITIGATION
STRATEGIES LLC
P.O. BOX 2862
LONGVIEW, TX 75606

APPLICANT:
MITIGATION STRATEGIES, LLC

USACE PROJECT NUMBER: ORK-202008-684

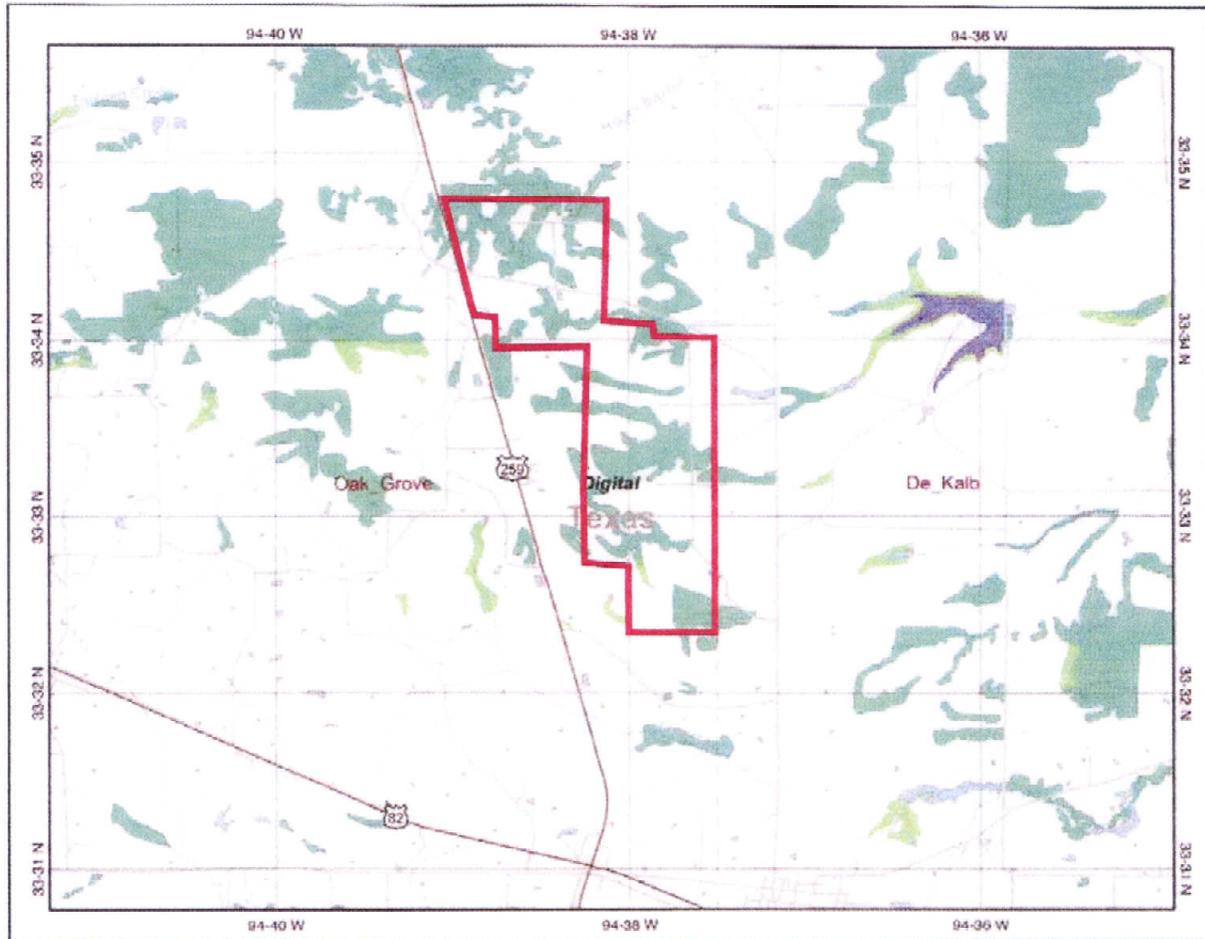
DATE:
08/20/2009

SWT-2008-0684
 De Kalb Highway 259. LLC
 Pecan Bayou Mitigation Bank, Mud Creek Unit
 Enclosure 5 of 9



SHEET 5
 TOPO MAP OF THE PECAN BAYOU MITIGATION BANK
 DEKALB, BOWIE COUNTY TEXAS

<p>APPLICANT: MITIGATION STRATEGIES, LLC</p> <p>USACE PROJECT NUMBER: ORK-202008-684</p>		<p>MITIGATION STRATEGIES LLC P.O. BOX 2862 LONGVIEW, TX 75606</p>
<p>DATE: 08/20/2009</p>		



- | | |
|---------------------------|-----------------------------------|
| Interstate | Estuarine and Marine Deepwater |
| Major Roads | Estuarine and Marine Wetland |
| Other Road | Freshwater Emergent Wetland |
| Interstate | Freshwater Forested/Shrub Wetland |
| State highway | Freshwater Pond |
| US highway | Lake |
| Roads | Other |
| Cities | Riverine |
| USGS Quad Index 24K | |
| Lower 48 Wetland Polygons | |

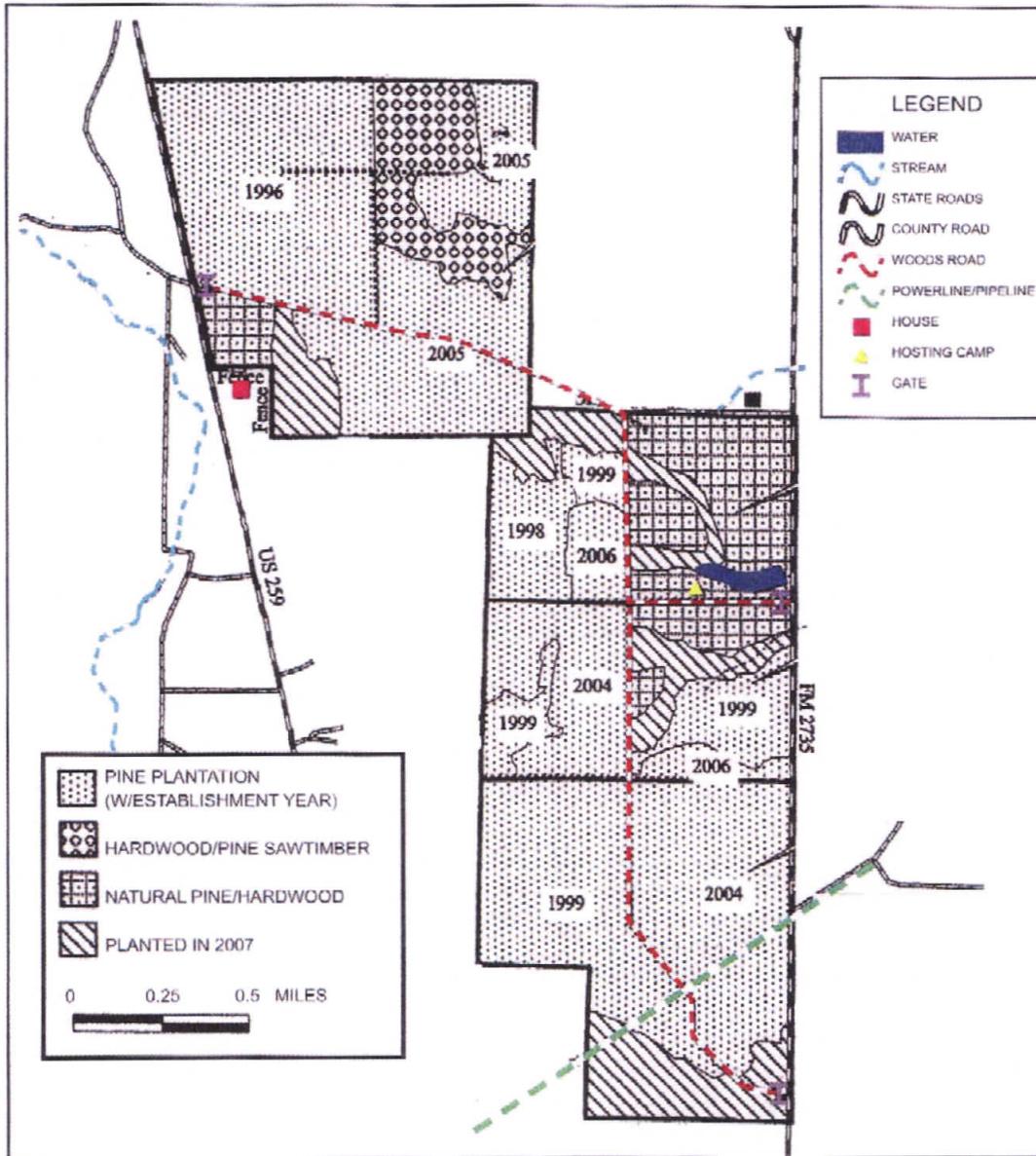
SHEET 6
 NATIONAL WETLAND INVENTORY MAP OF PECAN BAYOU MITIGATION BANK,
 MUD CREEK TRACT, DEKALB, BOWIE COUNTY TEXAS



APPLICANT:
 MITIGATION STRATEGIES, LLC

USACE PROJECT NUMBER: ORK-202008-684

DATE:
 08/20/2009



SHEET 7
 VEGETATION MAP OF PECAN BAYOU MITIGATION BANK,
 MUD CREEK TRACT, DEKALB, BOWIE COUNTY TEXAS

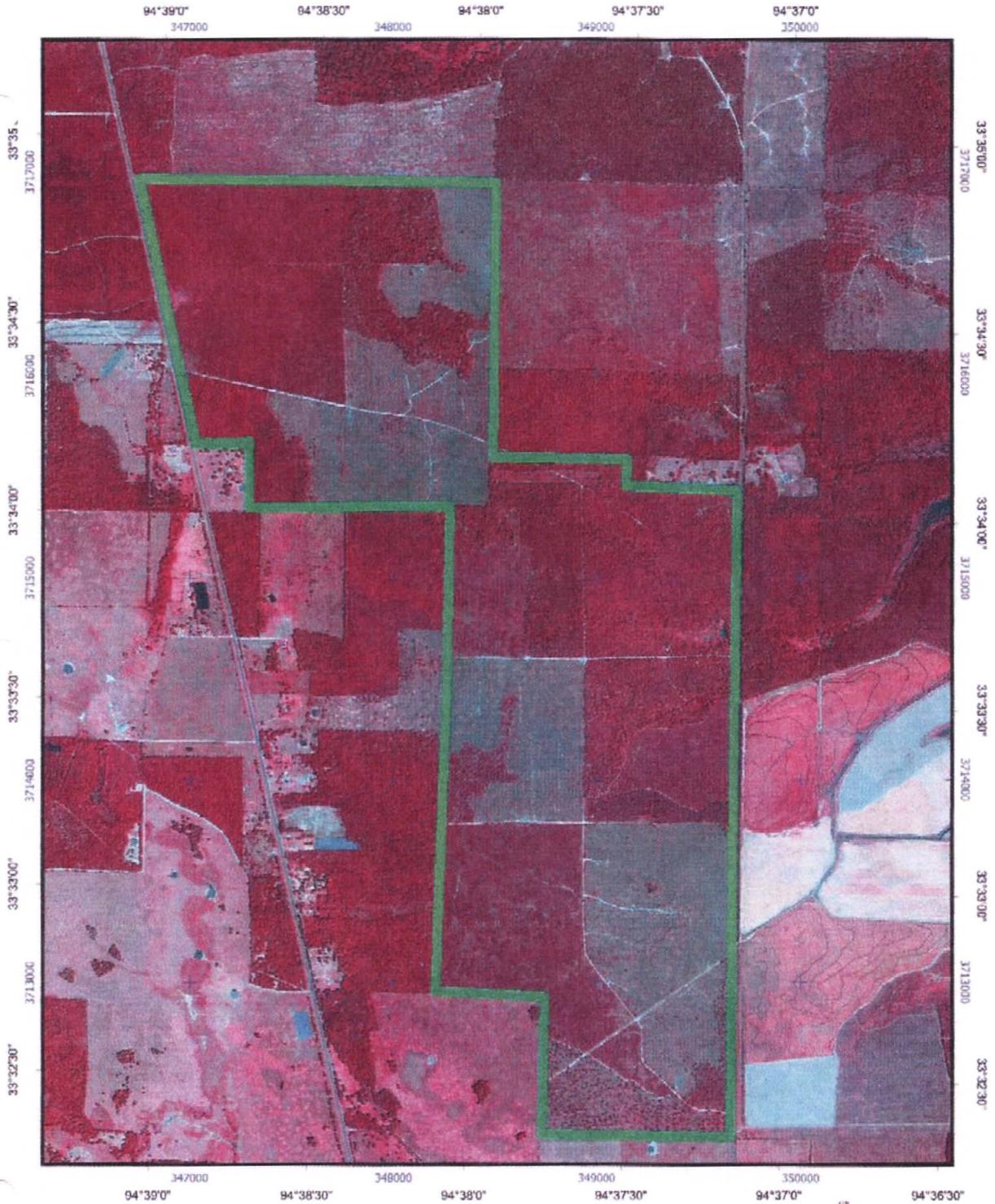
MITIGATION STRATEGIES LLC
 P.O. BOX 2862
 LONGVIEW, TX 75606

APPLICANT:
 MITIGATION STRATEGIES, LLC

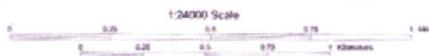
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SWT-2008-0684
De Kalb Highway 259. LLC
Pecan Bayou Mitigation Bank, Mud Creek Unit
Enclosure 8 of 9



DeKalb

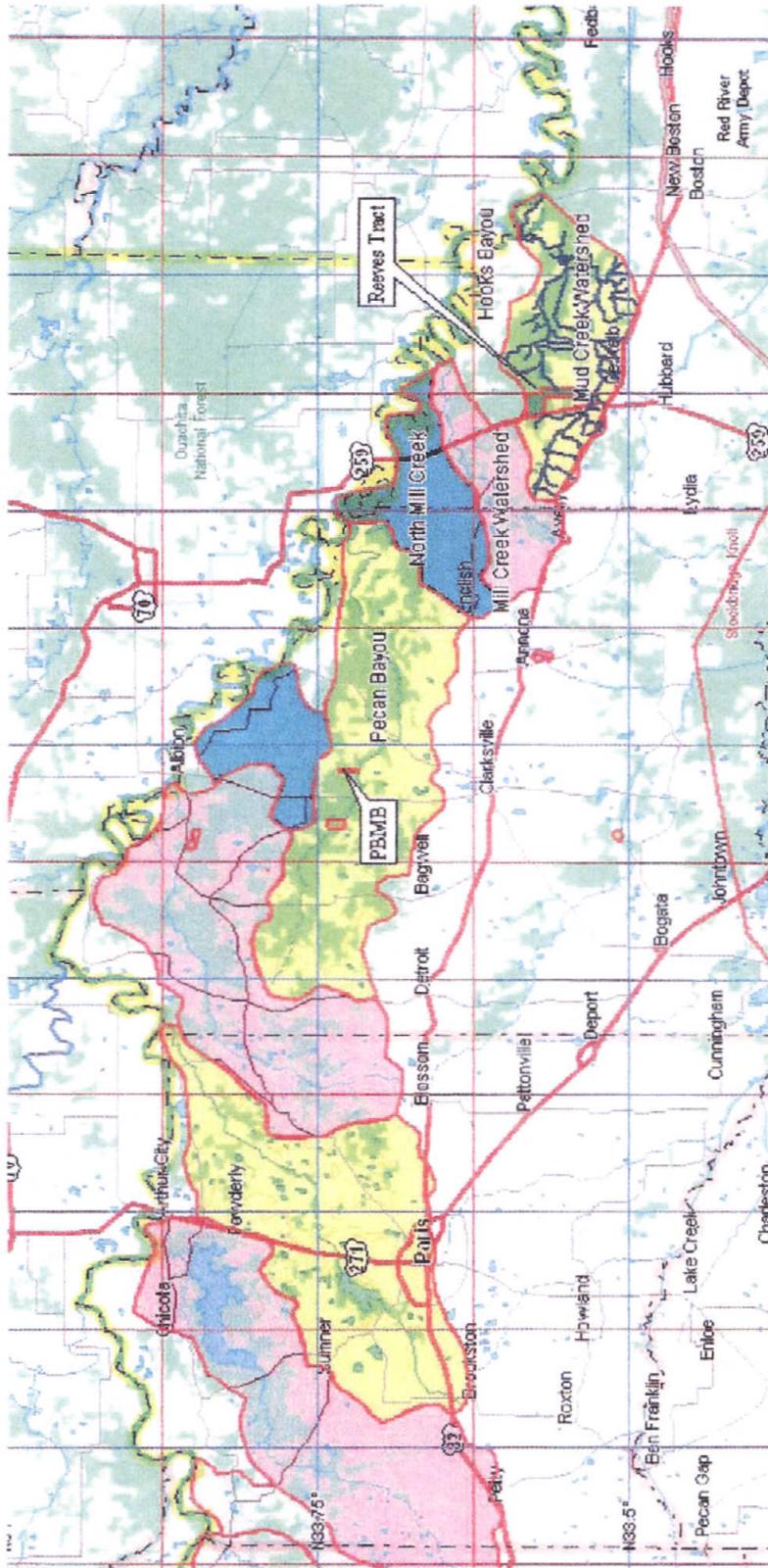


Universal Transverse Mercator (UTM) Projection Zone 15
North American Datum of 1983 (NAD83)

UTM Grid shown in blue



Magetic declination at center of map on
November 14, 2007



Red River Watershed. Colors indicate individual HUC Code Units.