



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

# Public Notice

Applicant: Longview Independent School District

Permit Application No.: SWF-2009-000122

Date: December 3, 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. Frederick Land

Phone Number: (817) 886-1729

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 Longview Independent School District's proposal to construct the Foster Middle School project, in the City of Longview, Gregg County, Texas.

**APPLICANT:** Longview Independent School District  
c/o Lynn Marshall  
P.O. Box 3268  
Longview, Texas 75606

**APPLICATION NUMBER:** SWF-2009-00122

**DATE ISSUED:** December 3, 2009

**LOCATION:** The project site is found on the Lakeport, Texas, United States Geological Survey (USGS) 7.5-minute topographic map and is located at approximately N 32.47388° latitude; W 94.71480° longitude. Hydrologic Unit 12010002.

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

**PROJECT DESCRIPTION:** The applicant proposed to discharge approximately 4,200 cubic yards of dredged and fill material into approximately 0.97 acre of waters of the United States in conjunction with the construction of the Foster Middle School, located in Gregg County on the east side of Longview (Sheets 1- 4 of 4). Impacts to waters of the U.S. would include the discharge of dredged and fill material into approximately 0.92 acre of open waters associated with three on-channel ponds and 1,060 linear feet (0.05 acre) of ephemeral stream. The proposed project would reroute the ephemeral stream and the new channel would be directed into culverts placed beneath the proposed campus access road. The new culverts would empty into a proposed detention pond. Water leaving the proposed detention pond would be routed back to the original ephemeral stream channel. The proposed Foster Middle School project is needed to replace the existing school constructed in 1929, to meet the modern educational needs of the Longview community, and to meet the legal responsibilities of the district.

The applicant's preferred alternative would be built on fallow pastureland that is approximately 50 percent wooded and 50 percent pasture. As late as 1979, the properties were nearly clear of trees. The topography is flat to gently rolling, ranging from approximately 323 feet to 350 feet above mean sea level (MSL) and is dominated by a tributary related to Long Creek.

Four vegetative communities were identified within the proposed project area based on the review of aerial photography and field surveys. The communities identified within the proposed project area included: riparian zones, woodlands, upland pasture, and maintained grassland.

The dominant plant species identified within the woodland community in the proposed project area included an overstory canopy of loblolly pine (*Pinus taeda*) and water oak (*Quercus nigra*); a midstory of eastern red cedar (*Juniperus virginiana*), sweetgum (*Liquidambar styraciflua*), water oak, yaupon holly (*Ilex vomitoria*), wax myrtle (*Myrica cerifera*), and Chinese tallow (*Triadica sebifera*); an understory dominated by narrowleaf woodoats (*Chasmanthium sessiliflorum*) and panic grass (*Panicum* sp); and a vine community dominated by poison ivy (*Toxicodendron radicans*) and muscadine grapevine (*Vitis rotundifolia*).

Dominant plant species occurring along the riparian zone included a midstory of Chinese tallow and black willow (*Salix nigra*); and the understory species included rosette-grass (*Dichanthelium* sp.), Canadian goldenrod (*Solidago canadensis*), big-headed rush (*Juncus megacephalus*), dog-fennel (*Eupatorium capillifolium*), and Japanese honeysuckle (*Lonicera japonica*).

Dominant species found within the upland pasture community included Croton (*Croton* sp.), dog-fennel, Bahia grass (*Paspalum notatum*), bermudagrass (*Cynodon dactylon*), and annual ragweed (*Ambrosia artemisiifolia*).

Dominant vegetation within the maintained grassland community included Bahia grass and rough buttonweed (*Diodia teres*).

Three ponds and their associated ephemeral stream are located within the applicant's preferred alternative. The ponds are open water, on-channel ponds, established for watering horses and livestock. The unnamed ephemeral stream is a tributary of Long Creek.

A total of 0.97 acre of waters of the U.S. exist within the proposed project area. Construction of the proposed project would result in the discharge of approximately 4,200 cubic yards of dredged and fill material into waters of the U.S. (Sheets 1-5 of 5). When considering all dredge and fill impacts, the proposed discharges would result in permanent adverse impacts to 0.92 acre of open water pond and 0.05 acre, or 1,060 linear feet, of unnamed ephemeral stream for impacts totaling 0.97 acre.

The applicant considered various alternatives, including a no-build alternative during the proposed project evaluation process. The proposed project was selected after consideration of social, environmental, and engineering factors.

Alternative 1 would involve using another location for the Foster Middle School. Other properties

were evaluated by the applicant and it was determined that no other properties were available in this sector of Longview that would meet the project need and purpose, financially or fiscally, and would have fewer impacts on the aquatic environment.

Alternative 2 involved alternative alignments for the facility, its access roads, and parking lots on the proposed property. It was determined that other alignments would not have fewer impacts to the aquatic environment due to constraints such as easements, access limitations, aesthetics, and adjacent property considerations.

Alternative 3, the No-Build Alternative, would not involve the construction of the school. The No-Build Alternative would not meet the goals of Longview ISD by improving education for its resident's children, and therefore, would not meet the need and purpose of the project.

The applicant's preferred alternative would minimize environmental impacts to the maximum extent practicable while still meeting the needs of the community. The applicant believes substantial efforts have been made to avoid and minimize adverse impacts to the aquatic environment. The proposed project has been designed in a manner to ensure that it would not substantially disrupt the necessary life-cycle movements of aquatic life species indigenous to waterbodies in the area, including those species that normally migrate through the area. Culverts placed in streams would be installed to maintain low-flow conditions. Further, the applicant has designed the proposed project to retain excess flows from the site and maintain surface flow rates from the site in a manner similar to preconstruction conditions, avoid stream channelization, and incorporate appropriate soil erosion and sedimentation controls to be used and maintained during and following construction. All exposed soil and other fills, as well as any work within waters of the U.S., would be stabilized at the earliest practicable date. Any temporary fills would be removed in their entirety and the affected areas returned to their pre-construction contours. As such, on a preliminary basis, it appears these measures would help to ensure no more than minimal adverse effects to water quality.

The applicant proposes to compensate for unavoidable adverse impacts to waters of the U.S., including wetlands. Both on-site and near-site mitigation possibilities were considered by the applicant for suitability as compensatory mitigation. The applicant believes that a proposal to purchase mitigation banking credits that would support and preserve contiguous, high-quality wetlands would provide higher functional value in comparison to other compensatory mitigation options, especially those that would involve on-site or near-site restoration or enhancement in an area where future development pressure appears to be inevitable. For these reasons, the applicant proposes to purchase mitigation banking credits from a local USACE-approved mitigation bank to compensate for the 0.97 acre of unavoidable adverse impacts to waters of the U.S.

**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 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), 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 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 Gregg County where the bald eagle (*Haliaeetus leucocephalus*), least tern (*Sterna antillarum*), and Louisiana black bear (*Ursus americanus*) are known to occur or may occur as migrants. The bald eagle is delisted and being monitored, the least tern is a listed endangered species, and the Louisiana black bear is a listed 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 proposed Foster Middle School will be constructed in an urbanized area with previous construction and demolition impacts. There are no recorded sites eligible for listing on the National Register of Historic Places, historic or prehistoric age, known on the property. It does not appear to be a high probability area for the discovery of previously unknown historic properties. The Texas Antiquities Committee has requested additional information on the adjacent Hudson Elementary School. While that property will not be directly impacted, if it is found to qualify as a historic property it might be affected by visual impacts of the proposed Foster Middle School construction.

**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 2, 2010, 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. Frederick Land; 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

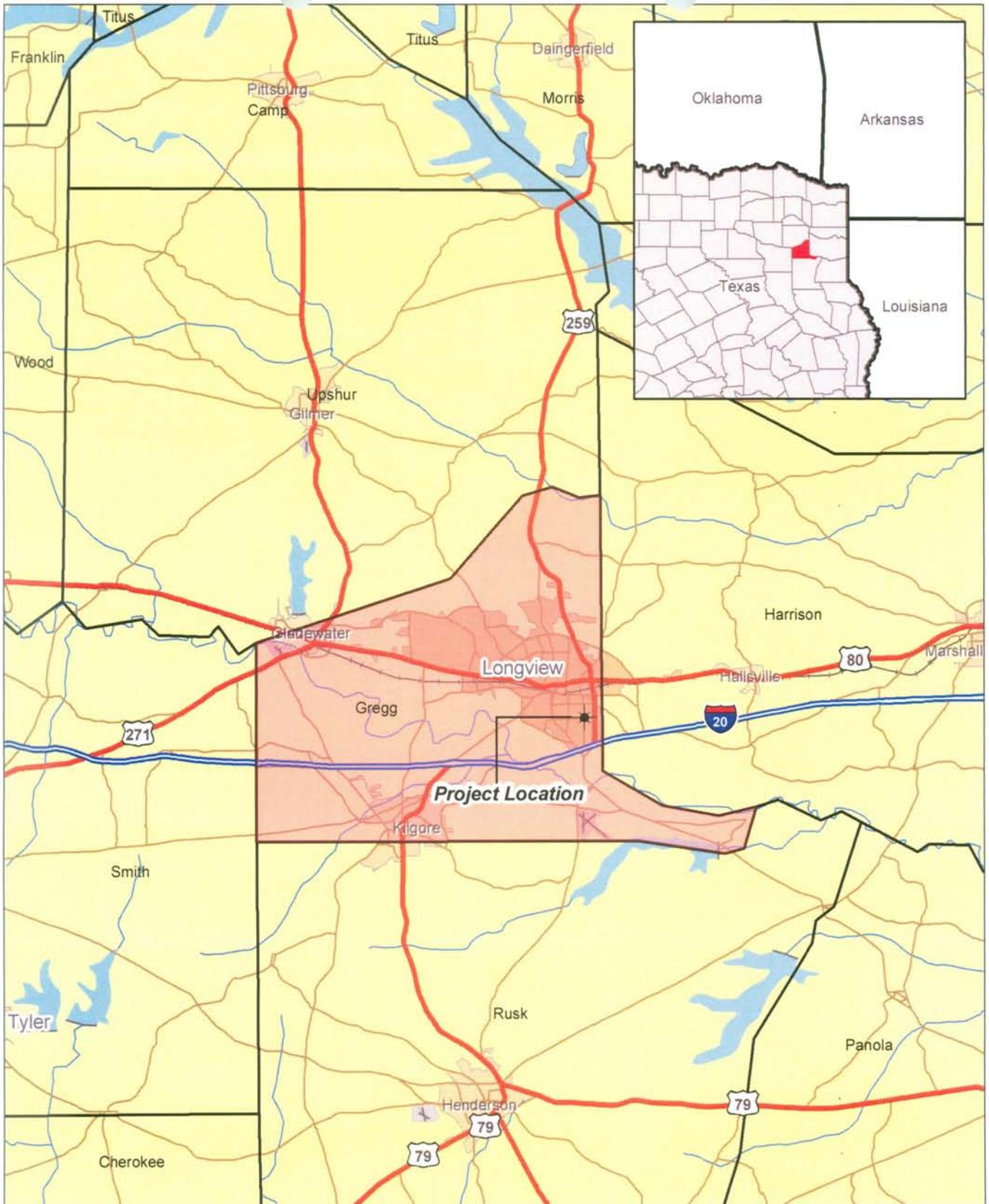


Figure 1  
Vicinity Map of the Proposed Foster Middle School  
in Gregg County, TX



1501 Bill Owens Parkway  
Longview, TX 75604  
Phone: (903) 297-4673  
Fax: (903) 297-4675

Longview I.S.D.  
Project Number: 047201.00

Date: 08/25/2009

Coordinate Sys: Lat/Long NAD 27  
Units: Deg, Min, Sec

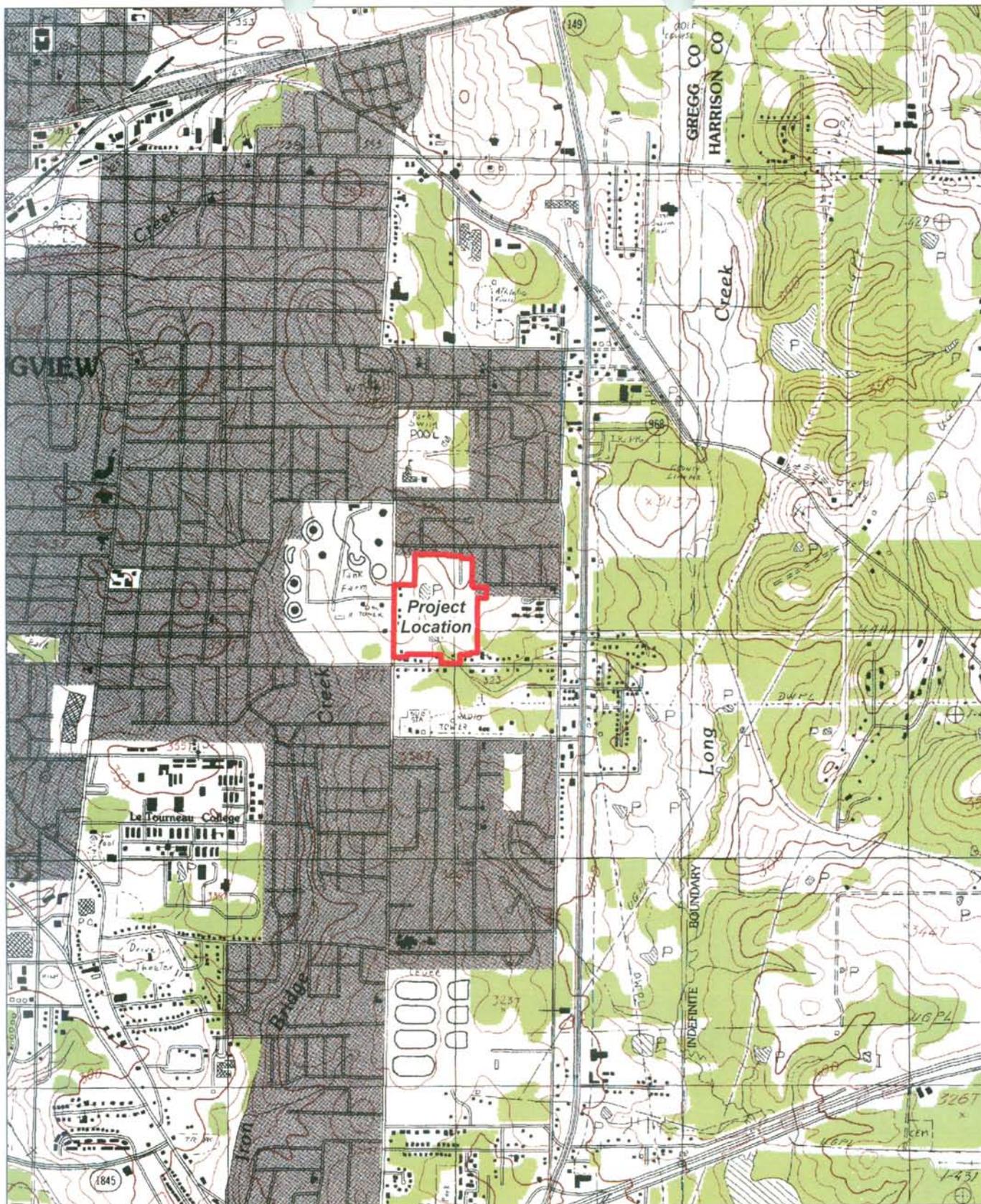


Figure 2  
 Topographic Features of the Proposed Foster Middle School  
 in Gregg County, TX



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Base Map: USGS 7.5 Minute Topo  
 Quadrangle: Lakeport, TX (1983)

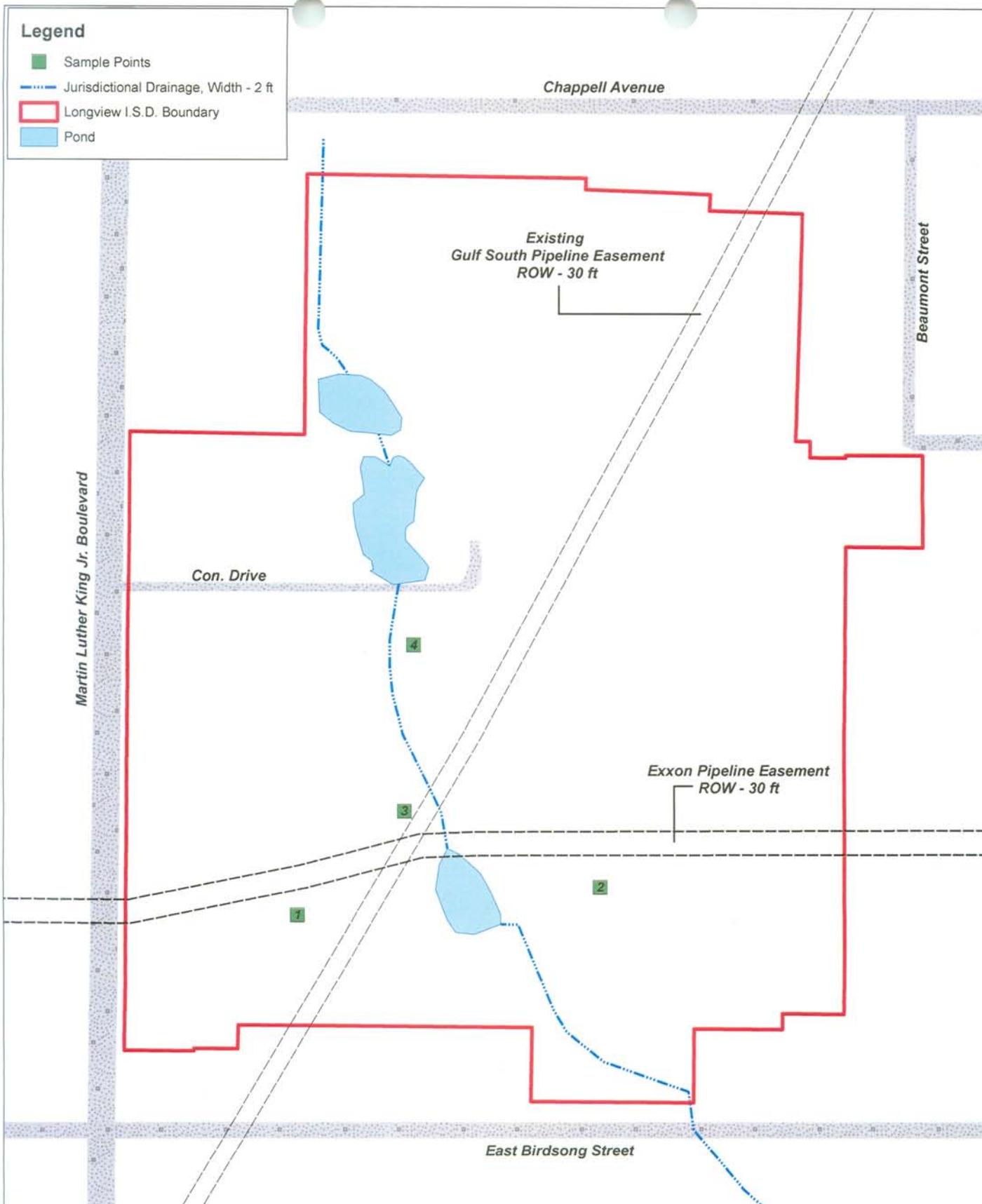


Figure 3  
Existing Conditions of the Proposed Foster Middle School  
in Gregg County, TX



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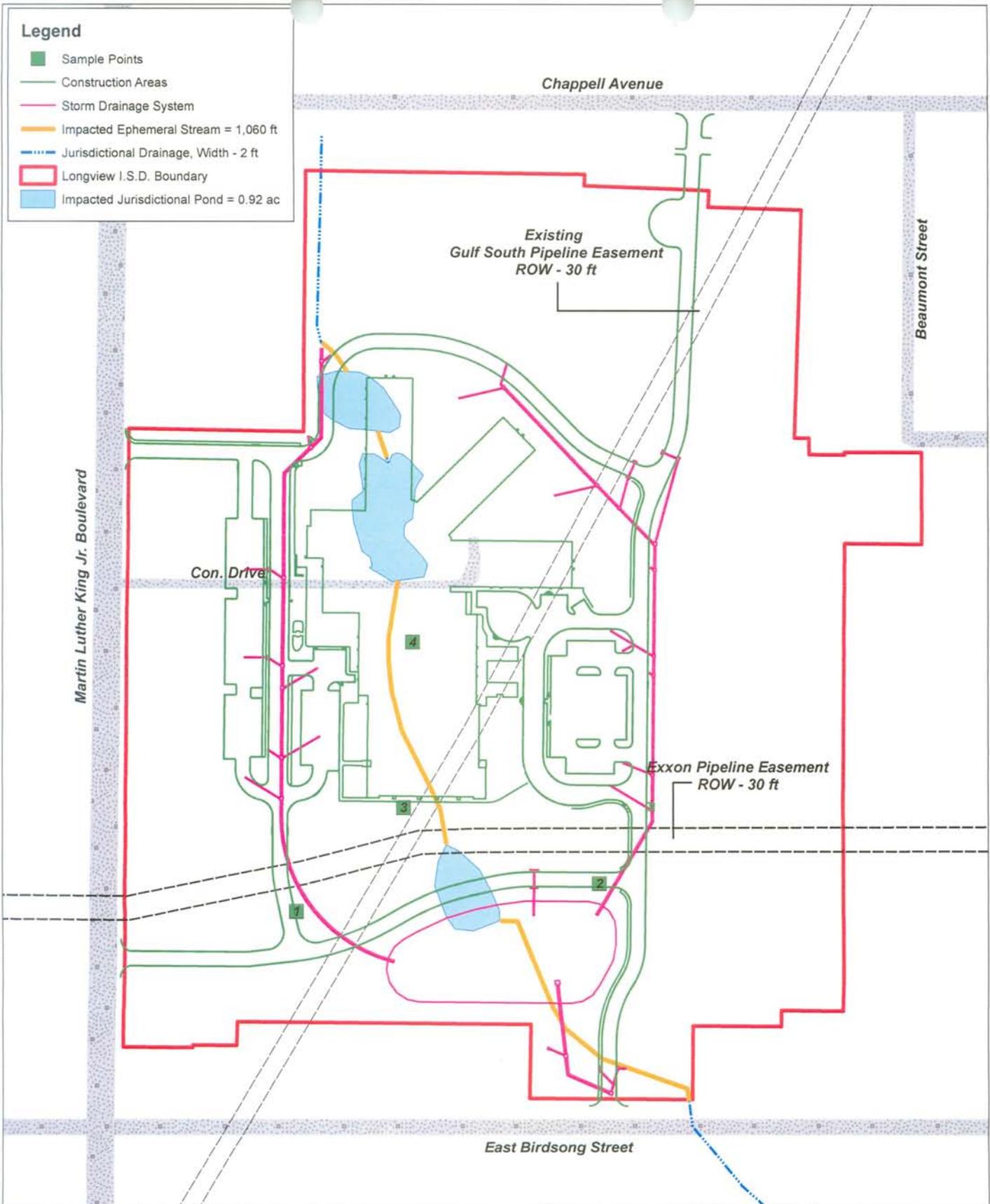


Figure 4  
 Site Plan of the Proposed Foster Middle School  
 in Gregg County, TX



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### Legend

 Longview I.S.D. Boundary



Figure 5  
Aerial Photo Map of the Proposed Foster Middle School  
in Gregg County, TX



0 195 390 780 1,170 Feet



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Base Map: TNRIS Website  
2005 Aerial Photo for Laport Quadrangle