



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

# Public Notice

Applicant: Keystone Mitigation Bank

Permit Application No.: SWF-2009-00448

Date: January 27, 2010

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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. Mike Happold

Phone Number: (817) 886-1670

## PUBLIC NOTICE

### U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

**SUBJECT:** This public notice is being issued to provide interested parties an opportunity to comment on a proposal to create the Keystone Mitigation Bank (KMB), a stream and wetland mitigation bank located in Rains County, Texas.

**APPLICANT:** Mitigation Management, LLC.  
C/O J. Mike Bird  
2557 State Hwy 7 East  
Center, TX 75935

**APPLICATION NUMBER:** SWF-2009-00448

**DATE ISSUED:** January 27, 2010

**LOCATION:** The proposed KMB is located approximately seven miles southwest of the city of Emory in Rains County, Texas (Figure 1). The approximate Universal Transverse Mercator coordinates for the proposed bank are: Northing 3631159 and Easting 234918 (Zone 15) on the Emory South U.S. Geological Survey 7.5 minute quadrangle map. The tract is located in the East Texas Central Plains Level III Ecoregion as mapped by Griffith et al. (2004) and the Sabine River Basin (HUC: 120100) (Figure 2).

**PROJECT DESCRIPTION:** The proposed KMB site consists of 2,419 acres of land within the floodplain of the Sabine River in southern Rains County (Figures 4 and 5). The 2,419-acre site is part of a 3,413-acre tract of land owned by TCP II Keystone, LLC.

The acreage of the proposed KMB is comprised primarily of existing wetland habitats. Through preservation, restoration, and enhancement, the goal would be to develop bottomland hardwood forested wetland communities typical of the Sabine River Basin (Figure 8). The Sabine River forms the southern boundary of the project site and numerous streams, drainages, and sloughs associated with the Sabine River and its floodplain are found throughout the proposed bank. Notably, Woodbury Creek, an intermittent stream located on the property, was channelized in the 1960's to reduce the duration and frequency of flooding and/or ponding on the tract.

Historically, the tracts that now are aggregated into the Keystone Ranch were used for cotton, corn, small grain farming, livestock grazing, and timber production. In recent decades, livestock and hay production activities were conducted on the cleared acreage. Timber production proceeded without a comprehensive forest management plan, and, consequently, logging operations were sporadic and circumstantial. Access and markets were major factors influencing timber harvesting on the property.

A cow-calf ranching operation and timber harvest are the primary land uses on the proposed Bank acreage. For ranching purposes, timber was cleared on uplands and bottomlands along Woodbury Creek which includes approximately 600 acres of the Sabine River floodplain. Additionally, a diversion ditch was constructed along the Woodbury Creek floodplain to reduce frequency and duration of natural flooding in these pastures. This clearing and ditching activity is evident in historic aerial photographs.

The majority of the proposed KMB acreage is comprised of Gladewater clay (2,286 acres), while a small

component of the northern portion of the proposed bank is mapped as Nahatche clay loam soils (88 acres). Both soils are listed as hydric on the *Hydric Soils List for Rains County* and the *Hydric Soils of the United States* (National Technical Committee for Hydric Soils 1991) (Figure 6). The other five mapped soil types are small (45 acres) and account for the remaining acres of the proposed KMB.

A resource review and preliminary field reconnaissance identified approximately 2,419 acres of potentially jurisdictional wetlands within the project site (Figure 7). Approximately 1,856 acres are dominated by bottomland hardwood forest vegetation such as green ash (*Fraxinus pennsylvanica*), cedar elm (*Ulmus crassifolia*), sugarberry (*Celtis laevigata*), overcup oak (*Quercus lyrata*), and laurel oak (*Quercus laurifolia*). Additionally, 563 acres in the northern portion of the project site are dominated by emergent vegetation such as common bermudagrass (*Cynodon dactylon*), swamp smartweed (*Polygonum hydropiperoides*), sumpweed (*Iva annua*), panic grasses (*Panicum* spp), ravenfoot sedge (*Carex crus-corvi*), eastern gamagrass (*Tripsacum dactyloides*), American buckwheat vine (*Brunnichia ovate*), flatsedges (*Cyperus* spp), sedges, rushes, and *Paspalum* spp. The proposed KMB site also includes approximately 15,918 linear feet (3 miles) of jurisdictional, non-wetland waters of the U.S. in the form of perennial streams (Woodbury Creek).

The sponsor proposes a conceptual mitigation work plan (MWP) for the proposed KMB. This MWP would include 1) restoration of Woodbury Creek (approximately 15,919 feet), 2) hydrologic and vegetative preservation and/or enhancement of the approximately 1,856 acres of forested wetland, and 3) hydrologic enhancement and vegetative restoration of the approximately 635 acres of emergent wetland (Figure 7).

Stream channel restoration would be conducted via relocation of Woodbury Creek to the historic channel or restoration of the present channel. Vegetative restoration would entail replanting of native bottomland hardwood species in emergent pastures. Vegetative preservation and/or enhancement would be in the form of cessation of non-compatible land uses, single stem or group selection of non-desirable or over abundant tree species, and/or other activities that result in an overall improvement to wetland function. Implementing the MWP would result in the preservation, restoration, and enhancement of aquatic functions, such as water storage, sediment retention and stabilization, wildlife habitat, and flood flow attenuation.

The proposed Primary Service Area for the proposed bank would include like-kind and out-of-kind habitat types within the intersection of the Sabine River Basin (HUC: 120100) and the East Central Texas Plains and the Texas Black Lands Prairies Ecoregion all wholly encompassed within the Fort Worth District. This would include Rains County in its entirety and portions of Hopkins, Hunt, Collin, Rockwall, Kaufman, Van Zandt, Smith, Franklin, and Wood counties.

The proposed Secondary Service Area for the proposed KMB would include like-kind and out-of-kind habitat types within the intersection of the Big Cypress-Sulphur River Basin (HUC: 111403) and the East Central Texas Plains and Texas Blackland Prairies Ecoregions; the Upper Trinity River Basin (HUC: 120301) and the East Central Texas Plains and Texas Blackland Prairies Ecoregions; the Sabine River Basin (HUC: 120100) and the South Central Plains Ecoregion; and the Neches River Basin (HUC 120200) and the East Central Texas Plains Ecoregion all wholly encompassed within the Fort Worth District. This would include Delta, Dallas, Ellis, and Panola County in their entirety and portions of Red River, Bowie, Morris, Titus, Franklin, Hopkins, Hunt, Fannin, Lamar, Grayson, Denton, Collin, Tarrant, Rockwall, Kaufman, Van Zandt, Henderson, Navarro, Limestone, Hill, Johnson, Wood, Smith, Upshur, Gregg, Rusk, Harrison, Shelby, San Augustine, Freestone, Sabine counties (Figure 3).

A mitigation banking instrument (MBI) would be developed in accordance with the Compensatory Mitigation for Losses of Aquatic Resources (CMLR), (Federal Register, Thursday, April 10, 2008, Vol.

73, No. 70, pp. 19594-19705). The MBI would detail the legal and physical characteristics of the bank and how the bank would be established and operated. 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 for enhancement activities, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of bank ownership or sponsorship. The USACE, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service (FWS), Texas Commission on Environmental Quality, Railroad Commission of Texas, and Texas Parks and Wildlife Department comprise the Interagency Review Team (IRT), and would be involved in developing the MBI and may be signatories to the final document. Implementation of the proposed mitigation bank would require Department of the Army Authorization under Section 404 of the Clean Water Act. Based on preliminary evaluation by the USACE, it appears that the proposed bank may be authorized by nationwide permit 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

**ENDANGERED AND THREATENED SPECIES:** The USACE has reviewed the latest FWS published version of listed endangered and threatened species to determine if any may occur in the project area. The proposed bank site would be in Rains County where the Least Tern (*Sterna antillarum*) is federally listed as an endangered species. The Bald Eagle (*Haliaeetus leucocephalus*) is documented to occur in Rains County as well. Although it has been delisted; the eagle will maintain a listed status for a period of five years after delisting for monitoring purposes. Our initial review indicates that the proposed work would have no effects on any 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. The area of the proposed mitigation bank has not been formally surveyed for the presence of historic and prehistoric artifacts. However, areas of high probability for the presence of historic and prehistoric sites may be present within the permit area. Additional work to identify these sites may be necessary.

**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 allow the public an opportunity to comment on this bank proposal and to assist the USACE and 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.

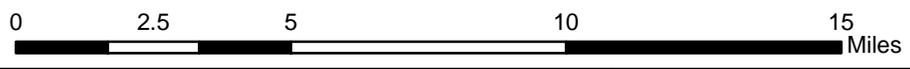
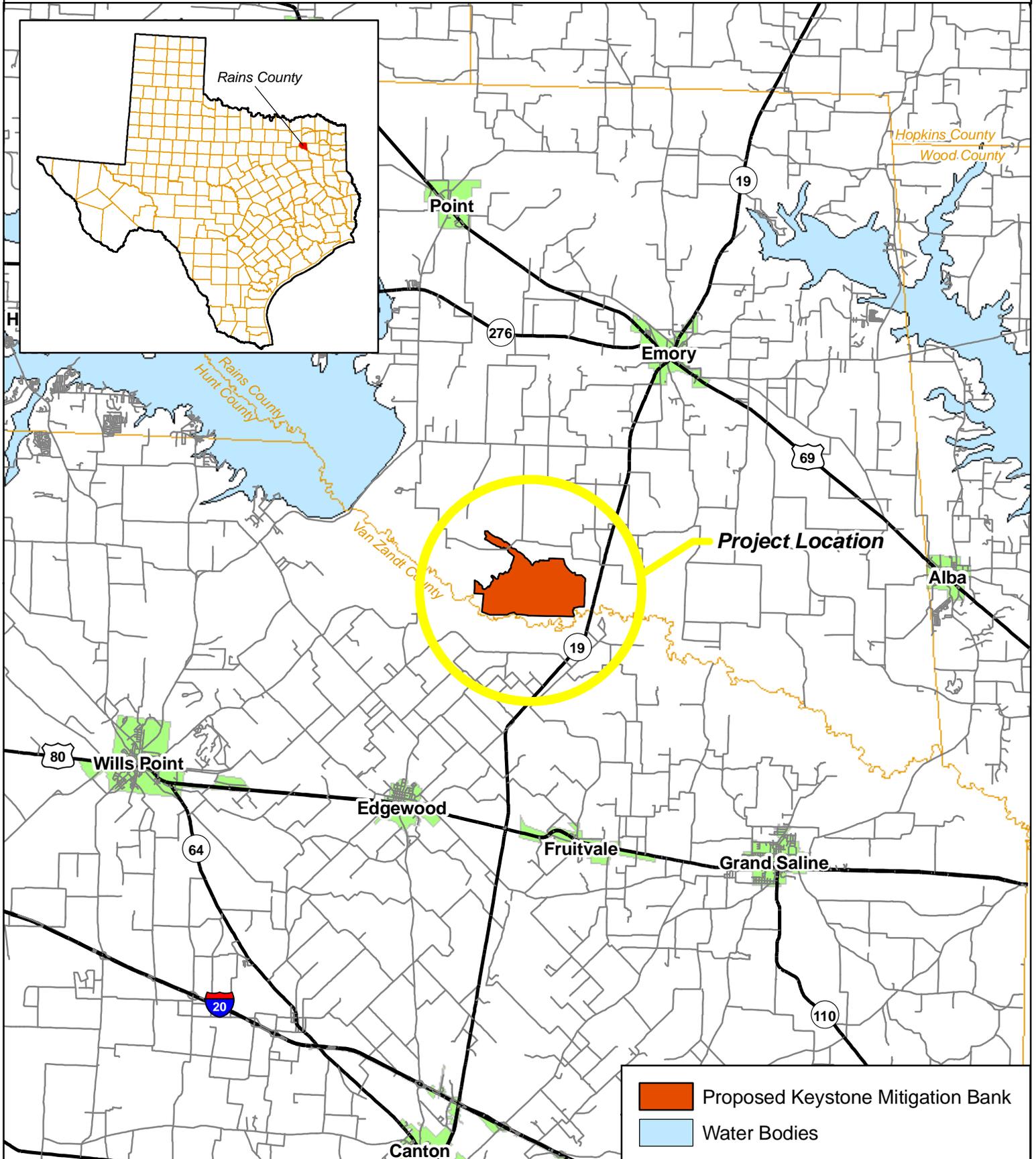
**PUBLIC HEARING:** Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. 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 February 27, 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. Mike Happold; 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) 886.1670. 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 of 8  
Location Map  
Proposed Keystone Mitigation Bank in Rains County, Texas (2,419 acres)**



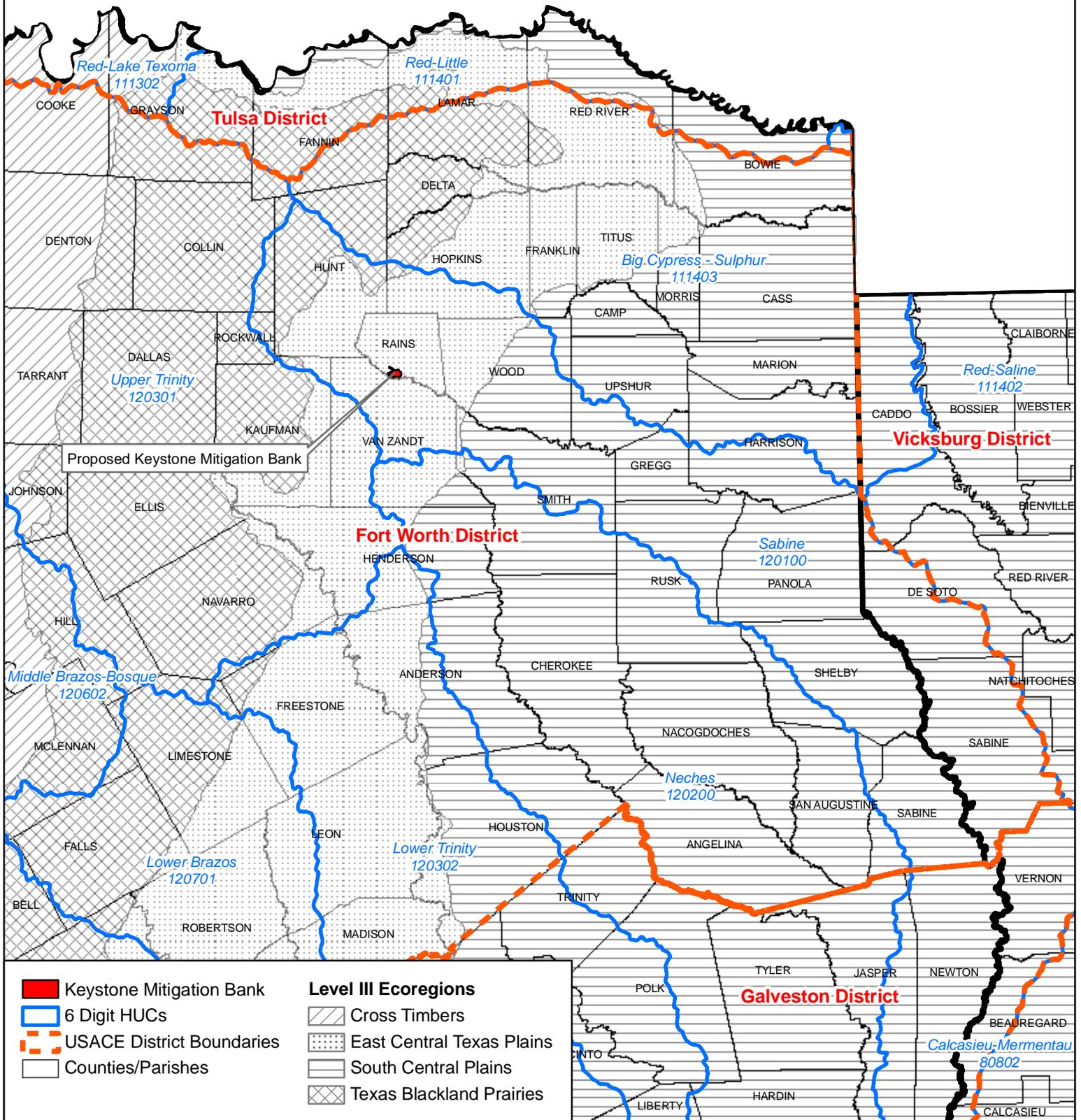
USACE Project # SWF-2009-00448

Drawn By: Matt Neuman  
Date: December 1, 2009

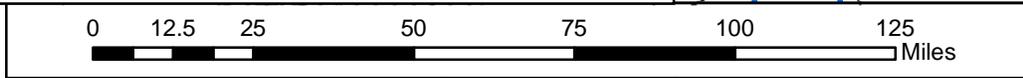
Vector data are for representation only and should not be used for legal description



**Figure 2 of 8**  
**Level III Ecoregions and Six Digit HUC Boundaries**  
**Proposed Keystone Mitigation Bank in Rains County, Texas (2,419 acres)**



Keystone Mitigation Bank	<b>Level III Ecoregions</b>
6 Digit HUCs	Cross Timbers
USACE District Boundaries	East Central Texas Plains
Counties/Parishes	South Central Plains
	Texas Blackland Prairies



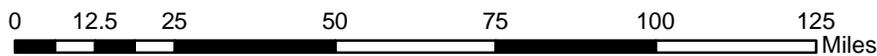
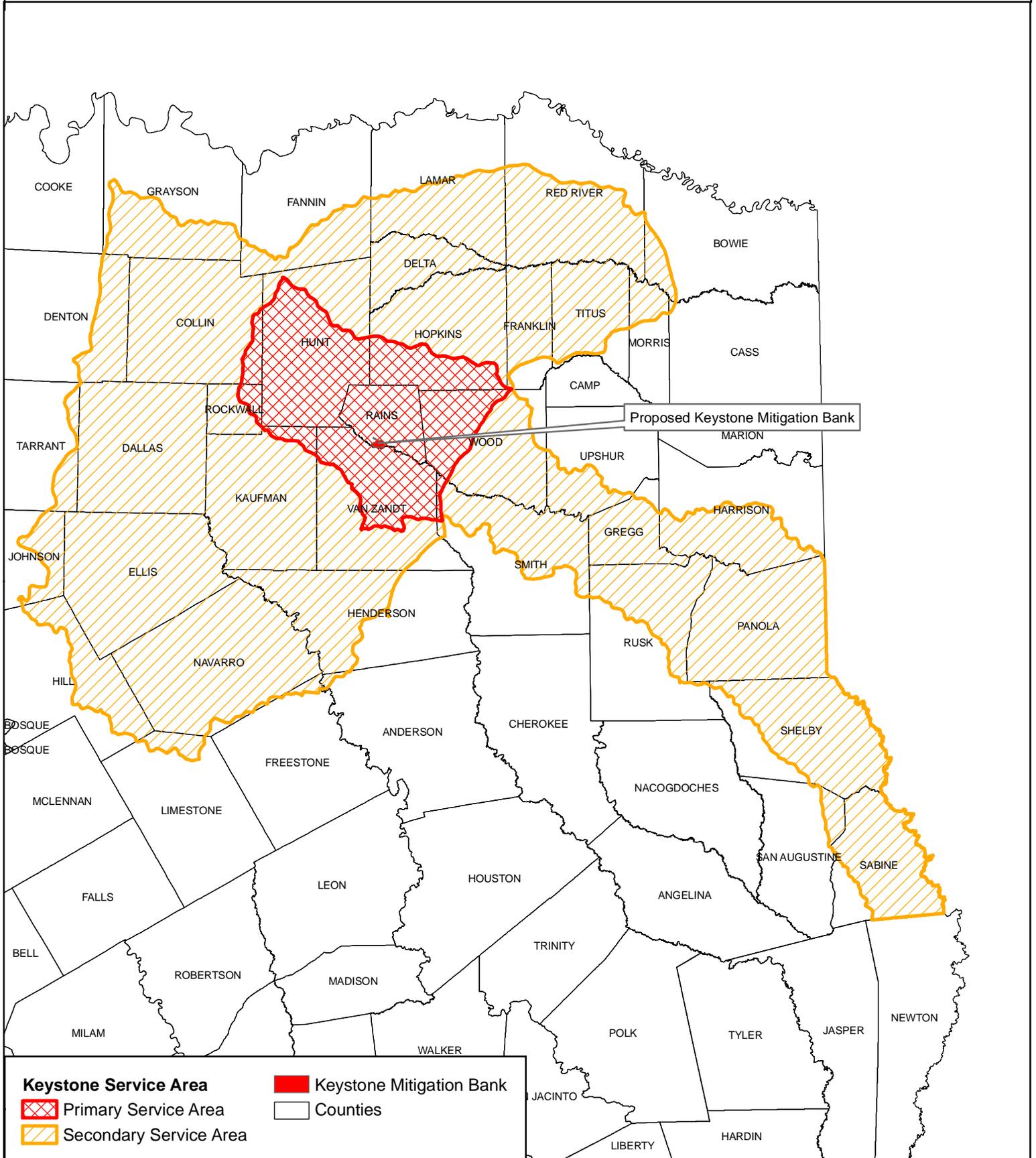
USACE Project # SWF-2009-00448

Drawn By: Matt Neuman  
 Date: December 1, 2009

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**Figure 3 of 8**  
**Geographic Service Area Map**  
**Proposed Keystone Mitigation Bank in Rains County, Texas (2,419 acres)**



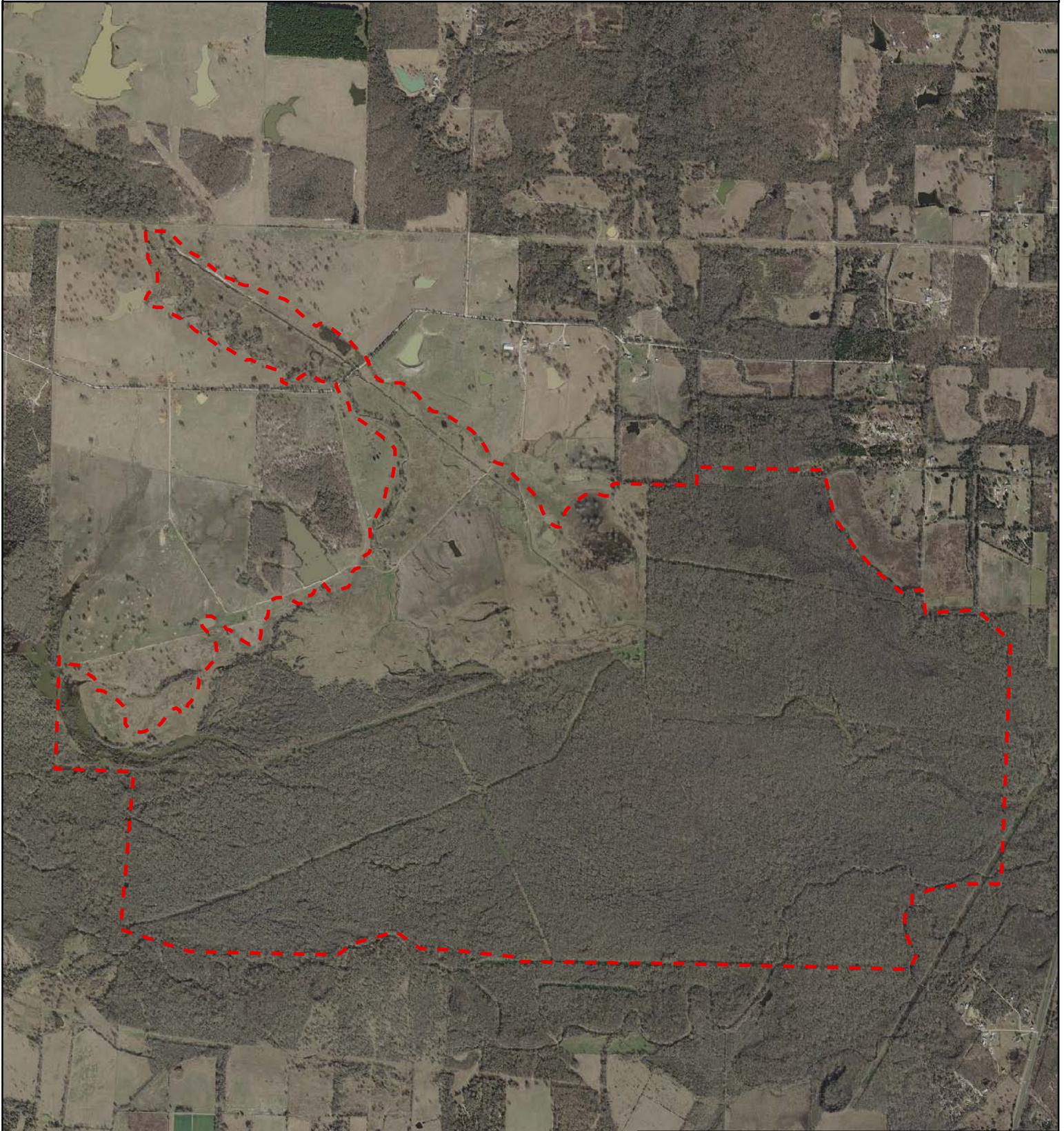
USACE Project # SWF-2009-00448

Drawn By: Matt Neuman  
 Date: December 1, 2009

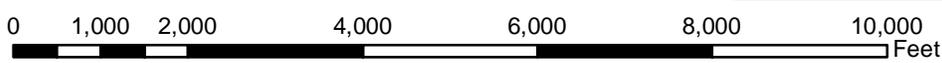
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Figure 4 of 8  
Aerial Map  
Proposed Keystone Mitigation Bank in Rains County, Texas (2,419 acres)



 Proposed Keystone Mitigation Bank



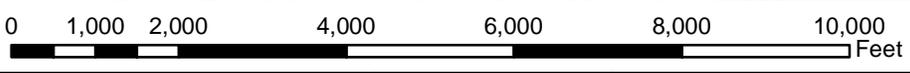
Imagery: 2009 NAIP CCM  
USACE Project # SWF-2009-00448

Drawn By: Matt Neuman  
Date: December 1, 2009

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**Figure 5 of 8**  
**Topographic Map**  
**Proposed Keystone Mitigation Bank in Rains County, Texas (2,419 acres)**



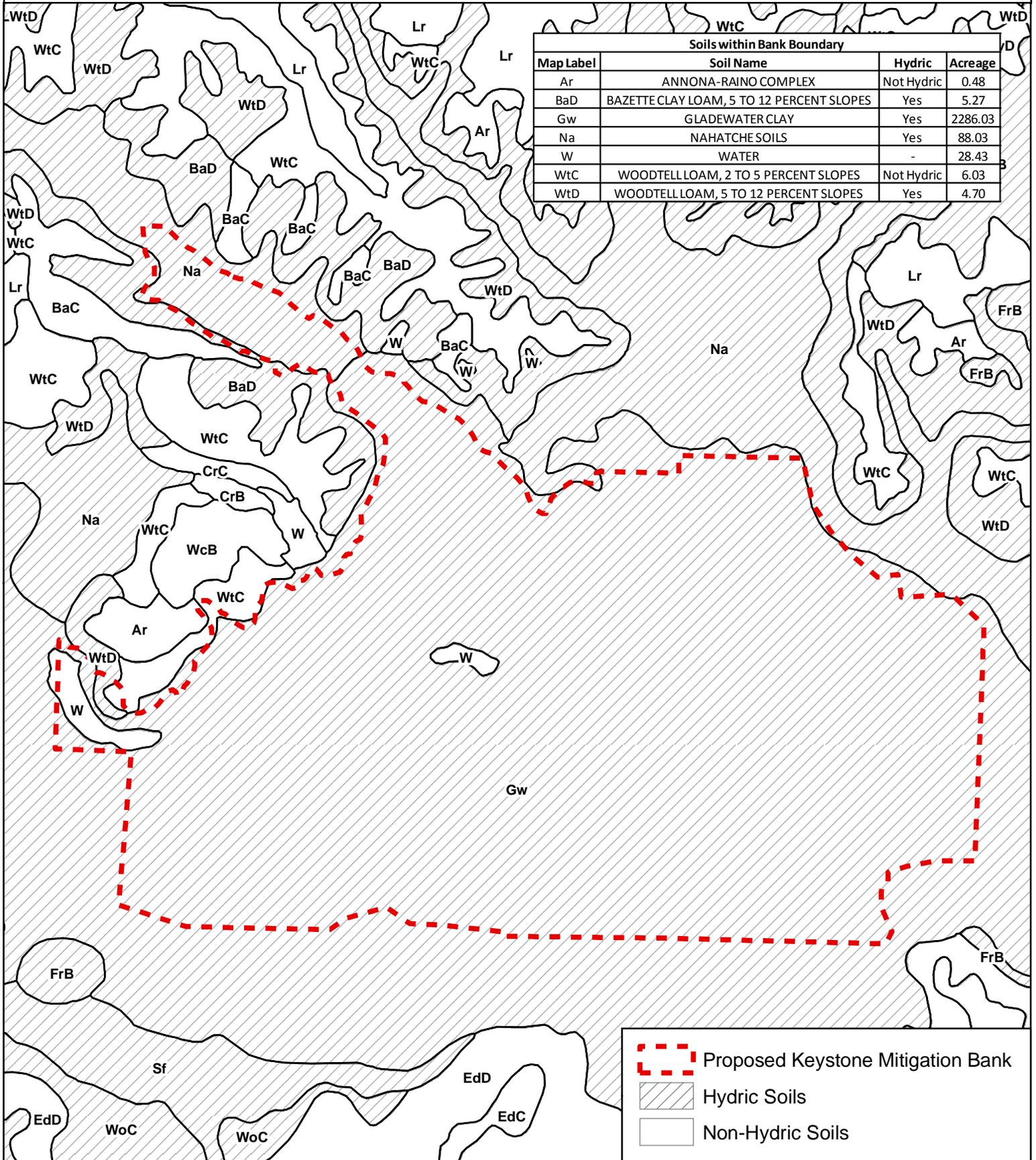
Base Map: USGS Emory South Quad  
 USACE Project # SWF-2009-00448

Drawn By: Matt Neuman  
 Date: December 1, 2009

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**Figure 6 of 8**  
**Soils Map**  
**Proposed Keystone Mitigation Bank in Rains County, Texas (2,419 acres)**

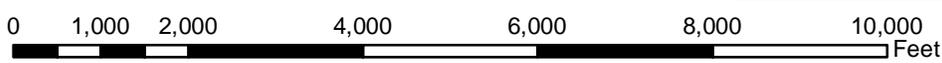


Soils within Bank Boundary			
Map Label	Soil Name	Hydic	Acreage
Ar	ANNONA-RAINO COMPLEX	Not Hydric	0.48
BaD	BAZETTE CLAY LOAM, 5 TO 12 PERCENT SLOPES	Yes	5.27
Gw	GLADEWATER CLAY	Yes	2286.03
Na	NAHATCHE SOILS	Yes	88.03
W	WATER	-	28.43
WtC	WOODTELL LOAM, 2 TO 5 PERCENT SLOPES	Not Hydric	6.03
WtD	WOODTELL LOAM, 5 TO 12 PERCENT SLOPES	Yes	4.70

Proposed Keystone Mitigation Bank

Hydic Soils

Non-Hydric Soils



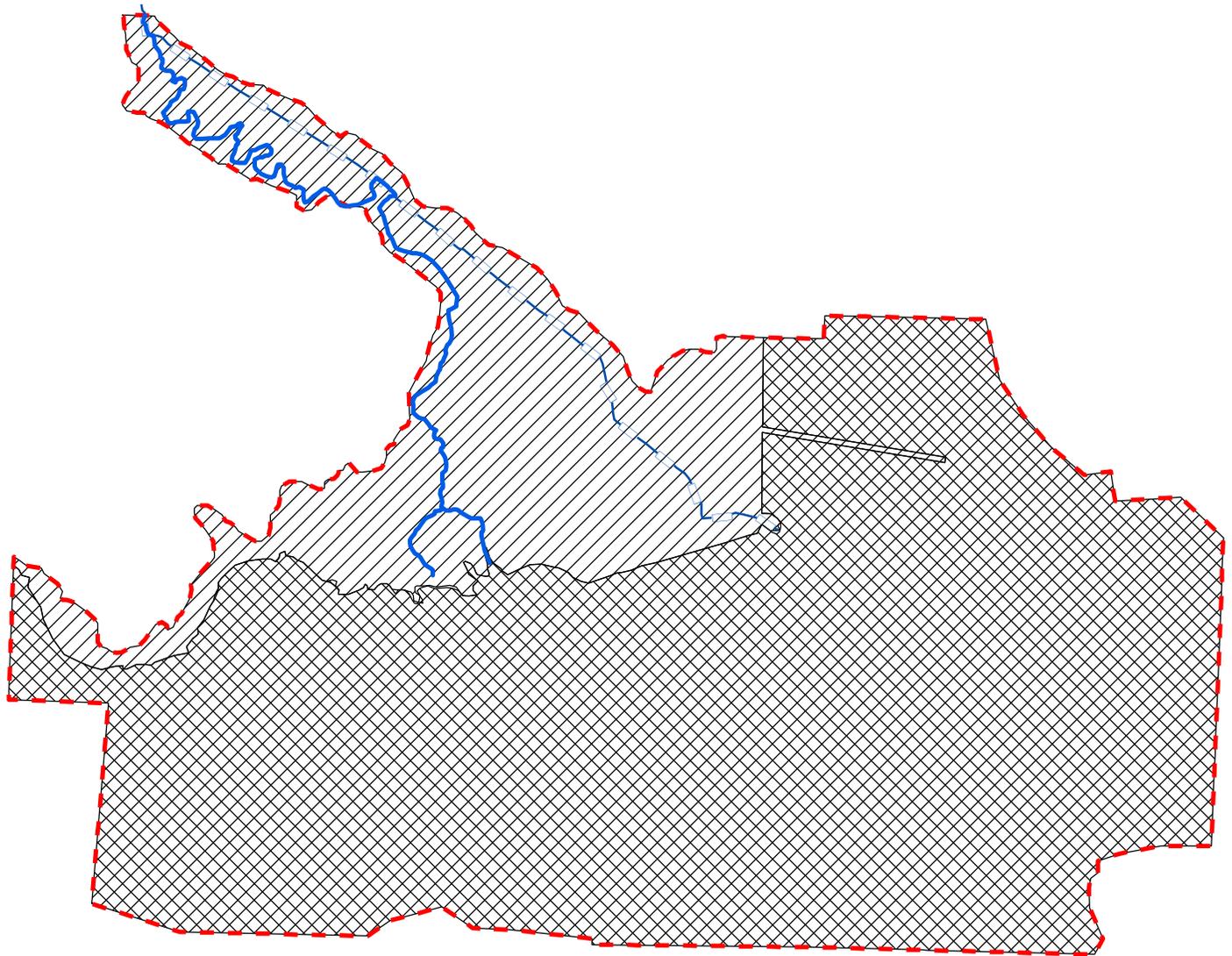
Soil Data: Natural Resources Conservation Service  
 USACE Project # SWF-2009-00448

Drawn By: Matt Neuman  
 Date: December 1, 2009

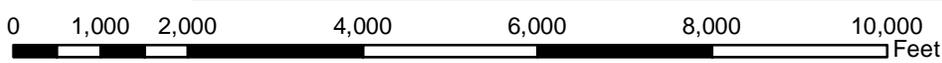
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**Figure 7 of 8**  
**Initial Wetland Evaluation Map**  
**Proposed Keystone Mitigation Bank in Rains County, Texas (2,419 acres)**



	Proposed Keystone Mitigation Bank
	Emergent Wetland (558.6 acres)
	Forested Wetland (1,860 acres)
	Historic Woodbury Creek Channel (15,918 feet)
	Ditch (11,440 feet)



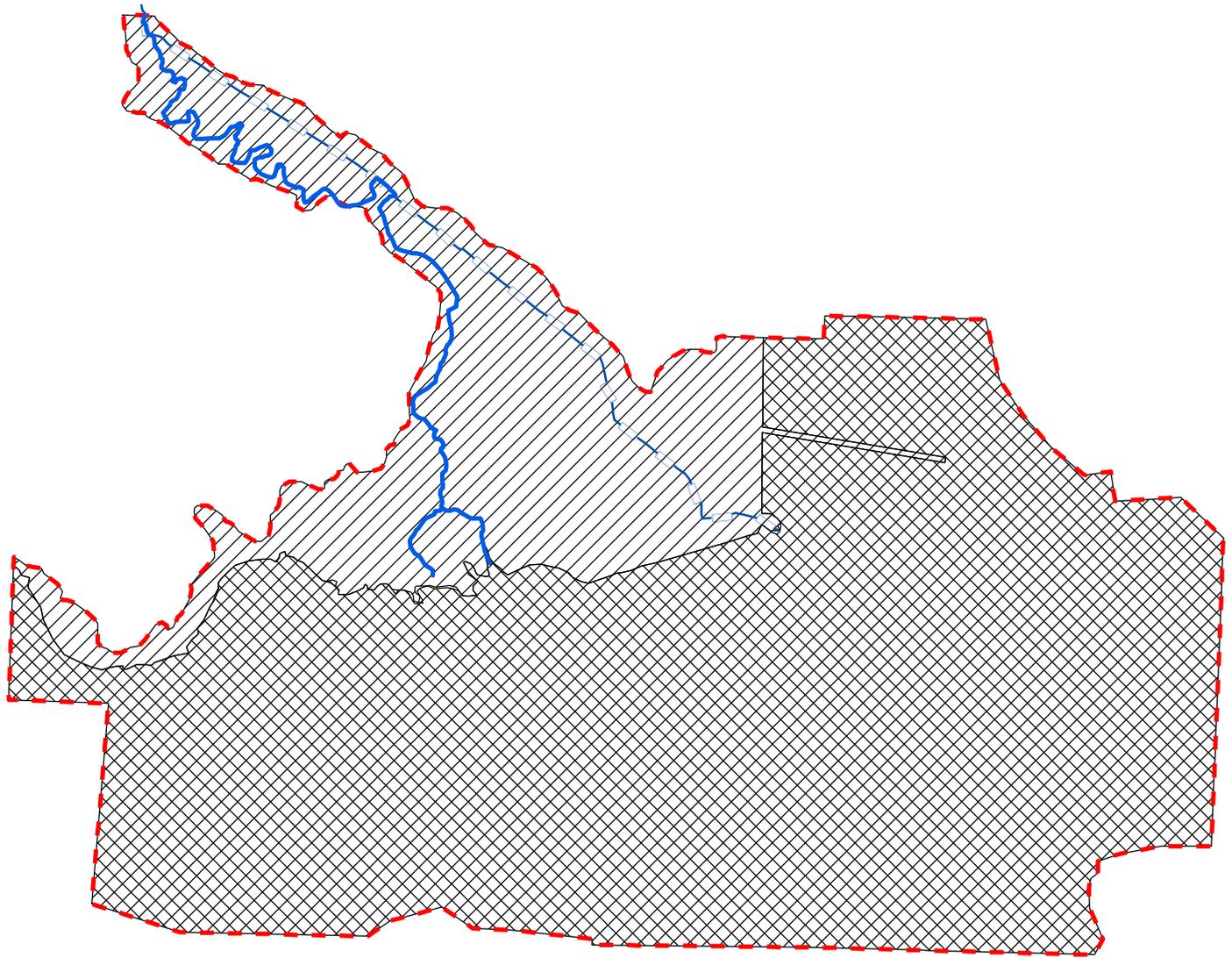
USACE Project # SWF-2009-00448

Drawn By: Chance Kimbrough  
Date: December 2, 2009

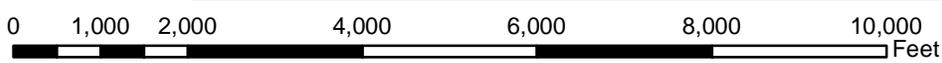
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**Figure 8 of 8**  
**Conceptual Mitigation Workplan Map**  
**Proposed Keystone Mitigation Bank in Rains County, Texas (2,419 acres)**



	Proposed Keystone Mitigation Bank
	Forest Restoration (558.6 acres)
	Forested Preservation/Enhancement (1,860 acres)
	Hydrology Restoration (15,918 feet)
	Hydrology Enhancement (11,440 feet)



USACE Project # SWF-2009-00448

Drawn By: Chance Kimbrough  
Date: December 2, 2009

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