



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

# Public Notice

Applicant: Chemical Lime Company

Permit Application No.: SWF-2009-00317

Date: September 1, 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. 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 Chemical Lime Company's proposal to expand the operations of their existing Marble Falls Quarry, north of the City of Marble Falls, Burnet County, Texas.

**APPLICANT:** Chemical Lime Company  
c/o Mr. Steven Curreri  
2700 Hulen Street  
Fort Worth, Texas 76107

**APPLICATION NUMBER:** SWF-2009-00317

**DATE ISSUED:** September 1, 2010

**LOCATION:** The Marble Falls Quarry Expansion project would allow continued excavation activities in a southerly direction, contiguous with the current quarry, located approximately 4 miles north of Marble Falls, Texas (Sheet 1 of 4). The proposed quarry expansion would be found on the Mormon Mill, Texas, United States Geological Survey (USGS) 7.5-minute topographic map. The project area is centered at approximately N 30.635° latitude; W -98.246° longitude. USGS Hydrologic Unit 12090205.

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

**PROJECT DESCRIPTION:** The applicant proposes to remove approximately 98,970 cubic yards of overburden and recoverable ore material from approximately 2,650 linear feet, or 1.05 acres, of waters of the United States in conjunction with the quarry operation on an unnamed branch to Hamilton Creek (Sheet 2 of 4). The purpose of the proposed activity is to continue the overall mining operation of the Marble Falls Quarry. The applicant has prepared the mine plan to balance the timing of overburden extraction against market-based need for the processed lime product produced from high grade limestone ore. The applicant proposes to excavate the 33 acre site to a depth of 68 to 73 feet below the existing surface in the proposed mining area. The proposed mining activity would proceed from northwest to southeast over an approximately 11 to 15-year time period.

The project site is located on undeveloped land that has been used for agricultural purposes. The topography is sloped to rolling hills, ranging from approximately 900 feet to 1,100 feet above mean sea level (MSL). The project site contains several tributaries to Hamilton Creek, which contribute to Austin and Travis Lakes within the Colorado River Watershed. According to the Burnet County Soil Survey, two soil types are reported as occurring on the subject property: Eckrant soils which are very shallow to shallow, well-drained soils formed over limestone, chalk, or marl and Hensley soils which are gently to moderately sloping, well drained soils formed over limestone.

Based on a review of aerial photography and field surveys, one primary and two secondary vegetative communities are present within the proposed project area. The primary community identified within the project site is an upland plant community. The two secondary communities consist of a narrow riparian zone and small patches of emergent wetland.

Dominant species found within the upland plant community include Texas live oak (*Quercus fusiformis*), Ashe juniper (*Juniperus ashei*), cedar elm (*Ulmus crassifolia*), prickly pear (*Opuntia engelmannii*), and Texas grama (*Bouteloua rigidisetata*).

The riparian zone, where it occurs, is only associated with the unnamed intermittent stream in the immediate area abutting the stream, generally within a few feet of the stream. Dominant plant species occurring along the riparian zone include cedar elm, downy lobelia (*Lobelia puberula*), and bushy bluestem (*Andropogon glomeratus*).

Plant species identified within the emergent wetland community include limewater brookweed (*Samolus ebracteatus*), whorled pennywort (*Hydrocotyle verticillata*), water hyssop (*Bacopa monnieri*), and spikerush (*Eleocharis* sp.).

One stream segment is located within the applicant's proposed project area, an unnamed intermittent tributary of Hamilton Creek. Within the project area, this tributary has characteristics of an intermittent water of the U.S., with seasonal spring fed flows after prolonged rainy periods. The unnamed tributary contained water at intermittent locations at the time of field reconnaissance and is generally 2 to 8 feet wide at the ordinary high water mark (OHWM).

A total of 1.05 acres or 2,650 linear feet of intermittent of stream would be adversely impacted (Sheets 3 of 4 and 4 of 4).

During the planning process, the applicant has attempted to avoid and minimize adverse impacts to waters of the U.S. by avoiding a perennial reach of Hamilton Creek and approximately 1,500 linear feet of the intermittent tributary in the proposed mining area.

In considering various alternatives during the proposed project planning process, the applicant has determined that the only recoverable lime with the proper chemical composition was near or under stream segments. The applicant believes that the proposed project is the least damaging practicable

alternative in light of social, environmental, and engineering factors. The applicant has determined that because of the inherent location of chemically suitable lime ore, no other alternative would be viable.

The applicant proposes to compensate for unavoidable adverse impacts to waters of the U.S. by preserving and enhancing approximately 5 acres of waters of the U.S., including 2,405 linear feet of 3 perennial streams and 298 linear feet of one intermittent stream located upstream, within two miles of the quarry expansion in the same watershed. Additionally, another 5 acres of buffer zone around these stream reaches would be preserved by deed restriction for a total near-site compensatory mitigation area of 10 acres. The proposed streams are under ecological pressure due to invasive, non-native species and expansion of the mine. The applicant would protect these stream segments in perpetuity, and land use, including cattle grazing, would be restricted at these locations. Non-native, invasive species would be actively managed to protect the natural systems.

**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 Burnet County where the bald eagle (*Haliaeetus leucocephalus*), bee creek cave harvestman (*Texella reddelli*), 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 bald eagle is delisted and being monitored for five years. The bee creek cave harvestman, black-capped vireo, golden-cheeked warbler, and whooping crane are listed endangered 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 (NRHP):** The area of the proposed expansion has a high probability for the presence of historic and prehistoric sites (historic properties). Two historic-age sites are adjacent to the property. While the area has never been formally surveyed for the presence of prehistoric or historic sites, similar environments are known to have a high probability for these site types. The area has been effected by erosion and grazing in the past. Additional work to identify and assess historic properties may be necessary for this project.

**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.

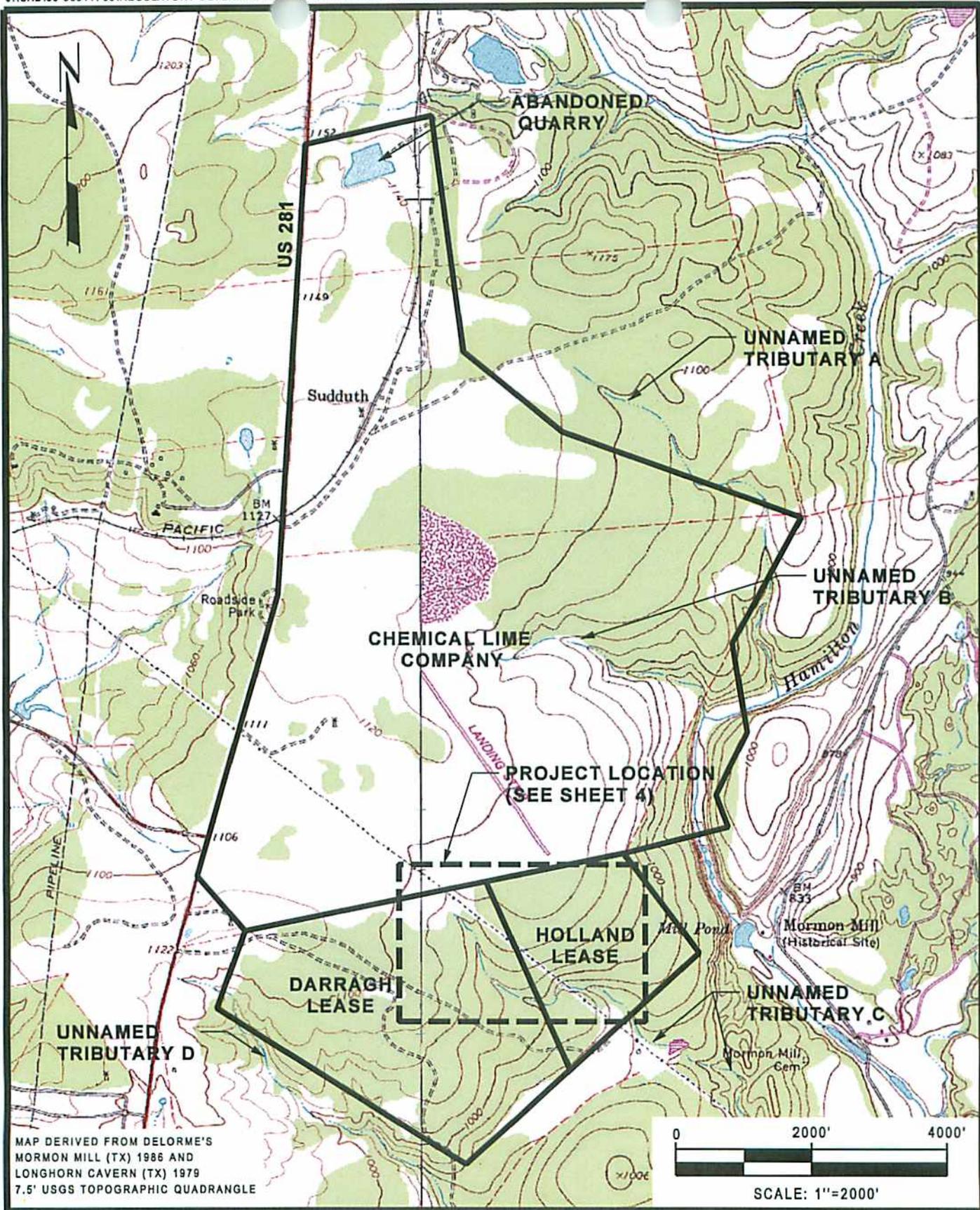
**SOLICITATION OF COMMENTS:** The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based.

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 October 1, 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



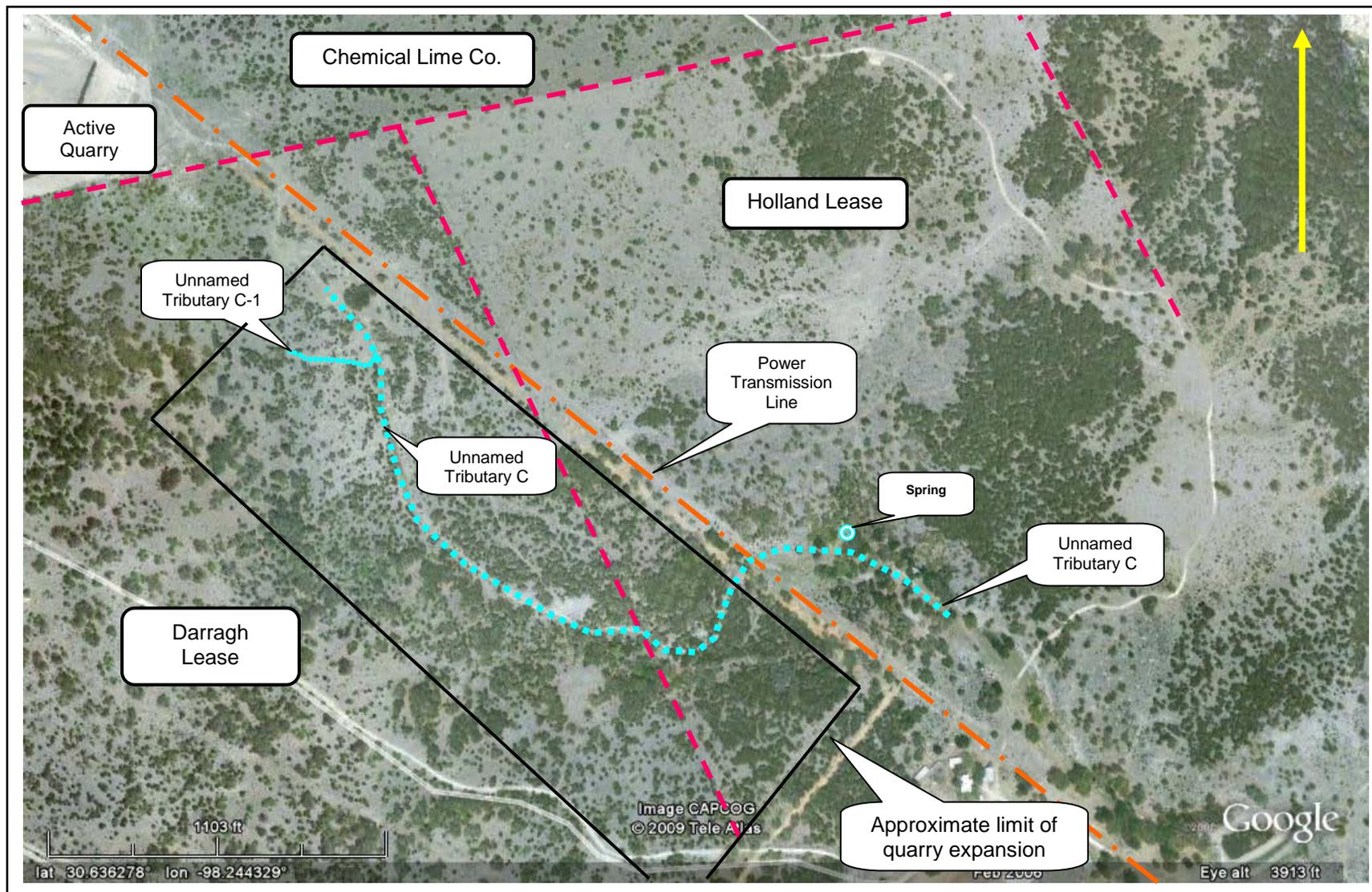
**RMT**

**CHEMICAL LIME COMPANY  
MARBLE FALLS, TEXAS**

**SITE LOCATION MAP**

DRAWN BY:	AHS
APPROVED BY:	
PROJECT NO.	6311.09
FILE NO.	SLG-00.06311.09-001.DGN
DATE:	JULY 2009

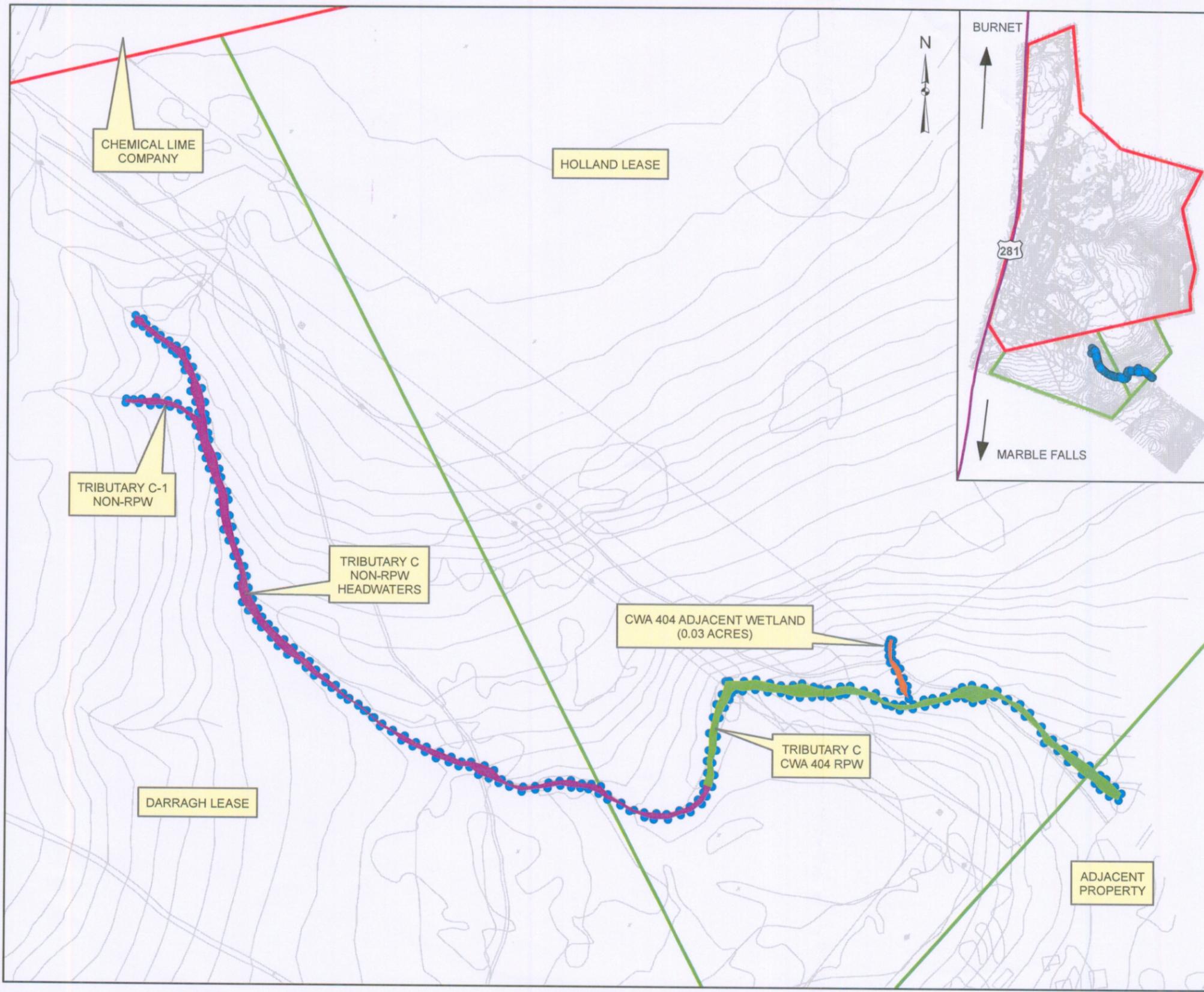
Sheet 2  
Chemical Lime Company, Marble Falls, Texas  
Marble Falls Quarry Proposed Development  
Aerial Image



C:\DOCUMENTS AND SETTINGS\M2PERFJL\LOCAL SETTINGS\TEMPORARY INTERNET

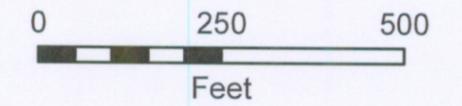
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SWF-2009-00317

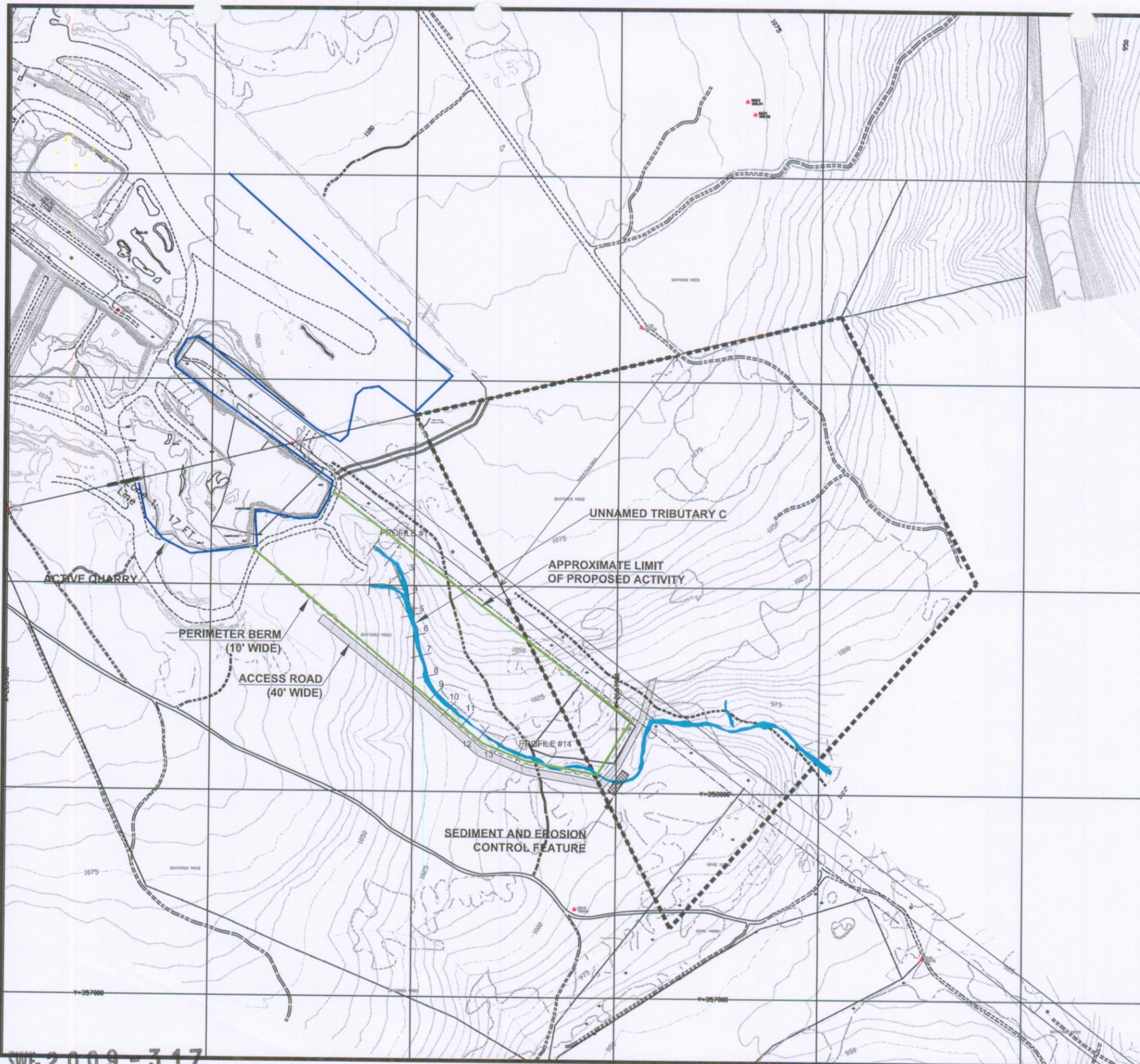


**LEGEND**

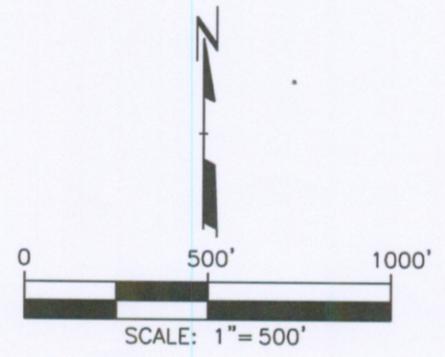
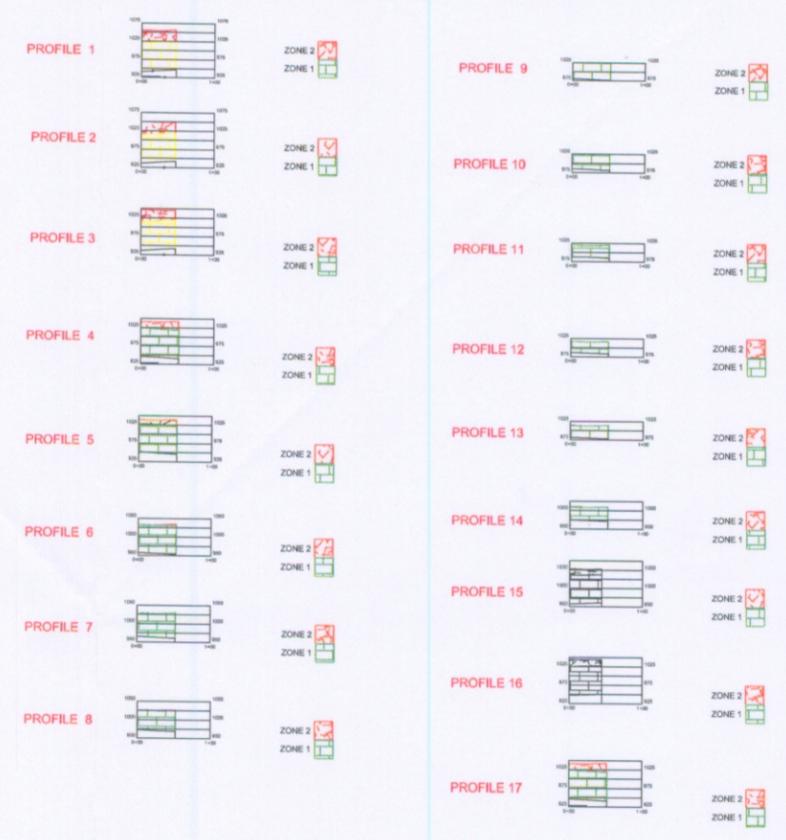
- CWA 404 ADJACENT WETLAND
- CWA 404 RELATIVELY PERMANENT TRIBUTARY
- NON-RELATIVELY PERMANENT TRIBUTARY
- WETLAND AND ORDINARY HIGH WATER BOUNDARY LOCATIONS
- CHEMICAL LIME COMPANY OWNED PROPERTY
- CHEMICAL LIME COMPANY LEASED PROPERTY



CHEMICAL LIME COMPANY MARBLE FALLS, BURNET COUNTY, TEXAS		
WATERS AND WETLANDS BOUNDARIES		
DRAWN BY: TLH	SCALE AS NOTED	PROJECT NO.: 06311.09
CHECKED BY: RWH		DATE: JULY 2009
APPROVED BY: RWH		SHEET NO.: 3
<b>RMT</b>		Patewood Plaza One, Suite 100 30 Patewood Drive Greenville, SC 29615-3535 Phone: 864-281-0030 FAX: 864-281-0288



**LEGEND**



PROJECT:			
<b>CHEMICAL LIME COMPANY MARBLE FALLS, TEXAS</b>			
SHEET TITLE:			
<b>PROPOSED MARBLE FALLS QUARRY EXPANSION PLAN VIEW</b>			
DRAWN BY:	AHS	SCALE:	PROJ. NO.
CHECKED BY:	RH	AS NOTED	FILE NO. SHEET 4.DWG
APPROVED BY:	RH	DATE PRINTED:	<b>SHEET 4</b>
DATE:	JULY 2009		
<b>RMT</b>		Patewood Plaza One, Suite 100 30 Patewood Drive Greenville, S.C. 29615-3535 Phone: 864-281-0030 Fax: 864-281-0288	

SWF-2009-3.17