Public Notice

US Army Corps

of Engineers

Fort Worth District

Applicant: Rockin'K on Chambers Creek Mitigation Bank

Permit Application No.: SWF-2012-00323

Date: November 2, 2012

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 Rockin' K on Chambers Creek Mitigation Bank (RKMB), a stream and wetland mitigation bank located in Navarro County, Texas.

APPLICANT: Rockin' K on Chambers Creek LP
1601 Elm Street, Suite 3700
Dallas, Texas 75201

APPLICATION NUMBER: SWF-2012-00323

DATE ISSUED: November 2, 2012

LOCATION: The proposed RKMB is located approximately 6 miles north of Corsicana, Texas, and adjacent to Chambers Creek (Sheet 1). The proposed project is located approximately at Latitude 32.1614 North and Longitude -96.4867 West in Navarro County, Texas, and within UTM Zone 14N. The tract is located in the Level III Ecoregion, the Trinity River Basin (HUC 1801021101), and within the Chambers Creek Watershed (HUC 12030109) (Sheets 2-4).

PROJECT DESCRIPTION: The 880 acre tract is owned by the Raymond J. Kane family (Rockin' K on Chambers Creek LP). The RKMB site consists of 880 acres of streams, wetlands, upland buffers and other related waters of the United States (Sheet 5).

According to the Natural Resource Conservation Service (NRCS), the tract is predominately mapped as Palustrine series, Trinity Clay soils temporarily and frequently flooded, and including Riverine areas, permanently flooded (Sheet 6). Trinity Clay soils are mapped as hydric for Navarro County (NRCS 2010). The NRCS characterizes the Palustrine series as 0 to 1 percent sloped and being nearly level floodplain soils found predominately in the Blackland Prairie Ecoregion. The Palustrine series consists of very deep, somewhat poorly drained soils with a high runoff rate. These soils are commonly flooded for a number of days per year. The NRCS characterizes the Palustrine series as containing slopes that are predominantly less than 1 percent, with ranges to 3 percent.

Chambers Creek, a perennial creek, forms the eastern boundary of the project site and numerous streams, drainage areas and sloughs associated with Chambers Creek and its floodplain are found throughout the proposed bank. The acreage of the proposed RKMB is comprised of existing Blackland Prairies, bottom land hardwoods adjacent to various stream types, wetland habitats, as well as upland buffer areas. Through preservation, restoration and enhancement, the goal is to improve functional values of stream, bottomland hardwood forested wetlands, emergent wetlands, and upland buffer communities within the project site. These communities are typical of the Trinity River Basin and the Chambers Creek sub-basin.

A large portion of the site has been cleared for over 70 years and devoted to intense agricultural purposes prior to the acquisition by the Project Sponsor. The proposed 880 acre RKMB has been divided into three community types: stream and forested hardwood wetland areas, immature forested wetlands and wetland prairies and upland buffers.

The stream channel buffer areas and bottomland hardwood wetlands areas encompass 250 acres of the proposed RKMB. The species composition within these areas would be augmented with tree, shrub and herbaceous species typical of climax riparian and forested wetlands within the Trinity River basin. These species include but are not limited to water oak (*Quercus nigra*), willow oak (*Quercus phellos*) green ash (*Fraxinus pennsylvanica*), common persimmon (*Diospyros virginiana*), American elm (*Ulmus americana*), sedges (*Carex* spp.), rushes (*Juncus* spp.), smartweed (*Polygonum* spp), annual marshelder (*Iva annua*) and flatsedges (*Cyperus* spp.). The immature forested wetlands that would be enhanced total 130 acres of the proposed RKMB. Enhancement of these areas would be similar to the stream channel buffer areas and bottomland hardwood wetlands areas above, incorporating seedlings of water oak (*Quercus nigra*), sugarberry (*Celtis laevigata*), American hornbeam (*Carpinus caroliniana*), American elm (*Ulmus americana*), deciduous holly (*Ilex decidua*) and Cherokee sedge (*Carex cherokeensis*). The proposed RKMB contains 500 acres of emergent wetlands and upland buffers which would be improved and enhanced utilizing bald cypress (*Taxodium distichum*), American hornbeam (*Carpinus caroliniana*), planertree (*Planera acquatica*), green ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*), cedar elm (*Ulmus crassifolia*), sugarberry (*Celtis laevigata*), , water oak (*Quercus nigra*), overcup oak (*Quercus lyrata*), deciduous holly (*Ilex decidua*), sedges (*Carex spp.*), smartweed (*Polygonum* spp), sessile-flowered chasmanthium (*Chasmanthium sessiliflorum*), saw greenbrier (*Smilax bona-nox*), Alabama supplejack (*Berchemia scandens*), big bluestem (*Andropogon gerardii*), pecan (*Carya illinoensis*), black walnut (*Juglans nigra*), shumard oak (*Quercus shumardii*), bottomland post oak (*Quercus* spp.), black oak (*Quercus velutina*), Texas bluebonnet (*Lupinus texensis*), and white clover (*Trifolium repens*).

The sponsor proposes a conceptual mitigation work plan (CMWP) divided into three (3) phases for the proposed RKMB. This CMWP would include (1) vegetative and stream channel enhancement of approximately 250 acres of stream channel buffer and bottomland hardwood wetlands, (2) vegetative enhancement of approximately 130 acres of immature forested wetlands, and (3) vegetative preservation and enhancement of approximately 500 acres of emergent wetlands/Backland Prairies and upland buffers (Sheet 7). Restoration and/or enhancement activities would be conducted in the form of improvements, monitoring, selective removal of undesirable species, and planting of desirable species. Specific plans would be presented to the Interagency Review Team ("IRT") in the Draft Mitigation Bank Instrument (DMBI). The Sponsor would implement the bank development plan per the timing and scope approved in the final Mitigation Bank Instrument (MBI).

The primary, secondary, and tertiary service areas were defined using the U.S. Geological Survey 8-digit hydrologic unit code (HUC) and the U.S. Environmental Protection Agency's Level III Ecoregions. The primary service area was defined as the entire 8-digit HUC (regardless of ecoregion) that the proposed RKMB is located in. The secondary service area was defined as that portion of the specific Level III Ecoregion as the proposed RKMB is located, found in an

adjacent HUC. The tertiary service area is defined as any 8-digit HUC (or portion of an 8-digit HUC) adjacent to the primary service area, located outside of the same Level III Ecoregion as the proposed mitigation bank. The secondary and tertiary service areas are also located within the Trinity basin and Chambers Creek sub-basin.

The primary service area for the RKMB is located within HUC 12030109, in its entirety. The primary service area would include portions of Navarro, Ellis, Johnson and Hill Counties (Sheet 8).

The secondary service area for the RKMB is located in the Texas Blackland Prairie ecoregion and would include portions of Kaufman, Ellis, Johnson, Navarro, Hill, Collin, Dallas, Tarrant and Limestone Counties (Sheet 9).

The tertiary service area for the RKMB is located within the Texas Blackland Prairie, East Central Texas Plains, and Cross Timbers Ecoregions. The tertiary service area would include portions of Montague, Erath, Hood, Sommerwell, Bosque, Hill, McLennan, Ellis Grayson, Cook, Johnson, Wise, Denton, Parker, Tarrant, Kaufman, Navarro, Anderson, Freestone and Henderson Counties (Sheet 9).

A MBI will 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, financial assurances, service areas, credit determination, scope of agreement purposes and goals of the bank, baseline conditions, projected ecological lift, performance standards for enhancement activities, accounting procedures, monitoring and reporting long-term maintenance and protection, and transfer of bank ownership or sponsorship. The USACE, United States Environmental Protection Agency, United States Fish and Wildlife Service (USFWS), Texas Commission on Environmental Quality (TCEQ), Texas Railroad Commission, and Texas Parks and Wildlife Department (TPWD) comprise the 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 No. 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the latest USFWS and TPWD published versions of listed endangered and threatened species to determine if any may occur in the project area. The proposed bank site would be in Navarro County where the Whooping Crane (*Grus Americana*), Interior Least Tern (*Sterna antillarum athalassos*), Piping Plover (*Charadrius melodus*) and Red Wolf (*Canis rufus*) are federally listed as threatened or endangered species. Our initial review indicates the proposed work would have no effects on any federally listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The proposed mitigation bank has never been formally surveyed for the presence of historic or prehistoric cultural resources. No sites of

historic significance are currently recorded within the area of the proposed mitigation bank, other than a Texas historic cemetery, which will not be disturbed or have access encumbered by the proposed RKMB. Similar areas along Chambers Creek are known to have deeply buried prehistoric sites with no surface expression. Saturated soils in the mitigation bank could reduce the chances for investigation of prior historic or prehistoric occupations. Previous impacts to this area which might have damaged sites include extensive agricultural uses. A report of cultural resources will be included in the DMBI, for IRT review.

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.

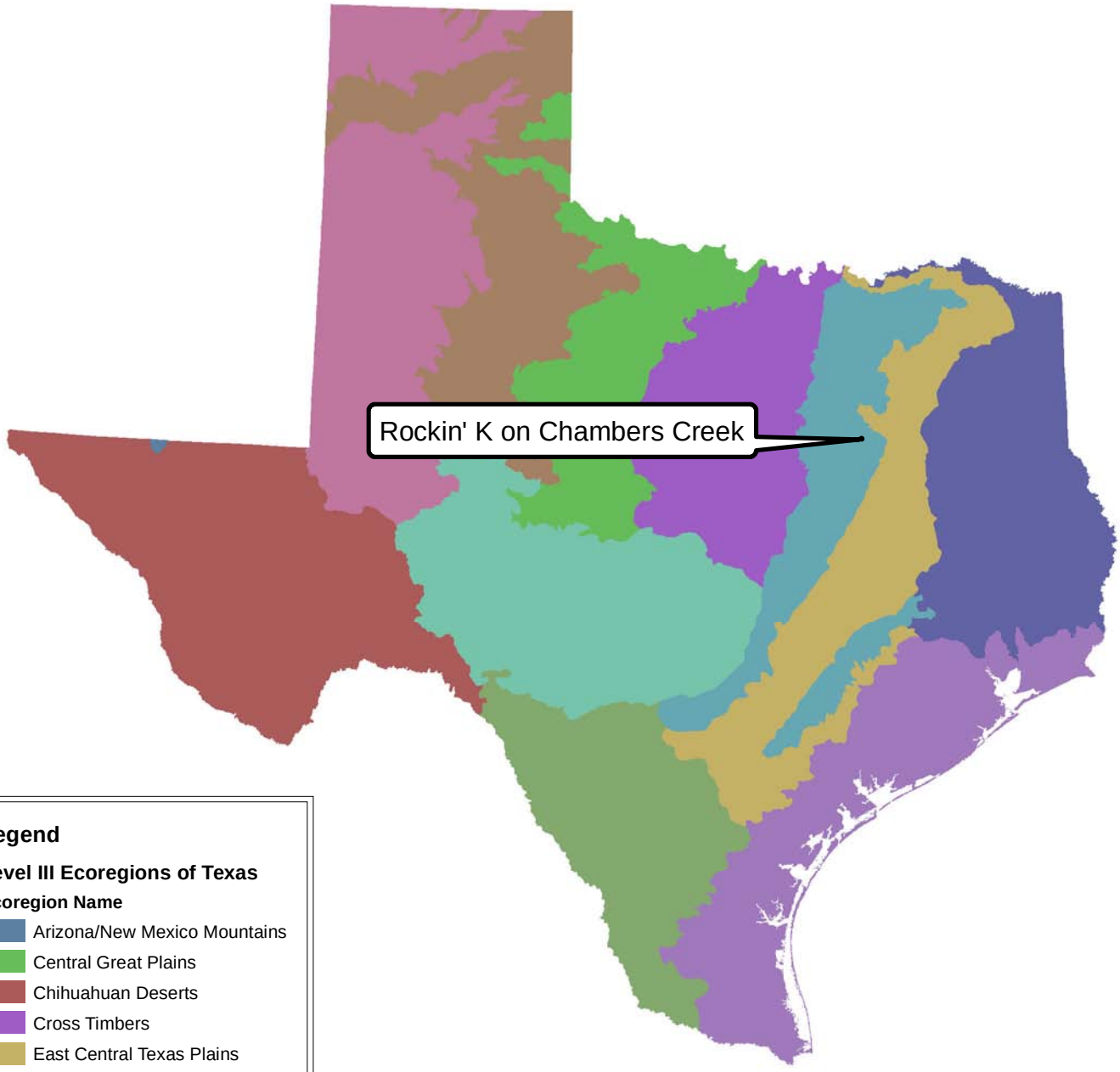
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to allow the public an opportunity to comment on this bank proposal and to assist the USACE and other members of the IRT in developing the final MBI. For accuracy and completeness of the record, 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 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 2, 2012, 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

Sheet 1	Rockin' K on Chambers Creek Mitigation Bank		N	Rockin' K
	Vicinity Map DATE: 09/24/2012	Navarro County, Texas		SWF 2012-00323



Legend

Level III Ecoregions of Texas

Ecoregion Name

- Arizona/New Mexico Mountains
- Central Great Plains
- Chihuahuan Deserts
- Cross Timbers
- East Central Texas Plains
- Edwards Plateau
- High Plains
- South Central Plains
- Southern Texas Plains
- Southwestern Tablelands
- Texas Blackland Prairies
- Western Gulf Coastal Plain

0 25 50 100 Miles

Sheet 2	Rockin' K on Chambers Creek Mitigation Bank		N	Rockin' K
	Level III Ecoregions of Texas U.S. EPA 2004 DATE: 09/24/2012	Navarro County, Texas		SWF 2012-00323

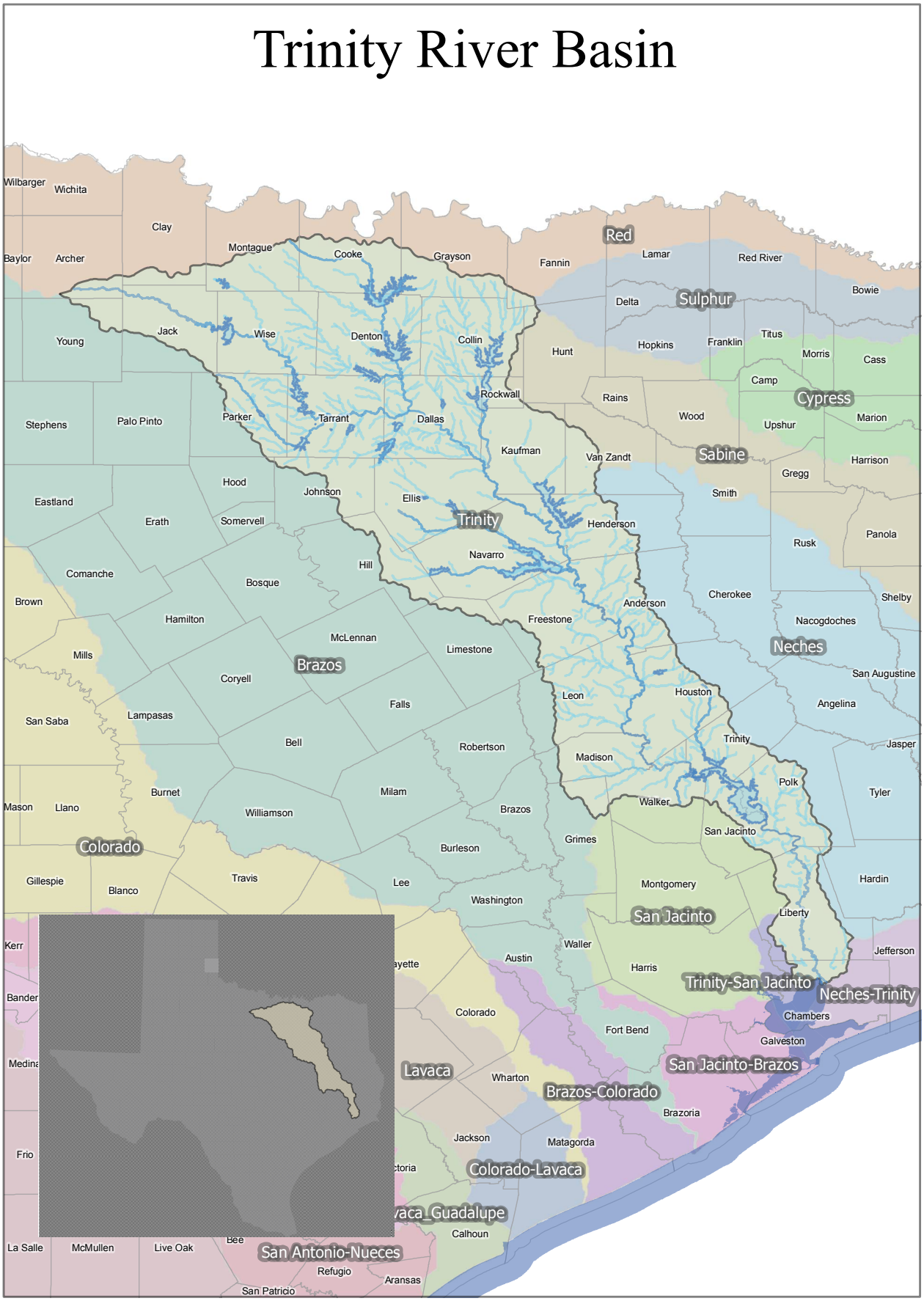
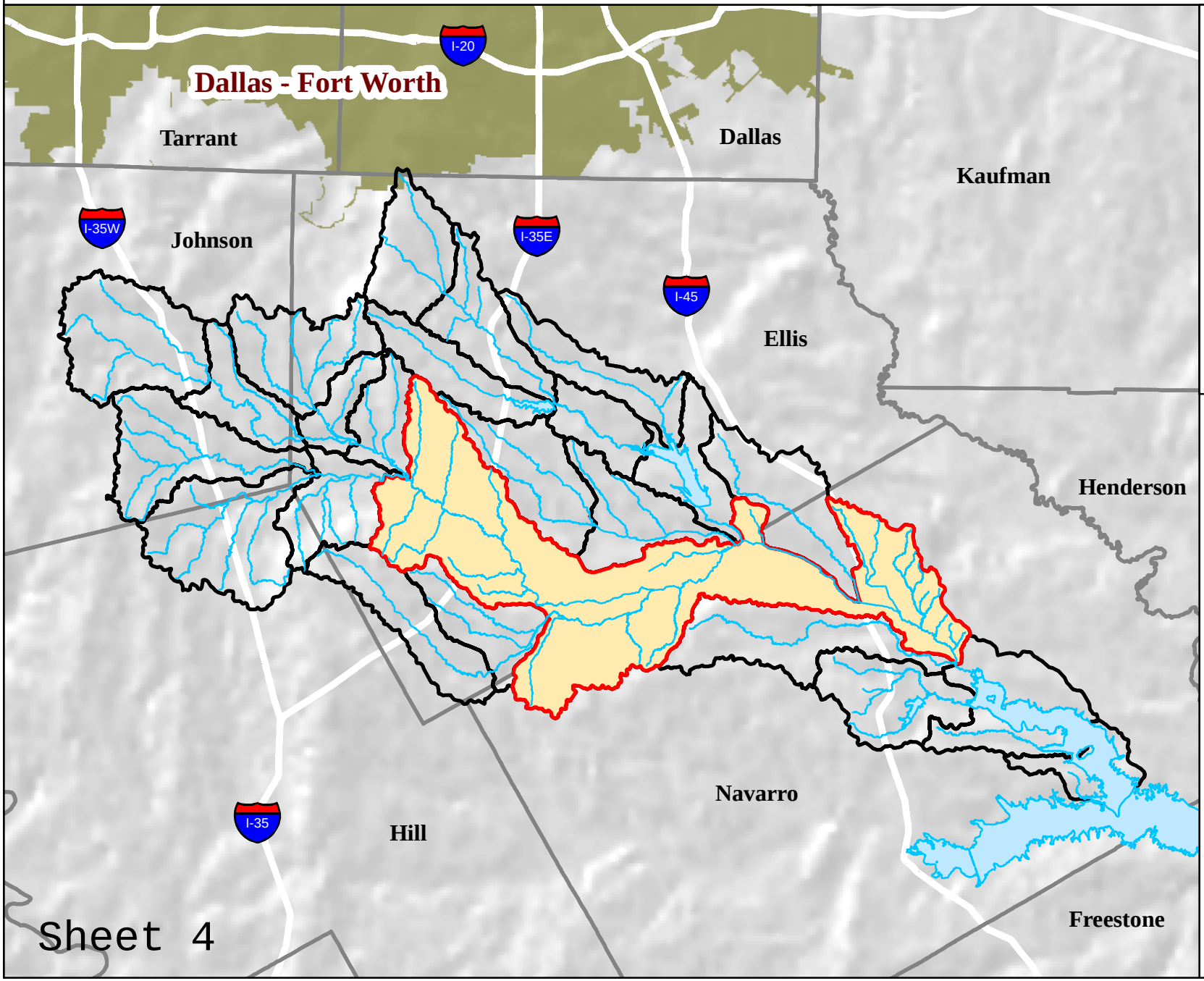


Fig. 1a. Trinity River Basin.

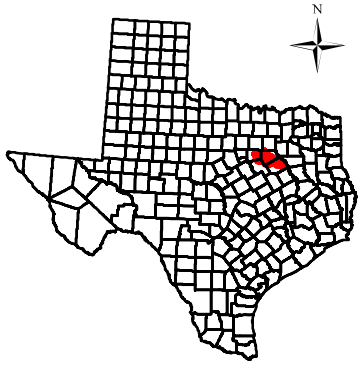
Sheet 3

USDA NRCS
United States Department of Agriculture
Natural Resources Conservation Service

Chambers Creek Above Richland-Chambers Reservoir National Water Quality Initiative



Chambers Creek Above Richland-Chambers Reservoir
National Water Quality Initiative
Location in Texas



8-digit Sub-Basin
Texas Counties

Legend

- Hydrology
- 12-digit Sub-Watersheds
- National Water Quality Initiative
- Texas Counties

12-digit Sub-Watershed Acres

120301090201 - 16,280
120301090202 - 23,308
120301090203 - 26,856
120301090206 - 25,439
120301090207 - 16,017
120301090402 - 21,465
120301090403 - 22,944

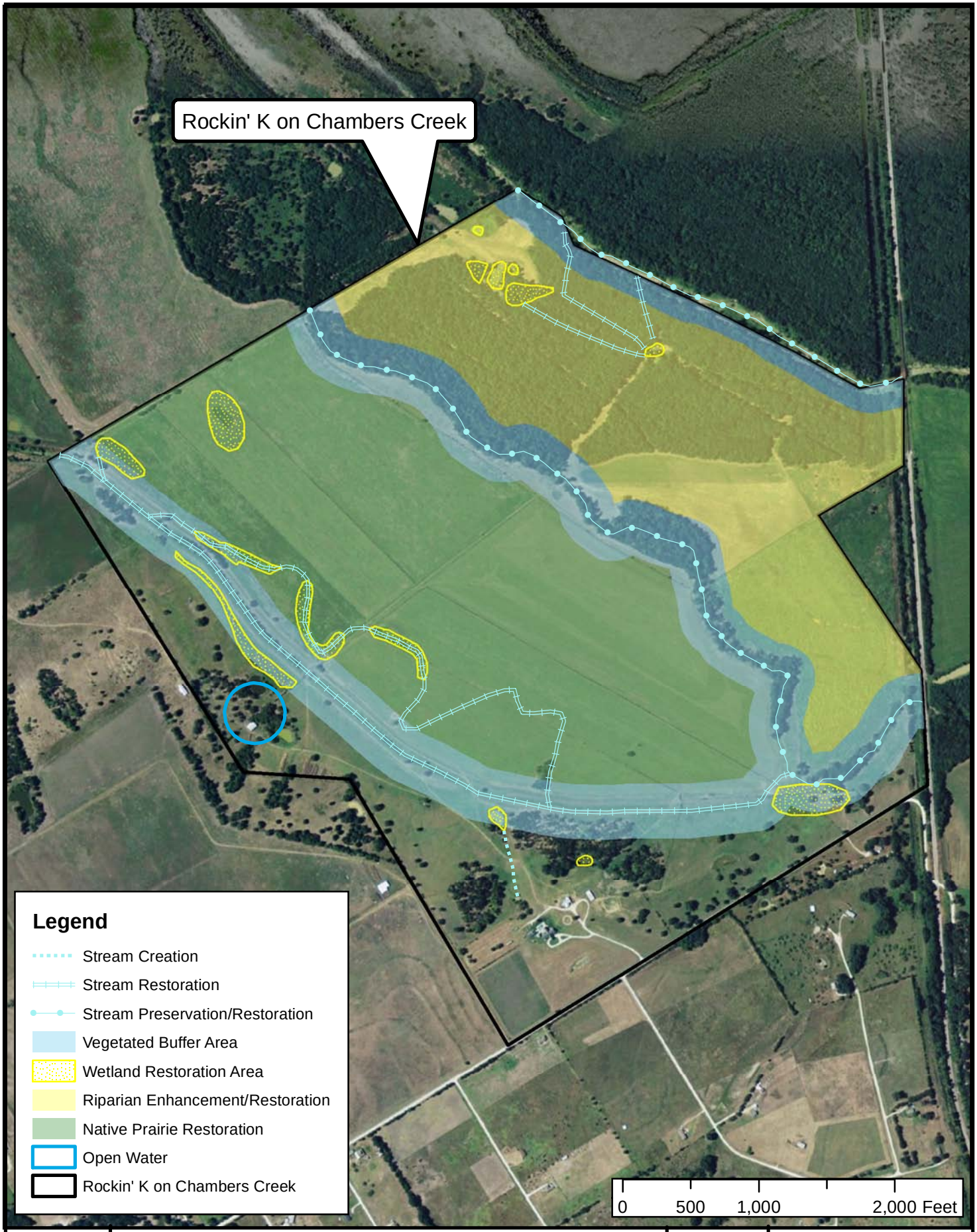
N

Project ID: PG120507SD01

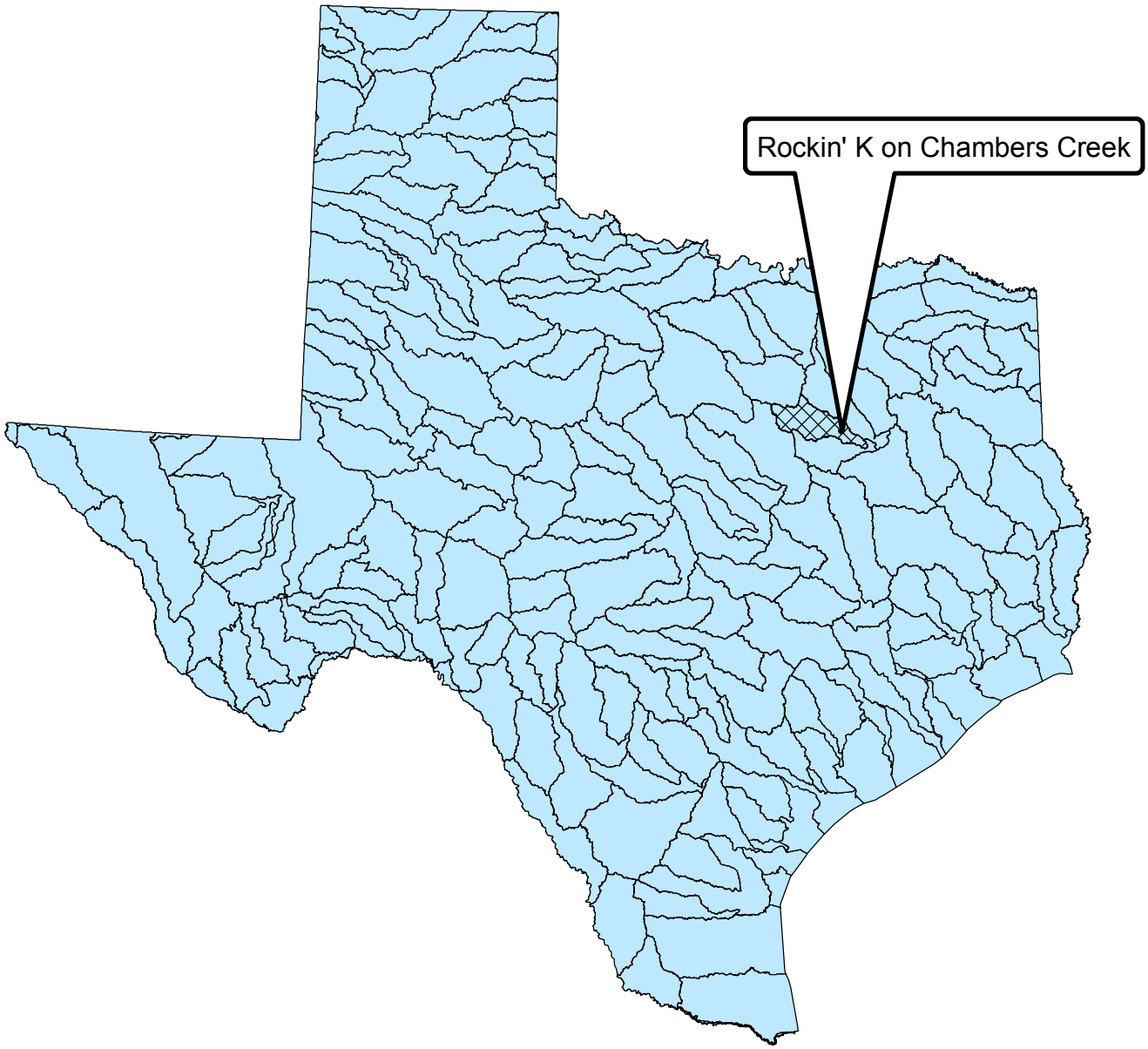
Sheet 5	Rockin' K on Chambers Creek Mitigation Bank		N	Rockin' K
	Recent Aerial Map Aerial Source: TNRIS 2010 DATE: 09/24/2012	Navarro County, Texas		SWF 2012-00323

PFO1A - Palustrine, Forested, Broad-leaved Deciduous, Temporarily Flooded
PFO1C - Palustrine, Forested, Broad-leaved Deciduous, Seasonally Flooded
POWHx - Palustrine, Open Water, Permanently Flooded, Excavated
R2OWH - Riverine, Lower Perennial, Open Water/Unknown Bottom, Permanently Flooded

Sheet 6	Rockin' K on Chambers Creek Mitigation Bank	N	Rockin' K
	Digitized from: USFWS National Wetlands Inventory Aerial Source: TNRIS 2010 DATE: 09/24/2012 — Navarro County, Texas		SWF 2012-00323



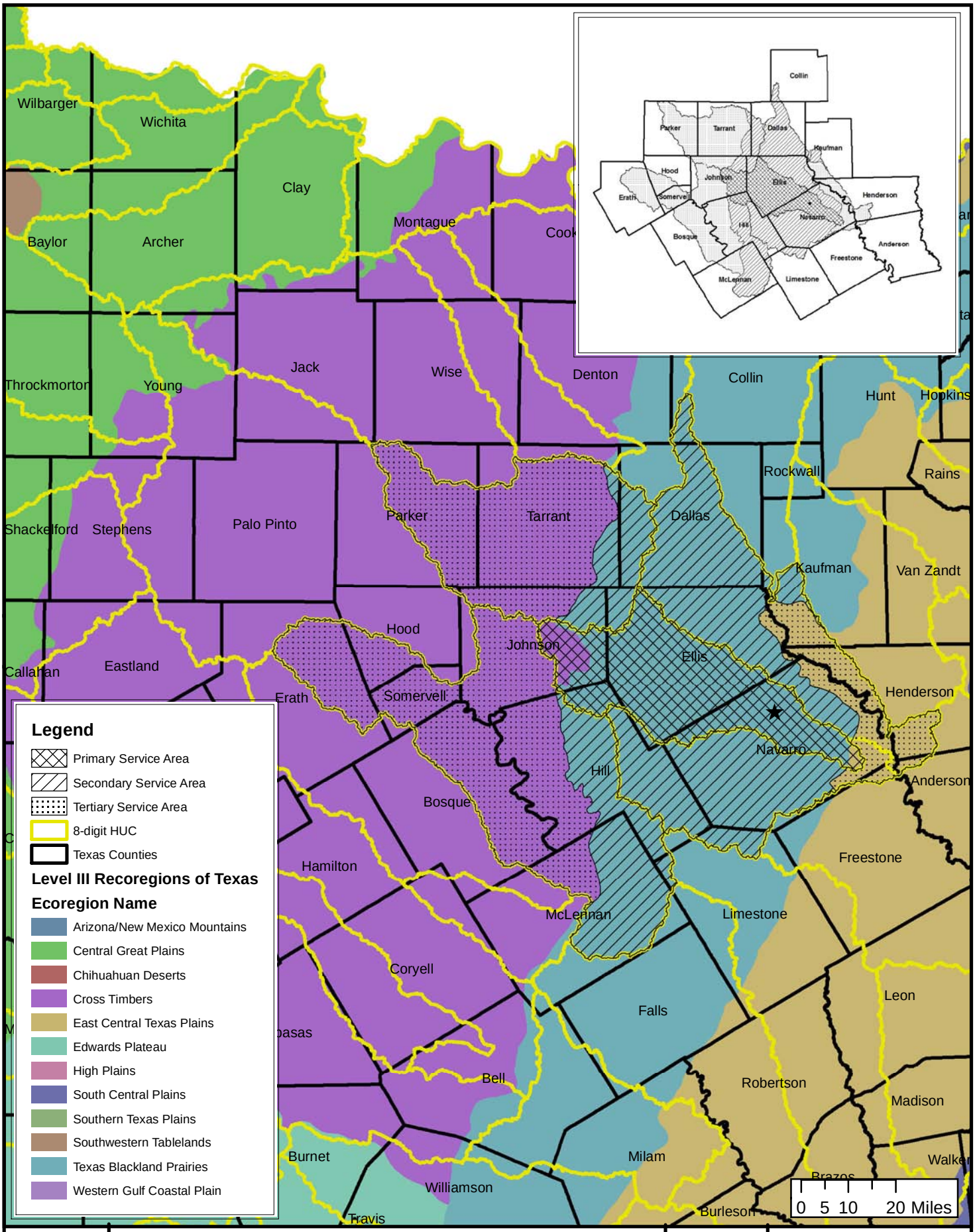
Sheet 7	Rockin' K on Chambers Creek Mitigation Bank		N	Rockin' K
	Potential Restoration Areas and Activities Aerial Source: TNRIS 2010 DATE: 09/24/2012	Navarro County, Texas		SWF 2012-00323



Chambers Watershed -- 12030109

0 25 50 100 Miles

Sheet 8	Rockin' K on Chambers Creek Mitigation Bank		N	Rockin' K
	8-digit Hydrologic Unit Codes U.S. EPA DATE: 09/24/2012	Navarro County, Texas		SWF 2012-00323



Sheet 9	Rockin' K on Chambers Creek Mitigation Bank	N	Rockin' K
	Proposed Service Area DATE: 09/24/2012	Navarro County, Texas	SWF 2012-00323