



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

Public Notice

Applicant: Texas Westmoreland Coal Company

Permit Application No. : SWF-2012-00079

Date: June 22, 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 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

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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 fill material into waters of the United States (WOUS) associated with the renewal of the Jewett Mine in Freestone, Leon, and Limestone Counties, Texas by Texas Westmoreland Coal Company.

APPLICANT: Texas Westmoreland Coal Company (TWCC)

APPLICATION NUMBER: SWF-2012-00079

DATE ISSUED: June 22, 2012

LOCATION: The proposed project area is 3,170 acres—of which approximately 1,798 acres remain to be mined within the Jewett Mine, Railroad Commission of Texas (RCT) Permit No. 32F, all within Leon County. The project area is fully within the existing Jewett Mine (approximately 21,575 acres) in Freestone, Leon, and Limestone counties, Texas, with the mine center being approximately at Latitude 31° 24' 58" N and Longitude 96° 12' 36" W. The Jewett Mine began extracting lignite (coal) in 1985. The project area is approximately eight miles northwest of the town of Jewett, Texas; is contained within the Donie, Jewett, and Round Prairie 7.5-minute USGS quadrangle maps; and is in the following USGS Hydrologic Units: 120701030306 (Lambs Creek), 120701030307 (Birch Creek), and 120701030308 (Running Branch-Navasota River). The 32F Permit area is generally contained within the following area: east of Lake Limestone, south of State Highway 164 and Buffalo Creek, west of Alligator Creek, and north of the junction of FM 39 and the BNSF Railroad (see Figure 1 of 8).

OTHER AGENCY AUTHORIZATIONS: (1) Texas Pollutant Discharge Elimination System (TPDES) Wastewater Discharge Permit [WQ0002653000], TCEQ; (2) Water Rights Exemption, TCEQ; (3) Solid Waste Registration [38502], (TCEQ); (4) Surface Mining Permit [32F], (RCT); (5) Operation permit—Air Quality [9407], (TCEQ); and (6) Solid Waste Registration [34679], TCEQ.

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 50,000 cubic yards of fill material into approximately 23 acres of WOUS in conjunction with the continued operation and reclamation of the existing Jewett Mine, Permit No. 32F, in Freestone, Leon, and Limestone counties. Total impacts to WOUS would include 0.70 acre of forested wetlands, 10.19 acres of non-forested wetlands, 5.98 acres of impoundments (stock tanks/ponds); 29,561 linear feet (lf) of streams, including 12,894 lf of intermittent and 16,577 lf of ephemeral streams (6.13

acres of stream subtotal). The proposed mining operation area would consist of 1,798 acres remaining to be mined, only in Leon County (see Figure 1 of 8). Surface mining operations would continue with conventional open pits excavated by large draglines and supported by standard earth moving equipment such as front-end loaders, hydraulic excavators, hydraulic backhoes, haulers, motor graders, dozers, end dumps, and scrapers. Infrastructure in support of the operation would include (1) construction of ponds and diversions to control surface water drainage, (2) placement of groundwater well fields to dewater overburden and relieve underburden pressures, (3) relocation of pipelines, (4) construction of service roads, and (5) closure and/or relocation of a number of county roads to facilitate mine operations and protect public safety. Project timing is for mining to continue as permits are approved by regulatory agencies. Various construction projects and mining operations would involve adverse impacts to waters of the U.S., including wetlands, associated with filling or dredging activities.

Continued mining of the Jewett Mine would provide reliable access to a continued source of low cost lignite fuel for the nearby Limestone Electric Generating Station.

Appropriate and practicable steps would be taken to avoid, minimize, or mitigate the adverse impacts of the proposed project on the aquatic ecosystem. Current planning for the continued mining shows avoidance and minimization of adverse impacts to WOUS would be a significant part of the design of the Surface Mining Control and Reclamation Act (SMCRA) permit and Individual Permit—the primary focus being protection of wetlands and other WOUS associated with Lambs, Birch and Running Branch creeks. Approximately 0.20 acre of ponds, and 3,195 linear feet (0.42 acre) of streams are projected to be avoided with minimization planning due to the strategic location of mining activities.

The applicant incorporated a number of measures to avoid and minimize impacts to WOUS. However, the proposed project would result in the permanent loss of 23.00 acres of WOUS. Permanent impacts are proposed to 0.70 acre of forested wetlands, 10.19 acres of non-forested wetlands, 5.98 acres of impoundments (stock tanks/ponds); 29,561 linear feet (lf) of streams, including 12,894 lf of intermittent and 16,577 lf of ephemeral streams (6.13 acres of stream subtotal). After consideration of all available options, the applicant proposes to mitigate for unavoidable losses of WOUS by construction of various WOUS within the reclaimed mine site. Baseline ecological conditional assessments of proposed aquatic resource impact sites, existing reclaimed/restored aquatic resources and regional aquatic resource reference sites were performed utilizing the Texas Rapid Assessment Method (TXRAM). Additionally, future conditions of aquatic resource restoration sites are predicted using TXRAM. Proposed mitigation work would utilize principles of natural channel design and fluvial geomorphology to reclaim/restore stream and wetland hydrology and buffers with the requirement that all created/restored waters meet the definition of WOUS. Stream design information would be submitted for USACE and resource agency review prior to construction of mitigation streams. The information would include but not limited to plan, profile and dimension measurements based on appropriate regional hydrographic and geomorphological data and successful as-built streams/systems on and/or near the mine site.

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 incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier II project criteria. Tier II projects are large projects that affect more than three (3) acres of waters of the United States and/or 1,500 linear feet or more of streams. They also include projects that impact rare and ecologically significant wetlands and would not qualify for a Tier I review or for which the applicant elects not to incorporate Tier I Best Management Practices (BMPs) including the applicant choosing to use alternative BMPs. Accordingly, a request for 401 certification is necessary, and there will be additional TCEQ review.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's (USFWS) latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project is located in Leon County, where the following species are federally listed: Houston toad (*Bufo houstonensis*), interior least tern (*Sterna antillarum*), whooping crane (*Grus americana*), Navasota ladies' tresses (*Spiranthes parksii*), and large-fruited sand verbena (*Abronia macrocarpa*). Each of these is listed as an endangered species by the USFWS. No sightings of federally listed threatened or endangered species or species of special concern have occurred or were recorded within the limits of the proposed Jewett Mine during environmental baseline studies and field reconnaissance, and initial

review indicates that the proposed work would have no adverse effects on any federally-listed endangered or threatened species.

No sightings of state or federal listed threatened or endangered species or species of special concern have occurred or were recorded within the limits of the proposed Jewett Mine during environmental baseline studies and field reconnaissance, and initial review indicates that the proposed work would have no adverse effects on any federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES (NRHP): The applicant proposes to address historic properties and cultural resources in accordance with the requirements of Section 106 of the National Historic Preservation Act and through direct consultation with applicable agency officials and other stakeholders. An integral part of the permit application process involves comprehensive cultural resource surveys for, at a minimum, the five-year project area term to determine the presence or evidence of significant historic or archaeological sites within the project area that could be affected by the proposed mining activities. Several historic properties and cultural resource sites have been identified in the region. However, no cultural resource sites listed on the National Register of Historic Places (NRHP), eligible for listing on the NRHP, or with an unknown NRHP status will be impacted by mine-related activities unless the proper approvals are received from the Texas Historical Commission and RCT.

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.

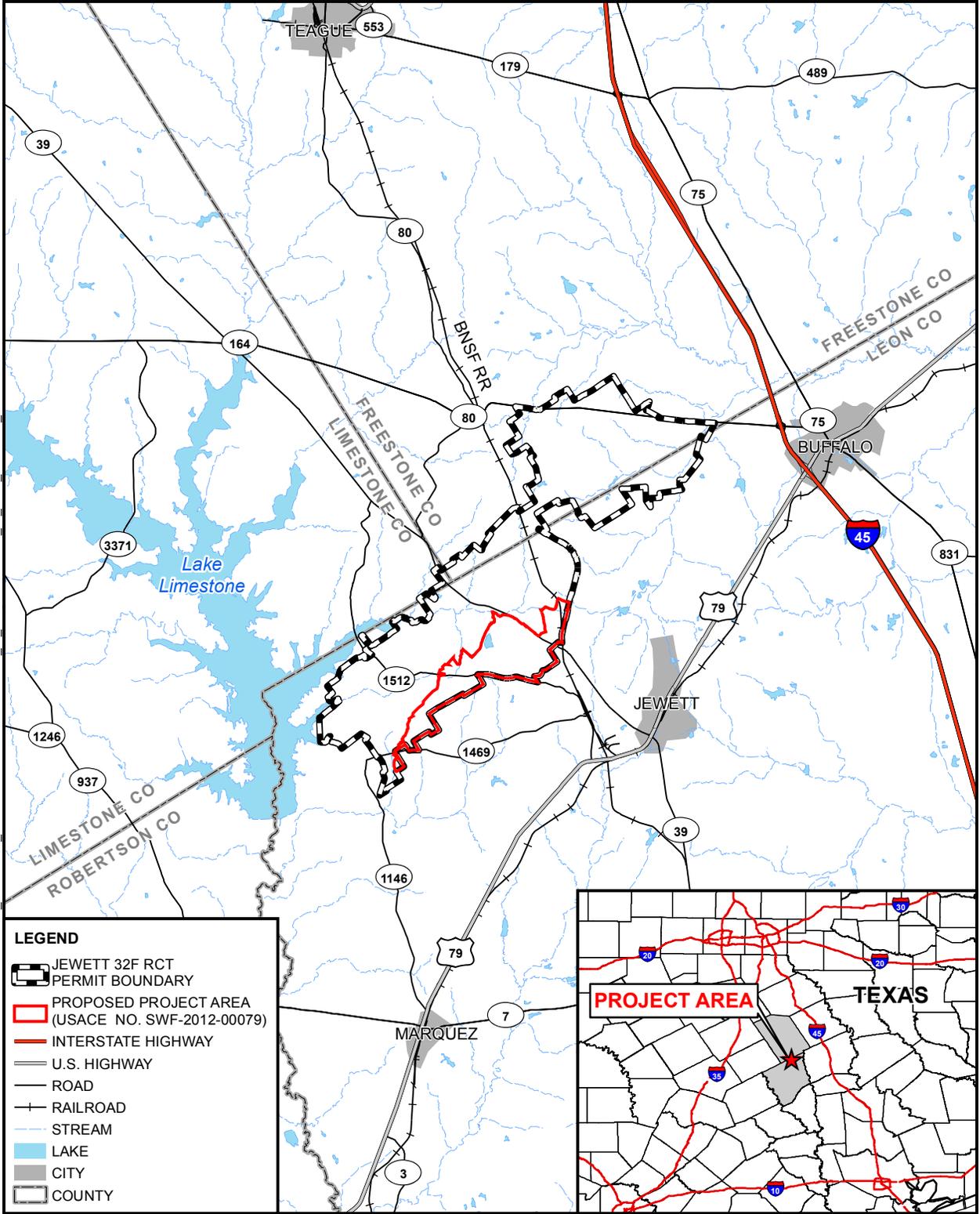
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be 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 July 23, 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: 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

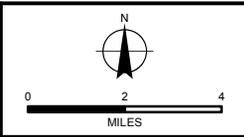
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LEGEND

- JEWETT 32F RCT PERMIT BOUNDARY
- PROPOSED PROJECT AREA (USACE NO. SWF-2012-00079)
- INTERSTATE HIGHWAY
- U.S. HIGHWAY
- ROAD
- RAILROAD
- STREAM
- LAKE
- CITY
- COUNTY

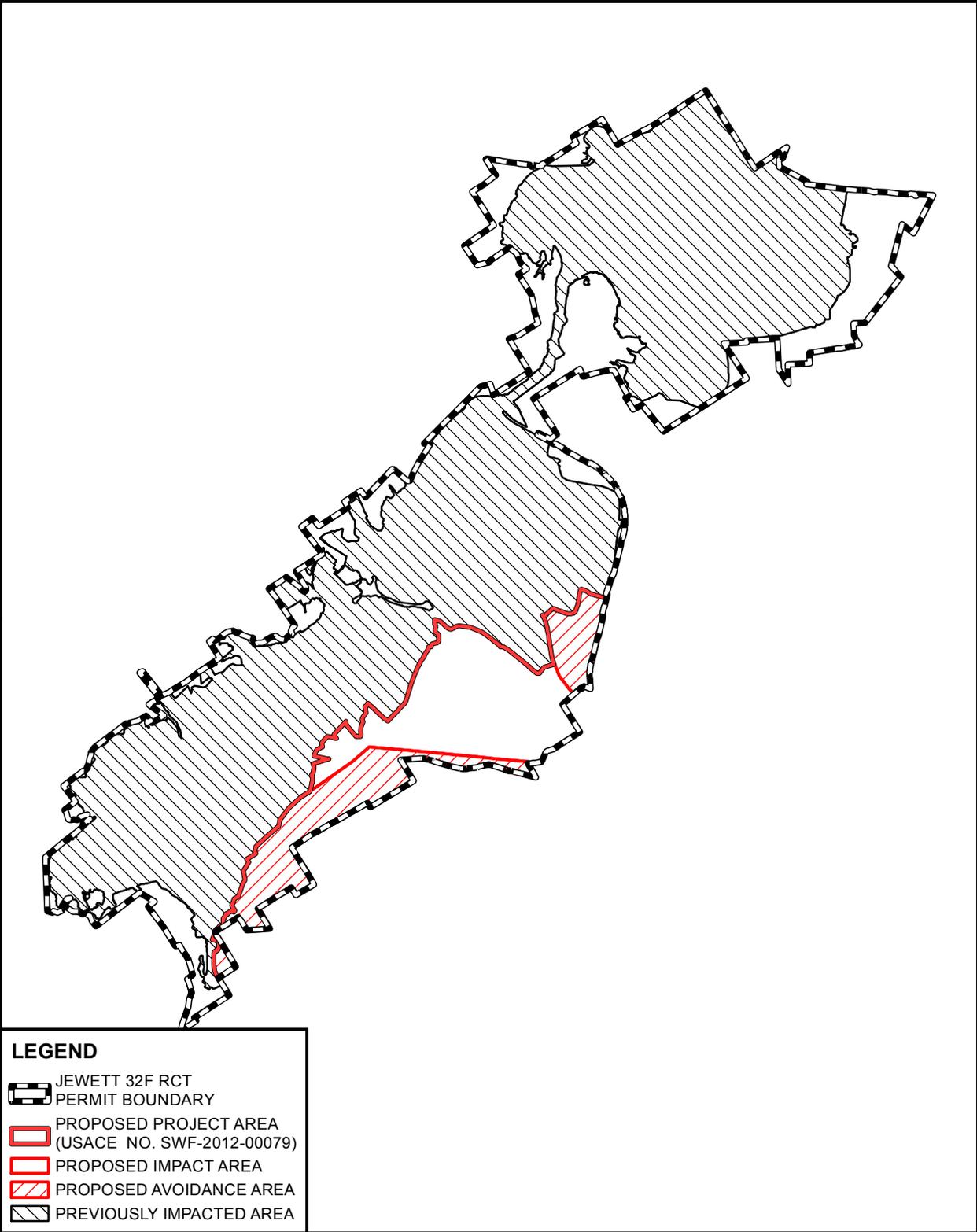
**INDIVIDUAL PERMIT
JEWETT MINE AREA 32F
USACE PROJECT NO. SWF-2012-00079
GENERAL LOCATION MAP**



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JUNE 2012 FIGURE 1

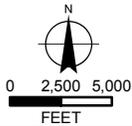
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LEGEND

-  JEWETT 32F RCT PERMIT BOUNDARY
-  PROPOSED PROJECT AREA (USACE NO. SWF-2012-00079)
-  PROPOSED IMPACT AREA
-  PROPOSED AVOIDANCE AREA
-  PREVIOUSLY IMPACTED AREA

**INDIVIDUAL PERMIT
JEWETT MINE AREA 32F
USACE PROJECT NO. SWF-2012-00079
PREVIOUS IMPACTS MAP**

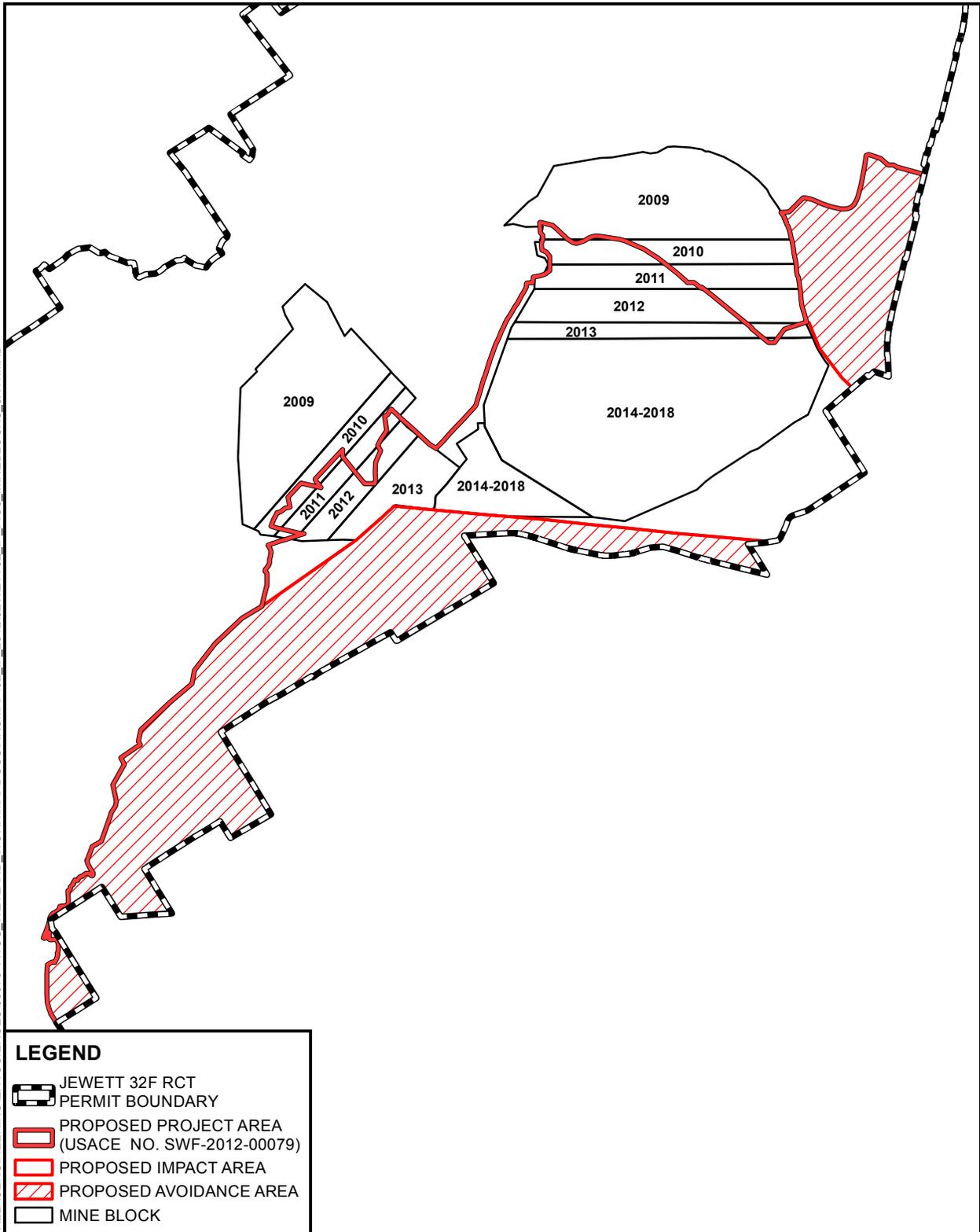


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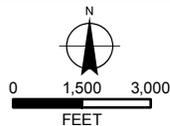
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FIGURE 2

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JEWETT MINE AREA 32F
USACE PROJECT NO. SWF-2012-00079
PROJECTED SEQUENCE
OF MINING

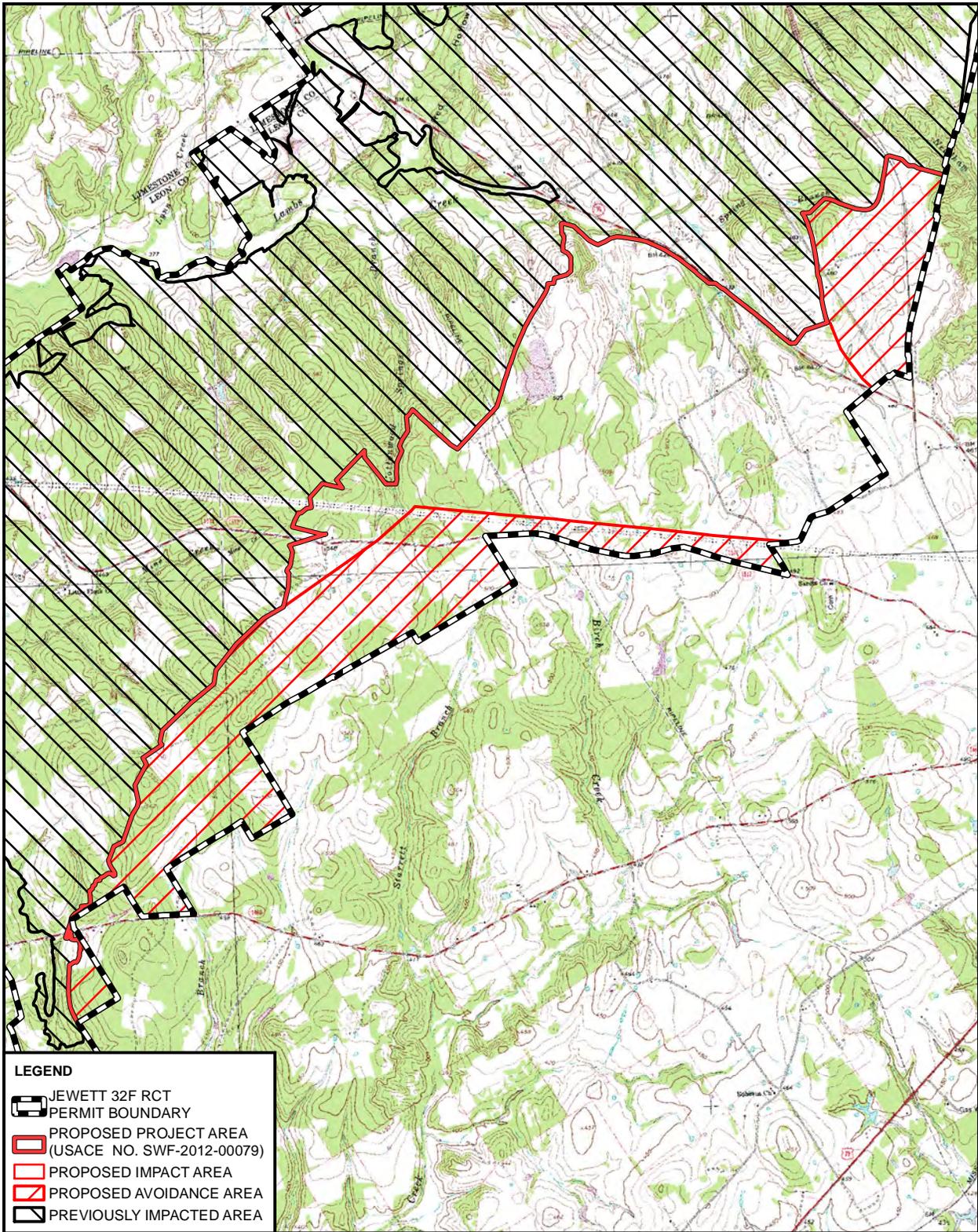


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FIGURE 3

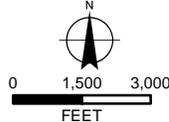
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LEGEND

- JEWETT 32F RCT PERMIT BOUNDARY
- PROPOSED PROJECT AREA (USACE NO. SWF-2012-00079)
- PROPOSED IMPACT AREA
- PROPOSED AVOIDANCE AREA
- PREVIOUSLY IMPACTED AREA

**INDIVIDUAL PERMIT
JEWETT MINE AREA 32F
USACE PROJECT NO. SWF-2012-00079
TOPOGRAPHIC FEATURES**

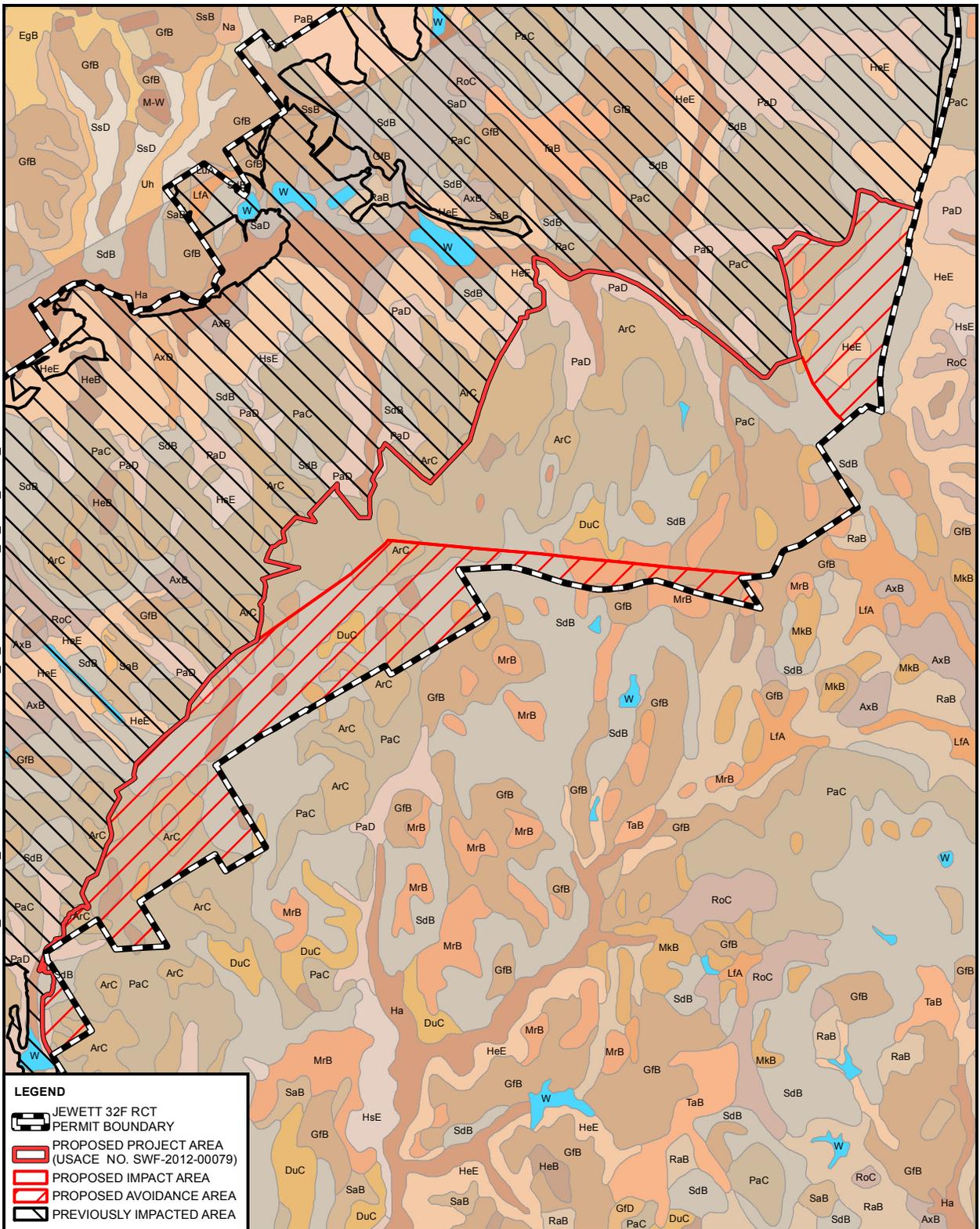


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FIGURE 4

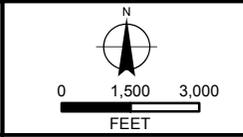
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LEGEND

- JEWETT 32F RCT PERMIT BOUNDARY
- PROPOSED PROJECT AREA (USACE NO. SWF-2012-00079)
- PROPOSED IMPACT AREA
- PROPOSED AVOIDANCE AREA
- PREVIOUSLY IMPACTED AREA

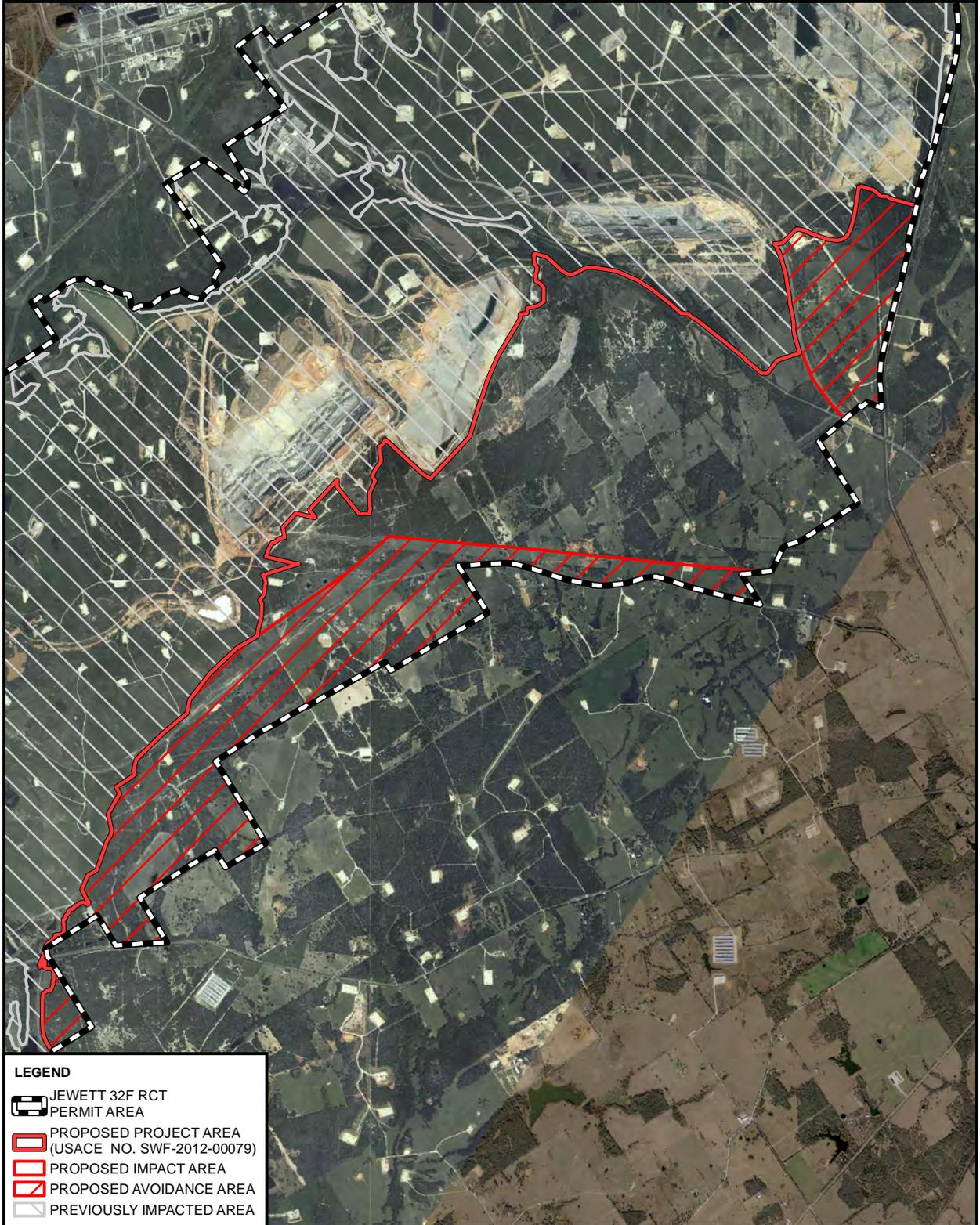
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SOIL FEATURES**



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JUNE 2012 FIGURE 5

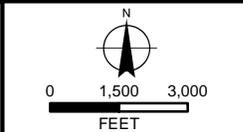
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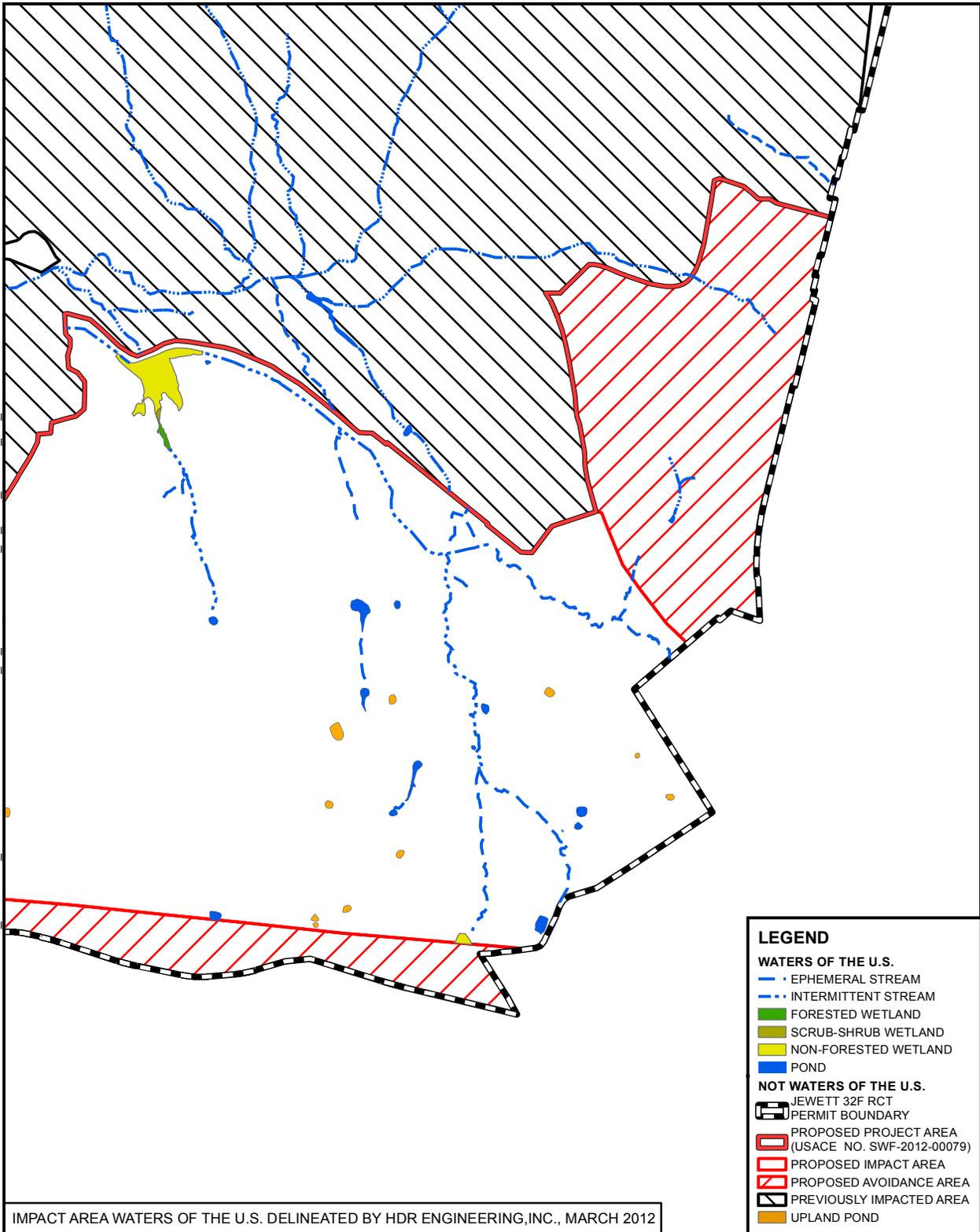
-  JEWETT 32F RCT PERMIT AREA
-  PROPOSED PROJECT AREA (USACE NO. SWF-2012-00079)
-  PROPOSED IMPACT AREA
-  PROPOSED AVOIDANCE AREA
-  PREVIOUSLY IMPACTED AREA

**INDIVIDUAL PERMIT
JEWETT MINE AREA 32F
USACE PROJECT NO. SWF-2012-00079
AERIAL PHOTOGRAPH**



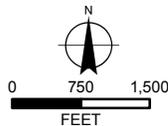
	HDR Engineering, Inc. 17111 Preston Rd. Suite 200 Dallas, TX 75248-1232 972-960-4400	
	JUNE 2012	FIGURE 6

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JEWETT MINE AREA 32F
USACE PROJECT NO. SWF-2012-00079
POTENTIAL JURISDICTIONAL
WATERS OF THE U.S.

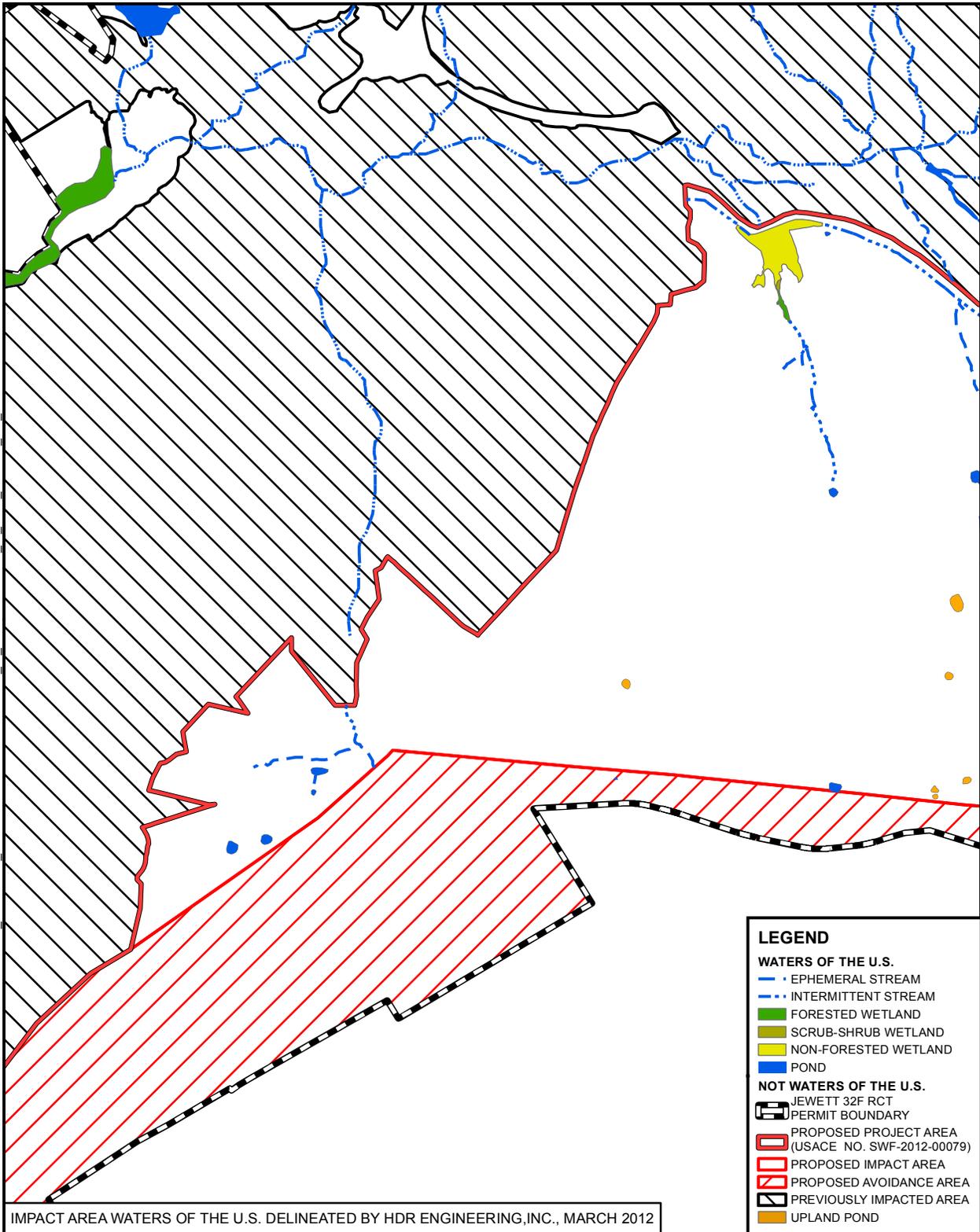


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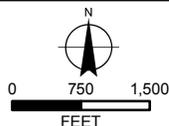
FIGURE 7

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IMPACT AREA WATERS OF THE U.S. DELINEATED BY HDR ENGINEERING, INC., MARCH 2012

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POTENTIAL JURISDICTIONAL
WATERS OF THE U.S.



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FIGURE 8