



Public Notice

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

Applicant: Rattlesnake Conservation Partners, Ltd.

Permit Application No.: SWF-2005-00530

Date: October 20, 2008

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. Brent Jasper

Phone Number: (817) 886-1733

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 an approximately 517-acre wetland mitigation bank to be known as the Rattlesnake Mitigation Bank (RMB) near Crockett, Houston County, Texas.

APPLICANT: Rattlesnake Conservation Partners, Ltd.
16945 North Chase Drive
Suite 1800
Houston, Texas 77060-2151

APPLICATION NUMBER: SWF-2005-00530

DATE ISSUED: October 20, 2008

LOCATION: The proposed RMB would be located on an approximately 517-acre parcel of land adjacent to the Trinity River approximately 20 miles southwest of the city of Crockett, Houston County, Texas (Figure 1). The proposed project would be located approximately at UTM coordinates 239805.11 East and 3451572.95 North (Zone 15) on the Austonio, Elwood, and Sand Ridge 7.5-minute USGS quadrangle maps in the Lower Trinity River Drainage Basin (HUC 120302) (Figure 4).

PROJECT DESCRIPTION: The proposed RMB site consists of 517 acres of land located within the floodplain of the Trinity River in southwest Houston County, Texas. The 517-acre site is part of an approximately 20,000-acre tract of land owned by the Rattlesnake Ranch/Seven J Stock Farm. After explorations by La Salle during the 1680s, French and Spanish expeditions and modest settlements ensued with various intensities over the area for the following 150 years. With this intensifying settlement the natural landscapes, including wetlands, proceeded through gradual and persistent change in environmental character. During the mid 1920s, a levee was constructed to reduce flooding of agricultural lands by the Trinity River. However, the project site is not influenced by levee protection. In fact, the existing forested wetlands are considered useful for flood abatement for the remainder of the property downstream. In the 1950's, the current owner converted portions of newly acquired acreage to cattle ranching with some continued row-crop agriculture along with the addition of successful ventures in oil and gas exploration. These remain the primary land uses on the ranch today. The acreage proposed for the mitigation bank is used exclusively for livestock grazing and recreation.

Bottomland pasture comprised of a mixture of native species and introduced grasses and forbs dominates portions of the land cover within the proposed boundary of the bank. Currently, areas of mature bottomland forest exist within the project site. These areas are indicative of the bottomland regions occurring within the Floodplains and Low Terraces of the South Central Plains and East Central Plains Ecoregions of Texas (Griffith et al. 2004) (Figure 3). The current

vegetative cover in the project site resembles the floodplains and low terraces of both the South Central Plains and East Central Plains Ecoregion (Griffith et al. 2004). A high percentage of the species present are listed as having wetland characteristics.

The majority of the soils within the project site are described by the U.S. Department of Agriculture (USDA), Soil Survey of Houston County, Texas as Kaufman clay, occasionally flooded (Ka), Texark clay, frequently flooded (Tf), Texark clay, occasionally flooded (Te), and Kosse sandy clay loam, occasionally flooded (Ko). Soils occurring on the project site and listed as a hydric on the USDA Natural Resources Conservation Service Hydric Soils List for Houston County, Texas include Texark clay, frequently flooded, and Kosse sandy clay loam, occasionally flooded. Historically, these soils are described as supporting a matrix of bottomland hardwood forests containing shallow-water wetlands, riparian prairie wetlands, vegetated sloughs, swamps, and oxbow lakes.

The proposed RMB is currently comprised of approximately 207.4 acres of emergent wetlands, 288.4 acres of forested wetlands, 0.1 acre of off-channel ponds, and 21.1 acres of non-wetland habitat (7.8 acres of forested natural levee habitat adjacent the Trinity River and 13.3 acres of bottomland pasture) (Figure 5). The vegetation, hydrology, and soils for the proposed RMB site, including identification of waters of the United States, are described in detail in “Seven J Stock Farm Rattlesnake Ranch Wetland Delineation Report” dated December 7, 2005.

The Bank Sponsor has developed a mitigation work plan for the RMB. The mitigation work plan includes perpetual protection of the project site, reforestation of bottomland hardwood species native to the region, and enhancement of existing forests to increase structural and species diversity. Implementing this plan would result in the restoration and enhancement of aquatic functions, such as water storage, sediment retention and stabilization, wildlife habitat, and flood flow attenuation. Detailed plans showing baseline and proposed conditions are included in the Rattlesnake Mitigation Bank Mitigation Banking Instrument, Houston County, Texas. The objective of the mitigation work plan is the development of native, self-sustaining habitat types historically characteristic of the area that best represent the potential natural vegetation expected for the respective range and woodland/forest site conditions,(i.e., soils, climate, hydrology, fire).

The bank sponsor proposes a primary service area and a secondary service area (Figure 2). The Primary service area would include those areas within the intersection of the Lower Trinity River Basin (HUC 120302) and the East Central Texas Plains and South Central Plains; wholly encompassed within the Fort Worth District. This area would include portions of Henderson, Anderson, Houston, Grimes, Madison, Leon, and Freestone counties. The Bank Sponsor also proposes a secondary service area that would include areas within the intersection of the Upper Trinity (HUC 120301), Neches (HUC 120200), San Jacinto (HUC 120401), and Lower Brazos (HUC 120701) and the East Central Texas Plains and South Central Plains, wholly encompassed within the Fort Worth District. This area would include portions of Henderson, Anderson, Houston, Grimes, Madison, Leon, Freestone, Navarro, Kaufman, Van Zandt, Sabine, San Augustine, Shelby, Rusk, Smith, Limestone, Falls, Robertson, Milam, Williamson, Bastrop, Lee, Washington, and Ellis counties; and the following counties in their entirety Burleson, Brazos, Robertson, Cherokee, Nacogdoches, and Angelina. Projects within the secondary service area

with adverse impacts to waters of the U.S. mitigated for at the RMB would be required to mitigate at higher ratios than those within the primary service area.

A mitigation banking instrument (MBI) would be developed in accordance with Compensatory Mitigation for Losses of Aquatic Resources (Federal Register, Thursday, April 10, 2008, Vol. 73, No. 70, pp. 19670-19705). 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, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of bank ownership or sponsorship. The U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Texas Commission on Environmental Quality, Railroad Commission of Texas, and Texas Parks and Wildlife Department, who comprise the Interagency Review Team (IRT), would be involved in developing the MBI and may be signatories to the final document.

Implementation of the proposed mitigation work 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 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 Houston County where the red-cockaded woodpecker (*Picoides borealis*) may occur. The red-cockaded woodpecker is an 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: 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 been surveyed for the presence of sites eligible for inclusion in the National Register of Historic Places, the details of which are contained in the "Cultural Resources Survey and Geoarchaeological Investigation of the Parten Ranch Wetlands Mitigation Bank along the Trinity River Houston County, Texas", dated August 2007. The survey did not identify any prehistoric or historic sites within the project site. No historic structures or remains of historic structures were identified during the survey within the project site. Our initial review indicates that the proposed work would have no effect on sites listed in, or eligible for listing in, the National Register of Historic Places.

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 November 18, 2008, 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. Brent Jasper; 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)886.1733. 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

Location Map Rattlesnake Mitigation Bank Houston County, Texas

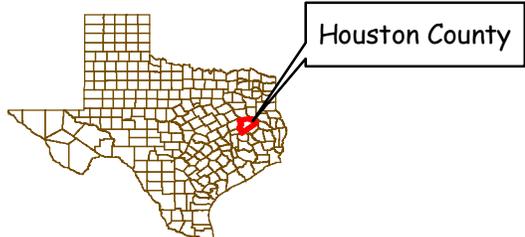
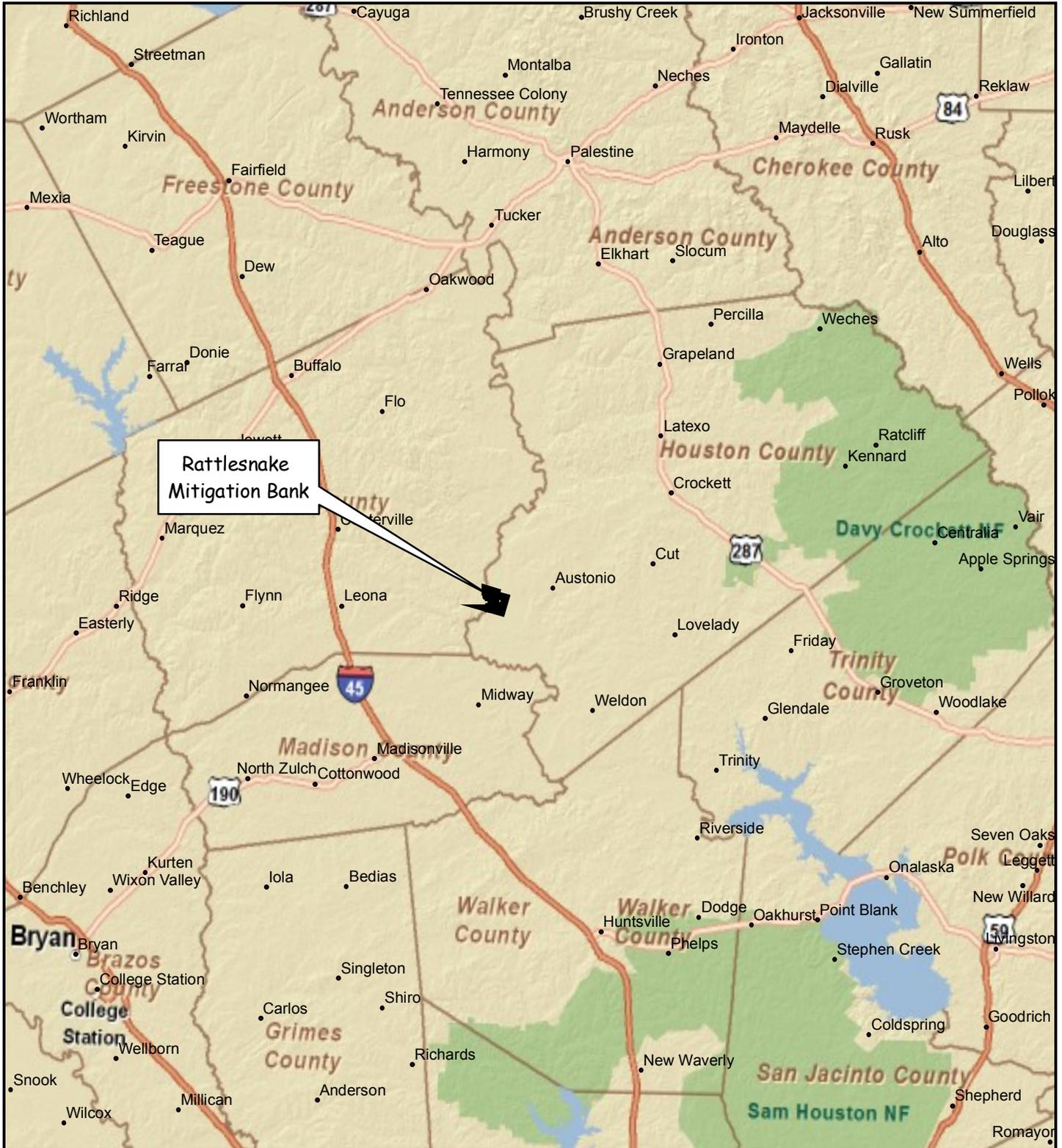


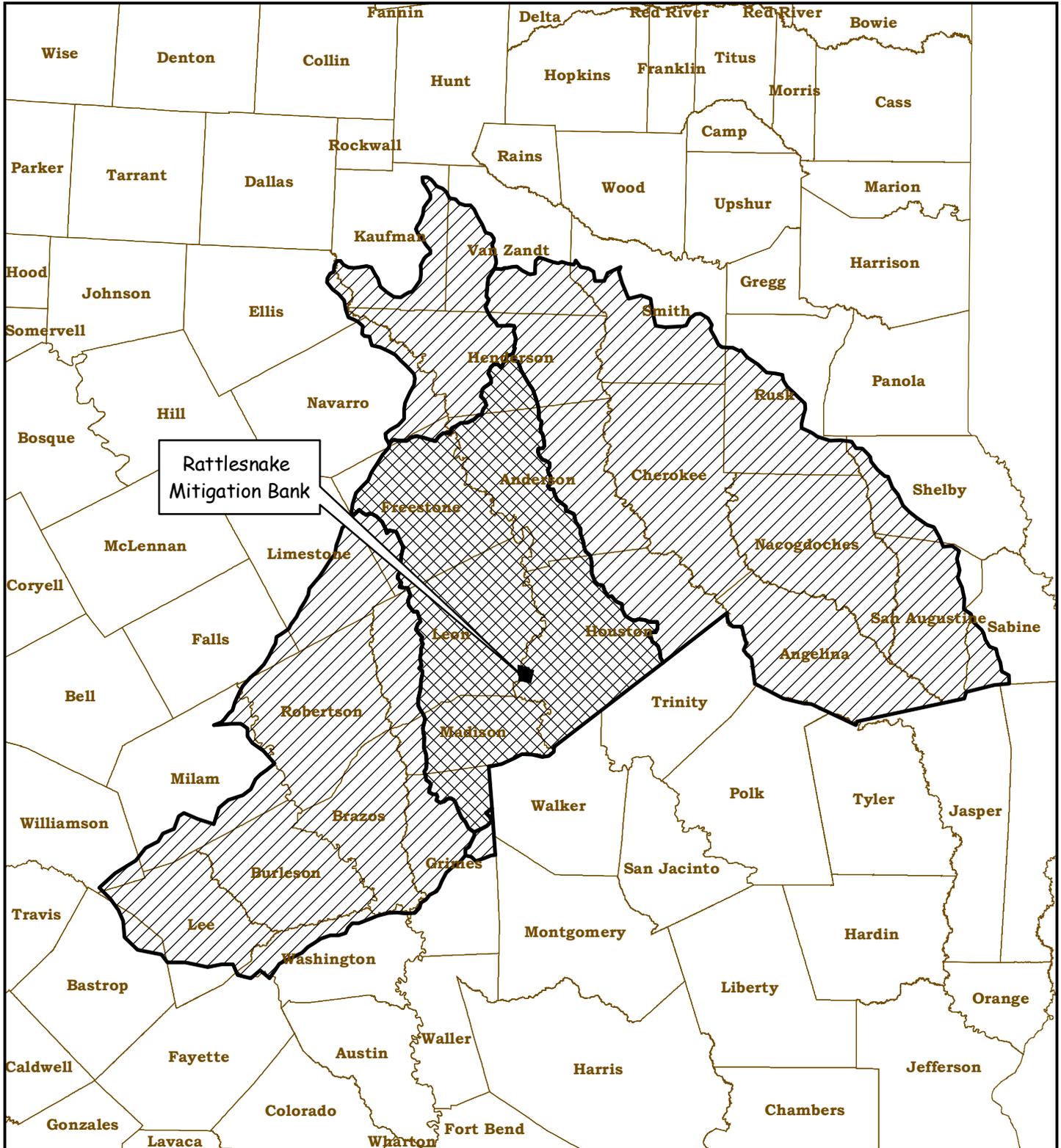
Figure 1 of 6



Drawn by: Jeff Slaga
Date: October 10, 2008
USACE Project # 200500530

* Vector Data are for representation only and should not be used as a legal description.

Service Area Map Rattlesnake Mitigation Bank Houston County, Texas



Rattlesnake Mitigation Bank

Figure 2 of 6

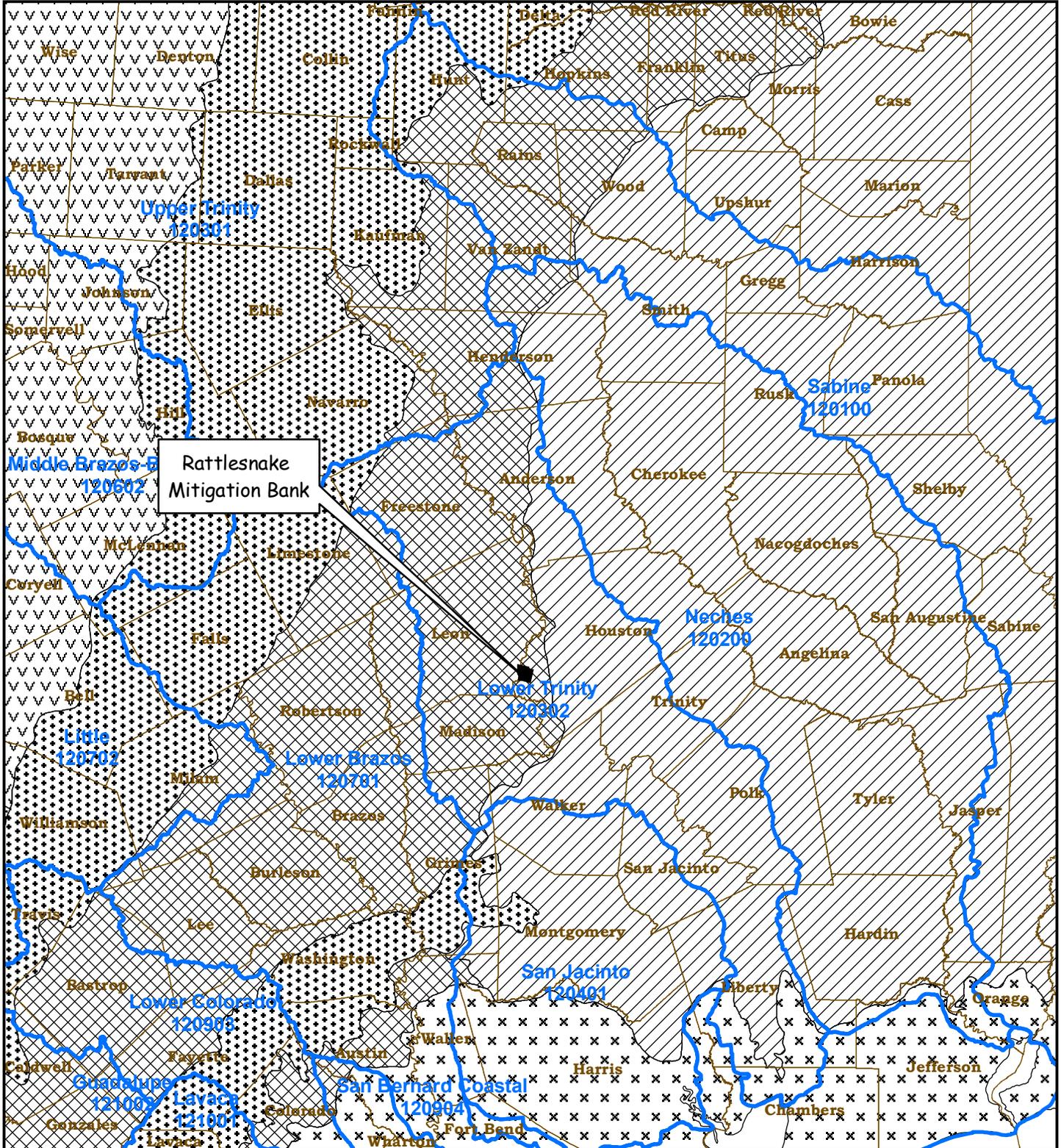
-  Primary Service Area
-  Secondary Service Area



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Date: October 10, 2008
USACE Project # 200500530

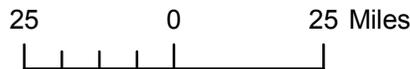
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**Level III Ecoregions and Six Digit HUC Boundaries
Rattlesnake Mitigation Bank
Houston County, Texas**



-  Cross Timbers
-  East Central Texas Plains
-  Edwards Plateau
-  South Central Plains
-  Texas Blackland Prairies
-  Western Gulf Coastal Plain
-  HUC Boundary (6 Digit)

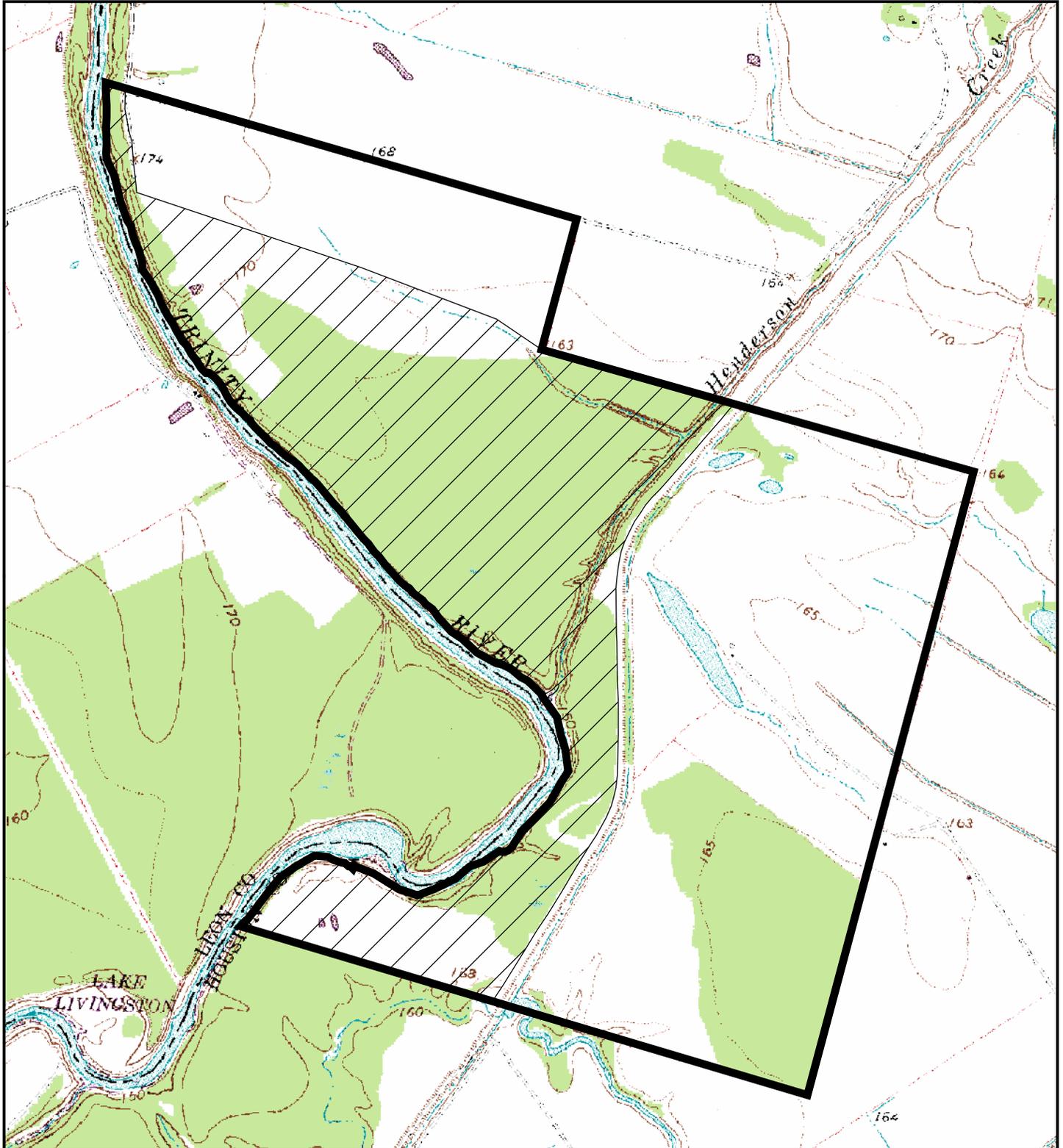
Figure 3 of 6



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USGS Topographic Quadrangle Map
Rattlesnake Mitigation Bank
Houston County, Texas



 Property Boundary

 Bank Boundary

Figure 4 of 6



Basemap Data: USGS 1:24,000, 7.5' Quadrangle
Austonio Quad



 **Advanced Ecology, Ltd.**
Economic Development with Environmental Conscience

Drawn by: Jeff Slaga
Date: October 10, 2008
USACE Project # 200500530

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Wetland Delineation Map Rattlesnake Mitigation Bank Houston County, Texas

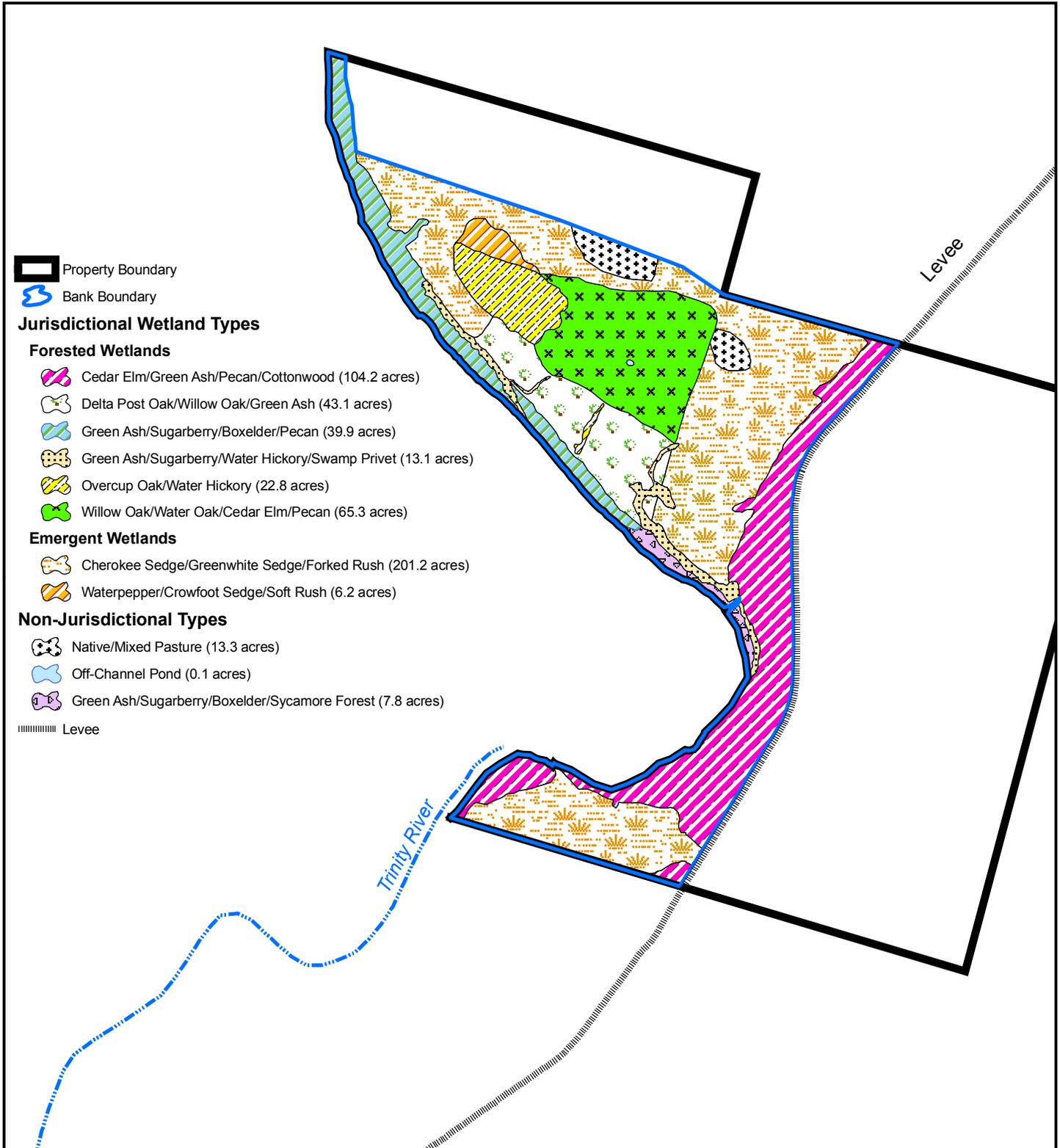
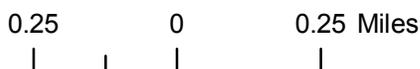


Figure 5 of 6



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**Mitigation Work Plan Map
Rattlesnake Mitigation Bank
Houston County, Texas**

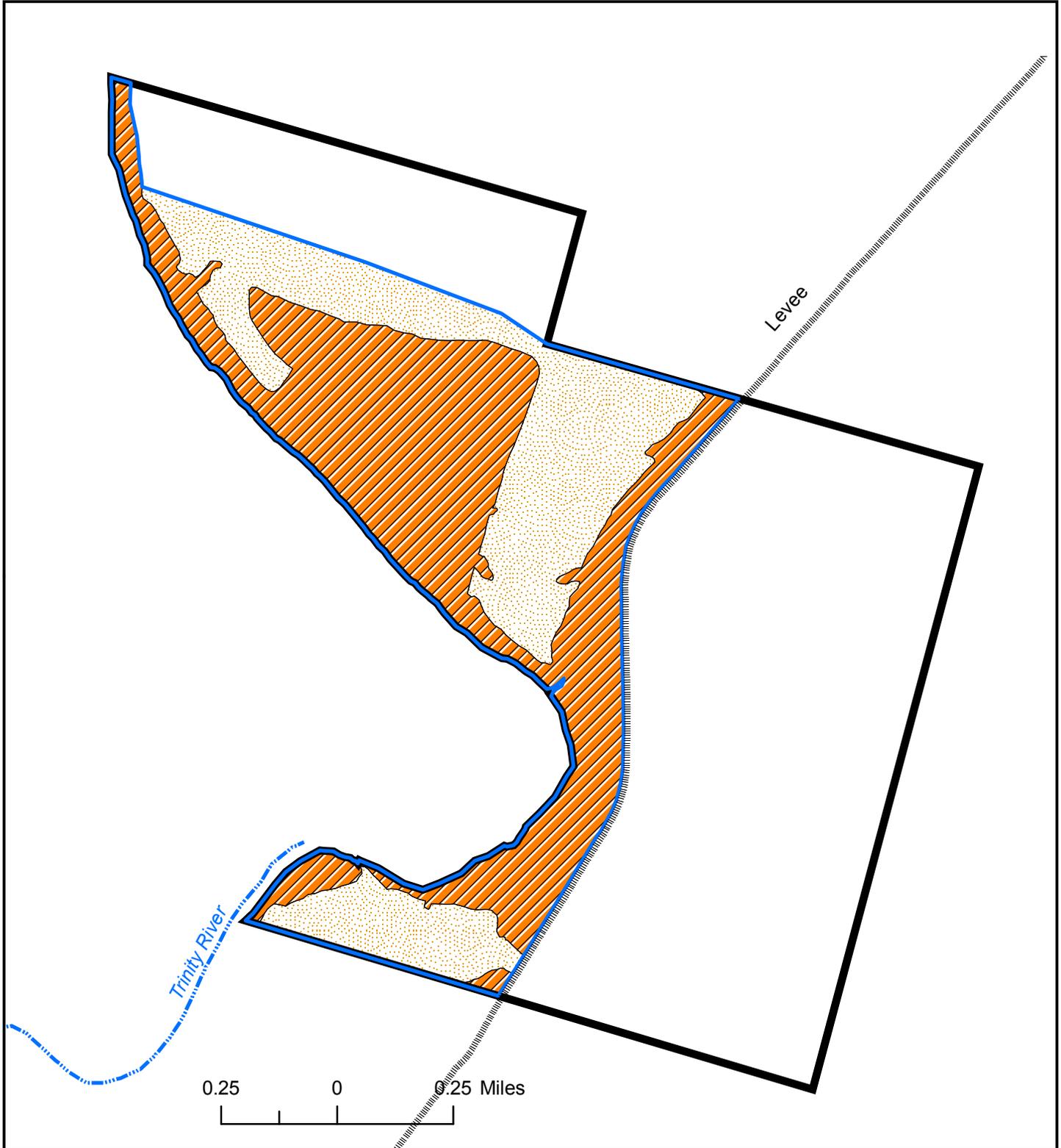


Figure 6 of 6

-  Property Boundary
-  Bank Boundary (517.0 acres)
-  Bottomland Hardwood Enhancement (296.3 acres)
-  Bottomland Hardwood Restoration (220.7 acres)



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