



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

# Public Notice

Applicant: Hillwood Properties

Permit Application No.: SWF-2008-00175

Date: September 10, 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: Ms. Jennifer Walker

Phone Number: (817) 886-1863

**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 construction of Westport 12, an approximate 46 acre industrial development located east of the intersection of Intermodal Parkway and Rail Head Drive in the Cities of Haslet and of Fort Worth, Tarrant County, Texas.

**APPLICANT:** Hillwood Properties  
Attention: Mr. Russell Laughlin  
13600 Heritage Parkway  
Fort Worth, Texas 76177  
817-224-6000

**APPLICATION NUMBER:** SWF-2008-00175

**DATE ISSUED:** September 10, 2008

**LOCATION:** The proposed industrial development, Westport 12, would be located east of Intermodal Parkway and Rail Head Drive in the Cities of Haslet and Fort Worth, Tarrant County, Texas (Sheets 1 and 2 of 13). The proposed project would be located approximately at UTM coordinates 656510 East and 3650615 North (Zone 14) on the Keller 7.5 Minute USGS quadrangle map in USGS Hydrologic Unit 12030104.

**OTHER AGENCY AUTHORIZATIONS:** State Water Quality Certification

**Project Description:** The applicant proposes to discharge approximately 7,500 cubic yards of material into approximately 0.91 acre of waters of the U.S., in conjunction with the construction of an approximate 46-acre industrial development, identified as Westport 12. In addition, portions of the project site are located within the 100-year floodplain of an unnamed tributary of Henrietta Creek. The proposed project would include construction of an approximate 315,000-square foot industrial building and associated infrastructure including parking lots, truck courts, access roads, and storm water systems (Sheets 3-13 of 13). The purpose of the proposed project is industrial development. The applicant anticipates this development would provide economic benefit to the immediate area, including the northern portion of Tarrant County.

Waters of the U.S. within the project site includes approximately 2,337 linear feet (1.36 acres) of ephemeral stream, identified as Stream 1 and one herbaceous wetland, identified as Wetland 1 totaling 0.03 acre. Stream 1 is an unnamed tributary of Henrietta Creek. Its primary source of hydrologic source is runoff, as well as irrigation from surrounding industrial developments. The stream exhibits an average ordinary high water mark of approximately 25 feet and flows from north to south, transecting the western portion of the project site. Dominant vegetation along Stream 1 includes annual sumpweed (*Iva annua*), giant ragweed (*Ambrosia trifida*), black willow (*Salix nigra*), cocklebur (*Xanthium strumarium*), and white tridens (*Tridens albescens*). Wetland 1 is an approximately 0.03 acre herbaceous wetland, which abuts Stream 1. The dominant plant community present along Stream 1 also occurs within Wetland 1. The applicant describes the functions of Stream 1 as water conveyance, short-term surface water storage, reduction of downstream flood conditions, absorption of hydraulic energy and reduction of erosion, and water quality improvements. Based on this information, it appears these ecological services functions are relatively limited in nature due to the stream's limited flow regime and lack of a well developed riparian buffer. Although Wetland 1 performs the function of water quality improvements, this function appears to be limited due to its small size.

Stream 1 flows in response to precipitation and lacks groundwater influence. Consequently, this ephemeral stream reach functions as water conveyance, short-term surface water storage, reduction of downstream flood conditions, absorption of hydraulic energy and reduction of erosion, and water quality improvements. The ecological services provided by this system are of relatively limited value as a result of the stream's ephemeral hydrologic regime.

Based on information detailed in the Section 404 permit application, it appears the applicant considered four alternatives to meet the purpose of the proposed project. These alternatives, including one No Action Alternative and three Action Alternatives provided by the applicant, are summarized below:

Alternative A is the No Action Alternative. Under this alternative, waters of the U.S. within the project area would remain in an un-impacted state and the site would not be developed. However, this alternative would not meet the applicant stated project purpose and was eliminated by the applicant from further consideration.

Under Alternative B, the applicant would relocate and channelize Stream 1 and Wetland 1. This relocated channel would connect to previously channelized reaches of this stream located to the north and southeast of the project site. Relocation of the stream in this portion of the project site would result in similar or greater linear footage of stream impact as compared with the applicant's preferred alternative (identified as Alternative D) and would result in the design of the channel within close proximity to the Intermodal Parkway, an existing industrial building, and the industrial building proposed as part of this project. Due to these factors, the applicant eliminated this alternative from further consideration.

Under Alternative C, the applicant would place the entire length of stream on-site, approximately 2,337 linear feet (1.36 acres) within a culvert pipe. Although this alternative would provide for maximum opportunities to develop the project site, this alternative was not selected due to concerns regarding complete loss of stream functions on-site.

Under Alternative D (the applicant's preferred alternative) approximately 1,969 linear feet (0.88 acre) of ephemeral stream, and approximately 0.03 acre of herbaceous wetland would be adversely impacted as a result of channel modification and realignment. Approximately 368 linear feet of stream impacts would be avoided. A new channel would be constructed to the north and east to allow the applicant to construct the proposed 315,000-square foot building, parking lots, truck courts, access roads, and storm water system, in addition to a second upland area for future development. As part of this project, approximately 1,808 linear feet of stream and 0.03 acre of emergent wetlands would be filled and graded to facilitate channel relocation and transitioning to the existing stream located to the north and southeast of the project site. An approximately 250-linear foot reach of this stream had been previously channelized and widened as part of prior work performed on this site. In addition, approximately 161 linear feet of stream proposed to be relocated, would be culverted in conjunction with construction of two access roads. An approximately 40-linear foot reach of this stream had been previously channelized as part of prior activities on-site. The relocated stream would be constructed within a larger trapezoidal ditch designed to function as a floodplain. The stream would be constructed in such a manner to convey the approximate bank full event. The constructed channel would be fully stabilized with herbaceous vegetation prior to the discharge of any storm water. In an effort to maintain short and long term water quality improvements the channel would be vegetated and would be required to meet and sustain a 70% aerial coverage prior to commencement of building construction.

The applicant believes all practicable measures have been undertaken in an effort to avoid and minimize adverse impacts to waters of the U.S. The applicant has further indicated that several constraints, including site geometry, extent and location of water of the U.S. and access to existing and proposed roads severely limits financially feasible project alternatives. To further reduce adverse impacts associated with earth-disturbing activities, the applicant would implement appropriate. Best management practices. Overall the proposed project would result in adverse effects to approximately 1,969 linear feet of ephemeral stream and 0.03 acre of herbaceous wetlands. The proposed open channel system would be located in close proximity to the original stream alignment to the maximum extent practicable and would provide connectivity to existing channelized stream reaches located both north and southeast of the project site, thereby maintaining pre-construction inflow and outflow locations.

To ensure continued storm water conveyance, the applicant proposes to mow the constructed channel at a frequency of up to four scheduled times per year, to include three times per growing season and once per dormant or cool season. Vegetation would be mowed to a minimum length of approximately 6 to 8 inches, in an effort to maintain water quality improvements (filtration), while providing channel stability and storm water conveyance capacities.

Although planting of trees and shrubs within the channel was explored as a possible alternative, this option was eliminated from further consideration as it would reduce hydraulic capacity of the proposed constructed channel.

As cited in Federal Aviation Administration Advisory Circular on Hazardous Wildlife Attractants on or near Airports (AC No: 150/5200-33A, 7/27/04) and reviewed by a qualified airport wildlife biologist/certified wildlife biologist, it was determined that there was no practicable opportunity for incorporating wildlife habitat enhancement on-site or near-site, as the project site is located in proximity to the Alliance Airport. Therefore, wildlife habitat function of the existing impacted waters will be compensated for through the purchase of mitigation bank credits.

To compensate for unavoidable adverse impacts to waters of the U.S., the applicant proposes to debit 1.7 credits from the South Forks Trinity River Mitigation Bank (SFTRMB) to fully compensate for functions not replaced by the proposed on-site open channel system. This compensatory mitigation option was identified as the best mitigation alternative given the aviation-related safety issues and watershed considerations. SFTRMB was selected after an evaluation of the USGS Hydrologic Units Codes (USGS HUC). Stream 1 and Wetland 1 flow into Henrietta Creek (USGS HU 12030104), a perennial stream tributary to Elizabeth Creek. Elizabeth Creek flows into Harriet Creek, a primary tributary of Denton Creek, the impounded waterway that forms Lake Grapevine. Hydrology exits the Lake Grapevine spillway and flows into the Elm Fork of the Trinity River (USGS HUC 12030103) which in turn, flows south and into the main branch of the Trinity River (USGS HUC 12030105). SFTRMB is the closest bank within the watershed of the proposed project area. Further, this bank provides numerous functions including, wildlife habitat enhancement within the immediate floodplain of the Trinity River.

The applicant believes three of the four (75 percent) basic functions of the ephemeral stream and wetlands would be replaced on-site by the open channel system proposed to be constructed. However, the constructed channel would not provide wildlife habitat functions. Therefore, this is the only function the applicant proposes for compensation through the debit of bank credits. Based on multipliers derived from the SFTRMB mitigation banking instrument, a total of approximately 6.3 credits would be required to compensate for all proposed impacts. To account for the functions being replaced by the constructed open channel system, the applicant proposes to discount the 6.3 credit mitigation debt 75% (a reflection of the replacement of three of the four major functions). The residual amount of 1.7 credits to account for wildlife habitat impacts would be purchased from the SFTRMB.

**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 is above the threshold), and as such would not meet Tier I criteria. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with the processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 31, 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 complete application may be reviewed in the USACE's 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 a county where the interior least tern (*Sterna antillarum athalassos*) and whooping crane (*Grus americana*) are

Known to occur or may occur as migrants. The whooping crane and interior least tern are 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 located in the project area. A Phase I cultural resources survey was performed for this site on January 8, 2007. Based on the findings of this survey, no evidence of historic or prehistoric resources was found.

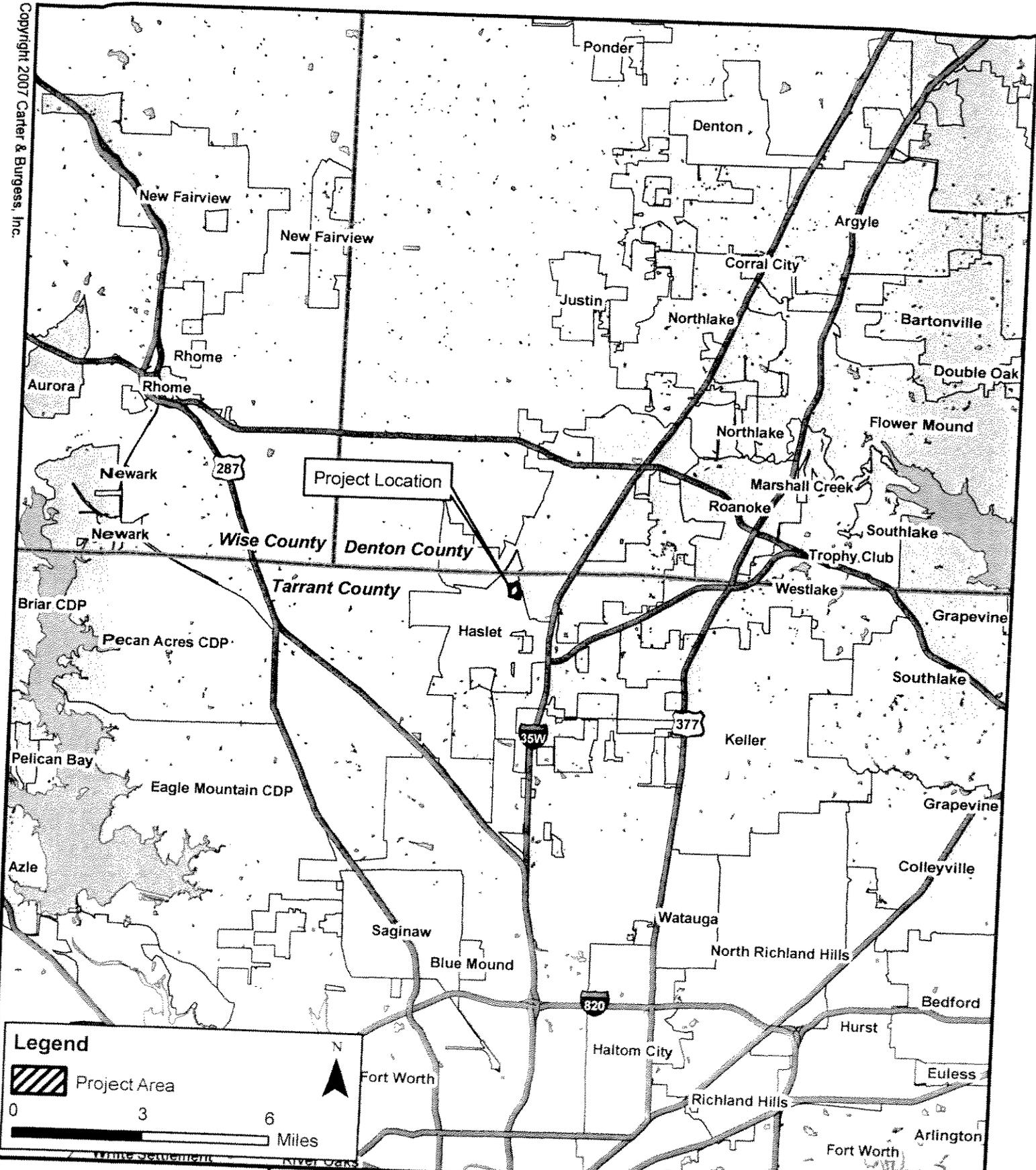
**FLOODPLAIN MANAGEMENT:** The USACE is sending a copy of this public notice to the local floodplain administrators. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to 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 10, 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 Ms. Jennifer R. Walker, 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



**Legend**

 Project Area

0 3 6 Miles

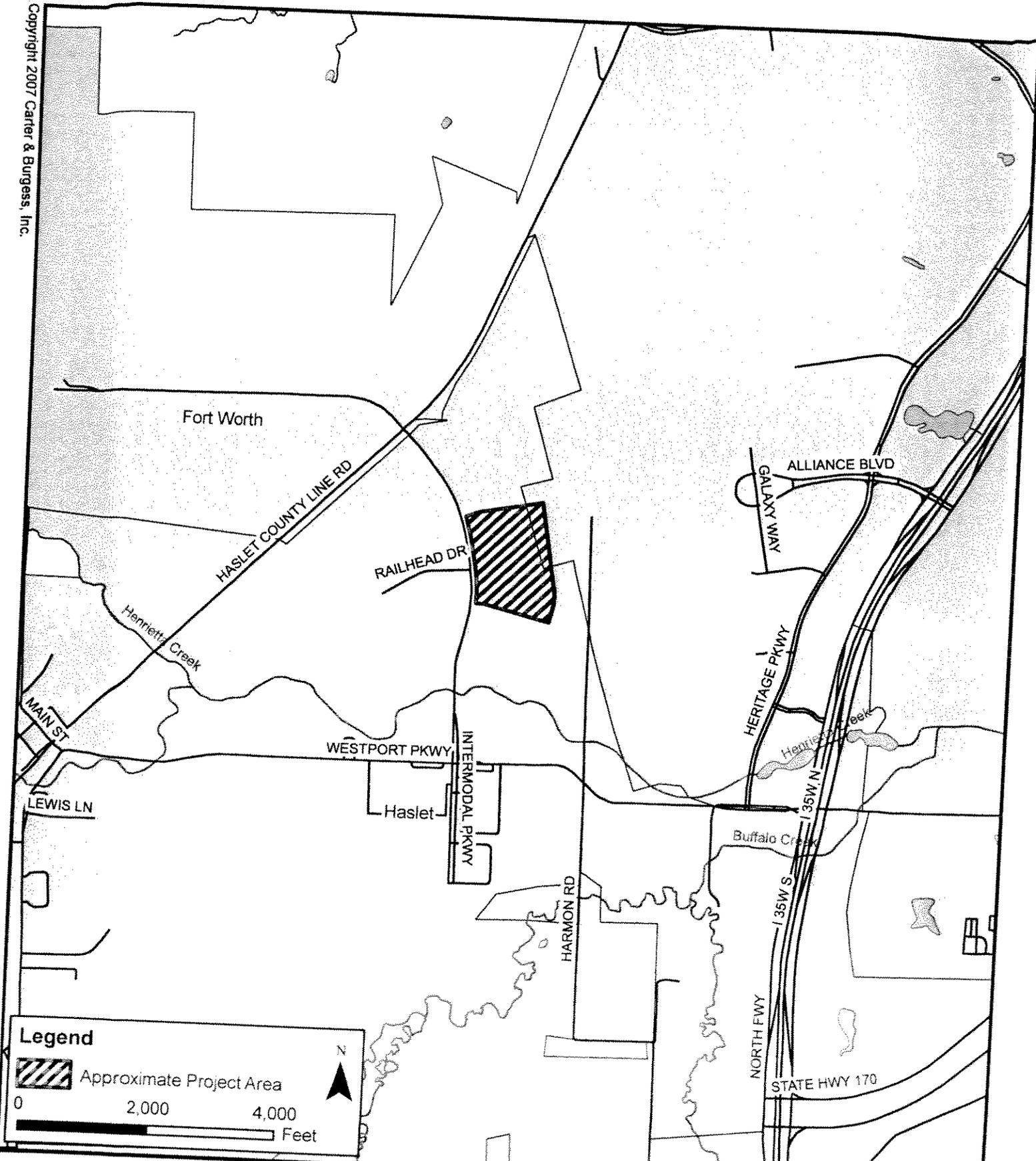
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**Vicinity Map**  
 Westport 12  
 Tarrant County, Texas  
 C&B Project No. 015000.113

Source: Texas State Data Center  
 (2000)

**Sheet**  
**1 of 13**

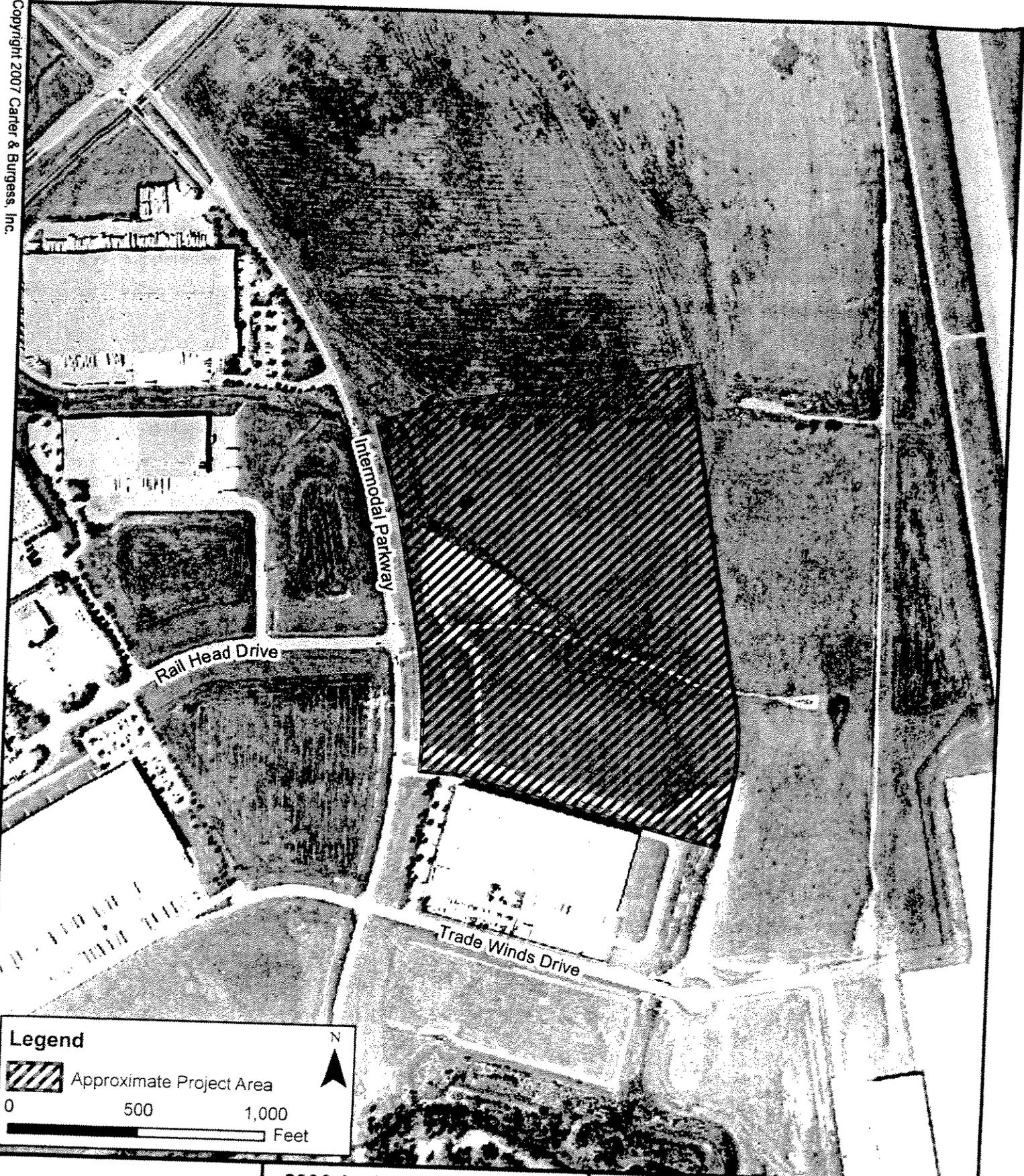


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**Local Area Map**  
Westport 12  
Tarrant County, Texas  
C&B Project No. 015000.113

Source: Texas State Data Center  
(2000)

**Sheet**  
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**Legend**

 Approximate Project Area

0 500 1,000 Feet

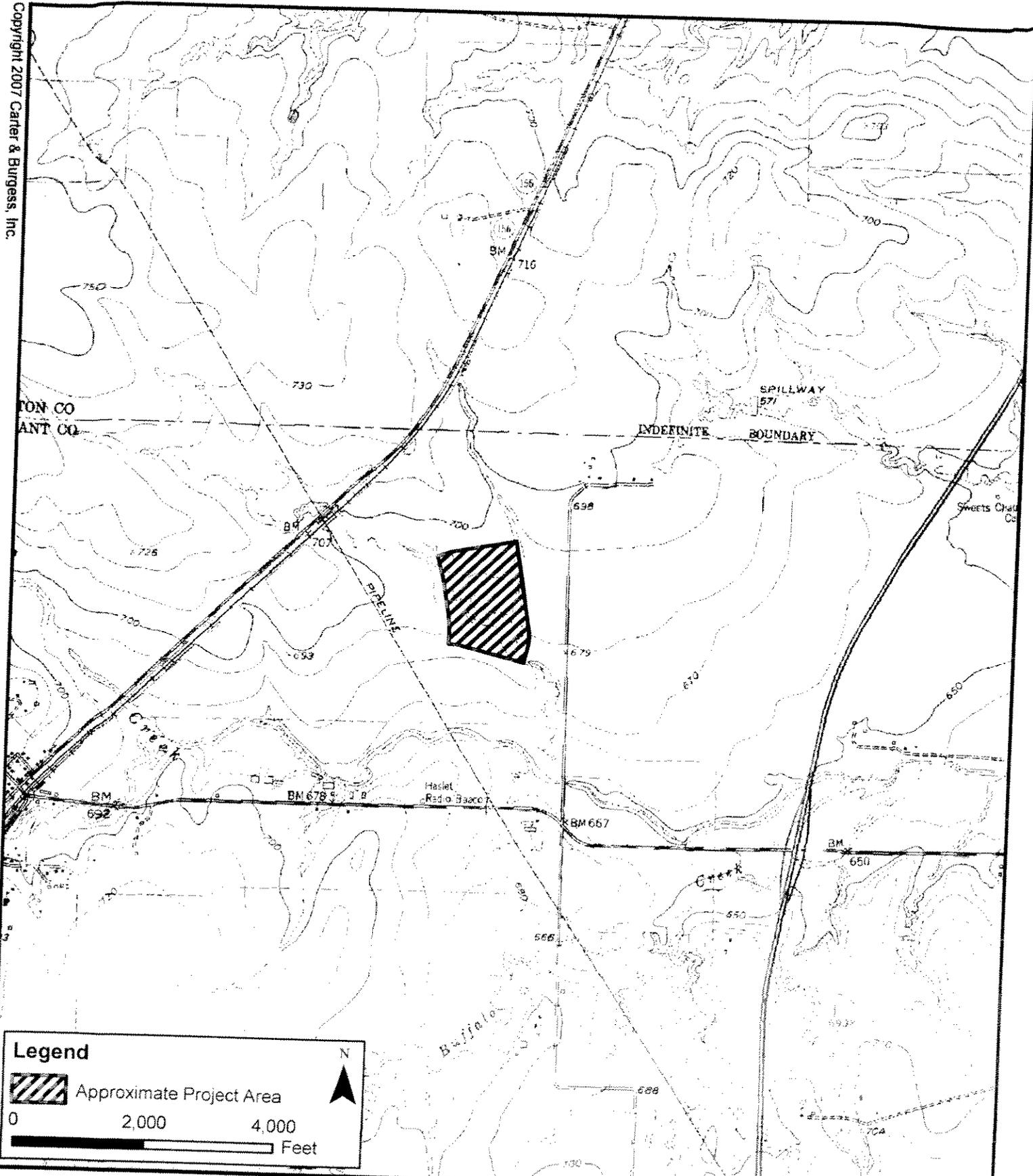
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2006 Aerial Photograph Map  
Westport 12  
Tarrant County, Texas  
C&B Project No. 015000.113

Source: AEI Imagery (2006)

Sheet  
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**Legend**

 Approximate Project Area

0 2,000 4,000 Feet

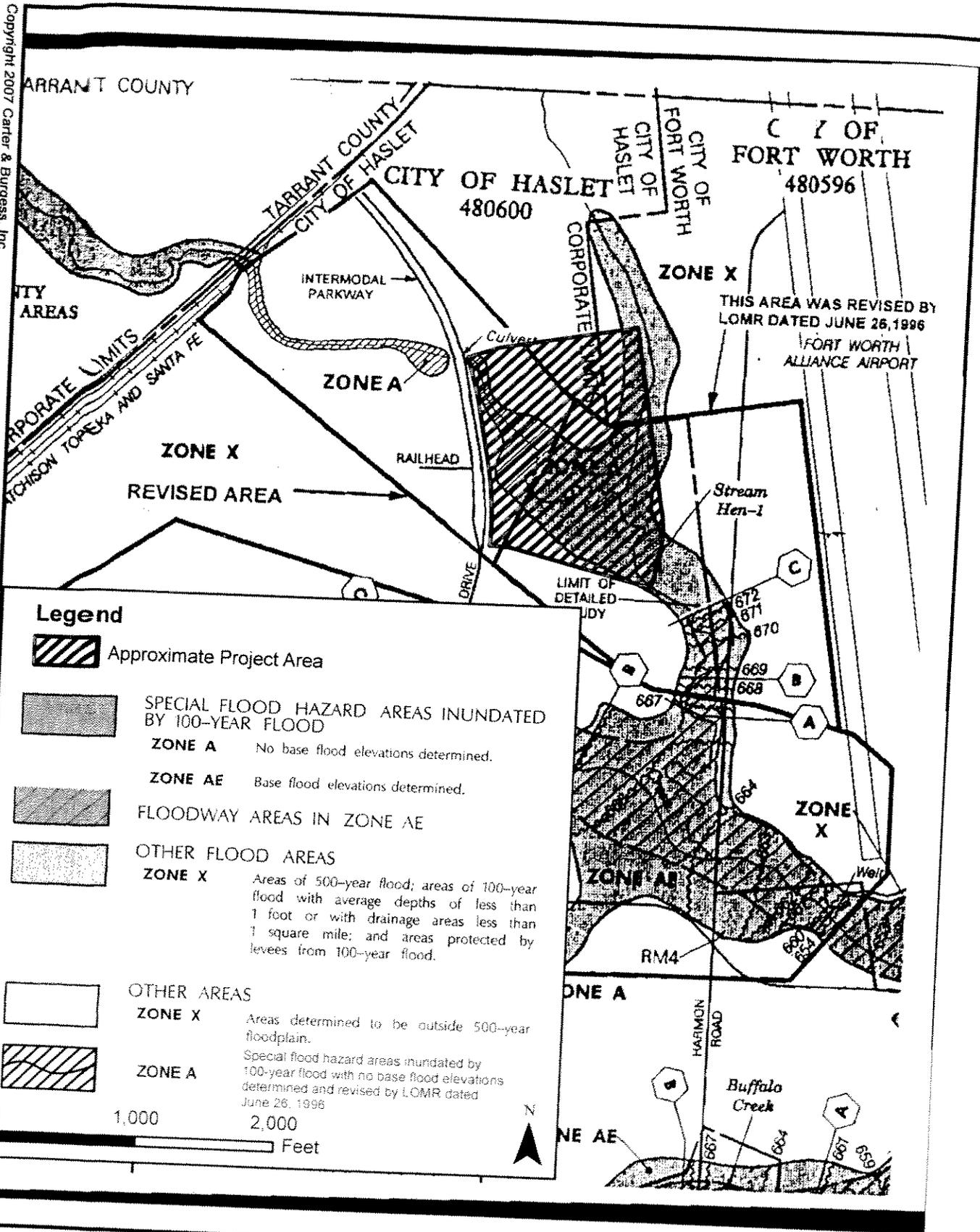
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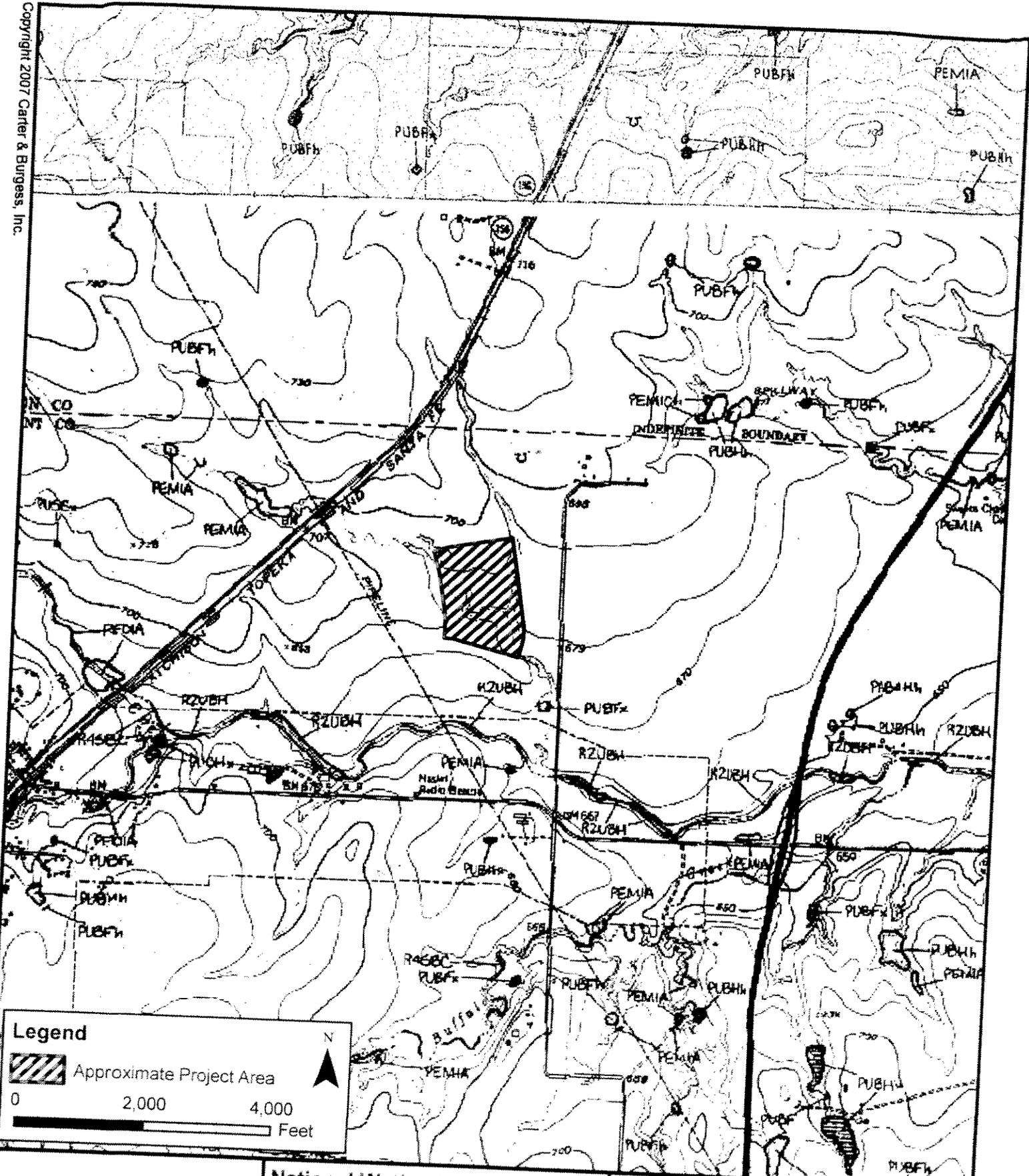
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**USGS Topographic Map**  
 Westport 12  
 Tarrant County, Texas  
 C&B Project No. 015000.113

Source: Texas Natural Resources Information System  
 7.5 Minute Series - Keller  
 Quadrangle (1978)

**Sheet**  
**4 of 13**





**Legend**

 Approximate Project Area

0 2,000 4,000 Feet

N

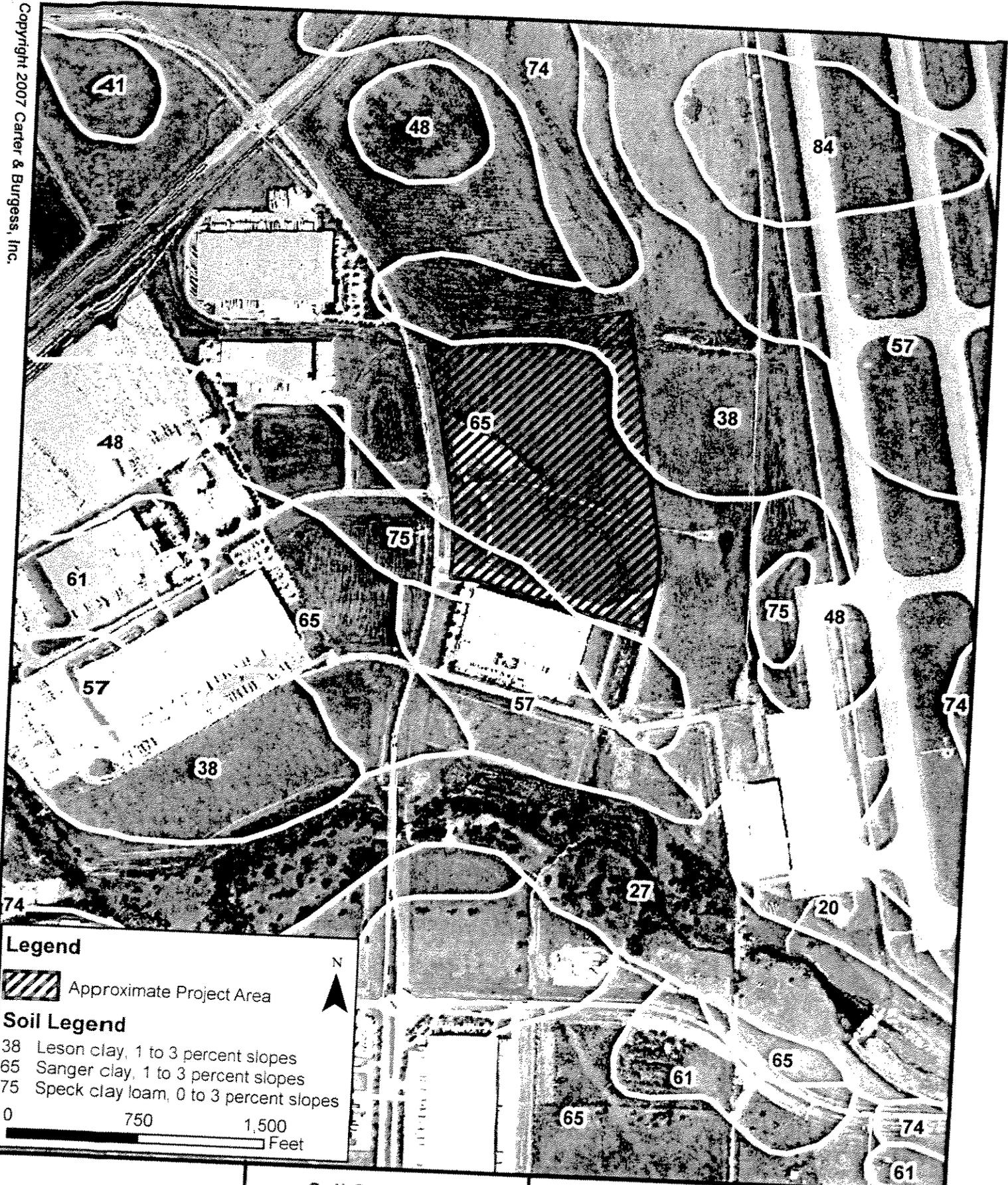
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**National Wetlands Inventory Map**

Westport 12  
Tarrant County, Texas  
C&B Project No. 015000.113

Source: U.S. Department  
of the Interior FWS  
7.5 Minute Series - Keller  
Quadrangle (1978)

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**Legend**

 Approximate Project Area

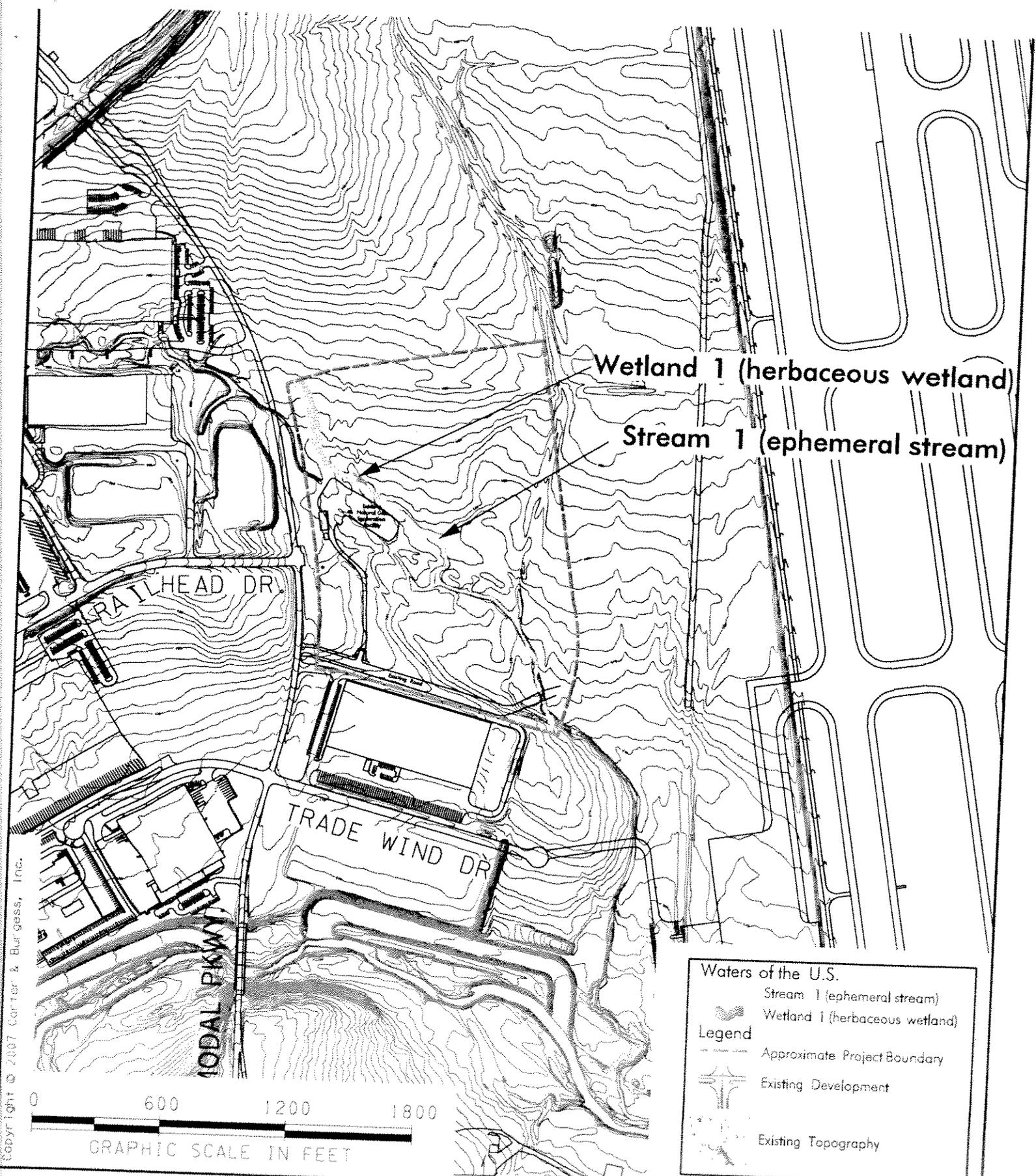
**Soil Legend**

- 38 Leson clay, 1 to 3 percent slopes
- 65 Sanger clay, 1 to 3 percent slopes
- 75 Speck clay loam, 0 to 3 percent slopes

0 750 1,500 Feet

N

<p><b>Carter=Burgess</b></p>	<p><b>Soil Survey Map</b>          Westport 12          Tarrant County, Texas          C&amp;B Project No. 015000.113</p>	<p>Source:          Source: AEI Imagery (2006) and          Natural Resources Conservation          Service Soil Survey Geographic          (SSURGO) database for          Tarrant (1981) County</p>	<p><b>Sheet</b>          7 of 13</p>
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Proposed Jurisdictional  
 Determination of Waters of the U.S.  
 Westport 12  
 Tarrant County, Texas  
 C&B Project No. 015000.113



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Wetland 1  
(herbaceous wetland)

Impact 1

Future Development Site

Impact 2

Stream 1  
(ephemeral stream)

Impact 3

Employee Parking  
350'

Truck Court  
180'  
900'

Westport 12  
315,000 s.f.

Impact 4

Impact 5

**Legend**

- - - - - Approximate Project Boundary
- Existing Development
- Waters of the U.S.**
- Stream 1 (ephemeral stream)
- Wetland 1 (herbaceous wetland)
- Proposed Impacts to Waters of the U.S.**
- Impacted Stream 1 (ephemeral stream)
- Impacted Wetland 1 (herbaceous wetland)
- Proposed Site Facilities**
- Proposed Industrial Building
- Proposed Parking / Truck Court
- Proposed Road / Culvert Crossing
- Open Drainage Channel



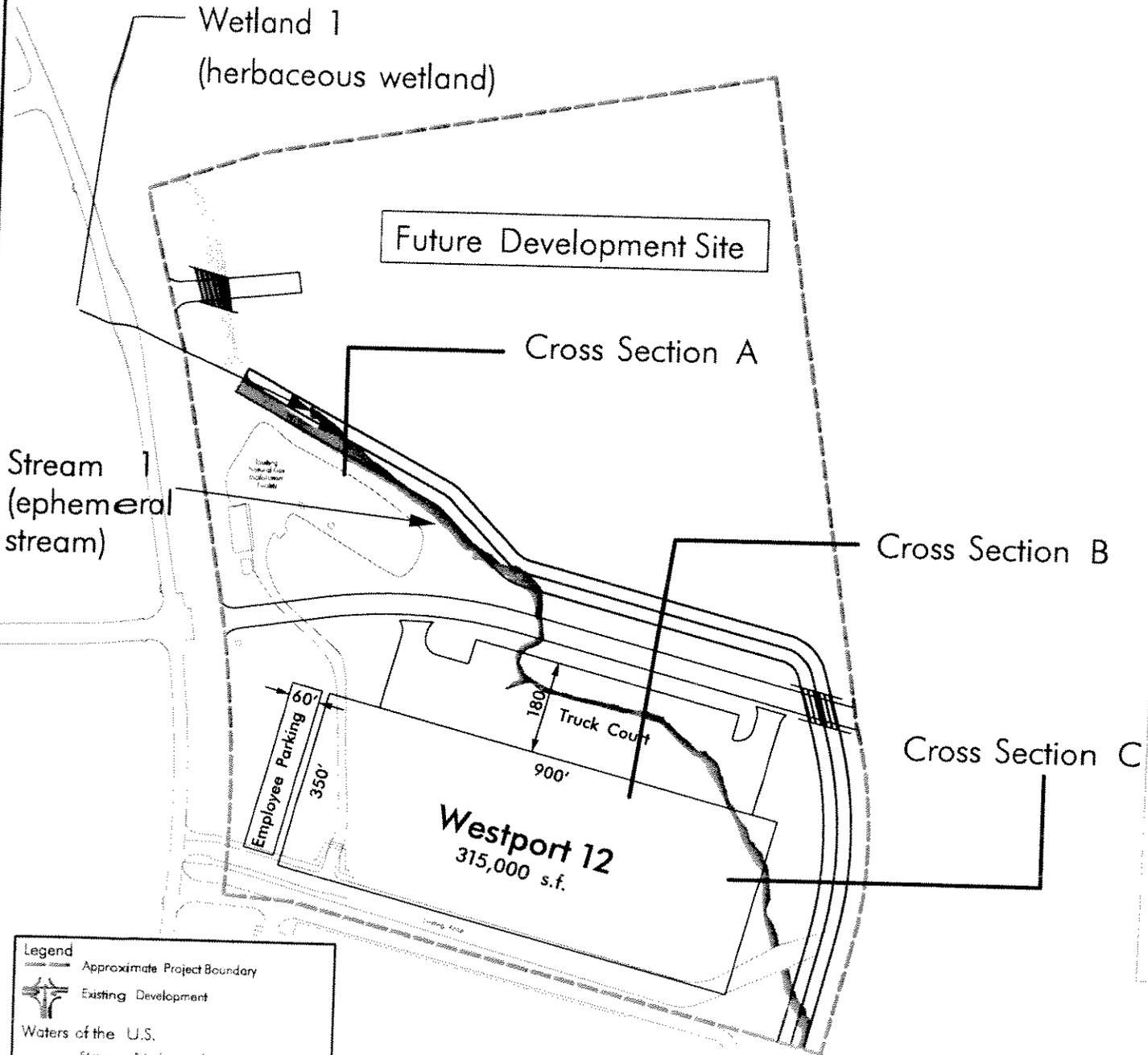
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Proposed Impacts to Waters of the U.S.  
Westport 12  
Tarrant County, Texas  
C&B Project No. 015000.113



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**Legend**

- Approximate Project Boundary
- Existing Development
- Waters of the U.S.
  - Stream 1 (ephemeral stream)
  - Wetland 1 (herbaceous wetland)
- Proposed Impacts to Waters of the U.S.
  - Impacted Stream 1 (ephemeral stream)
  - Impacted Wetland 1 (herbaceous wetland)
- Proposed Site Facilities
  - Proposed Industrial Building
  - Proposed Parking / Truck Court
  - Proposed Road / Culvert Crossing
  - Open Drainage Channel



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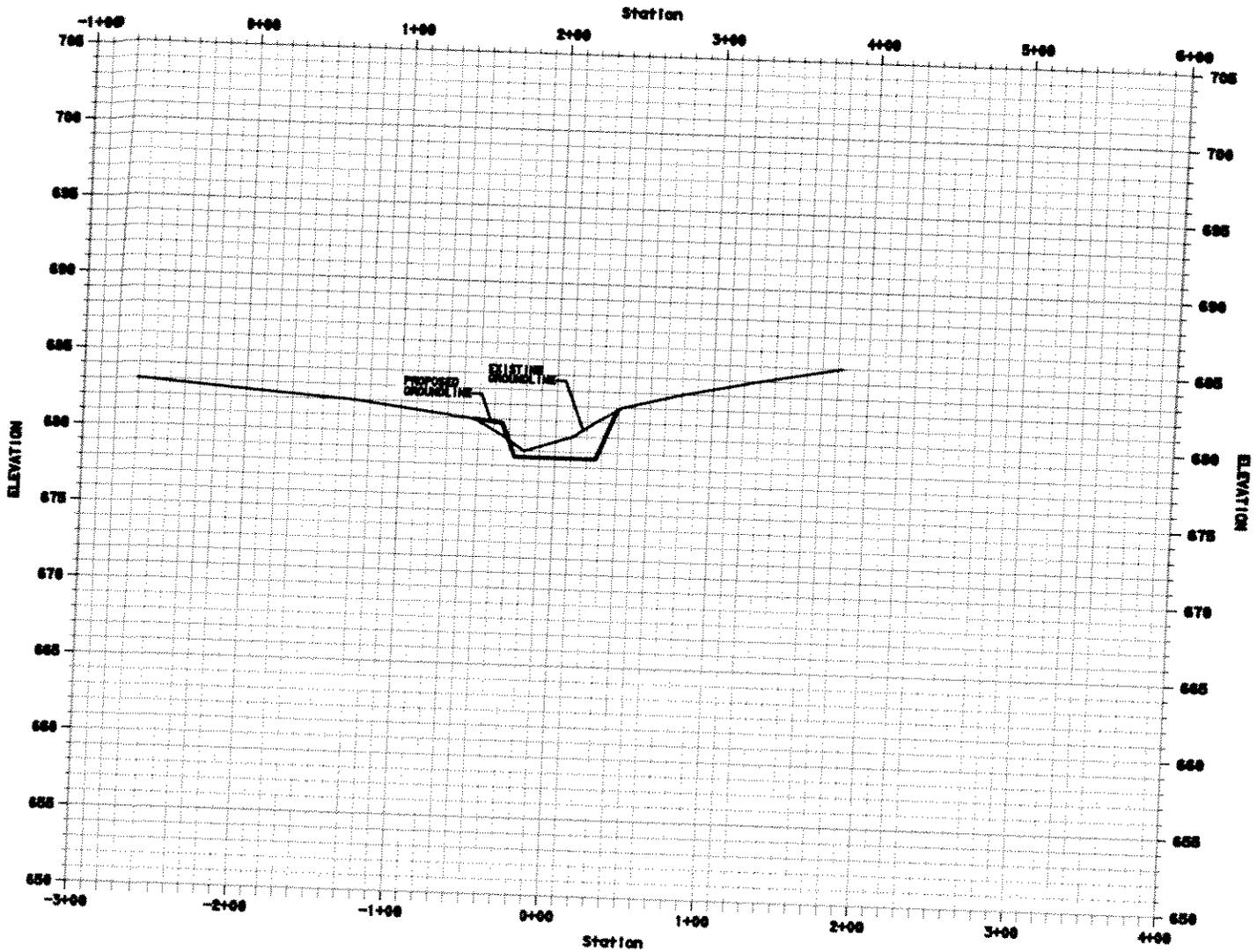
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Cross-Section Locations  
Westport 12  
Tarrant County, Texas  
C&B Project No. 015000.113



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# SECTION A



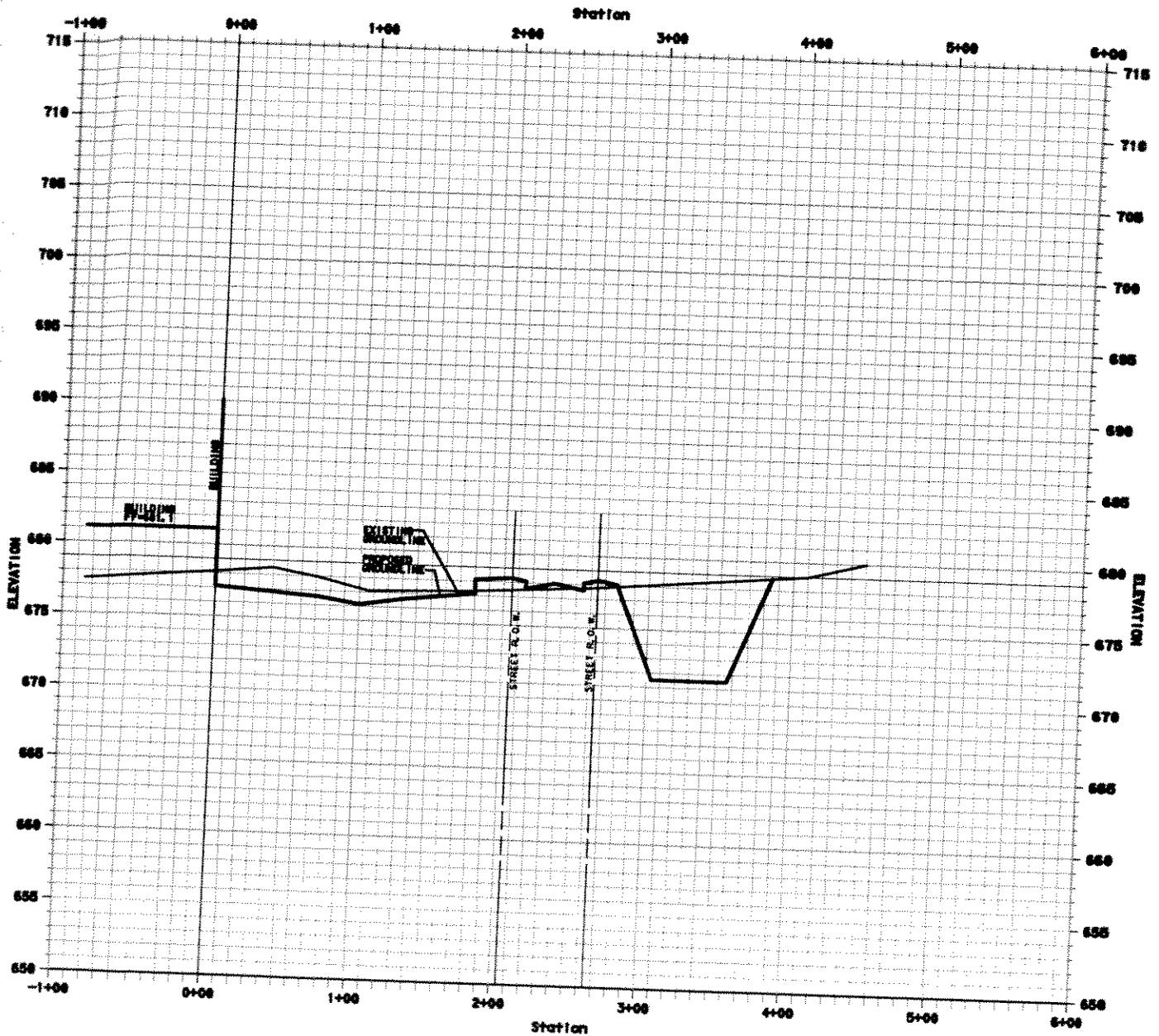
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Cross Section A  
 Westport 12  
 Tarrant County, Texas  
 C&B Project No. 015000.113

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# SECTION B



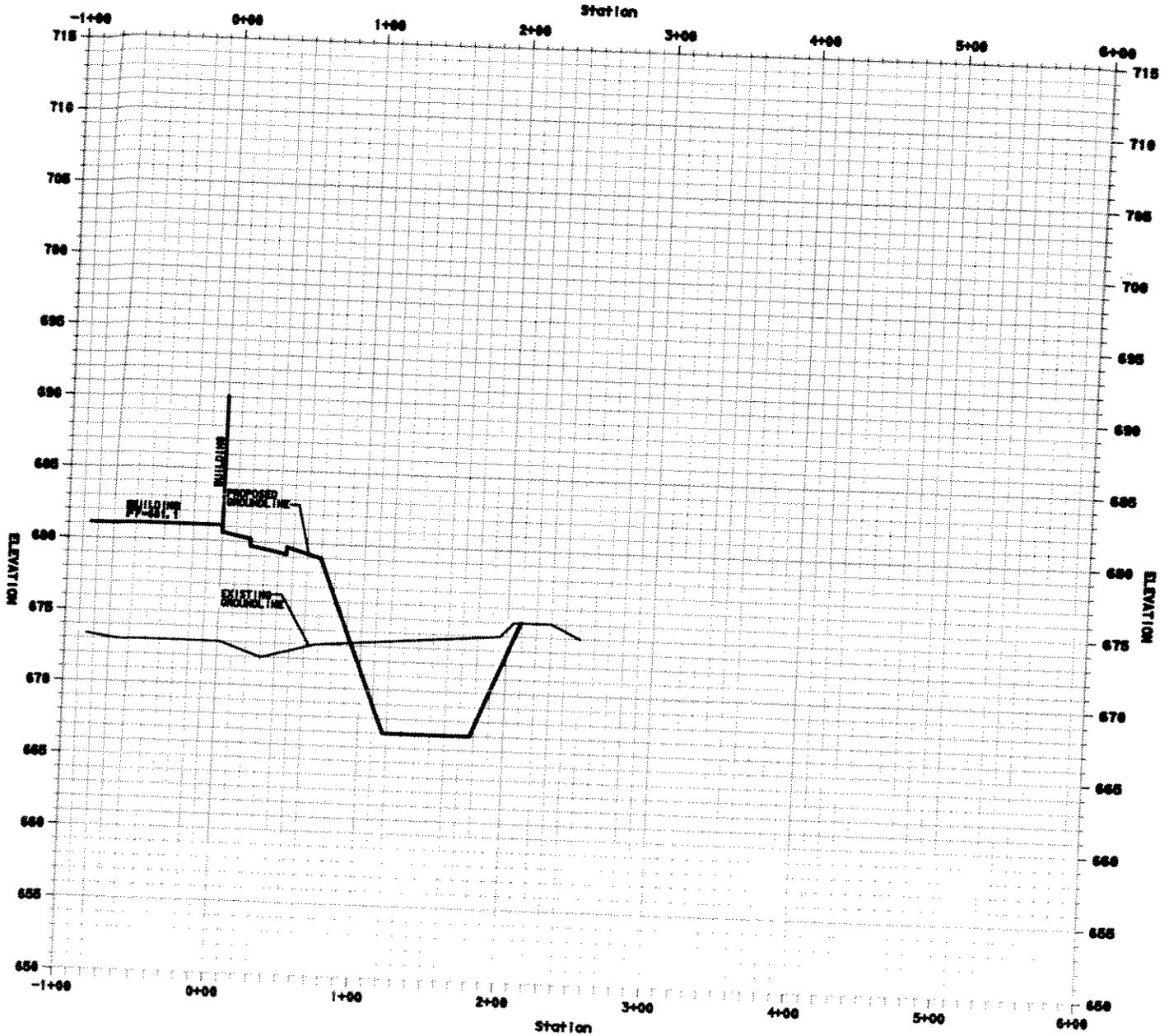
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Cross Section B  
 Westport 12  
 Tarrant County, Texas  
 C&B Project No. 015000.113

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# SECTION C



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