



# Public Notice

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

Applicant: Patroon Partners, Ltd.

Permit Application No.: SWF-2007-00041

Date: December 19, 2008

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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. 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 474.8-acre wetland mitigation bank to be known as the Patroon Bayou Mitigation Bank (PBMB) near Patroon, Sabine County, Texas.

**APPLICANT:** Patroon Partners, Ltd (PPL)  
P.O. Box 214966  
Dallas, Texas 75221

**APPLICATION NUMBER:** SWF-2007-00041

**DATE ISSUED:** December 19, 2008

**LOCATION:** The proposed PBMB is located on an approximately 474.8-acre parcel of land approximately five miles southeast of the city of Patroon, Sabine County, Texas (Figure 1). The proposed project is located approximately at UTM coordinates 413396.33 East and 3494461.04 North (Zone 15) on the Patroon South 7.5-minute USGS quadrangle maps in the Sabine River Drainage Basin (HUC 120100) located in the South Central Texas Plains Ecoregion (Figure 3).

**PROJECT DESCRIPTION:** The proposed PBMB site consists of 474.8 acres of land located within the floodplain of Patroon Bayou in southeast Sabine County, Texas. The 474.8-acre site is part of a 1,925-acre tract of land owned by Patroon Partners, Ltd.

The land base on which the PBMB is proposed was acquired by Champion Paper and Fiber Company (Champion) in the late 1930s/early 1940s. Between the late 1970s and the early 1980s, Champion converted the property, including the proposed PBMB acreage, from a native forest community to a loblolly pine (*Pinus taeda*) plantation. Operating under typical protocols of that era, marginal or no riparian habitat was preserved along the Patroon Bayou waterway. Small areas of native habitat averaging less than one acre in size were preserved due to the sinuous nature of the water body, which limited the utilization of heavy site preparation machinery. In 2003, International Paper Company acquired all assets of Champion, and consequently sold approximately 300,000 acres, including the subject property, to private investors and Timber Investment Management Organizations. In 2004, the subject property, now reduced to 1,925 acres, was sold to a private investment group, whose intention was to harvest merchantable timber, and further subdivide the property into small parcels for resale. Most of the remaining timber within the proposed PBMB site was row-thinned as a part of this operation. Due to the owners' intent to quickly resell the property, no enhancement or replanting activities were conducted. In 2005 the Sponsor (Patroon Partners, Ltd.) purchased the 1,925 acres in a single acquisition.

Presently, the proposed PBMB acreage is comprised primarily of existing wetland habitats amenable to restoration and enhancement with the goal of developing bottomland hardwood forested wetland communities typical of the Sabine River basin. A majority of the proposed PBMB site now consists of areas of a scrub/shrub wetlands intermingled with residual bottomland hardwood forests dominated by oak/hickory species of varying sizes and ages. Other habitats occurring within the proposed PBMB boundary are beaver ponds/sloughs, mature forested wetlands, a wet/non-wet bottomland complex, non-wetland bottomland hardwood community, and perennial/intermittent streams and associated natural levees (riparian zones).

The majority of the soils within the project site are described as Keithville-Sawtown complex, Laneville loam, frequently flooded, and Dreka loam, flooded; all listed as hydric soils on the USDA NRCS Hydric Soils List for Sabine County, Texas. Historically, these soils are described as supporting bottomland hardwood forest.

The proposed PBMB is currently comprised of approximately 183.6 acres of non-jurisdictional habitat (62.5 acres of non-wetland bottomland hardwood community, 21.9 acres of non-jurisdictional wet/non-wet bottomland complex, and approximately 105.2 acres of riparian zones of Patroon Bayou and associated intermittent tributaries), and 269.5 acres of potential jurisdictional wetland habitat (237.6 acres of forested and scrub-shrub wetland habitats, 21.9 acres of jurisdictional wet/non-wet bottomland complex and 8.4 acres of mature forested wetland) (Figure 5). The project location also contains approximately 21,773.7 linear feet of unnamed intermittent streams and 16,021.3 linear feet of perennial stream (Patroon Bayou). The vegetation, hydrology, and soils for the proposed PBMB site, including identification of wetlands that are waters of the United States (U.S.), are described in detail in *A Wetland Delineation and Habitat Evaluation of the Patroon Bayou Mitigation Bank*.≡

The Bank Sponsor has developed a mitigation work plan for the proposed PBMB. This would entail replanting of native bottomland hardwood species in place of loblolly pine, and restoring and enhancing wetland hydrology altered as a result of historic land uses and past timber management activities. 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 detailing baseline and proposed conditions can be found in the “Patroon Bayou Mitigation Bank Mitigation Banking Instrument, Sabine County, Texas.” The objective of the mitigation work plan would be 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, etc., for the area.

The bank sponsor proposes a primary service area and a secondary service area (Figure 2). The primary service area is identified as the area within the intersection of Sabine Basin (HUC 120100) and the South Central Plains Ecoregion (Griffith et al. 2004). This would include Panola County in its entirety and portions of Sabine, San Augustine, Shelby, Harrison, Rusk, Gregg, Upshur, Smith, and Wood Counties. The secondary service area is proposed to encompass the area within the intersection of the Big Cypress-Sulphur Basin (HUC 111403) and

the South Central Plains Ecoregion, the intersection of the Neches River Basin (HUC 120200) and the South Central Plains Ecoregion, and the intersection of the Sabine River Basin (HUC 120100) and the East Central Texas Plains Ecoregion. This would include Marion, Nacogdoches, Angelina, Cherokee, Rains and Camp Counties in their entirety, and portions of Bowie, Harrison, San Augustine, Shelby, Rusk, Sabine, Houston, Anderson, Henderson, Smith, Van Zandt, Kaufman, Hunt, Hopkins, Wood, Franklin, Upshur, Gregg, Titus, Cass, and Morris Counties.

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 for enhancement activities, 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 Sabine County where the red-cockaded woodpecker (*Picoides borealis*) is federally listed as an endangered species, and the Louisiana black bear (*Ursus americanus luteolus*) is federally listed as a threatened species. Our initial review indicates that the proposed work would have no effects on any 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 not been formally surveyed for the presence of historic and prehistoric. However, areas of high probability for the presence of historic and prehistoric sites are present within the permit area. Additional work to identify these sites may be necessary.

**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.

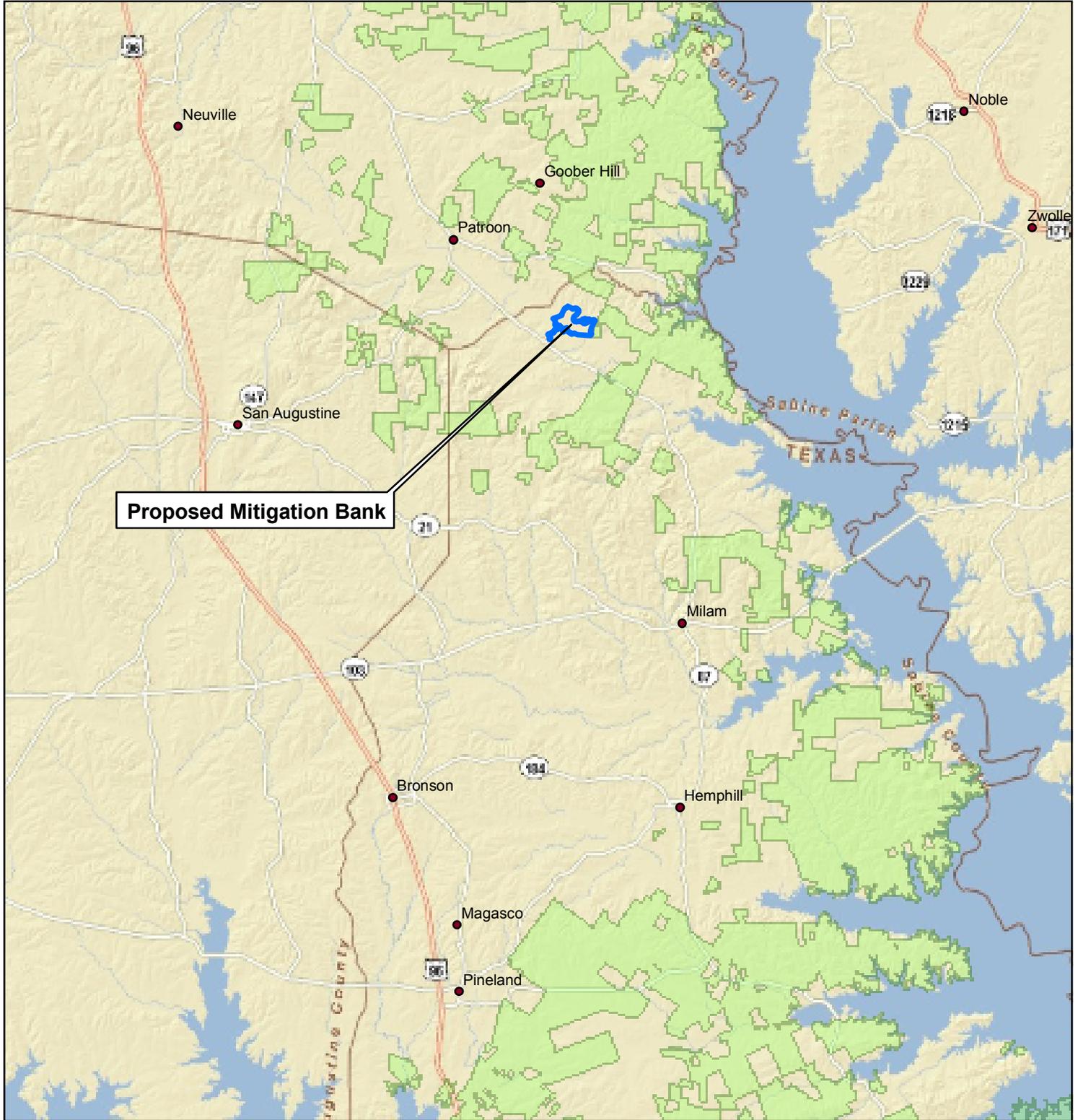
**SOLICITATION OF COMMENTS:** The public notice is being distributed to all known interested persons in order to allow the public an opportunity to comment on this bank proposal and to assist the USACE and other members of the IRT in developing the final MBI. For accuracy and completeness of the record, 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 January 23, 2009, 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

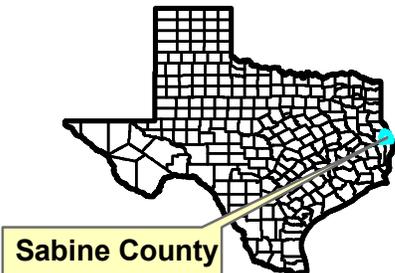
Location Map  
 Patroon Partners, Ltd. Proposed Mitigation Bank (474.8 Acres)  
 Sabine County, Texas



**Proposed Mitigation Bank**

**Figure 1 of 6**

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



- Bank Boundary
- Sabine National Forest

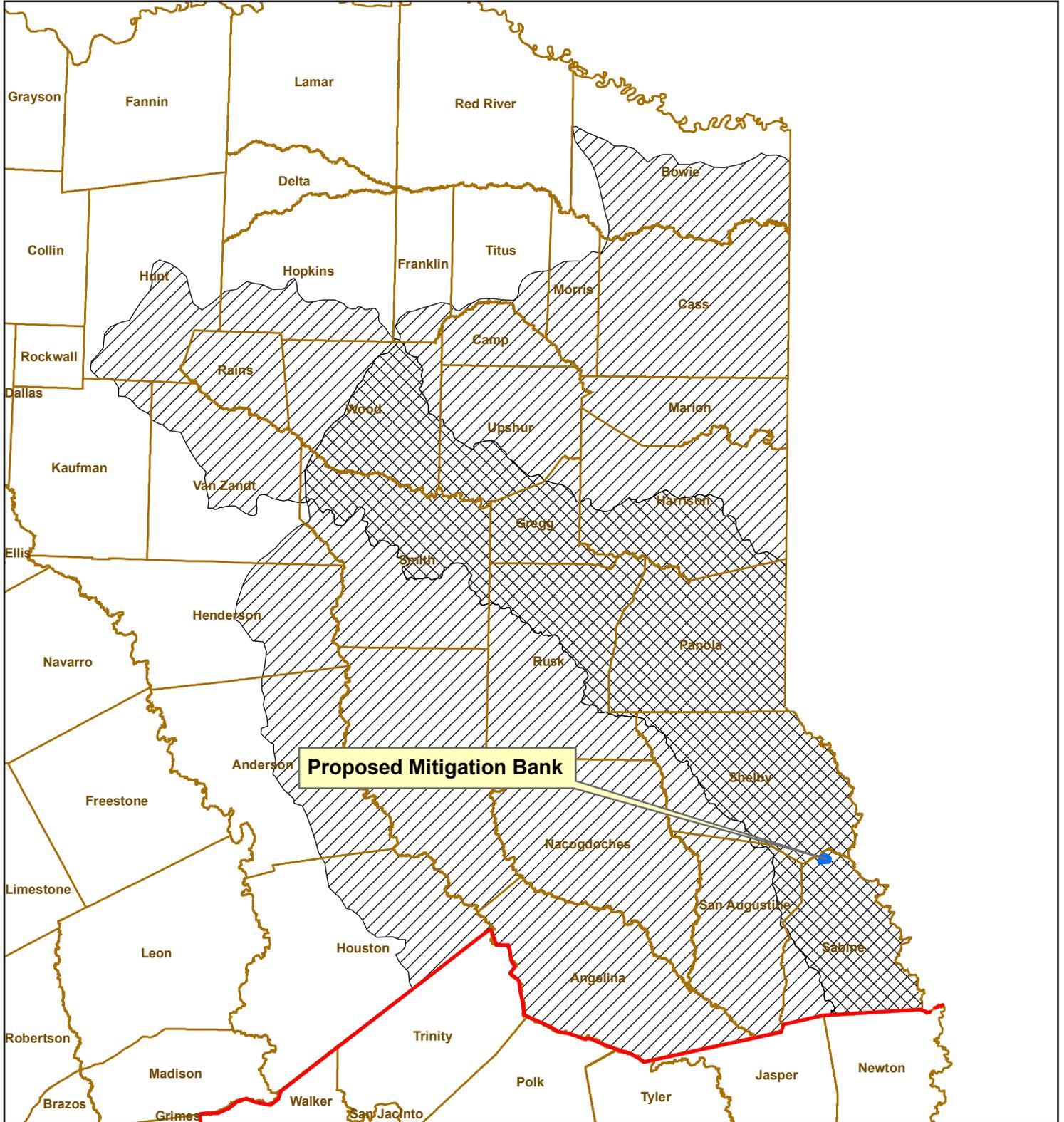


Drawn by: Chance Kimbrough  
 Date: December 16, 2008



USACE Project# SWF-2007-00041

Proposed Service Area Map  
 Patroon Partners, Ltd. Proposed Mitigation Bank (474.8 Acres)  
 Sabine County, Texas

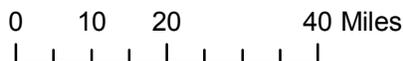


USACE Project# SWF-2007-00041

Figure 2 of 6

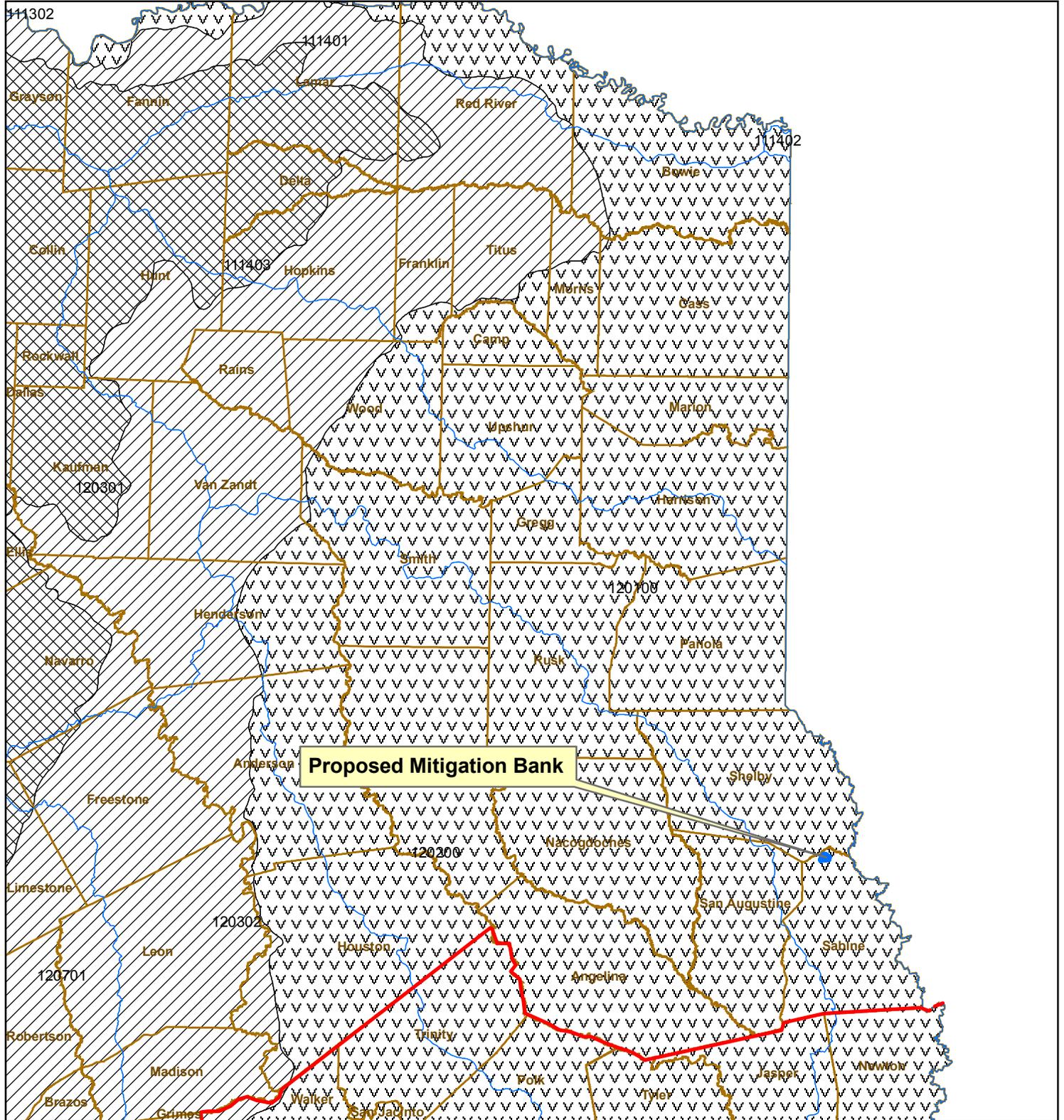
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-  Primary Service Area
-  Secondary Service Area
-  USACE District Boundary



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Six Digit Hydrologic Unit Codes (HUC) and Level 3 Ecoregions  
 Patroon Partners, Ltd. Proposed Mitigation Bank (474.8 Acres)  
 Sabine County, Texas

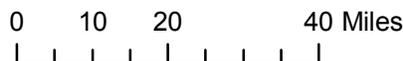


Proposed Mitigation Bank

Figure 3 of 6

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-  USACE District Boundary
-  6 Digit HUC Boundary
-  East Central Texas Plains
-  South Central Plains
-  Texas Blackland Prairies



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USACE Project# SWF-2007-00041

USGS Topographic Quadrangle Map  
 Patroon Partners, Ltd. Proposed Mitigation Bank (474.8 Acres)  
 Sabine County, Texas

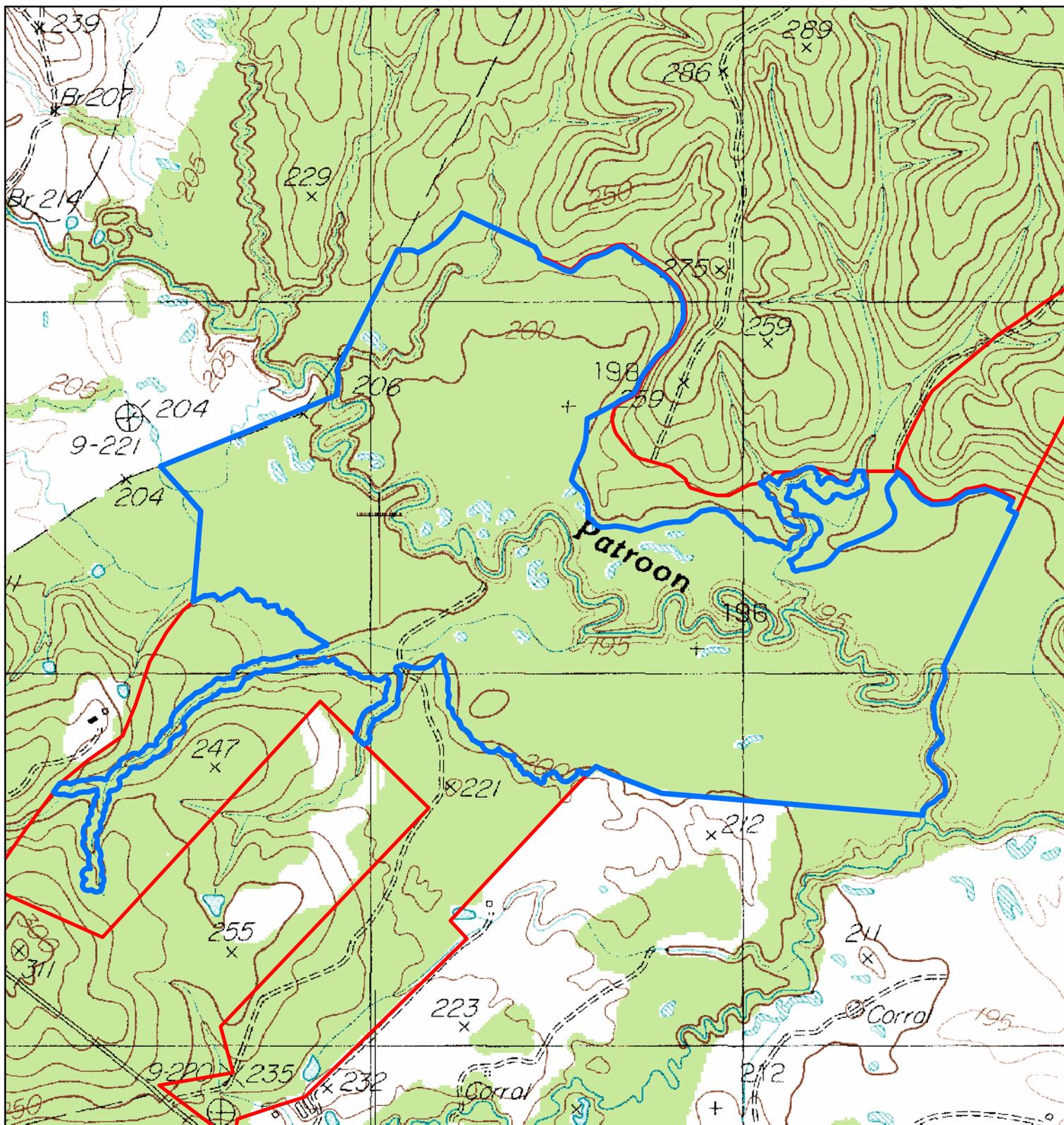


Figure 4 of 6

- Property Boundary
- S Bank Boundary



0.25 0 0.25 Miles

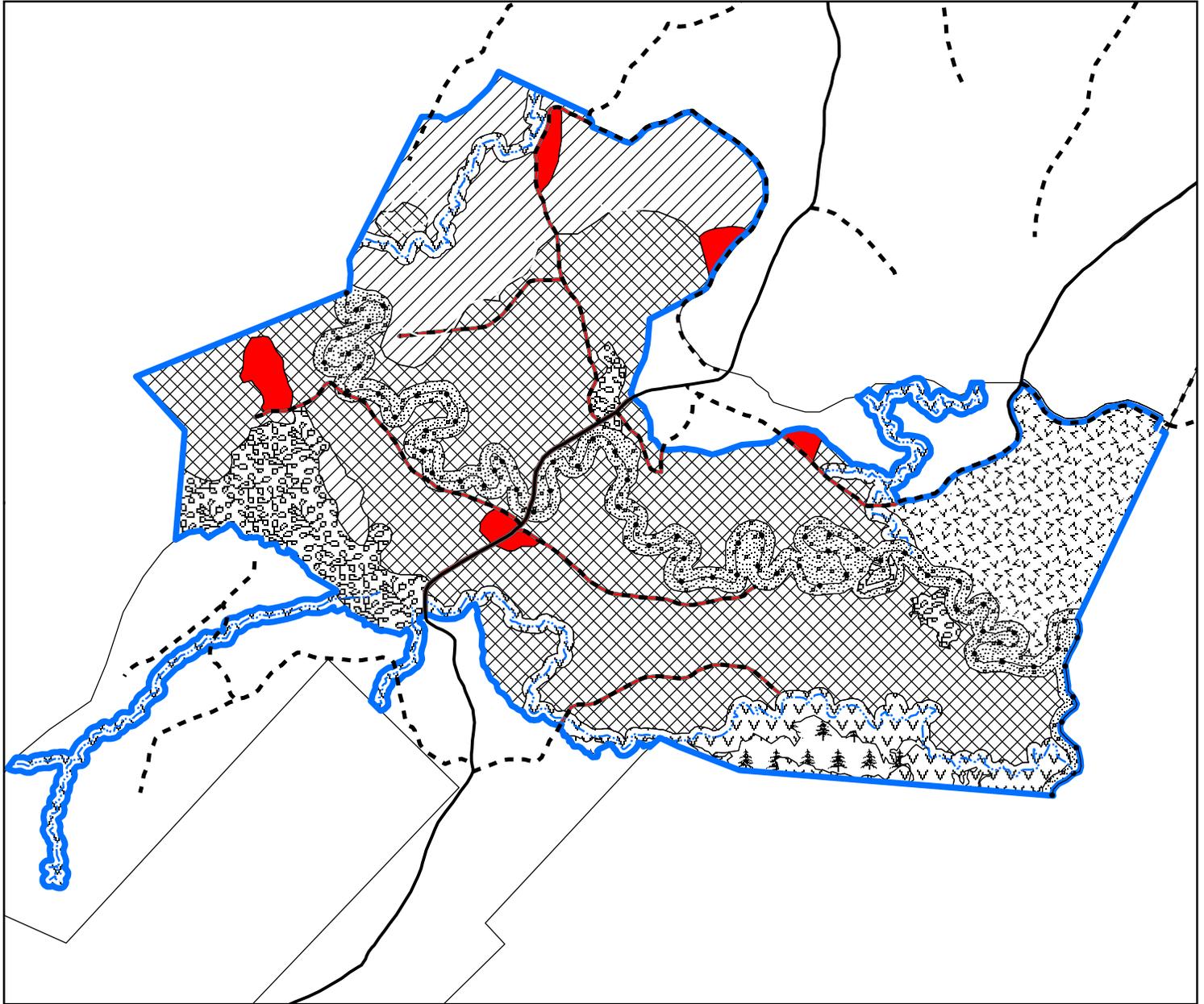
Basemap Data: USGS 1:24,000,  
 7.5 minute Topographic Quadrangle (Patroon South Quad)

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 Date: 12/16/ 2008

**Wetland Delineation Map**  
**Patroon Partners, Ltd. Proposed Mitigation Bank (474.8 Acres)**  
**Sabine County, Texas**



**Potentially Jurisdictional Features**

-  Beaver Pond/Slough (31.9 acres)
-  Mature Forested Wetland (8.4 acres)
-  Scrub/Shrub Forested Wetland Complex (207.3 acres)
-  Wet/Non-Wet Bottomland Complex (43.8 acres)

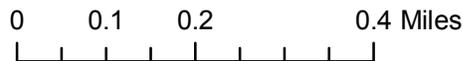
-  Intermittent (21,773.5 ft)
-  Perennial (16,021.3 ft)

**Non-Jurisdictional Features**

-  Non-Wetland Bottomland Hardwood (62.5 acres)
-  Perennial Stream Buffer (51.4 acres)
-  Intermittent Stream Buffer (53.8 acres)
-  Road Buffer/Other (15.7 acres)

-  Improved Road
-  Unimproved Road

-  Bank Boundary
-  Property Boundary



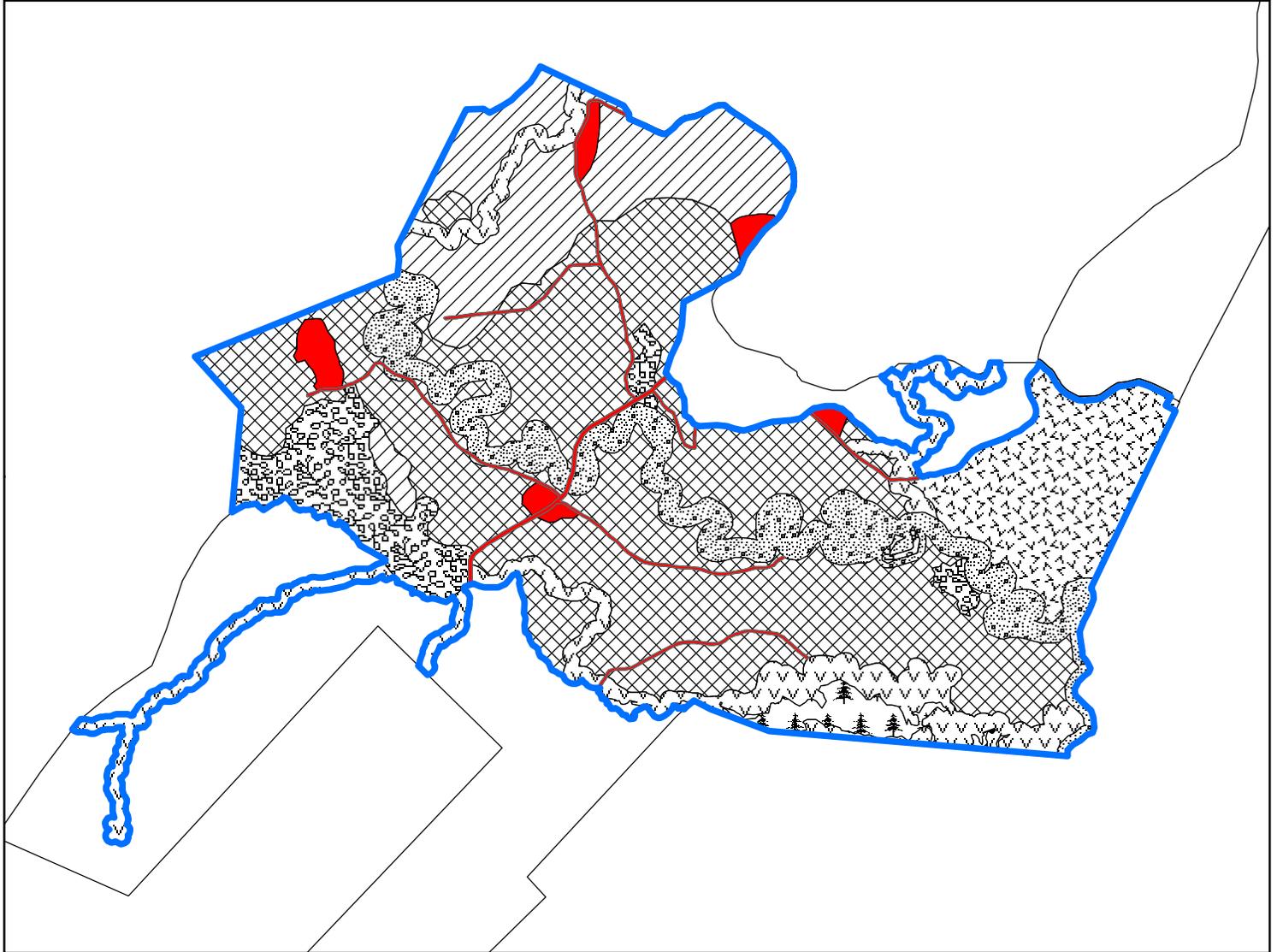
**Figure 5 of 6**

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Mitigation Work Plan Map  
 Patroon Partners, Ltd. Proposed Mitigation Bank (474.8 Acres)  
 Sabine County, Texas



-  Property Boundary
-  Proposed Bank Boundary
-  Road Buffer/Other (15.7 acres)

Figure 6 of 6

**Bottomland Hardwood Vegetation Restoration & Enhancement  
 Wetland Hydrology Enhancement**

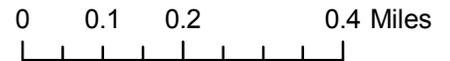
-  Beaver Pond/Slough (31.9 acres)
-  Mature Forested Wetland (8.4 acres)
-  Scrub/Shrub Forested Wetland Complex (207.3 acres)

**Bottomland Hardwood Vegetation Restoration and Enhancement  
 Wetland Hydrology Re-establishment and Enhancement**

-  Non-Wetland Bottomland Hardwood (62.5 acres)
-  Wet/Non-Wet Bottomland Complex (43.8 acres)

**Riparian Zone Bottomland Hardwood Vegetation Restoration and  
 Enhancement**

-  Perennial Stream Buffer (51.4 acres)
-  Intermittent Stream Buffer (53.8 acres)



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