



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

Public Notice

Applicant: Daisy Mitigation Bank

Permit Application No.: SWF-2009-00103

Date: September 17, 2009

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 develop a wetland and stream mitigation bank, to be known as the Daisy Mitigation Bank (DMB), within the boundaries of two separate areas totaling approximately 1,200 acres in Rains County, Texas.

APPLICANT: Rabb Family Partnership
4236 Spencers Rd
Campbell, TX 75422-2291

APPLICATION NUMBER: SWF-2009-00103

DATE ISSUED: September 17, 2009

LOCATION: The proposed DMB would be developed within the boundaries of two separate areas totaling approximately 1,200 acres south of State Route (SR) 276 and east of SR 19 in the City of Emory, Rains County, Texas (Exhibit 1). The exact size and boundaries of the bank will be established based upon the extent of upland buffers surrounding the aquatic components of the site, to be determined during the banking instrument/ mitigation plan phase. The bank site can be found on the Emory North and Emory South 7.5-minute United States Geological Survey quadrangle maps (Exhibit 2). The geographical coordinates for the larger, westernmost portion of the Bank site are 32° 52.0' North latitude, 95° 48.9' West longitude. The geographical coordinates for the easternmost portion of the bank site are 32° 51.5' North latitude, 95° 47.5' West longitude. The proposed Bank site is part of the Sabine River Basin 6-Digit Hydrologic Unit Code (HUC) 120100, within the East Central Texas Plains Level III Ecoregion (Exhibit 6).

PROJECT DESCRIPTION: Preliminary site investigations determined that approximately 175 acres of bottomland forested, scrub-shrub and herbaceous wetlands are present within the potential bank site, as well as a number of jurisdictional streams (Exhibits 7-10). The on-site wetlands have three primary sources of hydrology: precipitation, groundwater and seasonal flooding along the onsite streams. The sandy upland hills of the site act as a sink for this precipitation, forming seeps at the toe slopes that provide hydrology for bottomland wetlands.

Areas of high-quality forested wetland along Brushy Creek and West Brushy Branch are characterized by a diverse oak-dominated canopy, including water oak (*Quercus nigra*), willow oak (*Q. phellos*), post oak (*Q. stellata*) and others. A number of palmetto swamps were also identified on the site. The future integrity of these high-quality bottomland forests is in question, however, as regeneration of oak species is not occurring at a pace that will sustain the future dominance of mature oaks within the wetlands. Other mature forested wetlands on the site are not oak-dominated and are instead characterized by species such as green ash (*Fraxinus pennsylvanica*), sugarberry (*Celtis laevigata*) and American elm (*Ulmus Americana*) in both the canopy and understory. Transitional immature forest and old field wetlands on the site are generally dominated by less desirable scrub species, such as boxelder (*Acer negundo*), black willow (*Salix nigra*), common honeylocust (*Gleditsia triacanthos*) and green ash (*Fraxinus pennsylvanica*) saplings.

Some low-lying pasture areas along on-site streams have developed into herbaceous wetlands, typically dominated by species such as Torrey’s rush (*Juncus torreyi*), bushy bluestem (*Andropogon glomeratus*), poverty rush (*Juncus tenuis*), goldenrod spp. (*Solidago*) and smartweed spp. (*Polygonum*). Some areas are further advanced in their successional state and have developed into scrub-shrub wetlands, dominated by buttonbush (*Cephalanthus occidentalis*), black willow (*Salix nigra*), young cedar elm (*Ulmus crassifolia*), and green ash (*Fraxinus pennsylvanica*) saplings.

Portions of two onsite streams (Brushy Creek and associated Trib. 5) were specifically evaluated for incorporation into the mitigation bank as stream restoration projects (Exhibit 8). Both streams have been channelized or excavated in the past to facilitate drainage of the adjacent pasture and are very similar in form, exhibiting a shallow trapezoidal channel shape. Little to no sinuosity was observed along either channel due to historic straightening. The substrate of the streams is composed primarily of sand and silt, and a normal riffle-pool sequence is absent. Both channels are lacking woody riparian corridors.

The bank site contains the soils listed in Table 1 below and shown on Exhibit 3, according to the Natural Resources Conservation Service (NRCS). Table 1 also indicates the soil units that are hydric or are non-hydric soils with hydric inclusions.

TABLE 1
Mapped Soils Summary

Mapped Soil Unit (Symbol)	Hydric Condition	Presence of Hydric Inclusions
Annona-Raino Complex (Ar)	No	No
Crockett loam, 1-3% slopes (CrB)	No	No
Freestone fine sandy loam, 1-3% slopes (FrB)	No	Slight inclusions
Nahatche soils (Na)	Yes	N/A
Wolfpen loamy fine sand, 1-5% slopes (WoC)	No	No
Woodtell loam, 2-5% slopes (WtC)	No	No
Woodtell loam, 5-12% slopes (WtD)	No	No

Soils within the wetland areas were examined and found to meet hydric criteria, including the presence of prominent mottles (redox concentrations/ depletions). The majority of the hydric soils observed appear to be of the Nahatche soil unit. In most areas, soil probe testing detected hydric soils extending well beyond the existing wetland vegetation boundary. This is indicative of a historic wetland condition that could potentially be restored.

The Bank Sponsor has developed a preliminary restoration approach for the proposed DMB. Initial assessments indicate that the existing wetland types could benefit most from improvements to vegetation community and wildlife value functions through installation of native plantings, management of invasive/ undesirable species, removing cattle and managing feral hogs. The primary goal of the bank is to restore or enhance wetlands to achieve a native bottomland forest habitat. Over 175 acres of existing wetland are proposed for enhancement, along with approximately 175 acres of wetland restoration on hydric soils. Upland buffers would be established to protect the functions of the restored and enhanced wetlands which are proposed to generate additional mitigation credit. In addition, degraded portions of Brushy Creek and Trib. 5 are proposed for restoration using Natural Channel Design techniques. Approximately 3,000 linear feet of channel would be restored through

improvements to instream habitat, floodplain connectivity and planting of riparian corridors. Additional management measures, such as feral hog control and removal of cross fences, would also be incorporated into the overall development and maintenance scheme for the bank.

The Bank Sponsor proposes a primary service area and a secondary service area (Exhibit 6). The proposed primary service area for the bank consists of the area within the intersection of the Sabine River watershed (HUC: 120100) and the East Central Texas Plains Ecoregion within the jurisdictional boundaries of the USACE Ft. Worth District in the state of Texas. This Primary Service Area includes all of Rains County and portions of Hopkins, Wood, Smith, Van Zandt, Kauffman and Hunt Counties. The proposed secondary service area includes the following limits, as indicated on Exhibit 6.

- The intersection of the Sabine River watershed and the adjacent Texas Blackland Prairies and South Central Plains Level III Ecoregions within the jurisdictional boundaries of the USACE Ft. Worth District in the state of Texas. This includes portions of Hunt, Collin, Rockwall, Kauffman, Wood, Smith, Upshur, Gregg, Harrison, Rusk, Panola, Shelby, San Augustine and Sabine Counties.
- The intersection of the East Central Texas Plains Ecoregion and the adjacent Big Cypress-Sulphur (HUC: 111403), Upper Trinity River (HUC: 120301) and Neches River (HUC: 120200) 6-digit watersheds within the jurisdictional boundaries of the USACE Ft. Worth District in the state of Texas. This includes portions of Red River, Lamar, Hopkins, Delta, Franklin, Titus, Morris, Bowie, Ellis, Smith, Kauffman, Van Zandt, Henderson, Navarro, Freestone and Anderson Counties.

A mitigation banking instrument (MBI) would be developed in accordance with Compensatory Mitigation for Losses of Aquatic Resources (Federal Register, 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 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 Rains County where least tern (*Sterna antillarum*) is federally listed as an endangered species. In addition, bald eagle (*Haliaeetus leucocephalus*) is listed as a Federal Delisted Taxon that is being monitored. 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 sites. The Texas Historical Commission's files indicate that no archaeological sites, archaeological projects, neighborhood surveys, historical markers, National Register properties, National Register districts, cemeteries or shipwrecks have been identified within the project boundaries. Any necessary cultural resources management surveys of the proposed bank site will be coordinated with the USACE by the Bank Sponsor during the Section 404 permitting process, in accordance with Section 106 of the National Historic Preservation Act.

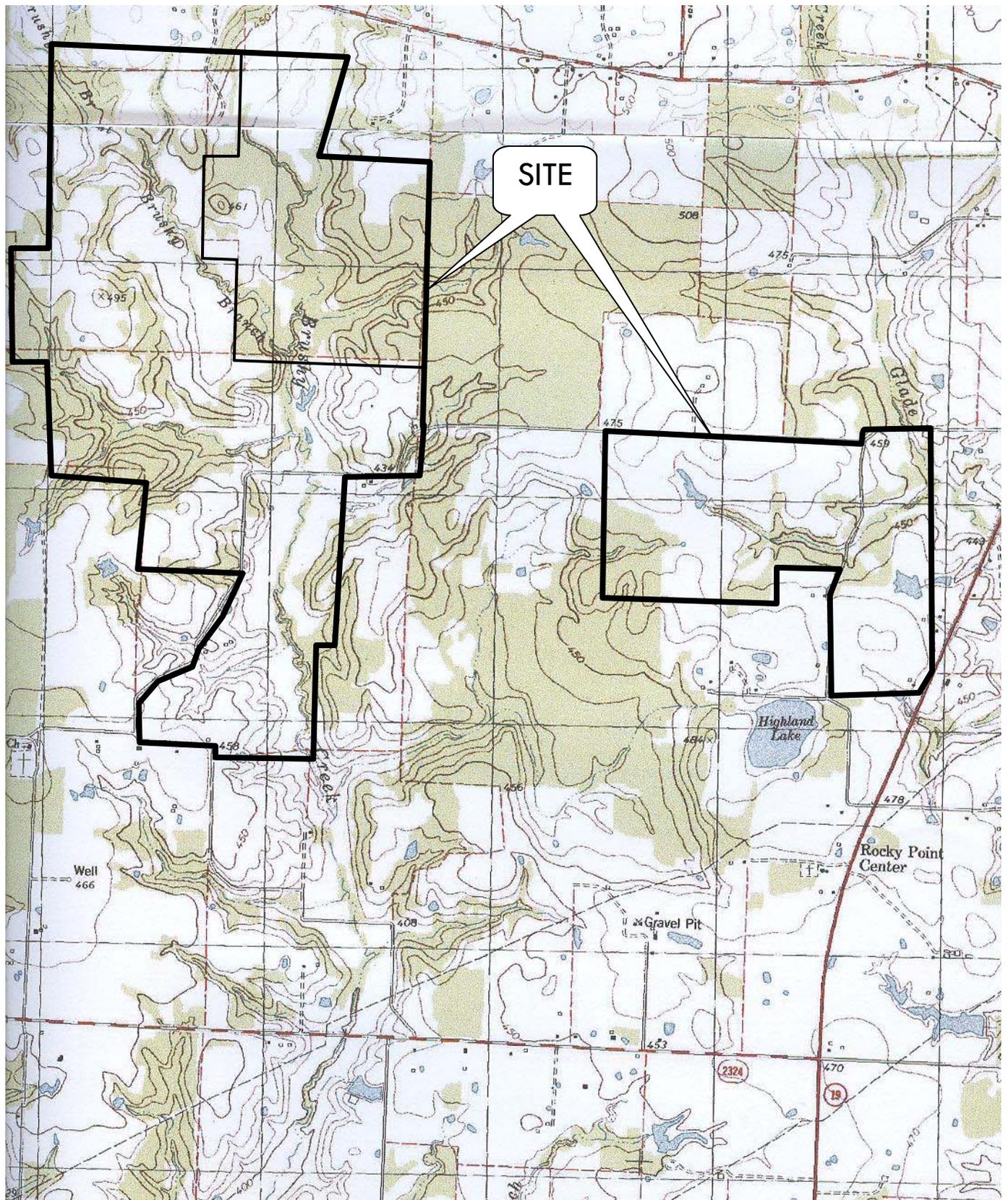
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review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

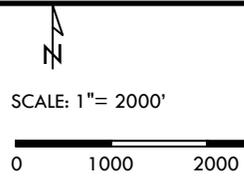
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before October 19, 2009, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to; 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



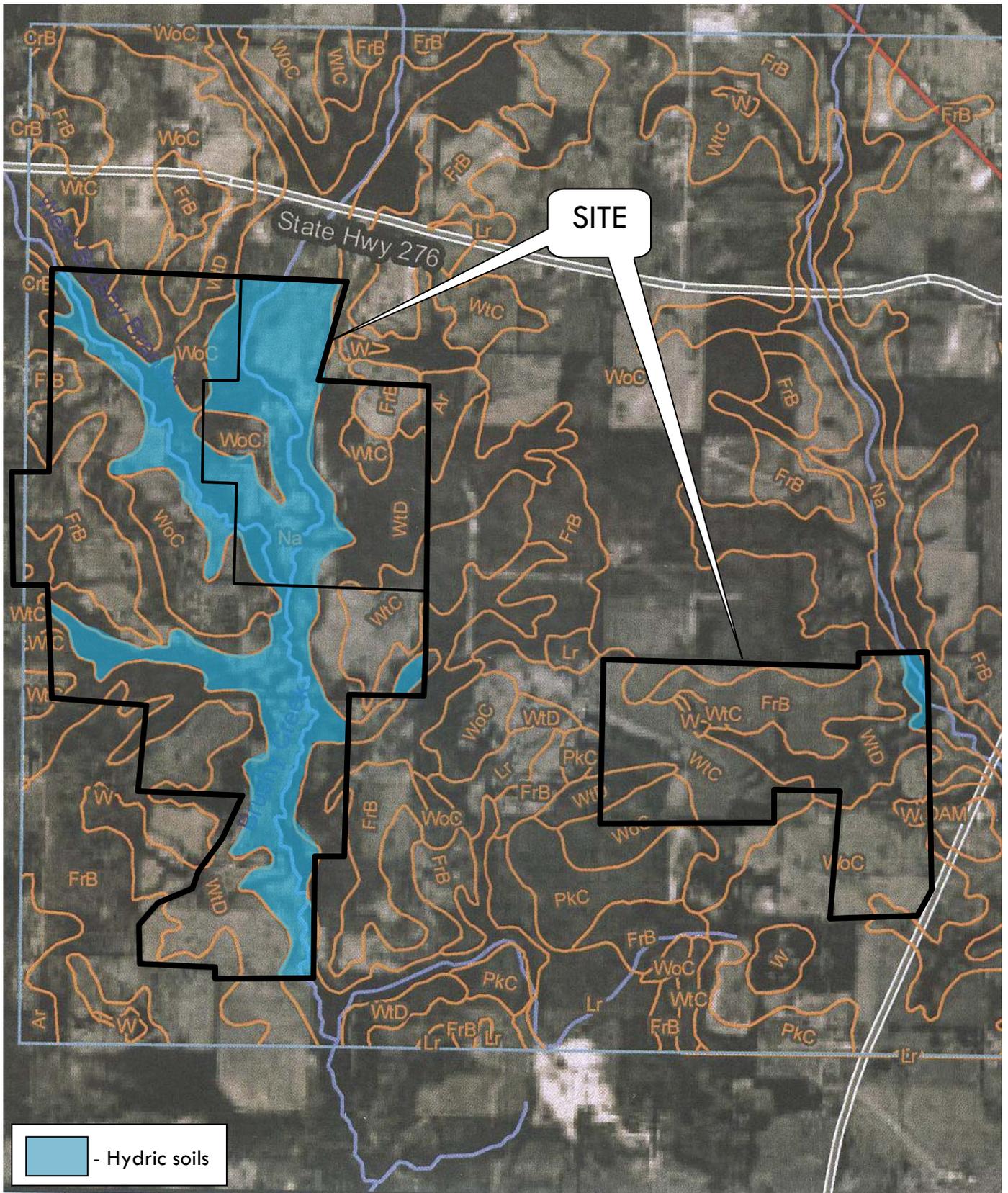
SITE

EMHT
 Evans, Mechwart, Hambleton & Tilton, Inc.
 Engineers • Surveyors • Planners • Scientists
 5500 New Albany Road, Columbus, OH 43054
 Phone: 614.775.4500 Fax: 614.775.4800
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RAINS COUNTY, TEXAS
THE DAISY MITIGATION BANK
TOPOGRAPHIC MAP
EXHIBIT 2

Source:
 - USGS EMORY SOUTH/NORTH QUADS (1980)



SITE

 - Hydric soils



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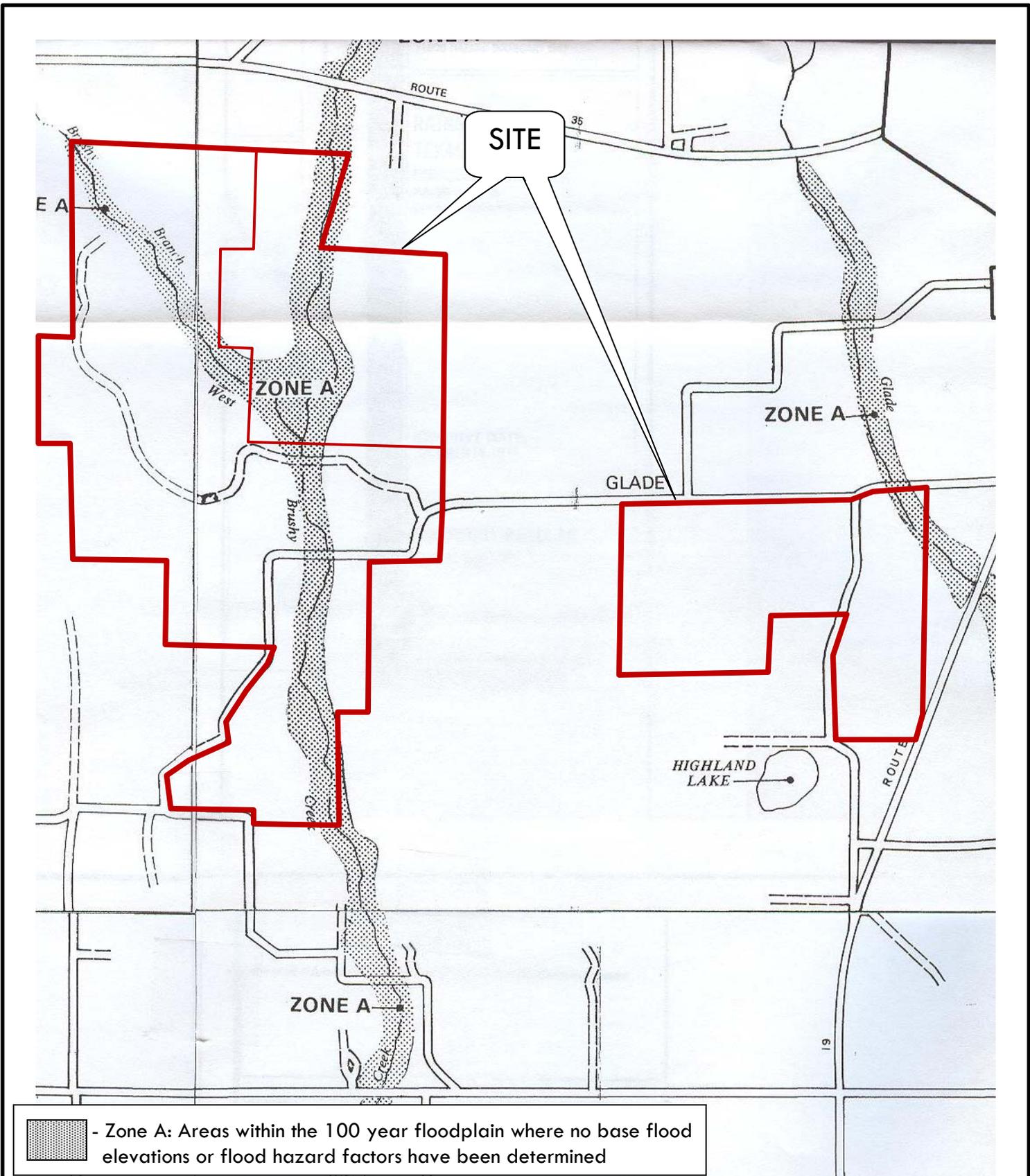


SCALE: 1" = 2000'



RAINS COUNTY, TEXAS
THE DAISY MITIGATION BANK
SOILS MAP
EXHIBIT 3

Source:
 - USDA/NRCS (2008)



- Zone A: Areas within the 100 year floodplain where no base flood elevations or flood hazard factors have been determined

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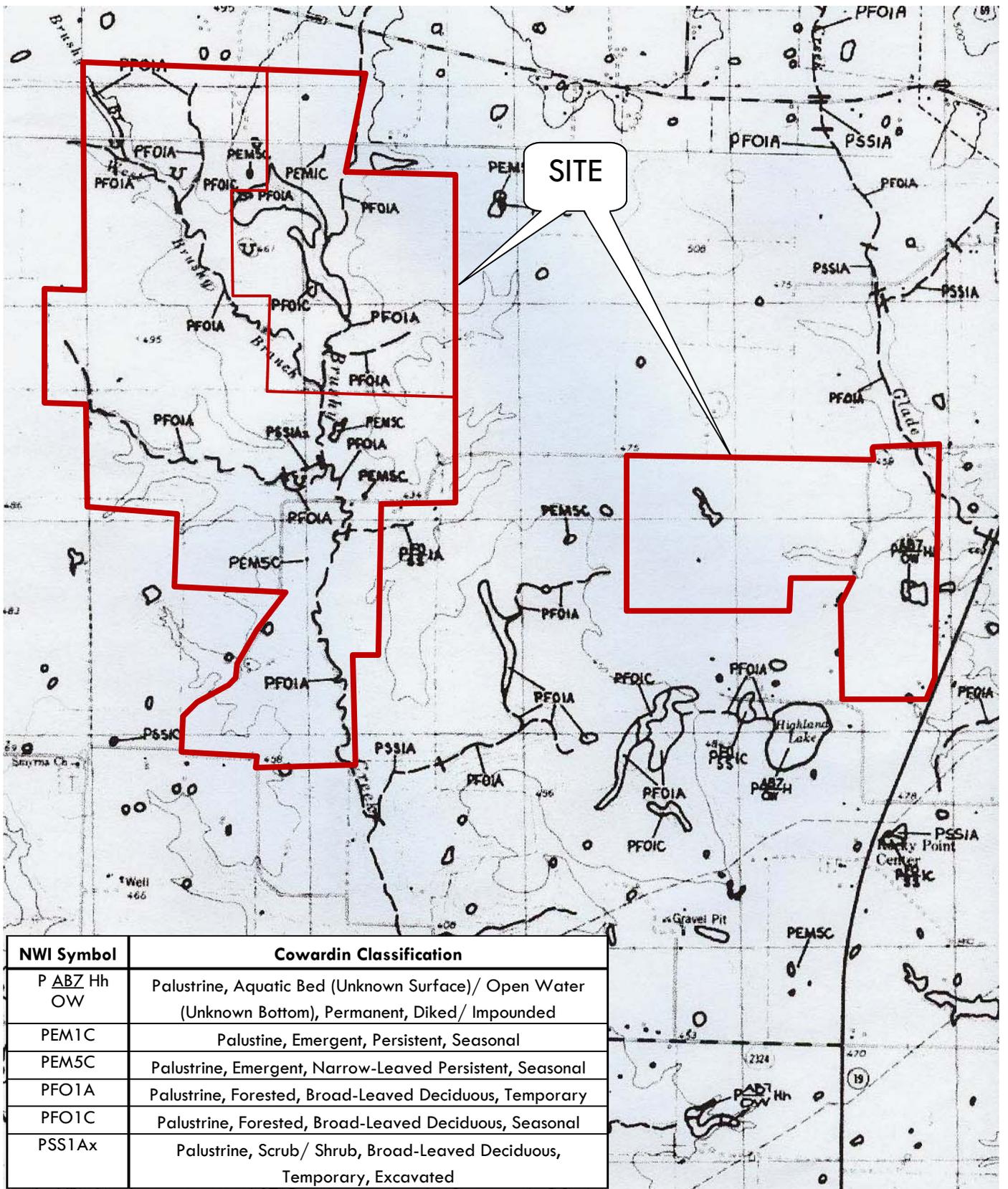


SCALE: NO SCALE



RAINS COUNTY, TEXAS
**THE DAISY MITIGATION BANK
 FLOOD HAZARD BOUNDARY MAP**
EXHIBIT 4

Source:
 - FEMA (1977)



NWI Symbol	Cowardin Classification
P ABZ Hh OW	Palustrine, Aquatic Bed (Unknown Surface)/ Open Water (Unknown Bottom), Permanent, Diked/ Impounded
PEM1C	Palustrine, Emergent, Persistent, Seasonal
PEM5C	Palustrine, Emergent, Narrow-Leaved Persistent, Seasonal
PFO1A	Palustrine, Forested, Broad-Leaved Deciduous, Temporary
PFO1C	Palustrine, Forested, Broad-Leaved Deciduous, Seasonal
PSS1Ax	Palustrine, Scrub/ Shrub, Broad-Leaved Deciduous, Temporary, Excavated



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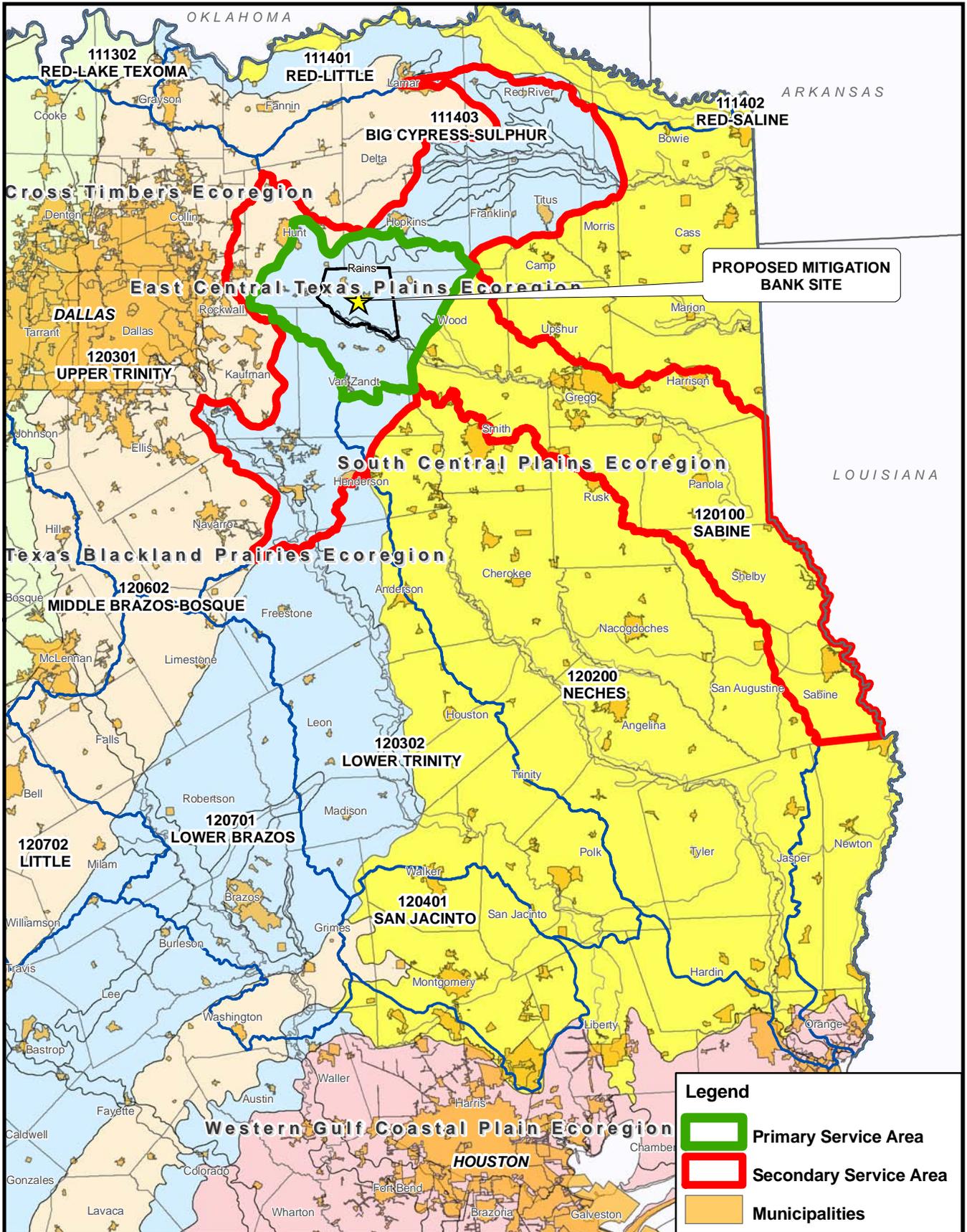


SCALE: 1" = 2000'



RAINS COUNTY, TEXAS
THE DAISY MITIGATION BANK
NATIONAL WETLAND INVENTORY MAP
EXHIBIT 5

Source:
 - USEWS EMORY SOUTH/NORTH QUADS (1980)



PROPOSED MITIGATION BANK SITE

Legend

- Primary Service Area
- Secondary Service Area
- Municipalities



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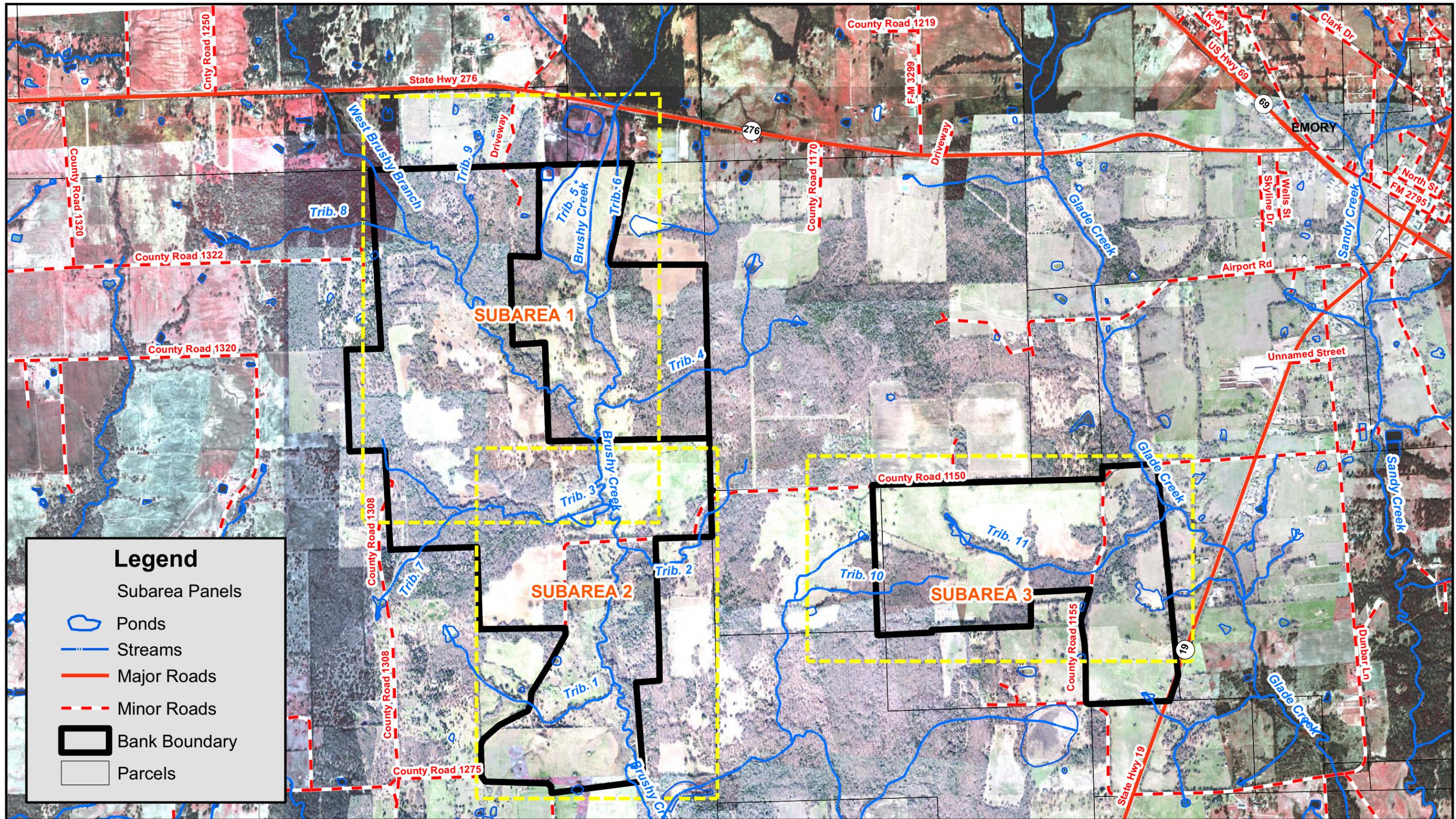
RAINS COUNTY, TEXAS
**THE DAISY MITIGATION BANK
 PROPOSED BANK SERVICE AREA
 EXHIBIT 6**

SCALE: 1" = N/A'



Source: Level 3 Ecoregions, EPA; 6-Digit HUC, USGS; Municipalities, TIGER





Legend

- Subarea Panels
- Ponds
- Streams
- Major Roads
- Minor Roads
- Bank Boundary
- Parcels

RAINS COUNTY, TEXAS
**THE DAISY MITIGATION BANK
 SITE OVERVIEW MAP
 EXHIBIT 7**

* Trib. 5 appears to be the historic Brushy Creek Mainstem

SOURCE:
 Hydrography - Texas Natural Resource Information System
 Transportation - Texas Natural Resource Information System
 Imagery - Texas Natural Resource Information System

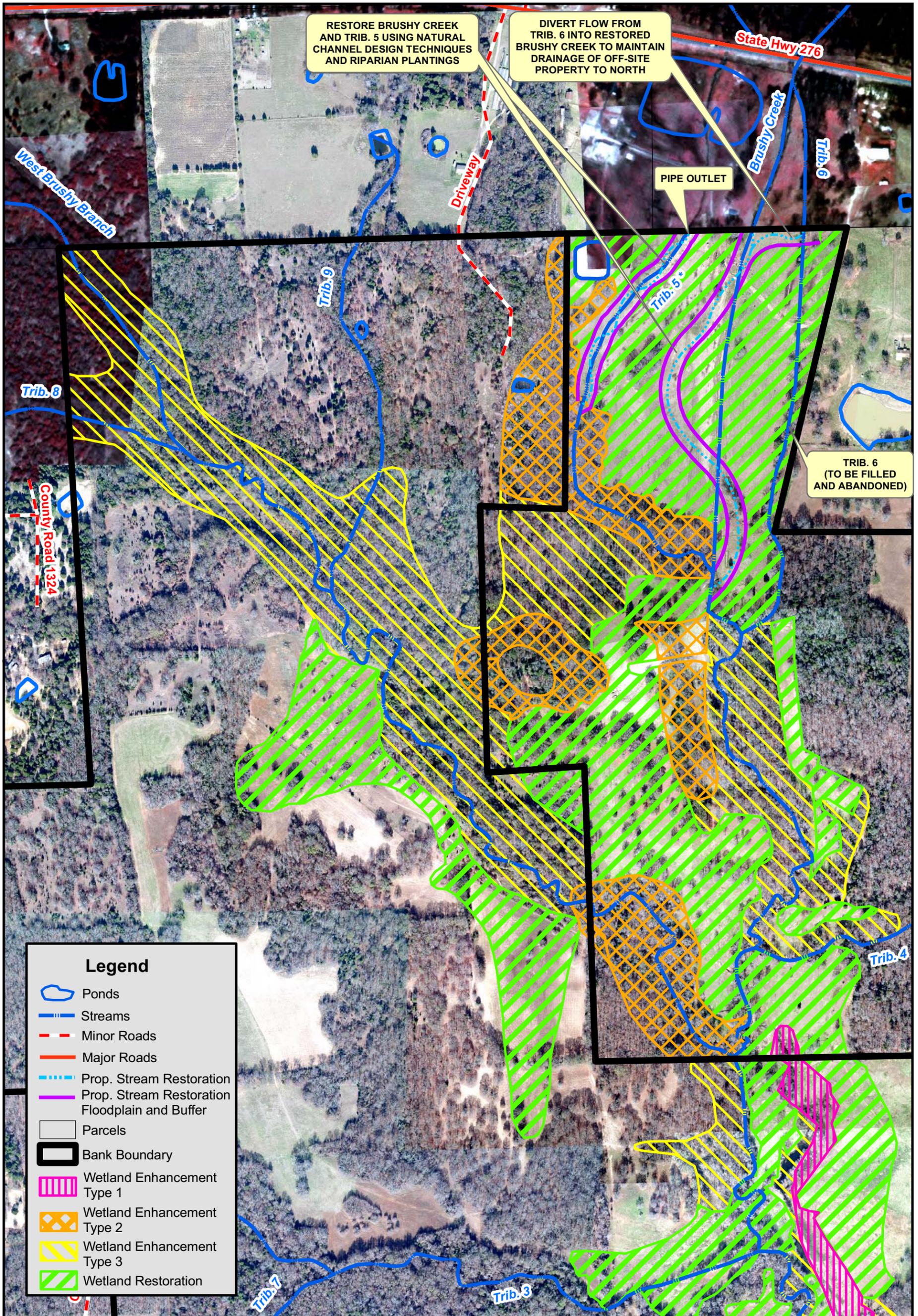


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SCALE: 1" = 1,500'



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Legend

- Ponds
- Streams
- Minor Roads
- Major Roads
- Prop. Stream Restoration
- Prop. Stream Restoration Floodplain and Buffer
- Parcels
- Bank Boundary
- Wetland Enhancement Type 1
- Wetland Enhancement Type 2
- Wetland Enhancement Type 3
- Wetland Restoration

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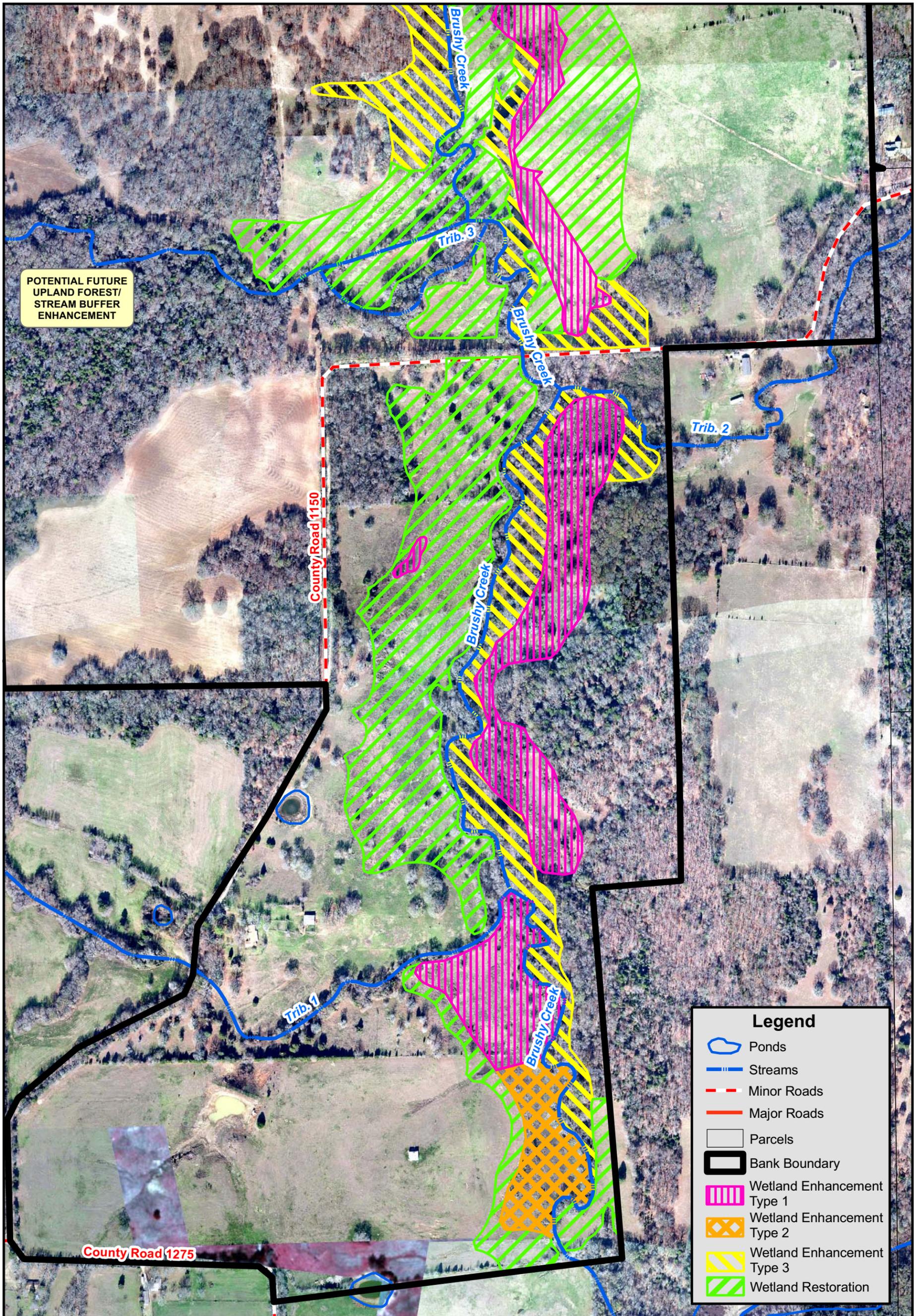
SCALE: 1" = 500'

0 250 500 1,000 Feet

RAINS COUNTY, TEXAS
THE DAISY MITIGATION BANK
SUBAREA 1 PRELIMINARY CONCEPT PLAN
EXHIBIT 8

* Trib. 5 appears to be the historic Brushy Creek Mainstem
 SOURCE:
 Cadastral - Texas Natural Resource Information System
 Hydrography - Texas Natural Resource Information System
 Transportation - Texas Natural Resource Information System
 Imagery - Pictometry, 2006
 Soils - National Resources Conservation Service





POTENTIAL FUTURE UPLAND FOREST/ STREAM BUFFER ENHANCEMENT

Legend

- Ponds
- Streams
- Minor Roads
- Major Roads
- Parcels
- Bank Boundary
- Wetland Enhancement Type 1
- Wetland Enhancement Type 2
- Wetland Enhancement Type 3
- Wetland Restoration





Legend

- Ponds
- Streams
- Minor Roads
- Major Roads
- Parcels
- Bank Boundary
- Wetland Enhancement Type 2
- Wetland Restoration

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RAINS COUNTY, TEXAS
THE DAISY MITIGATION BANK
SUBAREA 3 PRELIMINARY CONCEPT PLAN
EXHIBIT 10

SOURCE:
 Cadastral - Texas Natural Resource Information System
 Hydrography - Texas Natural Resource Information System
 Transportation - Texas Natural Resource Information System
 Imagery - Pictometry, 2006
 Soils - National Resources Conservation Service

