



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

Public Notice

Applicant: Dos Republicas Coal Partnership

Permit Application No.: SWF-2004-00711

Date: December 22, 2011

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

Name: Darvin Messer

Phone Number: (817) 886-1744

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: **This notice is being reissued to correct the closing date for receipt of comments.** 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 (U.S.) associated with the construction, operation and reclamation of the Eagle Pass Mine in Maverick County, Texas by Dos Republicas Coal Partnership (DRCP).

APPLICANT: Mr. Andres Gonzalez-Saravia Coss
Dos Republicas Coal Partnership
425 Madison Street
Eagle Pass, Texas 78852

APPLICATION NUMBER: SWF-2004-00711

DATE ISSUED: December 22, 2011

LOCATION: The proposed mine permit are covers 6,346 acres in Maverick County, Texas with the mine center being approximately at Latitude 28.68056 N and Longitude 100.44389 W. The mine is approximately 6 miles northeast of Eagle Pass, Texas (see Attachments 1-5 of 5) on the Deadmans Hill 7.5-minute USGS quadrangle map and is in the USGS Hydrologic Unit 13080001. The proposed mine is east and north of US Highway 277 and northwest of US Highway 57.

OTHER AGENCY AUTHORIZATIONS: (1) State Water Quality Certification, Texas Commission on Environmental Quality (TCEQ); (2) Texas Pollutant Discharge Elimination System (TPDES) Wastewater Discharge Permit (pending), TCEQ; (3) Water Rights Certificate of Adjudication, TCEQ; (4) TPDES Stormwater Notice of Intent for Construction Activities, TCEQ; (5) Stormwater General Permit for Industrial Activities, TCEQ; (6) Surface Mining Permit (pending), Railroad Commission of Texas (RCT); and (7) Solid Waste Registration (pending), TCEQ.

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 1,000 cubic yards of fill material into 8.22 acres of waters of the U.S. in conjunction with the construction, operation, and reclamation of the 6,346 acre Eagle Pass Mine in Maverick County. Total adverse impacts to waters of the U.S. would include 4.28 acres of open water impoundments, 150 linear feet (lf) (0.05 acre) of intermittent and 33,854 lf (3.89 acres) of ephemeral tributaries all of which

drain to Elm Creek. Surface mining operations would be conducted with standard earth moving equipment such as loading shovels, bulldozers, end dumps, and scrapers. Infrastructure in support of the operation would include (1) construction of a transportation corridor, (2) construction of ponds and diversions to control surface water drainage, (3) construction of a rail spur and train loadout facility, and (4) construction of service roads. Project timing is for construction of infrastructure to begin in 2012, with mining planned to begin in 2013. The total estimated life of the proposed mine is 10 years. Various construction projects and mining operations would involve adverse impacts to waters of the U.S., associated with filling or excavation activities. The Eagle Pass Mine would provide DRCP reliable access to a reserve of low cost coal fuel to be transported to an electrical power generation plant in the State of Coahuila, Mexico for utilization.

Appropriate and practicable steps would be taken to avoid, minimize, or mitigate the adverse impacts of the proposed project on the aquatic ecosystem. Despite incorporating measures to avoid and minimize impacts to waters of the U.S., the project would result in the permanent loss of 4.28 acres of open water impoundments, 150 lf (0.05 acre) of intermittent and 33,854 lf (3.89 acres) of ephemeral streams. After consideration of all available options, the applicant proposes to mitigate for unavoidable losses of waters of the U.S. by construction of various waters of the U.S. 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 would be 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.

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 Maverick County where the Gulf Coast jaguarundi (*Herpailurus (Felis) yagouaroundi cacomitli*) and the Ocelot (*Leopardus (Felis) pardalis*) are listed as endangered.

Based on information provided, the USACE determined that authorization of the proposed project under Section 404 of the CWA may affect the endangered Ocelot and Gulf Coast jaguarundi and/or their critical habitat and requested initiation of formal consultation procedures on the proposal with the USFWS on March 10, 2010. On July 15, 2010, the USFWS, in conclusion of formal consultation procedures, issued their final Biological Opinion (BO) stating that the project, as proposed, is not likely to jeopardize the continued existence of the listed Ocelot and Gulf Coast jaguarundi.

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 currently known cultural resources listed on the NRHP, eligible for listing on the NRHP, or with an unknown NRHP status will be impacted by mine-related activities without coordination with the Texas Historical Commission and the USACE.

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

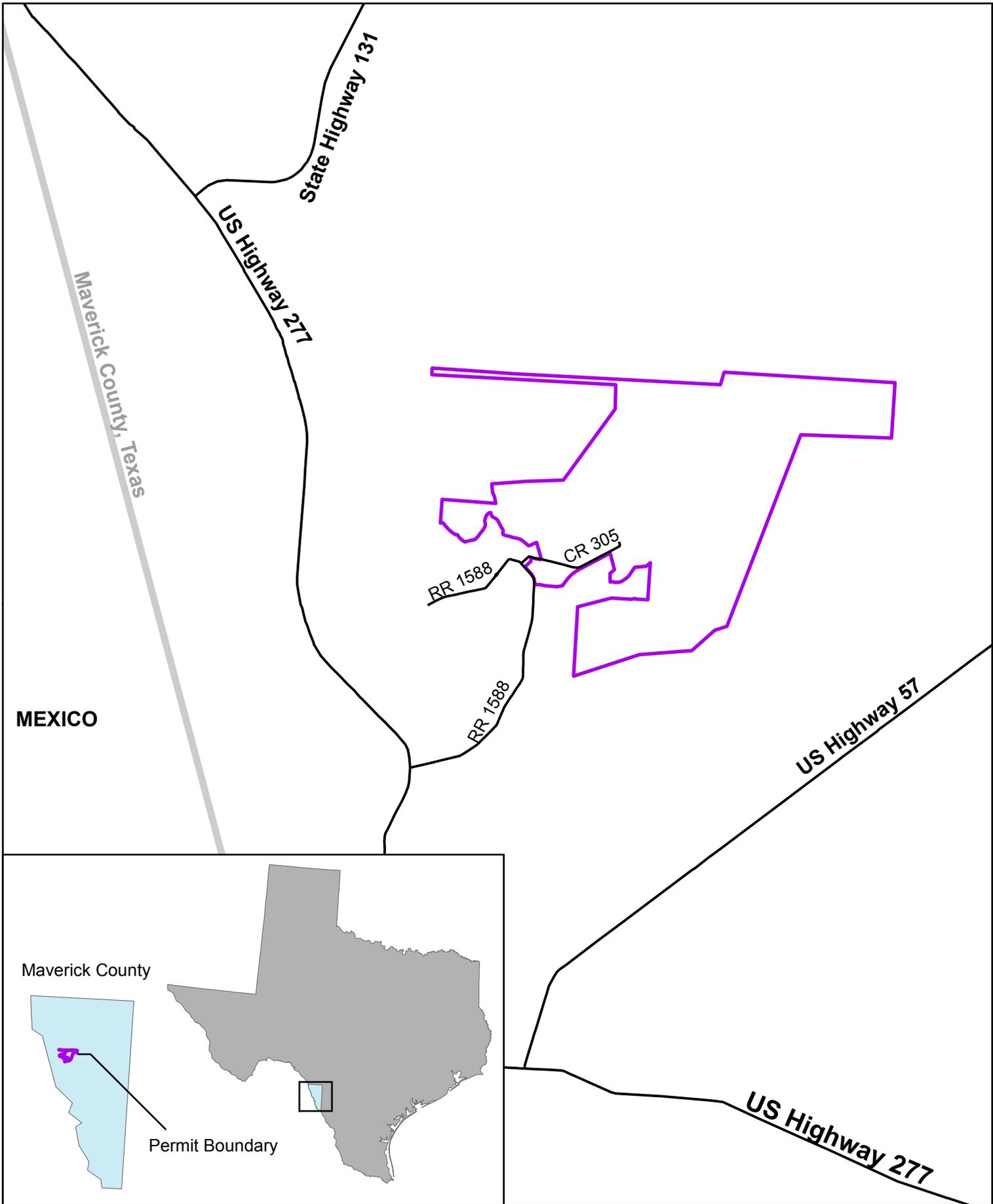
participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

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.

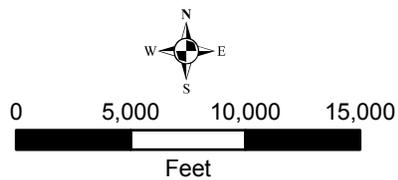
PUBLIC HEARING: Prior to the close of the comment period, any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If 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 February 7, 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.

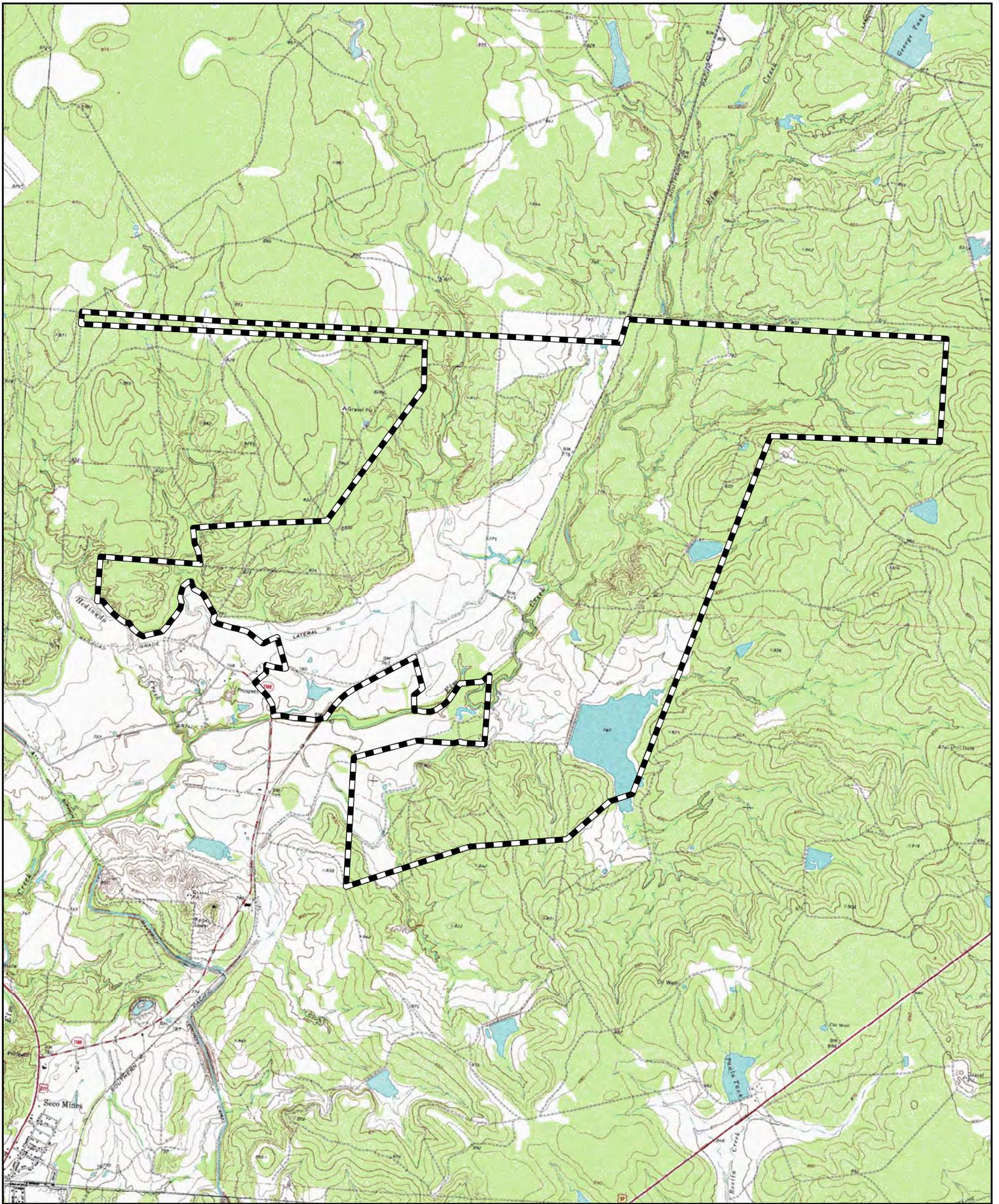
DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



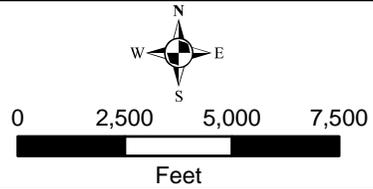
USACE Project No. SWF-2004-00711
Attachment 1 of 5
General Location



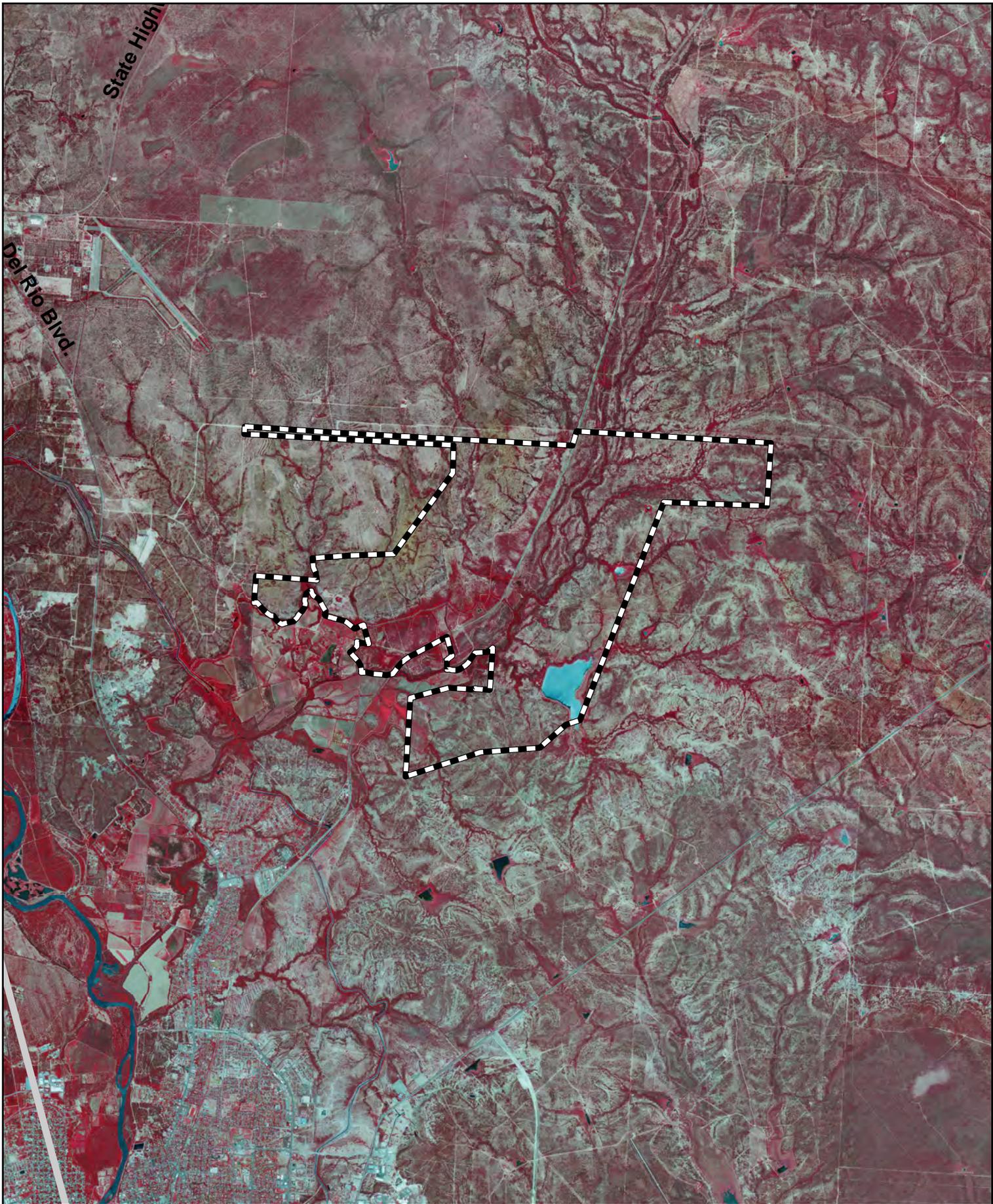
 Permit_Boundary
 Roads



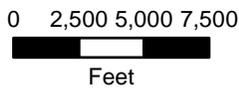
USACE Project No. SWF-2004-00711
Attachment 2 of 5
Topographic Features



 Permit Boundary
Data Source: USGS Topographic Maps
Maverick County Mosaic

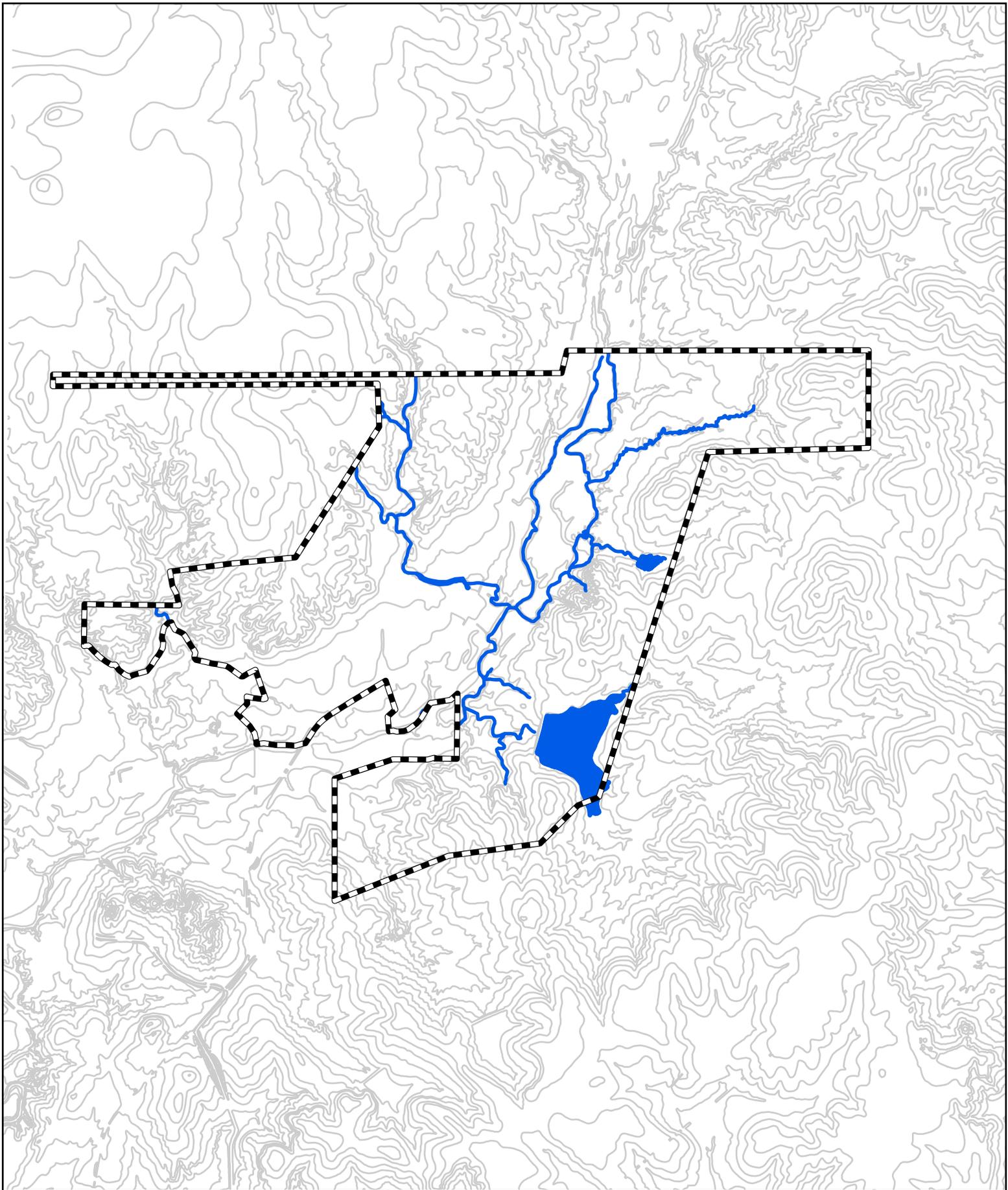


USACE Project No. SWF-2004-00711
Attachment 3 of 5
Aerial Photograph

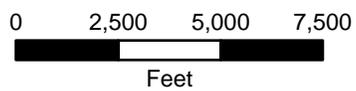


 Permit Boundary

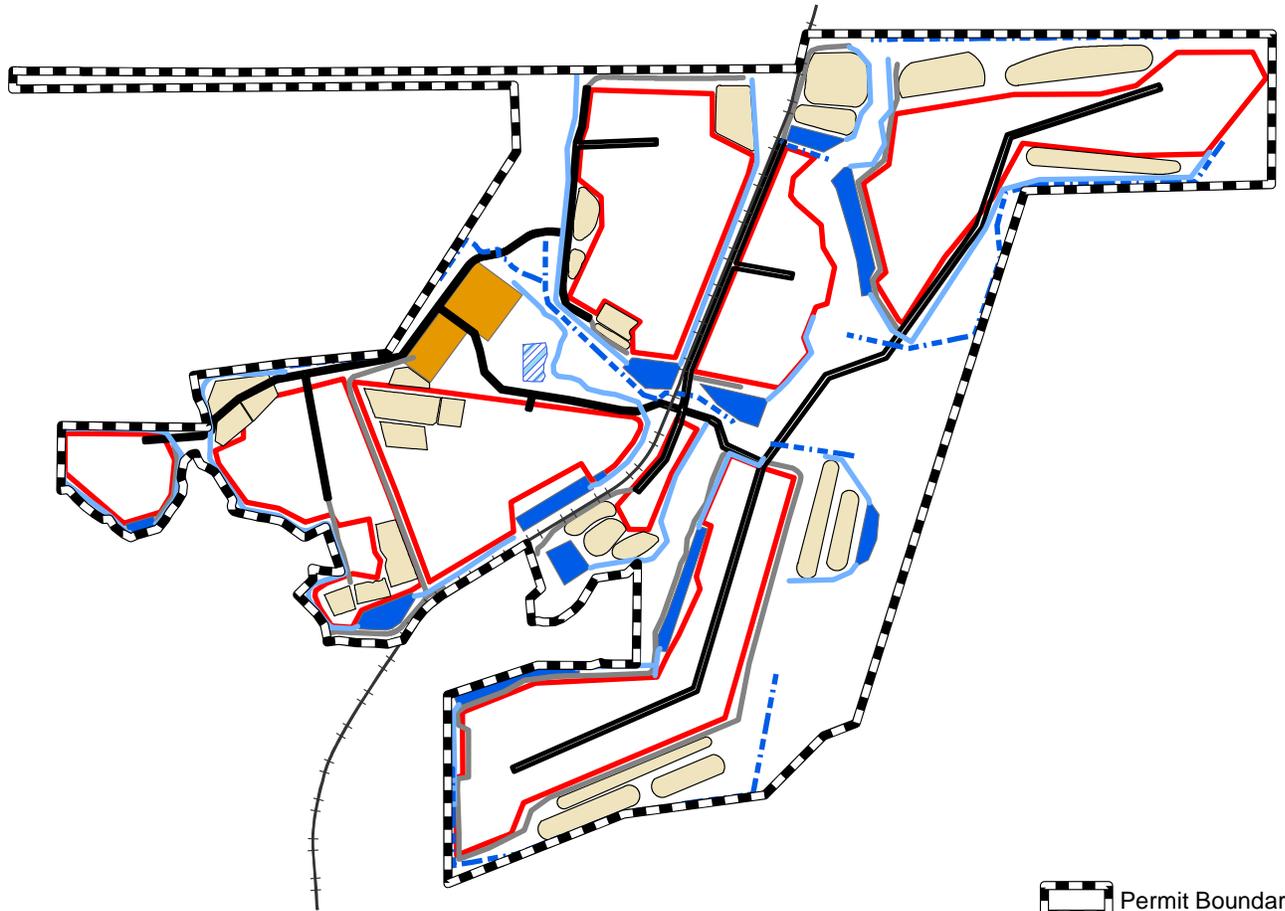
Data Source: 2010 National
Agriculture Imagery Program



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Attachment 4 of 5
Waters of the U.S.



-  Permit Boundary
-  Topography
-  Streams
-  Ponds



-  Permit Boundary
-  Railroad (existing)
-  Collection Ditches
-  Diversions
-  Haulroads
-  Access Roads
-  Mine Facilities
-  Mine Blocks
-  Retention Pond
-  Sedimentation Ponds
-  Stockpiles

USACE Project No. SWF-2004-00711
Attachment 5 of 5
Operations Plan

