



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

# Public Notice

Applicant: Post Oak Clean Green, Inc.

Permit Application No.: SWF-2011-00192

Date: February 27, 2012

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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 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. 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:** 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 of a Type I municipal solid waste landfill in Guadalupe County, Texas.

**APPLICANT:** Post Oak Clean Green, Inc.  
Mr. Tom Funderburg, Owner  
P.O. Box 1270  
Seguin, Texas 78155

**APPLICATION NUMBER:** SWF-2011-00192

**DATE ISSUED:** February 27, 2012

**LOCATION:** The proposed Type I municipal solid waste landfill disposal area would comprise 365 acres centered within a tract of 1,200 acres in Guadalupe County, Texas at Latitude 29.601353 N and Longitude -97.723574 W. The proposed landfill site is approximately 16 miles east of Seguin, Texas (see Attachments 1-3 of 4), is contained within the Belmont 7.5-minute USGS quadrangle map, and is in the USGS Hydrologic Unit 12100202 – Middle Guadalupe. Waters of the U.S. proposed to be impacted are ephemeral tributaries to Nash Creek and their adjacent wetlands. The proposed landfill site is south of FM 1150; east of County Road 215B; and west of County Road 215C.

**OTHER AGENCY AUTHORIZATIONS:** (1) State Water Quality Certification, Texas Commission on Environmental Quality (TCEQ); and (2) Municipal Solid Waste Permit, TCEQ.

**PROJECT DESCRIPTION:** The applicant proposes to construct and operate a Type I municipal solid waste landfill in Guadalupe County to provide needed solid waste storage capacity for the city of Seguin, the greater metropolitan areas of San Antonio and Austin and their associated counties. The proposed waste disposal area consists of 365 acres and would involve the discharge of approximately 50,000 cubic yards of dredged and fill material into 2.03 acres of waters of the U.S. Permanent impacts are proposed to 0.34 acre of non-forested wetlands and 12,635 linear feet (lf) of ephemeral streams (1.69 acre of stream subtotal). The proposed project site would be bordered on the eastern, southern and western sides by a 0.25 mile wide native vegetation cover buffer while the northern boundary would have a 125-foot wide native vegetation cover buffer (see Attachment 4 of 4).

After consideration of all available options, the applicant proposes to mitigate for unavoidable losses of waters of the U.S. by construction and preservation of various waters of the U.S. within the larger 1,200

acre property tract. The applicant's proposed mitigation includes the construction of approximately 8.0 acres of on-channel ponds with 11.4 acres of fringe wetlands; 13,105 lf of vegetated drainage channels; 3,600 lf of reconstructed, naturally designed ephemeral stream channel; and 11,915 lf of stream channel preservation. Baseline ecological conditional assessments of proposed aquatic resource impact sites were 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 with the requirement that all created/restored waters meet the definition of waters of the U.S.

**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 fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, 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 TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting 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 (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 Guadalupe County where the whooping crane (*Grus americana*) is listed as endangered. No sightings of federally listed threatened or endangered species or species of special concern have occurred or were recorded within the limits of the proposed project during environmental baseline studies and field reconnaissance, and initial review indicates that the proposed work would have no adverse effects on any federally-listed endangered or threatened species.

**NATIONAL REGISTER OF HISTORIC PLACES (NRHP):** 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. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit.

**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.

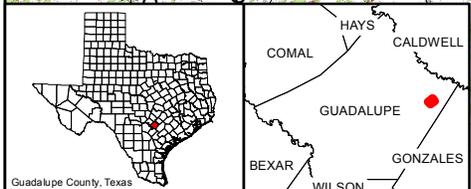
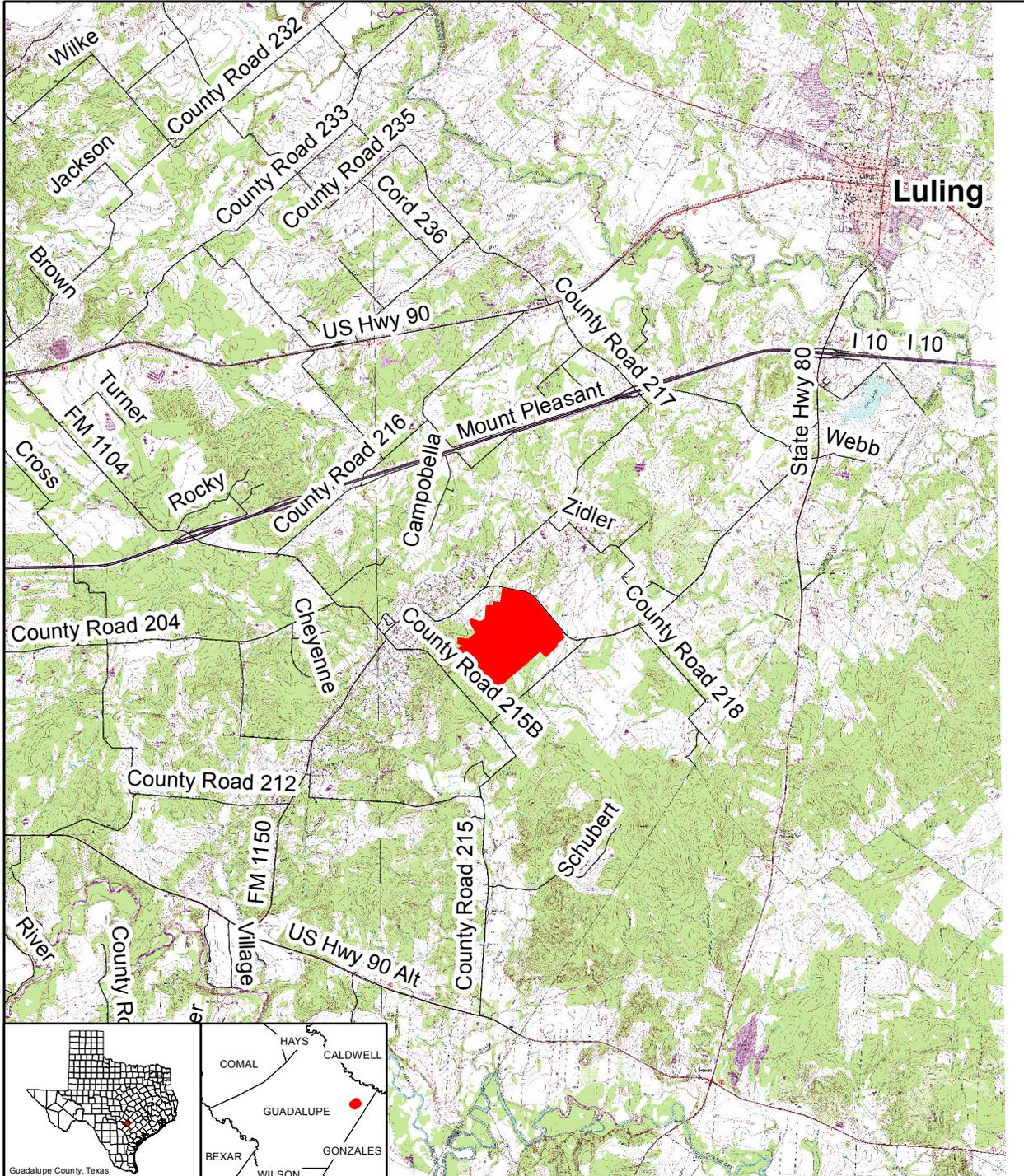
**SOLICITATION OF COMMENTS:** The public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should 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 March 29, 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.

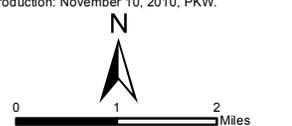
DISTRICT ENGINEER  
FORT WORTH DISTRICT  
CORPS OF ENGINEERS

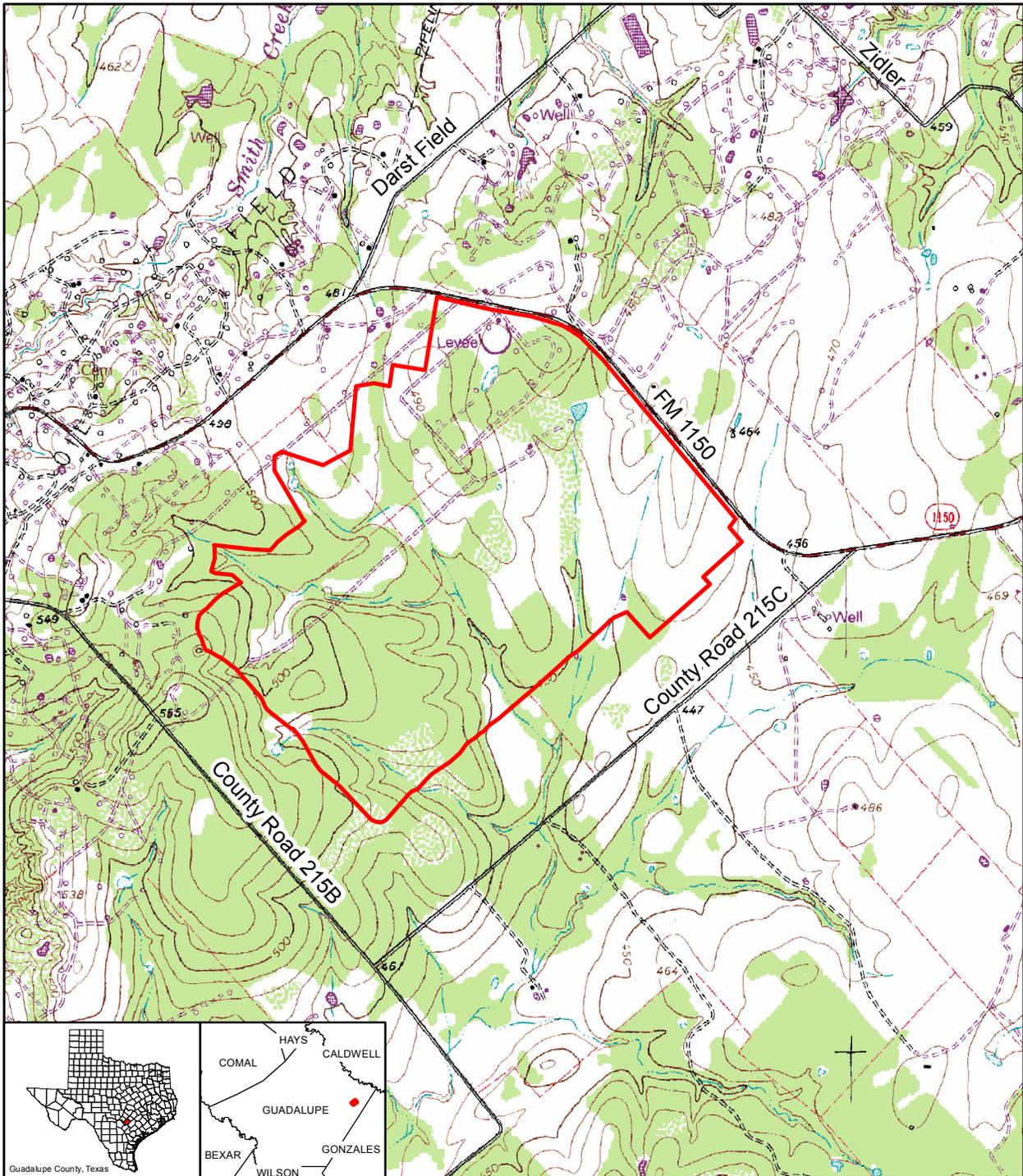


USACE Project No. SWF-2011-00192  
 Attachment 1 of 4  
 General Location

 Project Area

Background: USGS 7.5-minute Belmont, Darst Creek, Kingsbury, and Luling Quads, Guadalupe County, TX. SWCA PN. 17092.  
 Production: November 10, 2010, PKW.





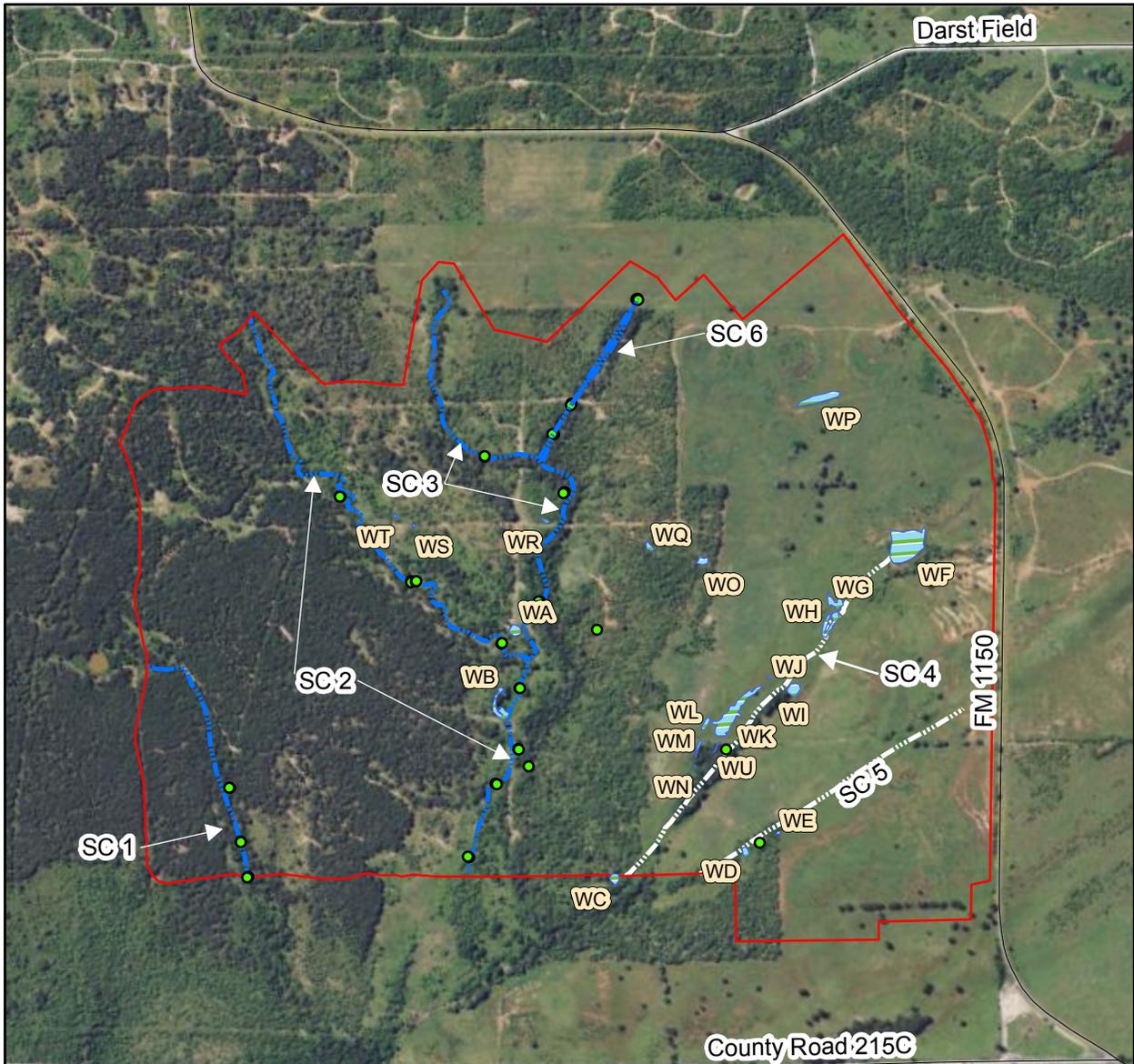
USACE Project No. SWF-2011-00192  
 Attachment 2 of 4  
 Project Topographic Map

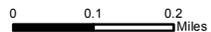
 Project Area

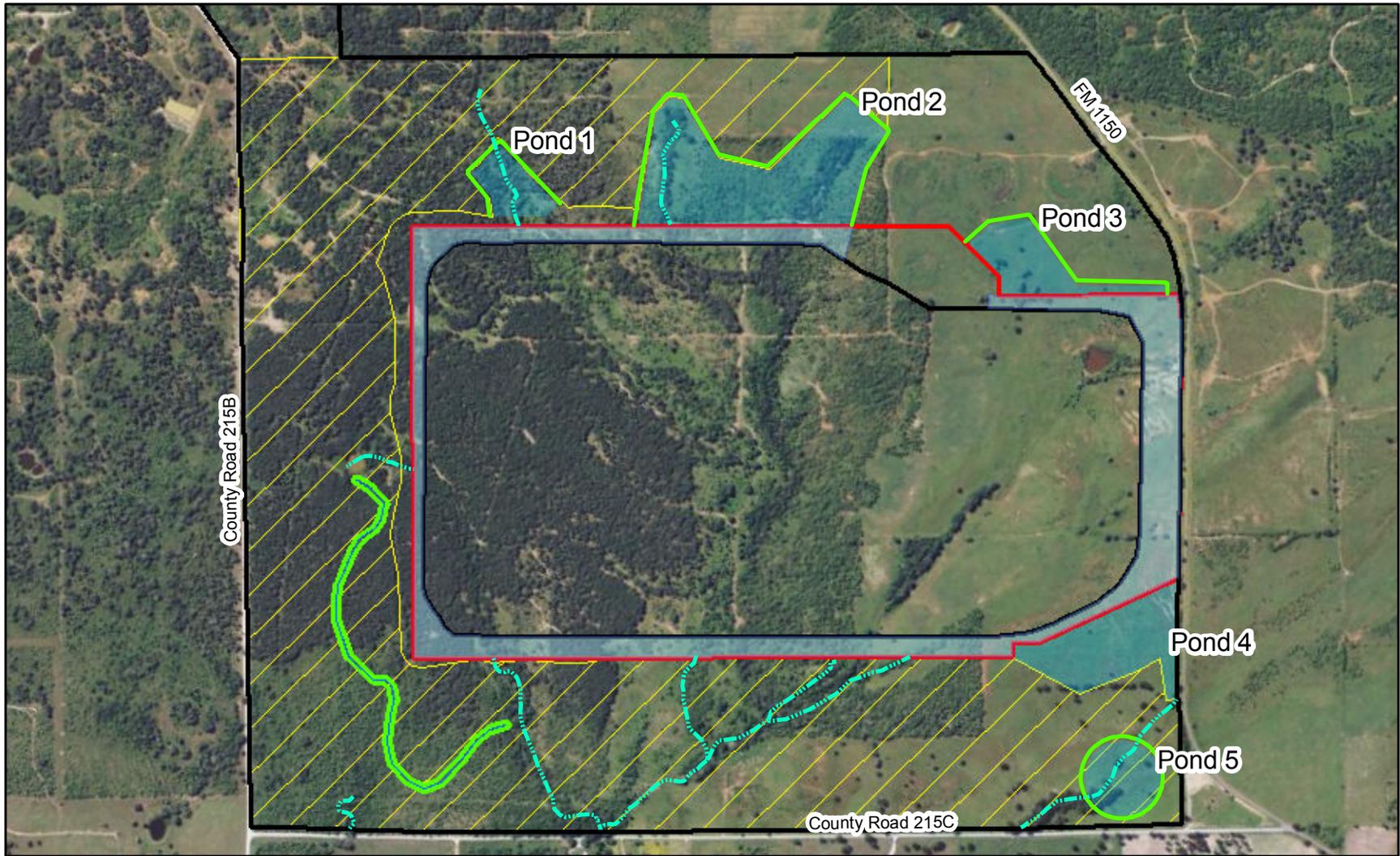
Background: USGS 7.5-minute Belmont, Darst Creek, Kingsbury, and Luling Quads, Guadalupe County, TX. SWCA PN. 17092.  
 Production: November 10, 2010, PKW.

N

0 0.2 0.4 Miles



<p>USACE Project No. SWF-2011-00192 Attachment 3 of 4 Project Area</p>	<ul style="list-style-type: none"> <li><span style="border: 1px solid red; display: inline-block; width: 20px; height: 10px; margin-right: 5px;"></span> Project Area</li> <li><span style="background: repeating-linear-gradient(45deg, transparent, transparent 2px, blue 2px, blue 4px); border: 1px solid black; display: inline-block; width: 20px; height: 10px; margin-right: 5px;"></span> Wetlands</li> <li><span style="color: green; font-size: 1em; margin-right: 5px;">●</span> Channel width datapoints</li> <li><span style="border-bottom: 1px solid black; display: inline-block; width: 20px; margin-right: 5px;"></span> Roads</li> </ul>	<p>Background: 2010 NAIP Texas Imagery, Guadalupe County, TX. SWCA Project No. 17092. Production: November 10, 2010, PKW.</p> <div style="text-align: center;">  </div> <div style="text-align: center;">  </div>
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USACE Project No. SWF-2011-00192  
 Attachment 4 of 4  
 Mitigation Plan

- Stream Realignment
- Pond/wetland Mitigation
- Facility Boundary
- Overall Property Limit

- Perimeter Drainage
- Riparian Buffer (25 feet)
- Preserve Area
- Preserve Area Streams

Background: 2010 NAIP Texas Imagery,  
 Guadalupe County, TX.  
 SWCA Project No. 17092.  
 Production: December 15, 2011, PKW.

