



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

Public Notice

Applicant: Blackgum Mitigation Bank

Permit Application No.: SWF-2011-00397

Date: July 6, 2012

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 the Blackgum Mitigation Bank (BMB), a wetland preservation mitigation bank located in Upshur County, Texas.

APPLICANT: Black Gum Ventures, LLC
121 S. Broadway
Suite 572
Tyler, TX 75702

APPLICATION NUMBER: SWF-2011-00397

DATE ISSUED: July 6, 2012

LOCATION: The proposed BMB is located approximately seven miles west of the city of Gladewater in Upshur County, Texas (Figure 1). The proposed project would be located approximately at Latitude 32.5491, Longitude -95.0475 on the Big Sandy, TX U.S. Geological Survey 7.5 minute quadrangle map (Figure 2). The tract is located in the East Central Texas Plains Level III Ecoregion as mapped by Griffith et al. (2004) and the Middle Sabine Watershed (HUC 12010002).

PROJECT DESCRIPTION: The proposed BMB site consists of approximately 1,129 acres of wetlands and other waters of the United States located within the Sabine River floodplain in Upshur County. The 1,129 acre tract is owned by Black Gum Ventures, LLC.

A resource review and wetland delineation identified approximately 1,129 acres of wetlands and other waters of the United States located within the Sabine River floodplain. The majority of the tract is a mature bottomland forest (1,124.48 acres) with approximately 45.80 acres of clear-cut areas that have been excluded from the proposed mitigation bank and 4.72 acres of open water (Figure 3). Past land use consists of logging operations and oil and gas exploration. Four clear-cuts, two lease roads, two utility line rights-of-way, and one well site are located within the project area.

According to the Natural Resource Conservation Service (NRCS), soils within the tract are mapped as Mantachie loam, frequently flooded and Estes clay, frequently flooded (Figure 4). Mantachie and Estes soils are mapped as hydric for Upshur County (NRCS 2010). The NRCS characterizes the Mantachie series as having a slope that is dominantly less than 1 percent but ranges to 3 percent. This soil is formed in loamy alluvium in floodplains. The Mantachie series consists of somewhat poorly drained, moderately permeable soils. Runoff is slow and this soil is subject to rare, occasional or frequently flooding for brief to long durations unless protected. The NRCS characterizes the Estes series as 0 to 1 percent sloped and being nearly level floodplain soils formed in acid clayey and loamy alluvium in the Central Plains. The Estes series consists of very deep, somewhat poorly drained soils with a high runoff rate. These soils are commonly flooded for 2 to 60 days per year.

Dominant vegetation within the tree stratum of the bottomland forest consists of willow oak (*Quercus phellos*), green ash (*Fraxinus pennsylvanica*), honeylocust (*Gleditsia triacanthos*), water oak (*Quercus nigra*), sugarberry (*Celtis laevigata*), overcup oak (*Quercus lyrata*), cedar elm (*Ulmus crassifolia*), and sweetgum (*Liquidambar styraciflua*). The sapling stratum is dominated by green ash, cedar elm, honeylocust, water locust (*Gleditsia aquatica*), overcup oak, American hornbeam (*Carpinus caroliniana*), willow oak, water oak, planer tree (*Planera aquatica*), sweetgum, and common persimmon (*Diospyros virginiana*). Dominant vegetation within the shrub stratum consists of buttonbush (*Cephalanthus occidentalis*), cedar elm, planer tree, American hornbeam, water oak, American hophornbeam (*Ostrya virginiana*), sugarberry, dwarf palmetto (*Sabal minor*), overcup oak, willow oak, winged elm (*Ulmus alata*), and deciduous holly (*Ilex decidua*). Dominant vegetation within the herbaceous stratum consists of savanna-panicgrass (*Phanopyrum gymnocarpon*), sedges (*Carex sp.*), sessile-flowered chasmanthium (*Chasmanthium sessiliflorum*), Indian woodoats (*Chasmanthium latifolium*), giant cane (*Arundinaria gigantea*), sugarcane plumegrass (*Saccharum giganteum*), barnyardgrass (*Echinochloa crus-galli*), and beaked panicgrass (*Panicum anceps*). Dominant vegetation within the woody vine stratum consists of American buckwheat vine (*Brunnichia ovata*), common greenbrier (*Smilax rotundifolia*), saw greenbrier (*Smilax bona-nox*), Alabama supplejack (*Berchemia scandens*), muscadine grape (*Vitis rotundifolia*), poison ivy (*Toxicodendrom radicans*), and Japanese honeysuckle (*Lonicera japonica*). Field indicators of wetland hydrology consist of high water table, saturation, water marks, drift deposits, aquatic fauna, sediment deposits, water-stained leaves, and oxidized rhizospheres along living roots. Hydric soil of low chroma color with a depleted matrix is present.

Dominant vegetation within the shrub stratum of the open water impoundments consists of planer tree and buttonbush. The herbaceous stratum is dominated by bog smartweed. Field indicators of wetland hydrology consist of surface water, high water table, saturation, water marks, sediment deposits, inundation visible on aerial imagery, water stained leaves, hydrogen sulfide odor, oxidized rhizospheres along living roots, and saturation visible on aerial imagery. Hydric soil of low chroma color with a depleted matrix is present.

The purpose of the proposed project is to provide a source for off-site compensatory mitigation for unavoidable adverse impacts to wetlands and other waters of the United States within the BMB service area resulting from USACE-authorized activities under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

The Sponsor would provide protection and maintenance of a 1,129-acre high quality, high functioning bottomland hardwood forest wetland ecosystem indigenous to the Sabine River basin.

The sponsor has proposed that the area considered for preservation meets the criteria for a preservation mitigation bank in accordance with 33 CFR §332.3 (h)(1)(i)-(v) for the following reasons:

- (i) The resources to be used provide important physical, chemical, or biological functions for watershed.

The project area provides an important biological function in detaining flood water and precipitation within the Sabine River Basin. The overall roughness of the project area is capable of dampening flood discharge, erosion, and sediment deposition which improves water quality downstream. The microdepressions and small ponded areas throughout the proposed BMB reduce the movement of precipitation as overland flow and detain water onsite. The proposed BMB is comprised primarily of native plant communities that are important to overall wetland processes and specialized habitats for endemic species. The microdepressions lack predatory fish and provide

critical habitat for amphibians. The large oak trees and pine trees located near the Sabine River could provide suitable nesting habitat for the bald eagle.

- (ii) The resources to be preserved contribute significantly to the ecological sustainability of the watershed.

When compared to reference standard sites, the proposed mitigation bank maintains ecosystem processes through nutrient cycles and the ability to export organic carbon. Wetlands within the proposed BMB can permanently remove or temporarily immobilize elements and compounds that are important to the ecosystem process. The proposed BMB is located on the eastern boundary of the existing United States Army Corps of Engineers (USACE) Fort Worth District approved Sabal Mitigation Bank. The establishment of BMB would allow for a continuous expanse of 2,219 acres of high quality forested wetland ecosystem to be preserved. The Sabine River borders the southern end of the proposed BMB for 3.5 miles. In conjunction with Sabal Mitigation Bank, 6.4 miles of continuous river front would be protected. Such a large expanse of high quality forested wetlands to be preserved would contribute greatly to the overall ecological sustainability of the Sabin River Basin.

- (iii) Preservation is determined by the district engineer to be appropriate and practicable.

After examination of reconnaissance information, wetland delineation material, and site specific indices derived from the Hydrogeomorphic (HGM) Approach for Alluvial Valleys of East Texas, preservation would serve as the comprehensive management strategy for the proposed BMB. Based on data derived from the HGM, the proposed mitigation bank functional scores and indices are closely related to healthy mature forest of reference standard sites. Although enhancement of the existing forested wetland community is not practical due to the high functionality of the site, preservation through the establishment of the BMB would provide protection and maintenance of a 1,129-acre wetland ecosystem indigenous to the Sabine River basin.

- (iv) The resources are under threat of destruction or adverse modifications.

According to information from the Sabine River Authority, the current land use in the upper Sabine River basin is agriculture and forestry. Under a provision of Section 404 of the Clean Water Act, lands used for normal agricultural and silvicultural activities are exempt from USACE regulation. Forestry and agricultural activities alter wetland functions and sustainability. The alteration of the forested wetland ecosystem within the proposed BMB would allow for increased sediment transport within the Sabine River, thus increased point bar development and river meandering equating to more property destruction with less waterway navigability. Another concern of the project area is conversion to an off road park. Off road parks have become a highly profitable source of income for private landowners. The geographic location of the project area to major cities would make the project area an ideal location for an off road park. The increasing number of off road parks in east Texas poses an ecological and water quality threat within the Sabine River basin.

- (v) The preserved site will be permanently protected through an appropriate real estate or other legal instrument.

The site would be protected in perpetuity through a privately held third-party conservation easement.

The primary, secondary, and tertiary service areas were defined using the U.S. Geological Survey 8-digit hydrologic unit code (HUC) and the U.S. Environmental Protection Agency's Level III Ecoregions. The primary service area was defined as the entire 8-digit HUC (regardless of ecoregion) that the proposed BMB is located in. The secondary service area was defined as any 8-digit HUC (or portion of an 8-digit HUC) adjacent to the primary service area, and located within the same Level III Ecoregion as the proposed BMB. The tertiary service area is defined as any 8-digit HUC (or portion of an 8-digit HUC) adjacent to the primary service area, but located outside of the same Level III Ecoregion as the proposed mitigation bank. The secondary and tertiary service areas are also located within the Sabine River basin. The proposed BMB would be located in the Middle Sabine Watershed (HUC 12010002) and the South Central Plains ecoregion within the boundaries of the Fort Worth District of the USACE in Texas (Figure 5).

The primary service area would include portions of Panola, Franklin, Gregg, Harrison, Hopkins, Rusk, Smith, Upshur, and Wood Counties within the South Central Plains and East Central Plains ecoregions (Figure 6).

The secondary service area is located in the South Central Plains ecoregion and would include portions of Sabine, San Augustine, Shelby, Smith, and Wood Counties. The portions of Sabine, San Augustine, and Shelby Counties included in the secondary service area are located in HUC 12010004. The portion of Smith County located within the secondary service area is within HUC 1201001. The portion of Wood County that is included in the secondary service area is located in HUCs 1210001 and 12010003 (Figure 6).

The tertiary service area for the BMB is located within the East Central Plains ecoregion. The tertiary service area would include portions of Hopkins, Hunt, Rains, and Wood Counties within HUC 12010003 and portions of Hunt, Kaufman, Rains, Smith, Van Zandt, and Wood Counties within HUC 12010001 (Figure 6).

A mitigation banking instrument (MBI) would be developed in accordance with the Compensatory Mitigation for Losses of Aquatic Resources (CMLR), (Federal Register, Thursday, April 10, 2008, Vol. 73, No. 70, pp. 19594-19705). 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 USACE, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service (USFWS), Texas Commission on Environmental Quality, Railroad Commission of Texas, and Texas Parks and Wildlife Department comprise the Interagency Review Team (IRT), and would be involved in developing the MBI and may be signatories to the final document.

Implementation of the proposed mitigation bank 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 latest USFWS published version of listed endangered and threatened species to determine if any may occur in the project area. The proposed bank site would be in Upshur County where the interior least tern (*Sterna antillarum athalassos*), the piping plover (*Charadrius melodus*), the Louisiana black bear (*Ursus americanus luteolus*), and the red wolf (*Canis rufus*) are federally listed as threatened or endangered. The bald eagle (*Haliaeetus leucocephalus*) is documented to occur in Upshur County as well. Although it has been delisted; the bald

eagle will maintain a listed status for a period of five years after delisting for monitoring purposes. 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 one archeological site (421UR305) recorded in the project area. The area has never been formally surveyed for the presence of historic or prehistoric cultural resources. Similar areas along the Sabine River are known to have significant archeological sites, including deeply buried sites. Additional sites may be present within the proposed project area, requiring additional survey and assessment.

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 August 6, 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 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

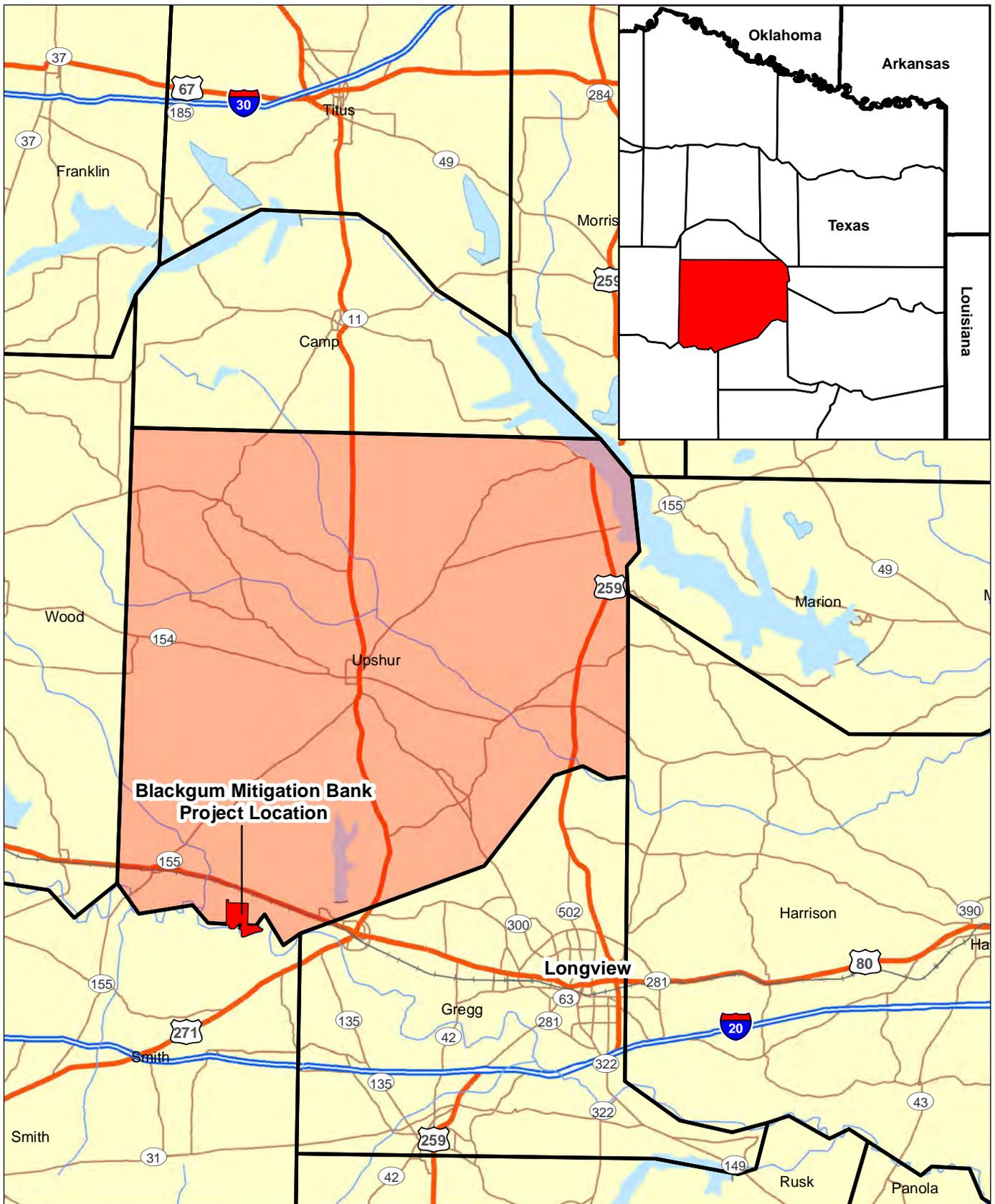
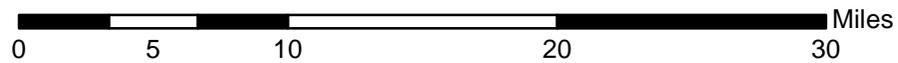


Figure 1
Vicinity Map of the Proposed Black Gum Mitigation Bank
in Upshur County, TX



1501 Bill Owens Parkway
Longview, TX 75604
Phone: (903) 297-4673
Fax: (903) 297-4675

Black Gum Ventures, LLC
Date: 10/10/11

Coordinate System: Lat/Long NAD27
Units: Decimal Degrees

USACE Project Number: SWF-2011-00397

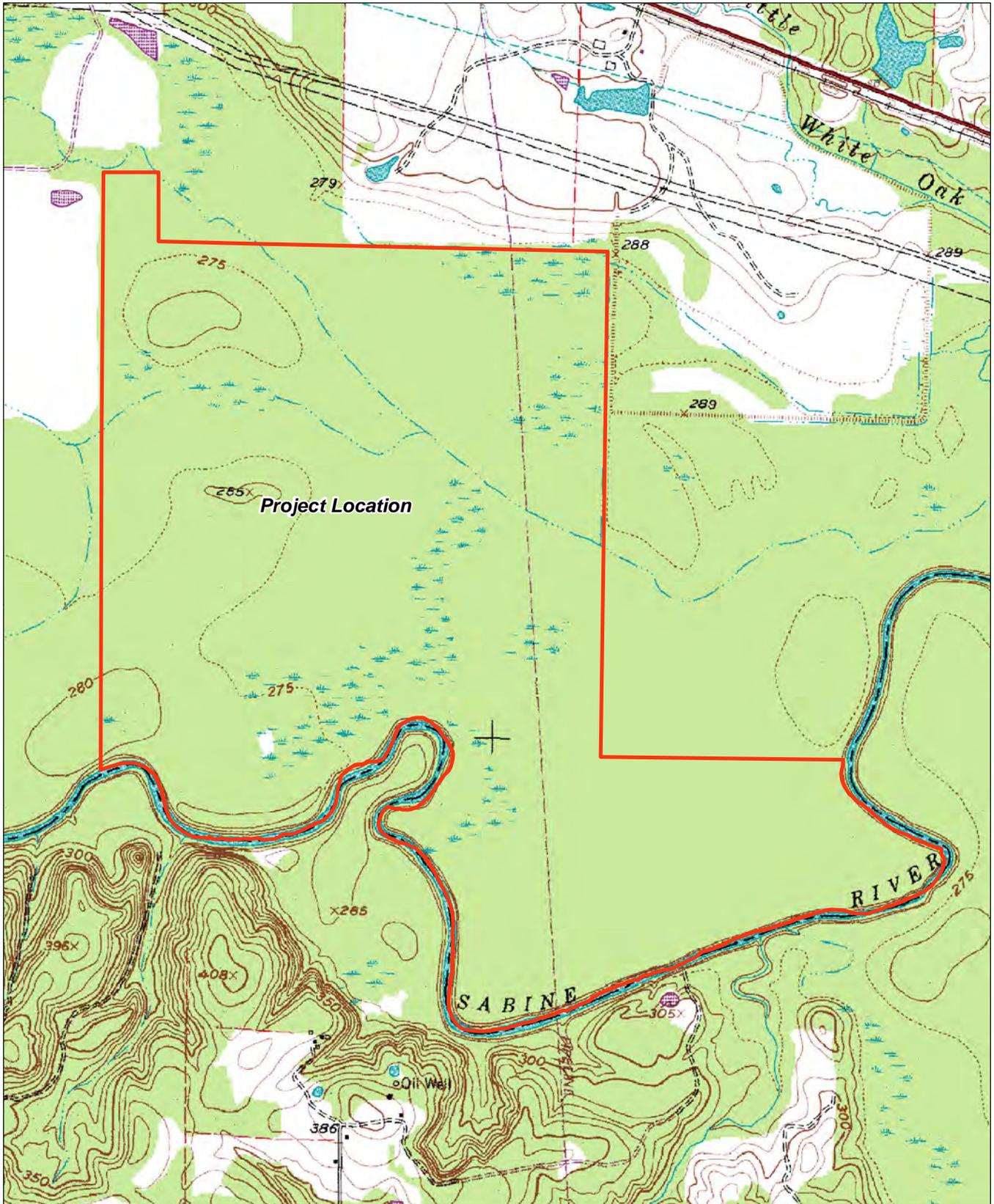
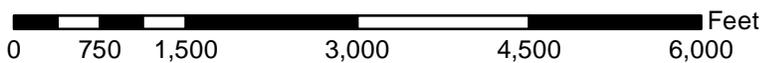


Figure 2
 Topographic Features of the Proposed Blackgum Mitigation Bank
 in Upshur County, TX

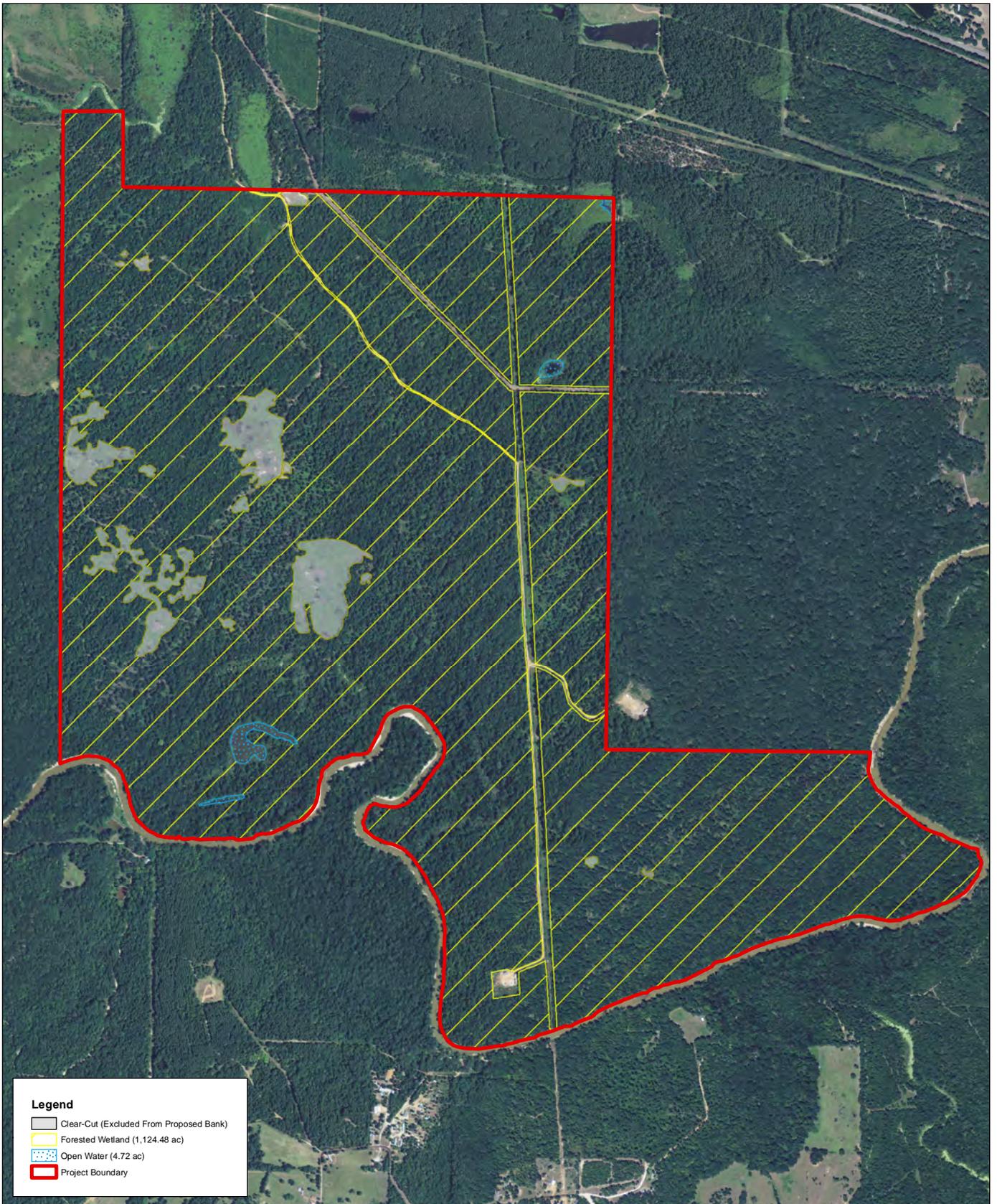


1501 Bill Owens Parkway
 Longview, TX 75604
 Phone: (903) 297-4673
 Fax: (903) 297-4675

Black Gum Ventures, LLC
 Date: 10/10/11

Base Map: 7.5 Minute Topographic
 Quadrangle: Big Sandy, TX (Photorevised 1982)

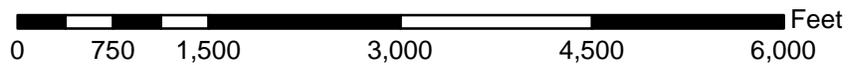
USACE Project Number: SWF-2011-00397



Legend

-  Clear-Cut (Excluded From Proposed Bank)
-  Forested Wetland (1,124.48 ac)
-  Open Water (4.72 ac)
-  Project Boundary

Figure 3
Aerial Photograph of the Proposed Blackgum Mitigation Bank
in Upshur County, TX



1501 Bill Owens Parkway
 Longview, TX 75604
 Phone: (903) 297-4673
 Fax: (903) 297-4675

Black Gum Ventures, LLC
 Date: 10/10/11

Base Map: TNRIS Website;
 2010 NAIP Upshur County-wide Mosaic

USACE Project Number: SWF-2011-00397

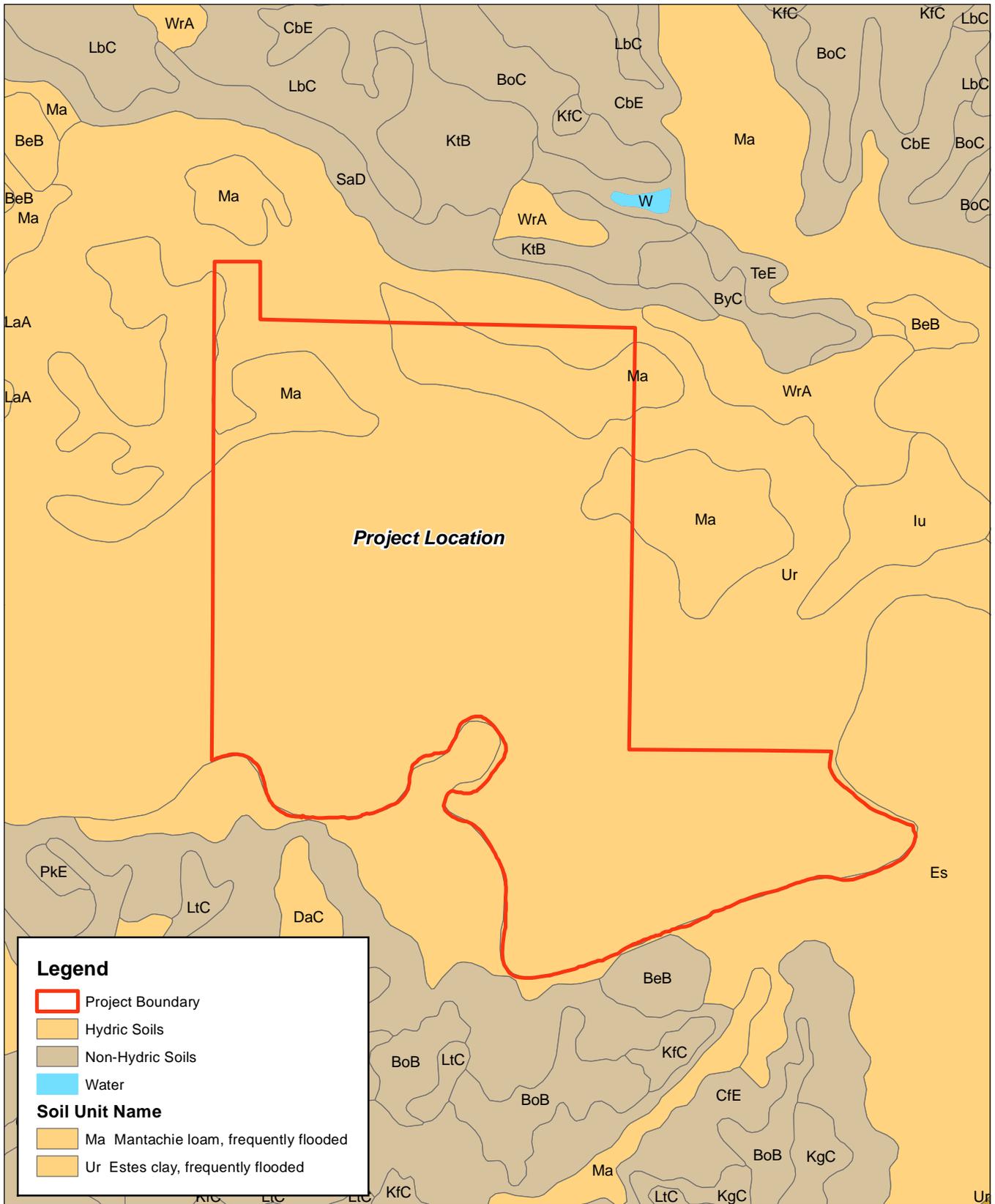
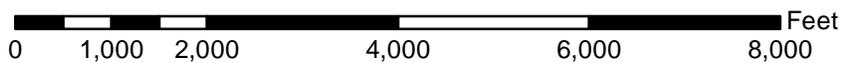


Figure 4
Soils Map of the Proposed Blackgum Mitigation Bank
in Upshur County, TX



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Longview, TX 75604
Phone: (903) 297-4673
Fax: (903) 297-4675

Black Gum Ventures, LLC
Date: 10/10/11

Base Map: NRCS Data Gateway Website;
Upshure, Gregg, and Smith Counties Soil Data

USACE Project Number: SWF-2011-00397

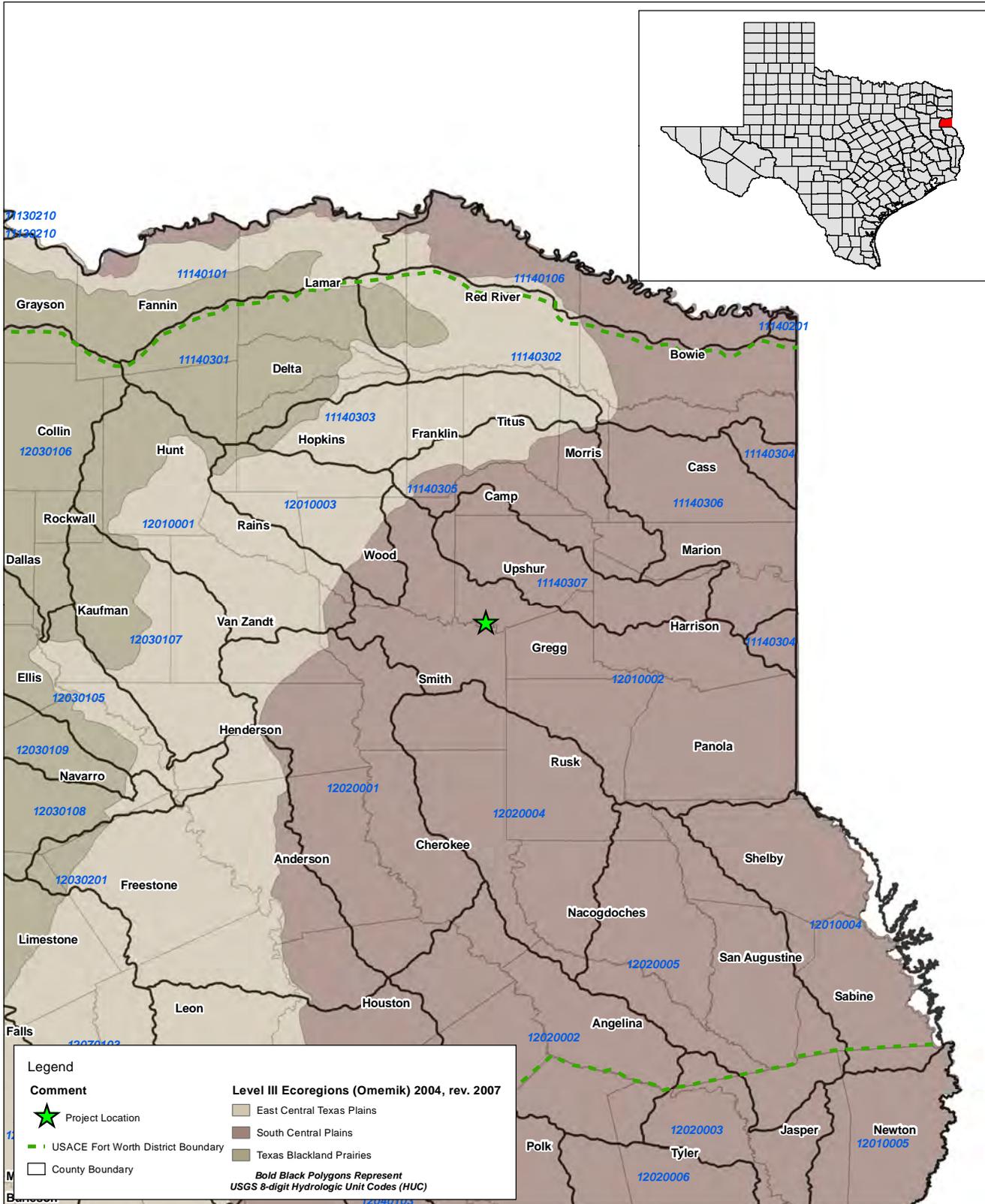
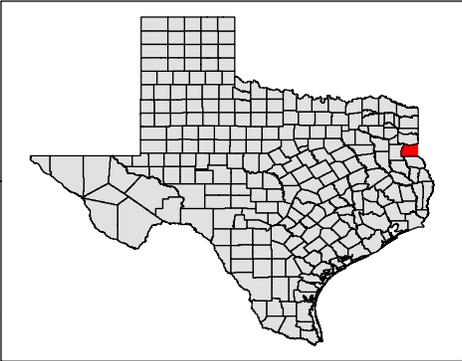
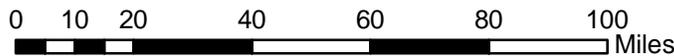


Figure 5
HUC / Ecoregion Map for the Proposed
Blackgum Mitigation Bank in Upshur County, TX



1501 Bill Owens Parkway
Longview, TX 75604
Phone: (903) 297-4673
Fax: (903) 297-4675

Black Gum Ventures, LLC
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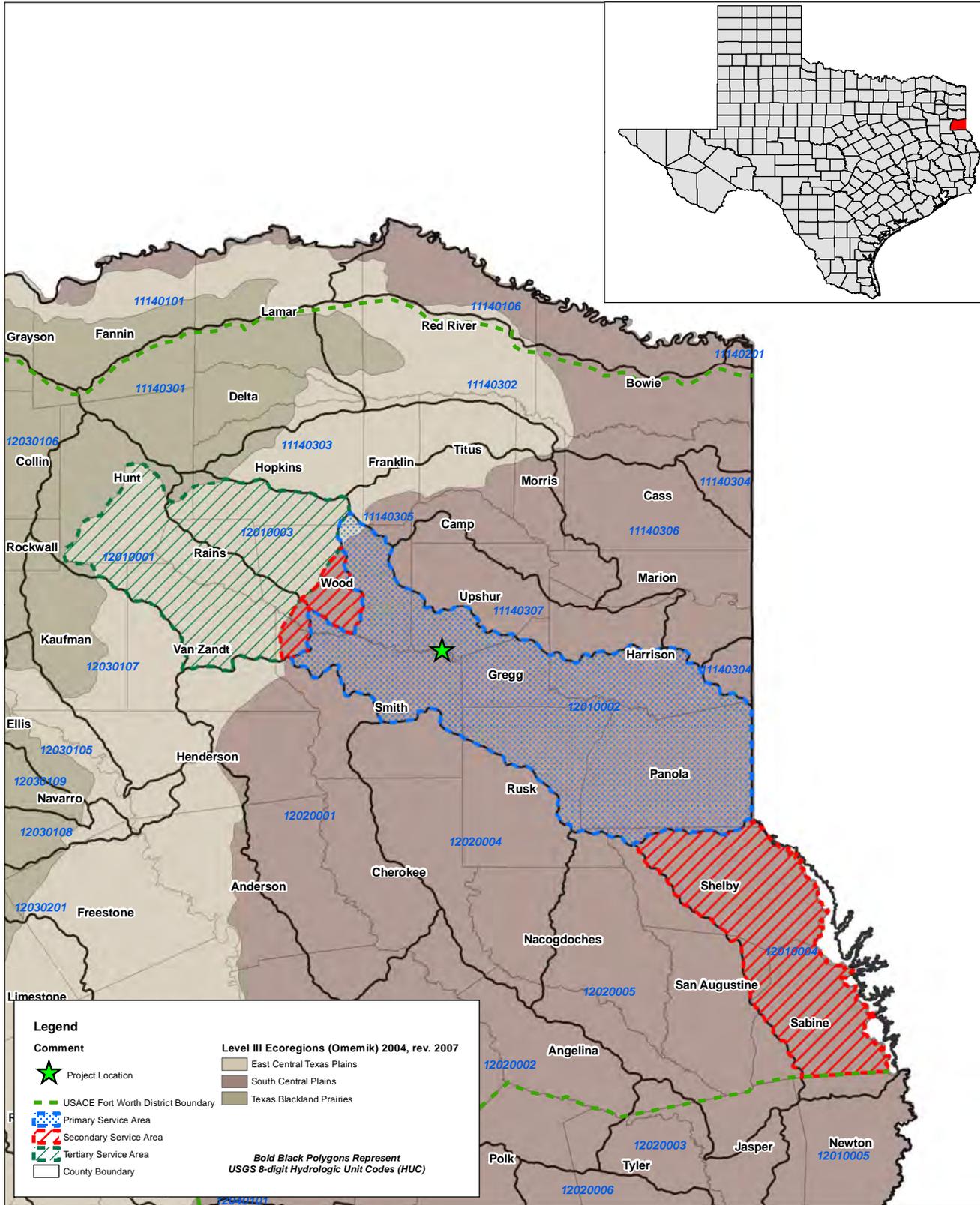
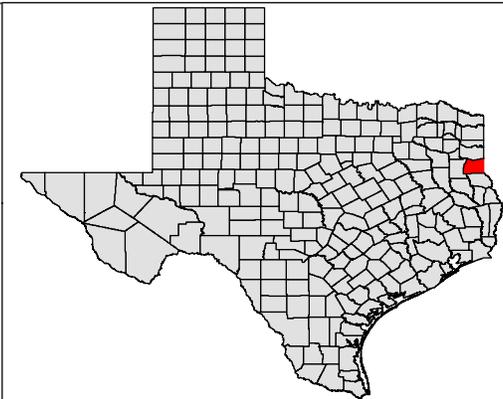
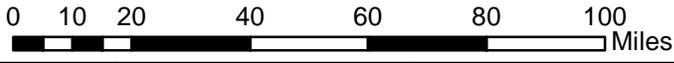


Figure 6
Service Area for the Proposed Black Gum Mitigation Bank
in Upshur County, TX



1501 Bill Owens Parkway
Longview, TX 75604
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