

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM-2023-130

NOTICE DATE:
April 30, 2024

Attn: Postmaster, Please Post Until → EXPIRATION DATE:
May 29, 2024

JOINT PUBLIC NOTICE: This public notice is issued jointly with the Arkansas Department of Energy and Environment, Division of Environmental Quality. The Division of Environmental Quality will use the comments to this notice in deciding whether to grant Section 401 water quality certification. Commenters are requested to furnish a copy of their comments to the Division of Environmental Quality by email at jim.wise@adeq.state.ar.us or by mail at 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, ATTN: Office of Water Quality.

AUTHORITY: Pursuant to 33 CFR 325, as published in the Federal Register dated November 13, 1986, this notice announces an application submitted for a Department of the Army Permit under Section 404 of the Clean Water Act.

APPLICANT:
William Russell
W.B. Russell Farms
P.O. Box 476
Piggott, Arkansas 72454
(870) 598-7764

AGENT:
Daniel Baldwin
Baldwin Conservation Group
255 W Main Street
Piggott, Arkansas 72454
(870) 595-2136

PURPOSE: The purpose of the project is to increase irrigation and farm efficiency at the project site.

LOCATION: The proposed project is located in Section 36, Township 20N, Range 8E, in Clay County, Arkansas, at approximate Latitude 36.32709° and Longitude -90.16129° on the Greenway 7.5-minute quadrangle map (Attachment 1).

DESCRIPTION OF WORK: The applicant proposes to fill and land level approximately 10.0 acres of herbaceous wetlands and bring this area into agricultural production (Attachment 2). Fill material will be obtained from the same fields containing the wetland. A new channel will be constructed from the northernmost portion of the field to the southernmost portion as to not impede the current water flow pattern.

AVOIDANCE/MINIMIZATION: According to the applicant, avoiding the existing wetland would not allow him to meet his purpose of improving irrigation and farm efficiency at the site.

MITIGATION: The applicant proposes to mitigate impacts to approximately 10.0 acres of herbaceous wetlands by the restoration of 8.0 acres of bottomland hardwoods. The mitigation site is located approximately 5.2 miles north of the proposed project site in Section 1, Township 20N, Range 8E, in Clay County, Arkansas, at approximate Latitude 36.4022° and Longitude -90.1654° (Attachments 3 and 4).

WATER QUALITY CERTIFICATION: The Clean Water Act (CWA) Section 401 Water Certification Improvement Rule (Certification Rule, 40 CFR 121), effective November 27, 2023, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope for CWA Section 401 certification by the certifying authority shall evaluate whether the activity will comply with applicable water quality requirements. The certifying authority's evaluation is limited to the water quality-related impacts from the activity subject to the federal license or permit, including the activity's construction and operation. The applicant is solely responsible for requesting certification and providing required information to the certifying agency. In

accordance with Certification Rule part 121.12, the Corps of Engineers will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) Permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

ENDANGERED SPECIES: There are three federally listed mammal species that are known to have ranges that include the project area. They are the federally endangered Northern Long-eared Bat, the federally endangered Indiana Bat, and the federally proposed endangered Tricolored Bat. There are three bird species, the federally threatened Eastern Black Rail, the federally threatened Piping Plover, and the federally threatened Rufa Red Knot. There is one flowering plant species, Pondberry. There is one insect candidate species, the Monarch Butterfly. There is one reptile proposed for listing, the Alligator Snapping Turtle. This project is being coordinated with the United States Fish and Wildlife Service. Any comments they may have regarding endangered or threatened wildlife or plants, or their critical habitat, will be considered in our evaluation of the described work.

CULTURAL RESOURCES: In compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, the Memphis District is soliciting comments from federal, state, and local agencies, federally recognized Indian Tribes, the public, and other interested parties in order to identify and evaluate potential impacts of the proposed action on historic properties.

FLOODPLAIN: In accordance with 44 CFR Part 60 (Floodplain Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. Floodplain administrators should review the proposed public notice and notify this office of any flood plain development permit requirements.

PUBLIC INTEREST REVIEW: The purpose of this public notice is to advise all interested parties of the activities for which a permit is sought and to solicit comments and information necessary to evaluate the probable impact on the public interest.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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 Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; federally recognized 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 Corps of Engineers to determine whether to issue, modify, condition 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.

ENVIRONMENTAL JUSTICE: In accordance with E.O. 12898, E.O. 14008, and E.O. 14096, the Corps of Engineers will specifically consider the effects of the proposed action on communities with environmental justice concerns, including economically disadvantaged communities, communities of color, and other socioeconomic groups that could be disproportionately affected by environmental and other effects. As part of our environmental justice review, the Corps of Engineers seeks additional information from the public, community leaders, local officials and others regarding issues of environmental justice as related to the proposed action.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reason for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision. If a public hearing is held, it will be for the purpose of obtaining additional information that we could not otherwise obtain through a public notice process; not to inform the public about the specific details of the project in greater detail than what is found in this notice. This is not a Corps of Engineers project. We are not a proponent nor are we an opponent of the project. We are merely the permitting authority of Section 404 and Section 10 permits required by our office.

COMMENTS OR REQUEST FOR ADDITIONAL INFORMATION: Send comments to the Corps of Engineers, Memphis District. Comments may be sent via mail or email to the following:

U.S. Army Corps of Engineers – Memphis District
ATTN: Josh Bright
167 N. Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: joshua.k.bright@usace.army.mil
Phone: (901) 828-0359

The Corps of Engineers may provide copies of all comments, (including name & address of those providing comments) to the applicant for consideration and response prior to a decision. Comments must be received by the expiration date listed on page one of this notice.

For Final Individual Permits actions in the Memphis District, go to the following link: <http://permits.ops.usace.army.mil/orm-public>. Using the Filter by District drop down box, select MVM-Memphis District, then select the year and month (information will populate in the table below). All pending individual permits can be located by selecting the “**Pending IP**” tab above. All of the environmental documents and statements of findings supporting issuance or denial of the permit decisions are available upon written request and where applicable, upon the payment of administrative fees. They are also available at the Memphis District, Regulatory Division office for examination.

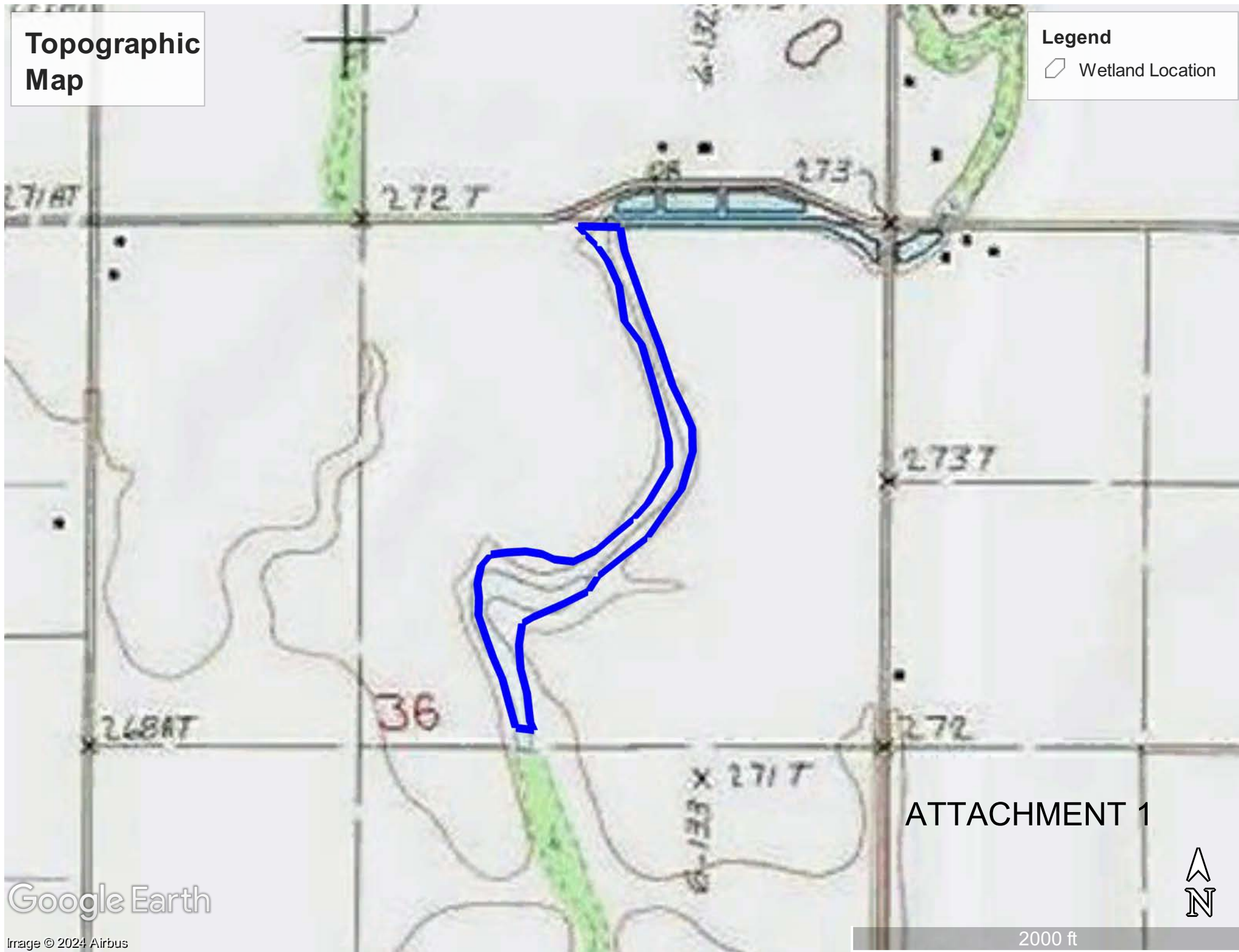
Gregg W. Williams
Chief
Regulatory Division

Attachments

Topographic Map

Legend

 Wetland Location



Aerial Map

Legend
Wetland Location



ATTACHMENT 2

Google Earth

Image © 2024 Airbus

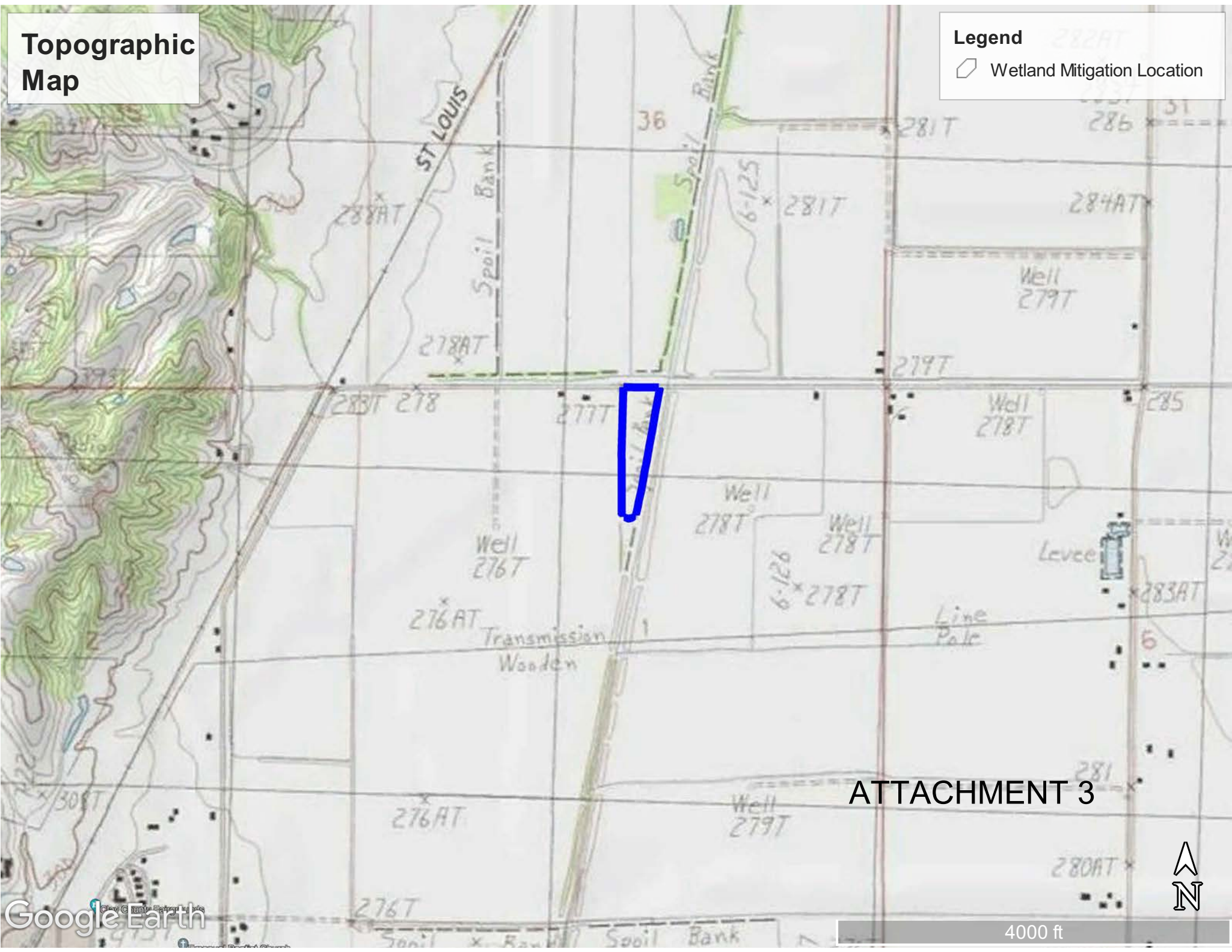


2000 ft

Topographic Map

Legend

- Wetland Mitigation Location



ATTACHMENT 3



Aerial Map

Legend

 Wetland Mitigation Location



ATTACHMENT 4

Google Earth

