

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM-2024-216

NOTICE DATE:
December 10, 2024

Attn: Postmaster,
Please Post Until



EXPIRATION
DATE:

January 9, 2025

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@arkansas.gov 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 (DA) Permit under Section 404 of the Clean Water Act.

APPLICANT:

Groot LLC
Attn: Stuart Hindmarsh
251 Little Falls Drive
Wilmington, Delaware 19808
Ph: (479) 250-9705

AGENT:

Tioga Environmental Consultants, Inc.
Attn: Ben Day
357 North Main Street
Memphis, Tennessee 38103
Ph: (901) 791-2432

PURPOSE: The applicant's stated purpose is to construct a data center campus consisting of five large-scale data center buildings, supporting office buildings, parking areas, internal access roads, a utility substation, stormwater management facilities, utilities, and associated infrastructure.

LOCATION: The project site is located on a 1,178-acre parcel of property at the south extent of Bollinger Road in West Memphis, Crittenden County, Arkansas at Latitude 35.108877° and Longitude -90.216323° as shown on the Fletcher Lake, Arkansas United States Geological Survey (USGS) topographic quadrangle (Figure 1).

DESCRIPTION OF WORK: The project property encompasses 920 acres of the 1,178-acre property to be developed and is divided into three sections; western, eastern, and southern as shown on Figures 1 and 2. The main campus would be developed within the western section (approx. 580 acres) while the eastern section (approx. 340 acres) would be utilized as a source of soil and earthen material for construction. The southern section (approx. 258 acres) is outside the scope of the proposed project and no development activities are currently planned in this area. The proposed project layout and borrow areas is shown on Figure 3.

The applicant is requesting permit authorization to permanently fill 2.19 acres of linear drainage features (LDF) that have developed herbaceous wetland characteristics as part of project footprint construction, 10 culverted stream crossings for haul roads totaling temporary impacts to 2.65 acres of stream, 2 culverted stream crossings to be used as permanent road crossings totaling impacts to 0.60-acre of stream and 6 stormwater outfall structures totaling impacts to 0.06-acre of stream. Proposed permanent and temporary LDF/stream impacts are shown on Figure 3. All delineated stream and wetland boundaries are shown on Figure 4.

AVOIDANCE/MINIMIZATION: According to the applicant, to avoid and minimize impacts to jurisdictional waters, alternate onsite locations and layouts were evaluated. Due to the energy demands of data centers, the facilities must be located near existing electrical infrastructure, so facility location was limited to

the northern portions of the site near existing electric transmission towers. This avoided the majority of the higher functioning wetlands that are located on the southern portions of the site. Locating the main campus more eastward would have required permanent culverts, fill, and/or relocation impacts to the two onsite jurisdictional streams, while likely still requiring the proposed impacts to LDFs, as they flow centrally across the site. Due to their location, avoidance of the linear drainage features was not considered feasible, but the site was located as far south within the western section of the property as possible to minimize the length of the linear system impacted. The Memphis District will review the applicant's alternatives evaluation for compliance with Section 404 (b)(1) Guidelines.

MITIGATION: The applicant is proposing compensatory mitigation for the proposed permanent wetland impacts through on-site, in-kind permittee-responsible mitigation (PRM). The location of the proposed PRM is shown on Figure 3. The PRM would consist of the restoration of 7.2 acres of LDFs for the proposed impacts to 2.19 acres of LDF (approximate 3:1 ratio). The applicant provided a detailed mitigation plan which consists of a mitigation work plan, credit determination, maintenance plan, performance standards, monitoring requirements, long-term management plan, adaptive management plan, and financial assurances. The Memphis District will evaluate the proposed plans against the project impacts prior to making a formal decision on mitigation to ensure consistency with the 2008 Compensatory Mitigation Rule.

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 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: The Memphis District Regulatory Division reviewed the project area using the USFWS' IPaC website and identified the following species potentially found in the project vicinity: Eastern Black Rail, Tricolored Bat, Piping Plover, Rufa red Knot, Pallid Sturgeon, Fat Pocketbook, Alligator Snapping Turtle or Pondberry. Our preliminary determination is that the proposal would have no effect on these species. However, this notice is being coordinated with the U.S. Fish and Wildlife Service (USFWS). Any comments USFWS 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 floodplain development permit is required. Floodplain administrators should review the proposed public notice and notify this office of any floodplain 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: Mitch Elcan
167 North Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: james.m.elcan@usace.army.mil
phone: (901) 544-0737

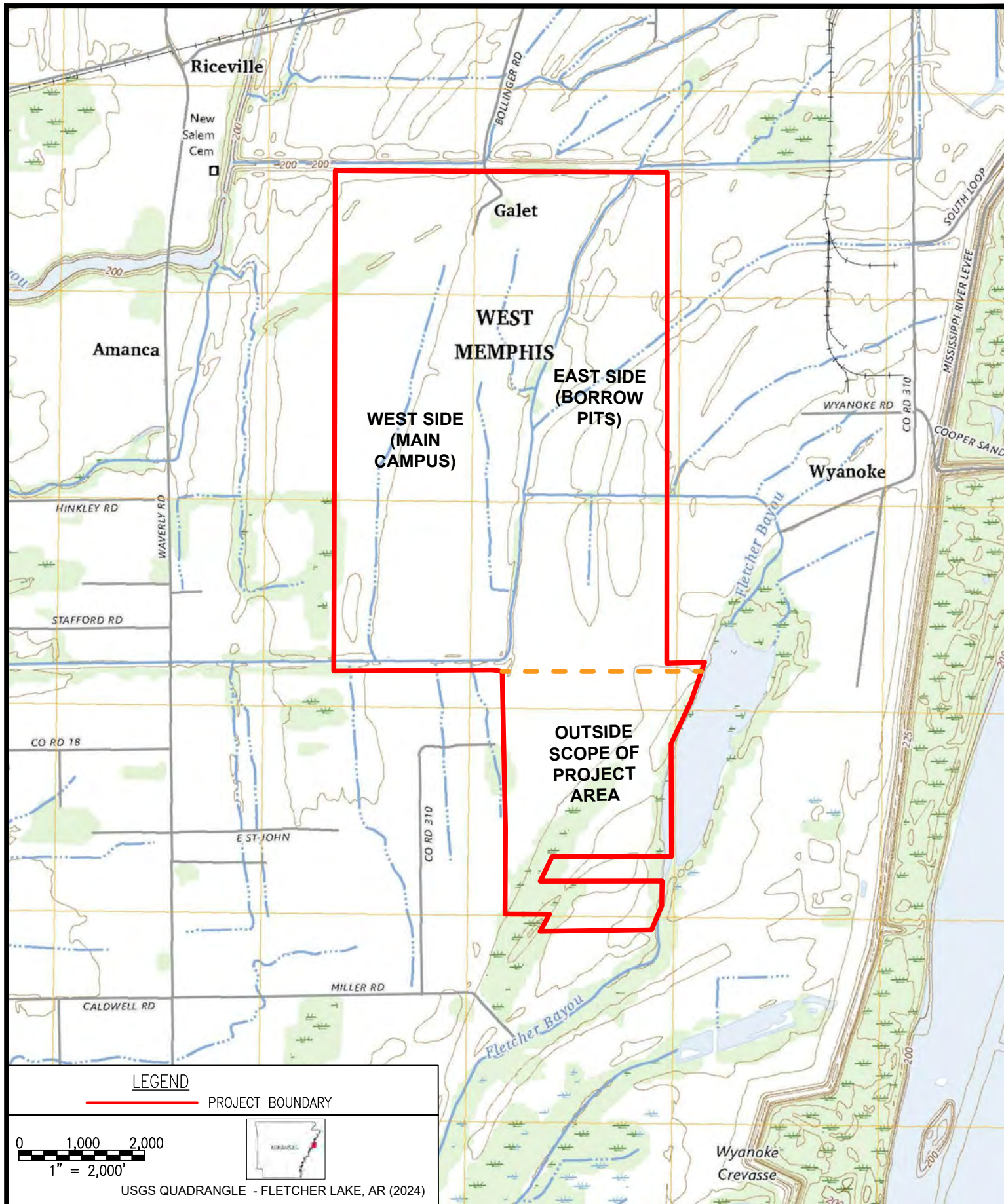
The Corps of Engineers may provide copies of all comments, (including name & address of those providing comments) to the applicant for consideration and response prior to a decision. Comments must be received by the expiration date listed on page one of this notice.

For Final Individual Permits actions in the Memphis District, go to the following link:

<https://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

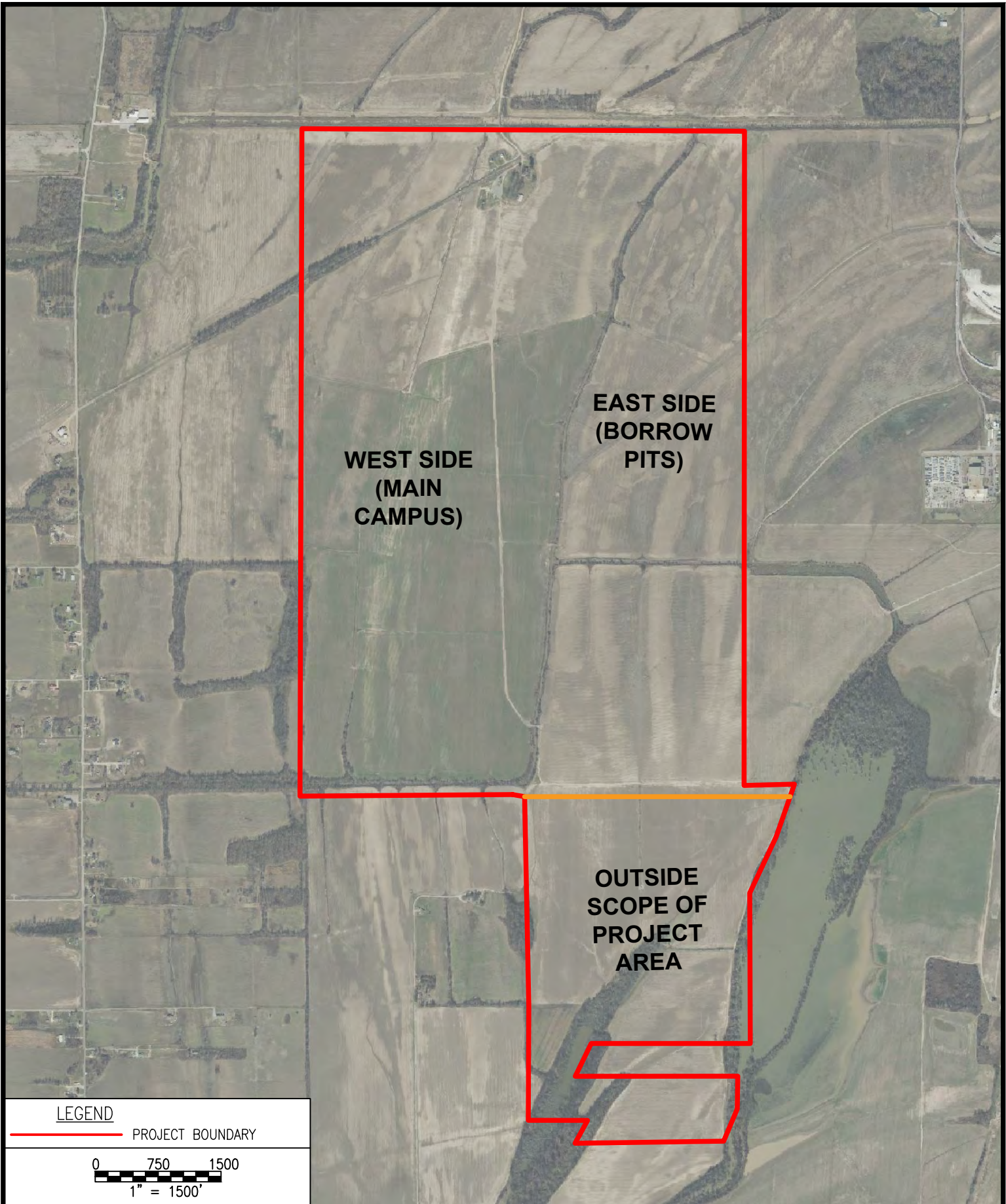
Attachments

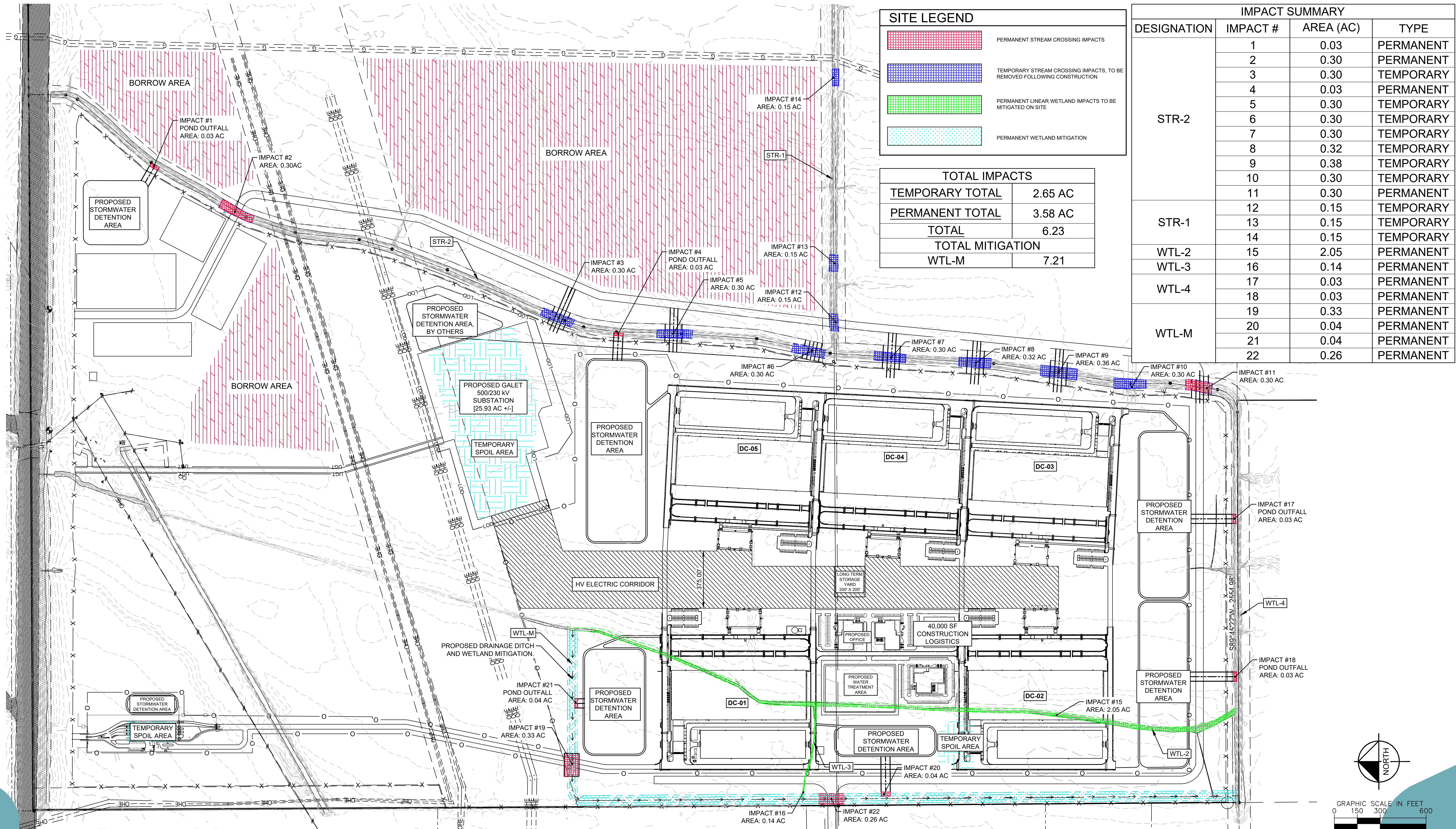


Tioga
ENVIRONMENTAL CONSULTANTS

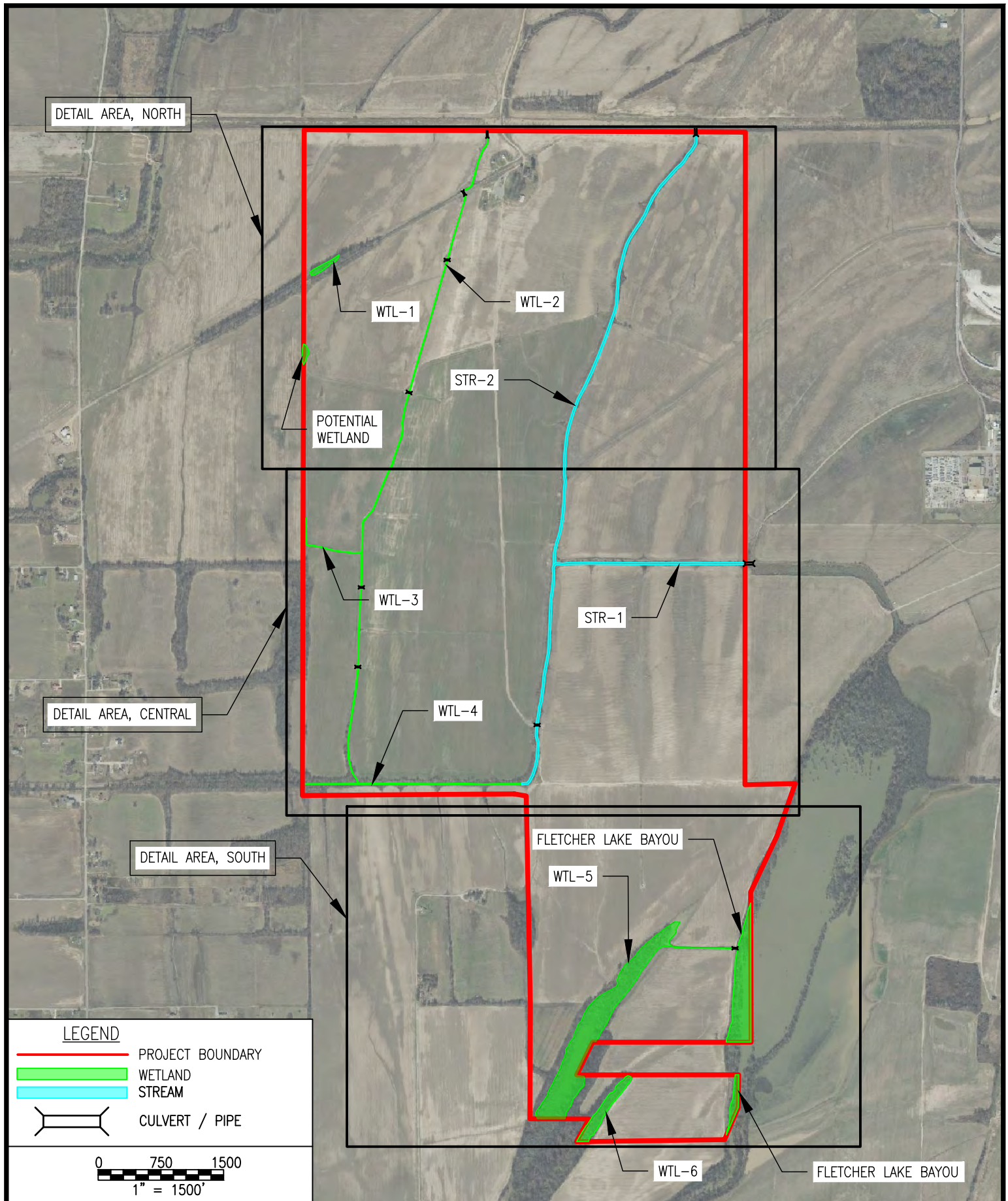
**SITE MAP
PROJECT PYRAMID SITE**

DESCRIPTION:	PROJECT #:
TOPOGRAPHIC MAP	501507.01
LOCATION:	DATE:
WEST MEMPHIS, ARKANSAS	NOVEMBER 2024





Project Pyramid
Environmental Impacts Exhibit
West Memphis, AR
December 2024
FIGURE 3



Tioga
ENVIRONMENTAL CONSULTANTS

AQUATIC RESOURCES DELINEATION REPORT PROJECT PYRAMID SITE

DESCRIPTION:	PROJECT #:
SITE FEATURES MAP	501507.00
LOCATION:	DATE:
WEST MEMPHIS, ARKANSAS	SEPTEMBER 2024