

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM 2022-227 (RDM)

NOTICE DATE:
June 20, 2023

Attn: Postmaster,
Please Post Until

EXPIRATION DATE:
July 19, 2023

Public Notice

U.S. Army Corps of Engineers

AUTHORITY: Pursuant to 33 CFR 332.8(d)(4) (Mitigation banks and in-lieu fee programs, public review and comment), this notice announces a prospectus submitted for the development of the Clover Creek Mitigation Bank.

BANK SPONSOR: Clover Creek MB LLC
POC: Jof Mehaffey, Senior Ecologist
3310 West End Ave #420
Nashville, TN 37203

BANK AGENT: Headwaters LLC
POC: Jof Mehaffey, Senior Ecologist
3310 West End Ave #420
Nashville, TN 37203

LOCATION: The proposed Clover Creek Mitigation Bank site is located in west Tennessee, approximately 2.0 miles north of Toone, Tennessee in Hardeman County. The entire property is approximately 755± acres. The proposed mitigation area within the larger parcel is 333± acres with the central coordinates at latitude 35.389057° and longitude -88.944855°. It is sited within the Lower Clover Creek Watershed, Hydrologic Unit Code 12 (HUC12) 080102080302 of the Lower Hatchie River Watershed, HUC8 08010208. These watersheds are part of the Mississippi River drainage basin, the project is also within the Southeastern Plains of the U.S. Environmental Protection Agency (EPA) Level III Ecoregion. (Figures 1-3)

QUALIFICATIONS: As stated by the Sponsor: “The Agent, acting on behalf of the Owner and Sponsor, is Headwaters LLC (Headwaters). The staff at Headwaters has over 120 years of combined experience performing wetland and stream permitting and restoration as well as establishing mitigation banks in the southeast. They are proficient in various stream assessment and design methods, including Rosgen stream classification, The Tennessee Stream Quantification Tool (TN SQT), ecological assessment protocols, and natural channel design. To date, Headwaters has consulted in the successful approval of nine mitigation banks in the southeast, all authorized through the Corps of Engineers, Mobile District.”

PURPOSE: The purpose of this notice is to inform the public of the proposed Clover Creek Mitigation Bank that would generate credits that could be used to meet compensatory mitigation requirements for permits issued under Section 404 of the Clean Water Act for the deposition of dredged or fill material into waters of the United States or under Section 10 of the Rivers and Harbors Act of 1899 for work within navigable waters of the United States. If approved, this mitigation bank could also be used to satisfy permitting requirements of the Tennessee Department of Environment and Conservation under the Tennessee Water Quality Control Act. The following is a summary of the prospectus for this project; please contact the Memphis District (see contact information on page 3) for further information.

GOALS AND OBJECTIVES: The sponsor has stated that “The primary goal of the proposed Bank is to restore and enhance existing aquatic resources, including streams, associated riparian buffers, and wetlands. This is intended to result in self-sustaining habitats that will achieve the desired ecosystem functionality of the mitigation

plan.” “To achieve desired goals, proposed activities include a series of objectives specific to the unique issues of each aquatic resource. For streams, the objectives primarily focus on returning impaired and altered watercourses to natural, fully functional channels with the appropriate pattern, profile, and dimension. For riparian buffers, these areas are to be re-established with native, desirable vegetation with minimal non-native or exotic species, preserved in perpetuity. In regards to wetlands, objectives emphasize eliminating agriculture activities, restoring converted farmlands to more native palustrine conditions, and perpetual preservation. Benefits of these activities include an increase in the diversity and availability of important aquatic and semi-aquatic habitats and niches, such as areas for feeding and refugia, spawning, and nursery sites for a variety of fish and wildlife, including amphibious species. These proposed activities will enhance the quality and ecological function of aquatic resources within the Bank site, Clover Creek and the Lower Hatchie River Watersheds.” (Figures 4 & 5)

SERVICE AREA: As proposed by the Sponsor, the Clover Creek Mitigation Bank will conduct stream and wetland mitigation activities to include the restoration, enhancement, and preservation of aquatic resources within the Primary Service Area (PSA) of the Lower Hatchie River Watershed (HUC 08010208), which is sited within the Mississippi River Basin (the major drainage basin of the PSA). The proposed PSA drains approximately 1,464 square miles and includes portions of Chester, Fayette, Hardeman, Haywood, Lauderdale, Madison, and Tipton counties. The secondary service area will include two of the three following watersheds, as directed by guidance from the Interagency Review Team (IRT) and informed by public review and comment: South Fork Forked Deer (HUC 08010205), Loosahatchie River (HUC 08010209), and/or Wolf River (HUC 08010210). All three are located within the Mississippi River Basin. (Figure 6)

PROPOSED OWNERSHIP AND LONG-TERM MANAGEMENT: As stated by the Sponsor: “Clover Creek LLC will own the property and has retained Headwaters LLC to assist in preparing and implementing a management plan for the proposed Bank. The Owner anticipates maintaining ownership and management of the proposed Bank. Management will include protection efforts to ensure that incompatible uses do not occur, annual surveillance of the Bank to detect and remove/treat invasive species, and implementation of other management actions to address any specific requirements identified in the Mitigation Banking Instrument. The long-term stewardship board will perform all work necessary to maintain the proposed Bank, in perpetuity, in an ecological condition consistent with the final ecological requirements/success criteria required by the Mitigation Banking Instrument. A Non-Wasting Escrow Account for the long-term management of the property will be established and the land trust board will have full and sole responsibility in managing the interest generated from this fund for long-term management activities. The proposed Bank will be subject to a legally binding Conservation Easement, which will be held by a third-party entity. In addition, a long-term stewardship board that balances the interests of the Sponsor and conservation interests will be responsible for long-term management of the property.”

PROSPECTUS: The complete prospectus for the proposed Clover Creek Mitigation Bank is available online at <https://www.mvm.usace.army.mil/About/Offices/Regulatory/Public-Notices/> or on the Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS) at https://ribits.ops.usace.army.mil/ords/f?p=107:278:::RP,278:P278_BANK_ID:6585

ENDANGERED SPECIES: There are two federally listed mammal species that are known to have ranges that include the project area. They are the federally endangered Indiana bat (*Myotis sodalis*) and the northern long-eared bat (*Myotis septentrionalis*). Additionally, the Tricolored Bat (*Perimyotis subflavus*) is proposed for listing under the Endangered Species Act. There is one insect candidate species, the Monarch Butterfly (*Danaus plexippus*), and one reptile proposed for listing, the Alligator Snapping Turtle (*Macrochelys temminckii*). 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 will identify and evaluate potential effects of the proposed action on historic properties through consultation with federal, state, and local agencies, federally recognized Indian Tribes, the public, and other interested parties.

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 apprise 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 proposed activities and to solicit comments and information necessary to evaluate the probable impact on the public interest. The decision whether to authorize this mitigation plan 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 Tribes; and other interested parties in order to consider and evaluate the proposed activity.

Any comments received will be considered by the Corps of Engineers to determine whether to authorize this request. 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.

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 prospectus. 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 and 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: To request additional information or provide comments on this notice, please contact Damon McDermott using the information below:

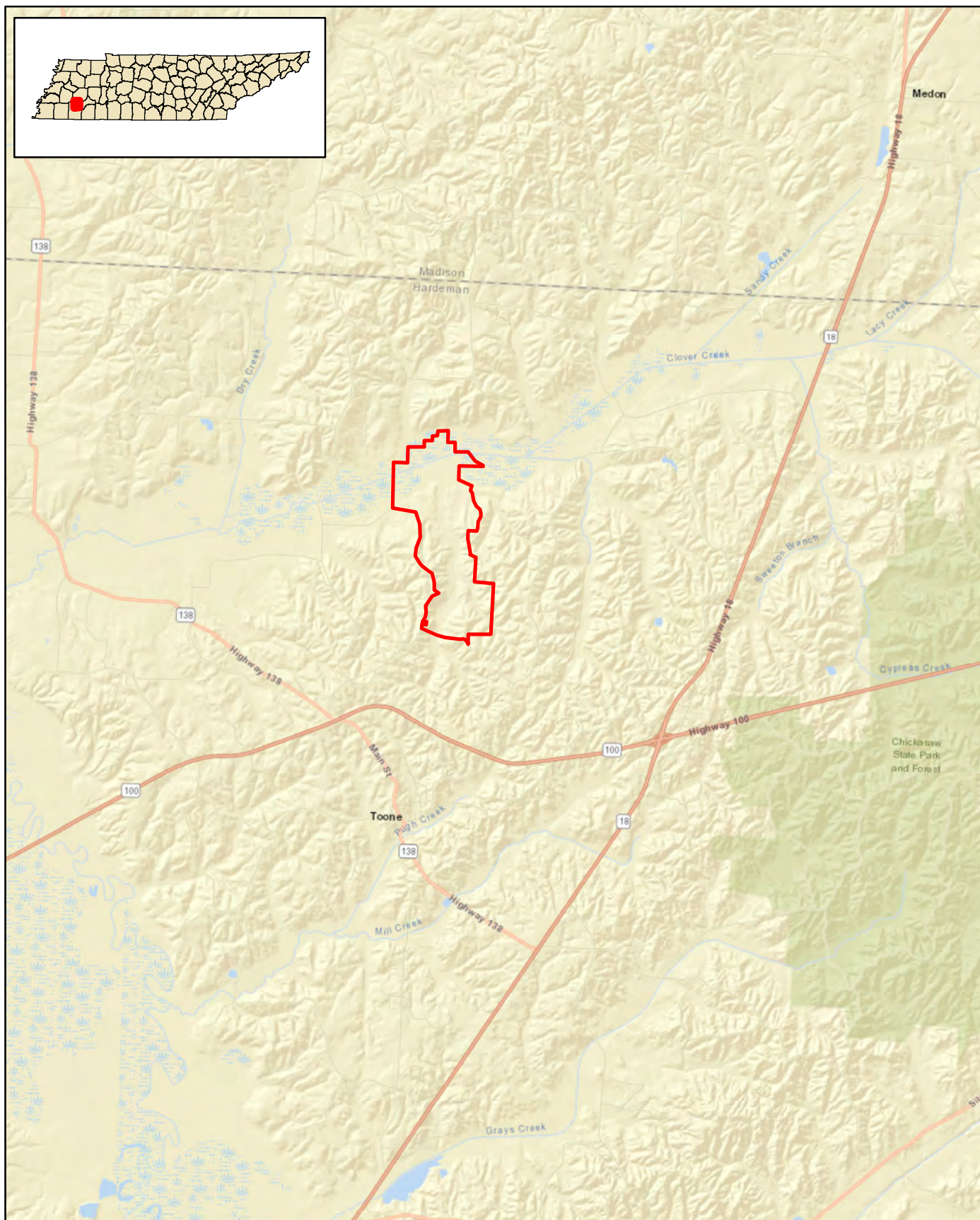
Damon McDermott
Corps of Engineers – Memphis District
167 N. Main Street, Room B-202
Memphis, Tennessee 38103-1894
Email: robert.d.mcdermott@usace.army.mil
Phone: (901) 544-0732

Comments may be sent via mail or email. 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



 Clover Creek Property Boundary

FIGURE 1
General Location Map and
Property Boundary from Plat

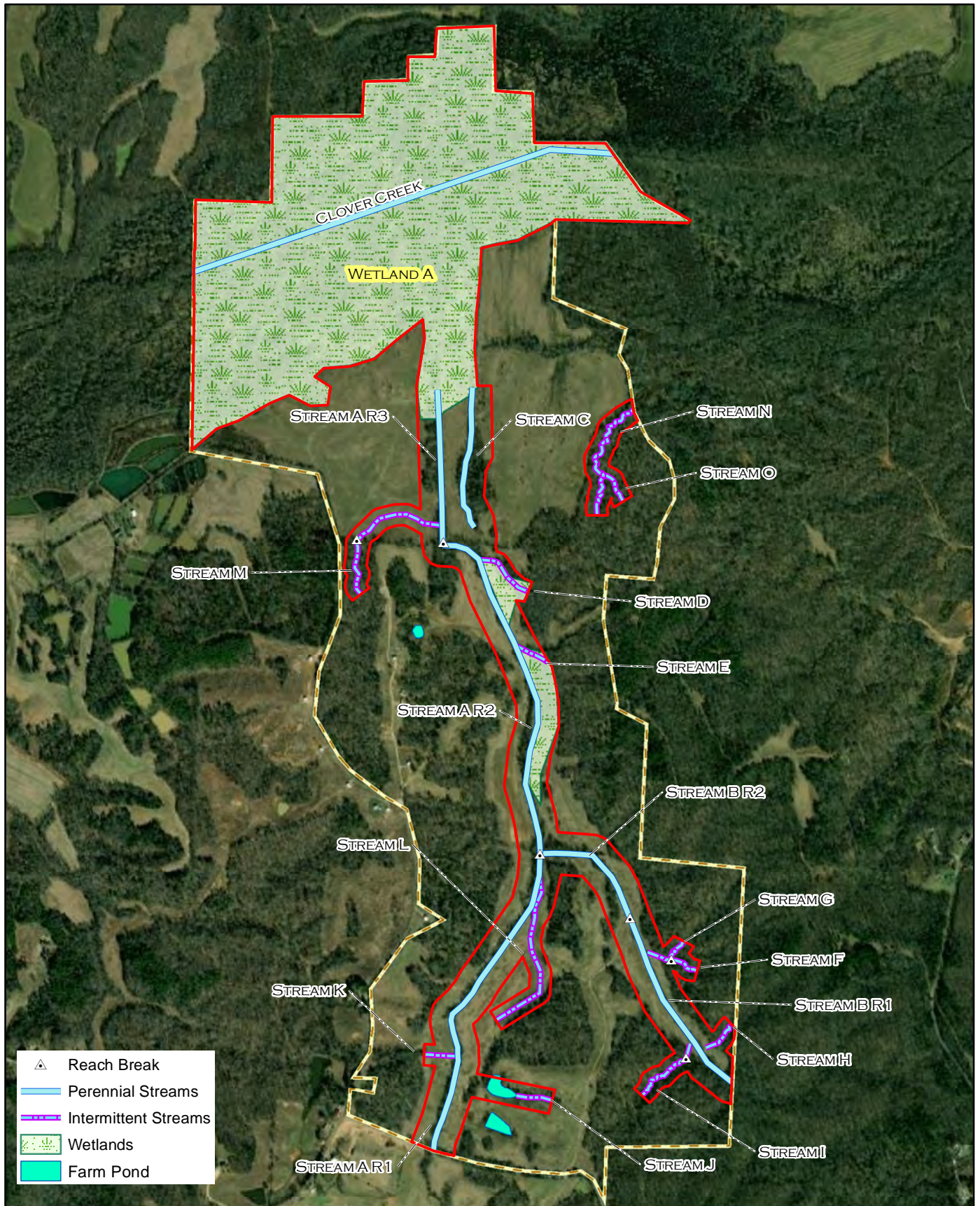
Clover Creek Mitigation Bank
 Toone, Tennessee
 Hatchie River HUC

April 2023

0 1 2
 Miles



GMC





 Clover Creek Mitigation Bank
 Clover Creek Parent Parcel

FIGURE 2
2022 Aerial Imagery
With Aquatic Resources Overlay

Clover Creek Mitigation Bank
 Toone, Tennessee
 Hatchie River HUC

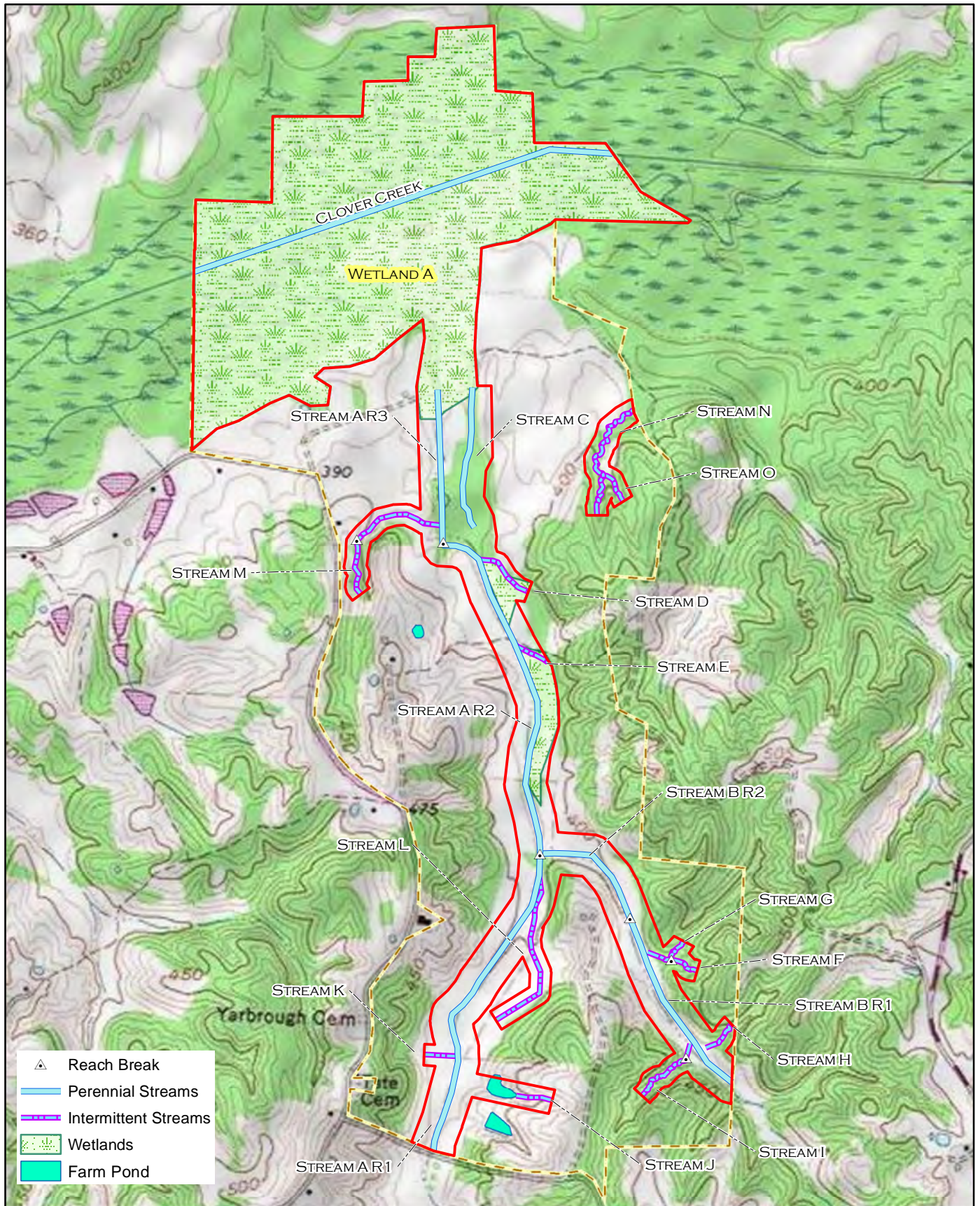
April 2023

0 700 1,400
 Feet



GMC

Source: ESRI World Imagery, GMC Field Notes



- Clover Creek Mitigation Bank
- Clover Creek Parent Parcel

FIGURE 3
USGS Topographic Map
With Aquatic Resources Overlay

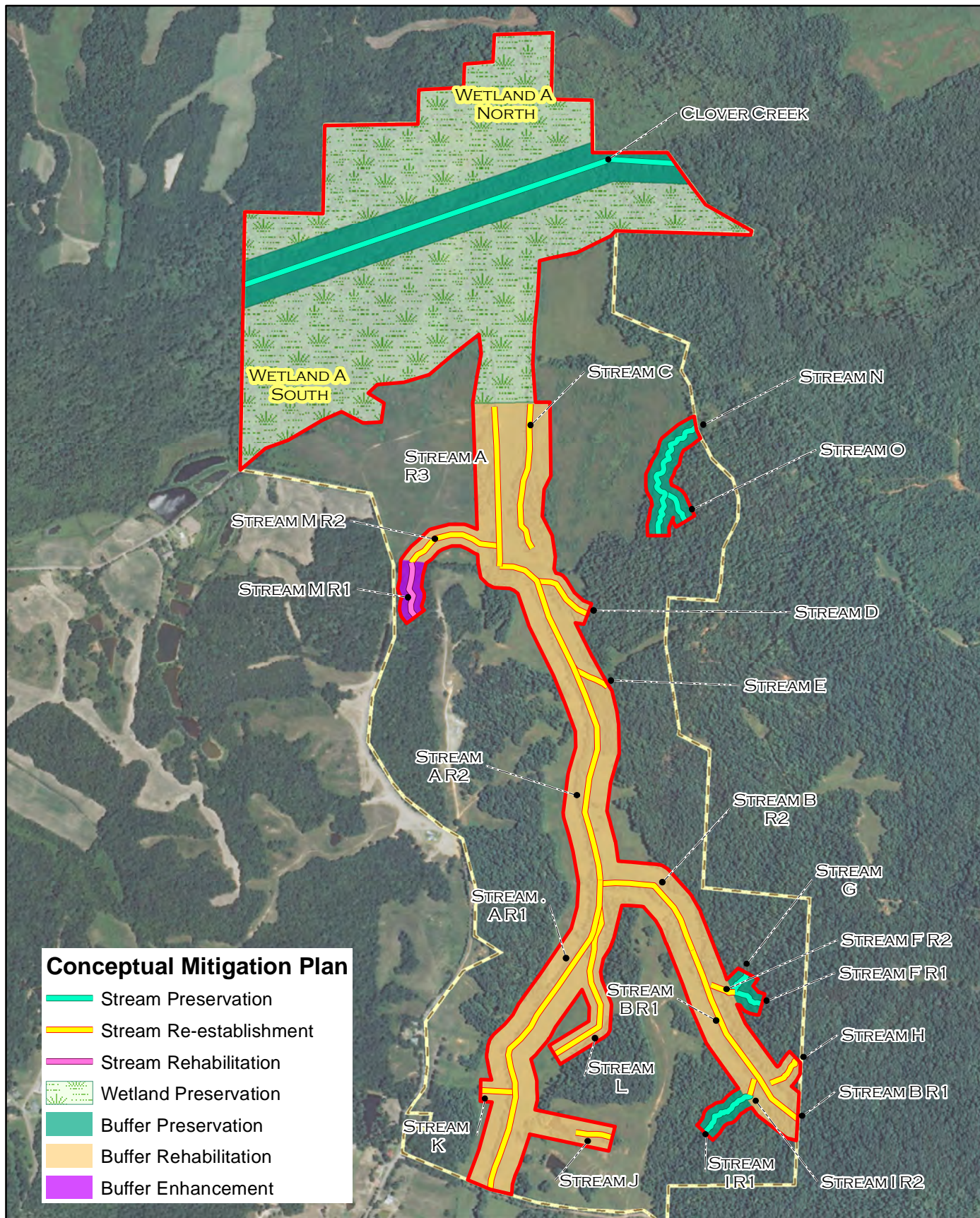
Clover Creek Mitigation Bank
 Toone, Tennessee
 Hatchie River HUC

April 2023

0 700 1,400
 Feet



GMC



- Clover Creek Mitigation Bank
- Clover Creek Property Boundary

FIGURE 4
Proposed Mitigation Activities

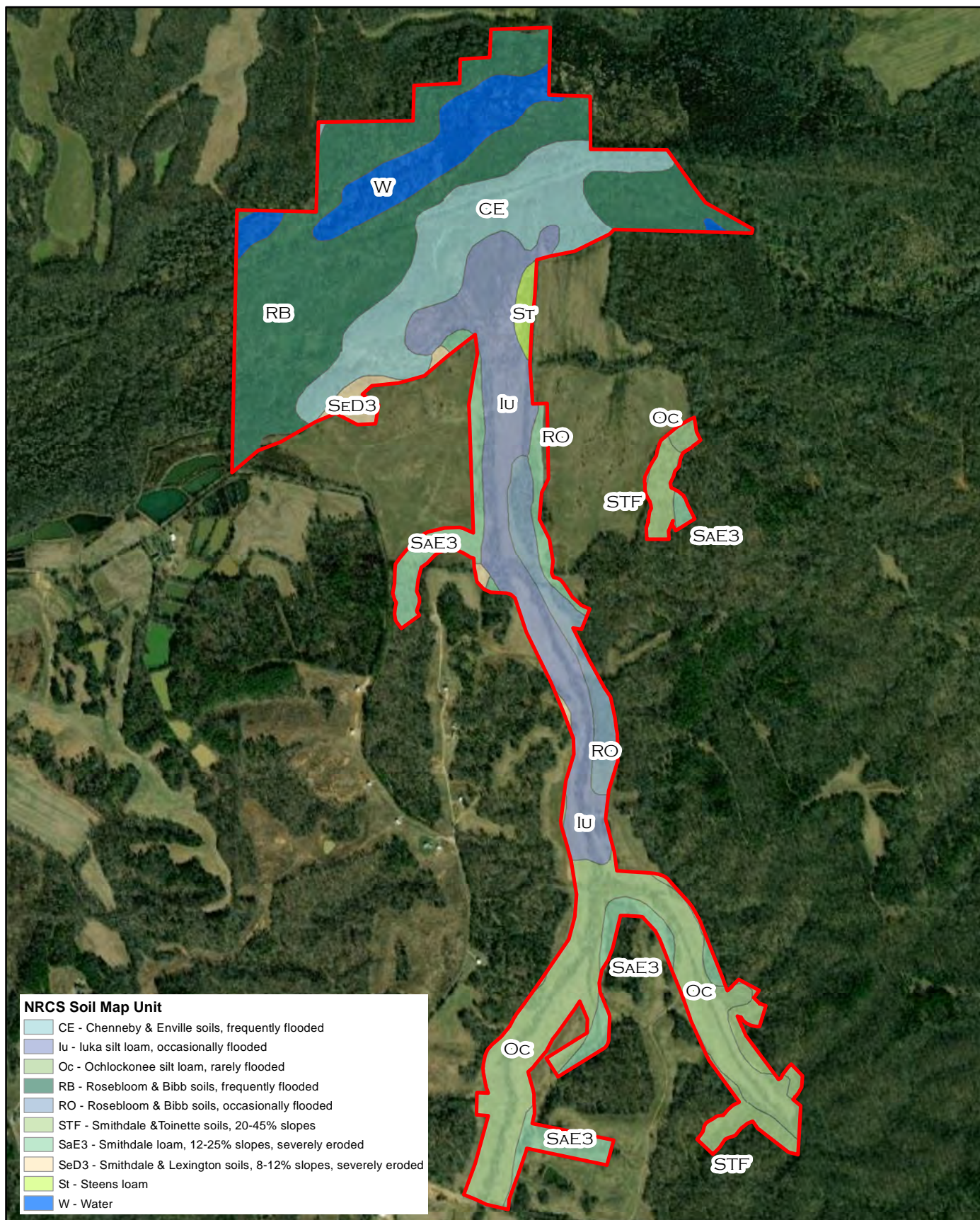
Clover Creek Mitigation Bank
Toone, Tennessee
Hatchie River HUC

April 2023

0 1,150 2,300
Feet



GMC




 Clover Creek Mitigation Bank

FIGURE 5
NRCS Soil Map Units

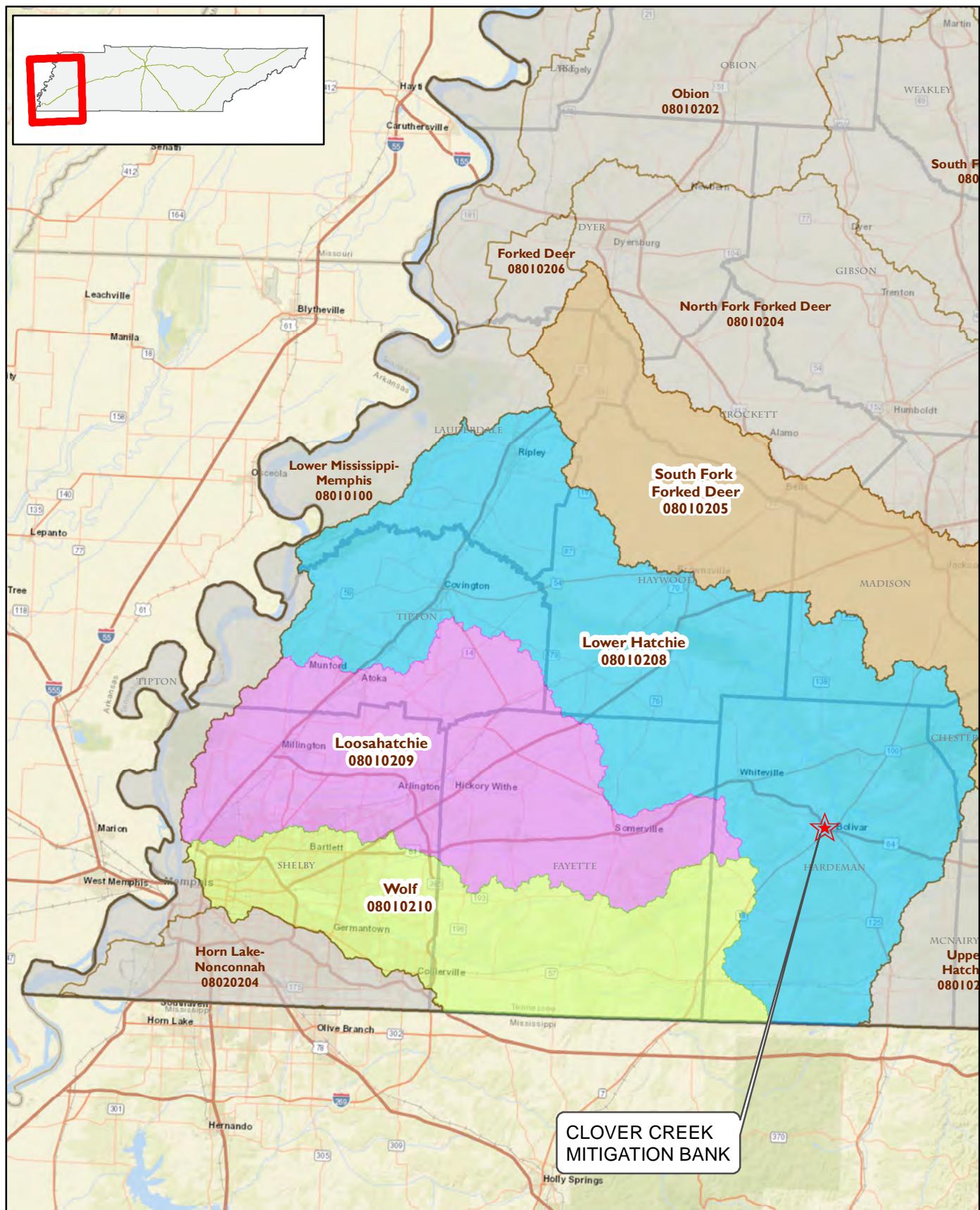
Clover Creek Mitigation Bank
Toone, Tennessee
Hatchie River HUC

April 2023

0 1,125 2,250
Feet



GMC



SERVICE AREA (HUC8)

- Lower Hatchie - PRIMARY
- S.Fork Forked Deer - 2ndry (posed)
- Loosahatchie - 2ndary (posed)
- Wolf - 2ndary (posed)

FIGURE 6

Proposed Bank Service Area

Clover Creek Mitigation Bank
Hardeman County, TN
Lower Hache River Watershed

0 850,000 1,700,000

Feet



GMC