

Interagency and Tribal Coordination

U.S. Fish and Wildlife Service

U.S. Environmental Protection Agency

Mississippi Department of Fisheries, Wildlife and Parks

Mississippi Department of Environmental Quality

Mississippi Department of Archives and History

Alabama-Coushatta Tribe of Texas

Mississippi Band of Choctaw Indians

The Chickasaw Nation

The Choctaw Nation of Oklahoma

The Eastern Band of Cherokee Indians

The Jena Band of Choctaw Indians

The Muscogee Creek Nation

The Quapaw Nation

The Tunica-Biloxi Tribe of Louisiana



DEPARTMENT OF THE ARMY

MEMPHIS DISTRICT CORPS OF ENGINEERS

167 NORTH MAIN STREET B-202
MEMPHIS TN 38103-1894

September 6, 2019

Kelly Morris
U.S. Fish and Wildlife Service, Region 4
Mississippi Ecological Services Field Office
6578 Dogwood View Parkway
Jackson, MS 39213

Dear Ms. Morris,

The U.S. Army Corps of Engineers (USACE), Memphis District (MVM), thanks the U.S. Fish and Wildlife Service (USFWS) for the informal comments and information provided on the *North DeSoto County, Mississippi Feasibility Study*, thus far.

The USACE MVM is preparing a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project entitled *North DeSoto County, Mississippi Feasibility Study*. The study focuses on the development of multi-purpose features to reduce flood risk and damages in the project area. Flooding inundates major transportation corridors and damages public infrastructure and development, including residential, commercial and industrial properties; isolates neighborhoods and communities; and threatens life safety. Removal of suitable riparian cover, loss of wetlands and floodplains, and an increase in development for residential and commercial purposes have contributed to an altered flow regime and repeated flooding within the City of Horn Lake, Southaven, Olive Branch, and Hernando as well as causing channel instability and further degradation of aquatic and wetland resources. Retention and/or detention basins, channel modifications, floodplain restoration, and other features are being investigated in this study to determine if these options would be effective and feasible in reducing damages from flooding.

The USACE MVM formally invites the USFWS to become a cooperating agency. Per the National Environmental Policy Act (NEPA), 40 CFR 1501.6, a cooperating agency would participate in the NEPA process at the earliest possible time; participate in the scoping process; assume, on request of the lead agency, responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement which the cooperating agency has special expertise; make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability; and would normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies.

Project formulation will be in accordance with NEPA and Engineering Regulation 1105-2-100 and will fully consider a range of environmental, economic and social factors. As a cooperating agency, the USFWS would fully consider the views need and benefits of competing interests. A cooperating agency may, in response to a lead agency's request for assistance in

preparing the environmental impact statement, reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council on Environmental Quality.

Please indicate whether the USFWS accepts the formal invitation to become a cooperating agency within 30 days of this letter. If you have questions, please contact Andrea Carpenter by phone at (901) 544-0817 or by email at Andrea.L.Carpenter@usace.army.mil.

Sincerely,

A handwritten signature in cursive script that reads "Edward P. Lambert".

Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environment Division South



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Mississippi Ecological Services Field Office
6578 Dogwood View Parkway, Suite A
Jackson, Mississippi 39213
Phone: (601)965-4900 Fax: (601)965-4340

October 15, 2019

Mr. Edward P. Lambert
Department of the Army
Memphis District Corps of Engineers
167 North Main Street B-202
Memphis, Tennessee 38103

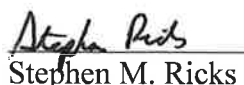
Dear Mr. Lambert:

Thank you for contacting the Fish and Wildlife Service (Service) regarding the U.S Army Corps of Engineers, Memphis District's (USACE MVM) plan to prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project entitled *North DeSoto County, Mississippi Feasibility Study*. Our comments are submitted in accordance with the Fish and Wildlife Coordination Act (FWCA) (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), and the Migratory Bird Treaty Act (16 U.S.C. 703-711, as amended).

The Service looks forward to being a cooperating agency for the *North DeSoto County, Mississippi Feasibility Study* and providing our expertise on trust fish and wildlife resources, federally listed candidate, threatened, and endangered species, and water resource planning.

If you have any questions, please contact Kelly Morris in our office, telephone: (601) 321-1120, or visit our website at <http://www.fws.gov/mississippiES/>.

Sincerely,



Stephen M. Ricks
Field Supervisor
Mississippi Field Office



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Mississippi Ecological Services Field Office
6578 Dogwood View Parkway, Suite A
Jackson, MS 39213-7856
Phone: (601) 965-4900 Fax: (601) 965-4340
<http://www.fws.gov/mississippiES/endsp.html>

In Reply Refer To:

September 02, 2020

Consultation Code: 04EM1000-2020-SLI-0590

Event Code: 04EM1000-2020-E-03030

Project Name: North DeSoto County Feasibility Study_Flood Risk Management_Updated

Subject: Updated list of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office. Submit consultation requests electronically to the following email: msfosection7consultation@fws.gov

Attachment(s):

- Official Species List
 - USFWS National Wildlife Refuges and Fish Hatcheries
 - Migratory Birds
 - Wetlands
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Mississippi Ecological Services Field Office

6578 Dogwood View Parkway, Suite A

Jackson, MS 39213-7856

(601) 965-4900

Project Summary

Consultation Code: 04EM1000-2020-SLI-0590

Event Code: 04EM1000-2020-E-03030

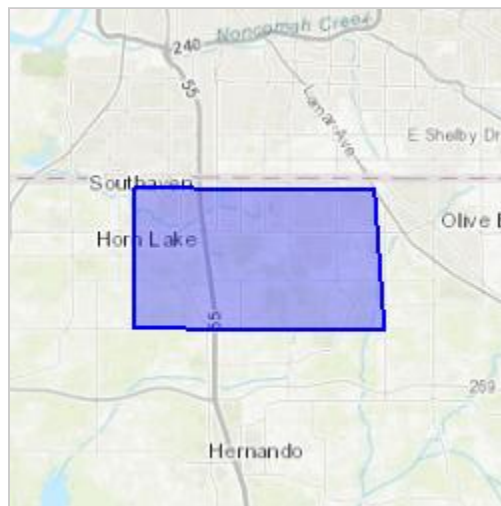
Project Name: North DeSoto County Feasibility Study_Flood Risk Management_Updated

Project Type: DREDGE / EXCAVATION

Project Description: Pursuant to the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE), Memphis District, as the lead agency intends to prepare a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project: North DeSoto County, Mississippi Feasibility Study. The DIFR-EIS seeks to evaluate the effectiveness of existing Federal and non-Federal improvements; to determine the need for additional improvements to reduce the risk of flooding from storm water, restore environmental resources, and improve the quality of water entering the Mississippi River and its tributaries; and to determine if such improvements are technically feasible, environmentally acceptable, and economically justified.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/34.945281715551786N89.95977722657608W>



Counties: DeSoto, MS

Endangered Species Act Species

There is a total of 2 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Wood Stork <i>Mycteria americana</i> Population: AL, FL, GA, MS, NC, SC No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8477	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

-
1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

MIGRATORY BIRD INFORMATION WAS NOT AVAILABLE WHEN THIS SPECIES LIST WAS GENERATED. PLEASE CONTACT THE FIELD OFFICE FOR FURTHER INFORMATION.

Migratory Birds FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) and/or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ “What does IPaC use to generate the migratory birds potentially occurring in my specified location”. Please be aware this report provides the “probability of presence” of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the “no data” indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ “Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds” at the bottom of your migratory bird trust resources page.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

Due to your project's size, the list below may be incomplete, or the acreages reported may be inaccurate. For a full list, please contact the local U.S. Fish and Wildlife office or visit <https://www.fws.gov/wetlands/data/mapper.HTML>

FRESHWATER EMERGENT WETLAND

- [PEM1A](#)
- [PEM1Ad](#)
- [PEM1Ah](#)
- [PEM1Ax](#)

FRESHWATER FORESTED/SHRUB WETLAND

- [PFO1A](#)
- [PFO1Ad](#)
- [PFO1Ah](#)
- [PFO1Ax](#)
- [PFO1C](#)
- [PSS1A](#)
- [PSS1Ax](#)
- [PSS1C](#)
- [PSS1Cb](#)

FRESHWATER POND

- [PUBF](#)
 - [PUBH](#)
 - [PUBHh](#)
 - [PUBHx](#)
 - [PUBKx](#)
 - [PUSAh](#)
-

LAKE

- [L1UBHh](#)

RIVERINE

- [R2UBH](#)
 - [R2UBHx](#)
 - [R4SBC](#)
 - [R4SBCx](#)
 - [R5UBH](#)
-



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Mississippi Ecological Services Field Office
6578 Dogwood View Parkway, Suite A
Jackson, Mississippi 39213
Phone: (601)965-4900 Fax: (601)965-4340

September 22, 2020

IN REPLY REFER TO:
2020-I-1406

Mr. Edward P. Lambert
Department of the Army
Memphis District Corps of Engineers
167 North Main Street B-202
Memphis, Tennessee 38103

Dear Mr. Lambert:

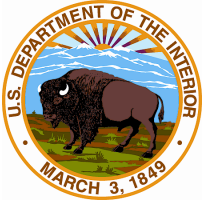
The Fish and Wildlife Service (Service) has reviewed your correspondence dated September 15, 2020, regarding the proposed North DeSoto County, Mississippi Feasibility Study. Our comments are submitted in accordance with the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The proposed project falls within the range of the northern long-eared bat (*Myotis septentrionalis*; NLEB) and the wood stork (*Mycertia americana*). The Service has received the NLEB 4(d) Rule Streamlined Consultation Form for the proposed project and concurs with your determination that the proposed project may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule. Additionally, based on the information provided, suitable habitat for the wood stork is not found within the action area. The Service has no additional comments or concerns regarding this project as it relates to the ESA.

No further coordination is required with this office unless there are changes in scope or location of the proposed project. If you have any questions, please contact Kelly Morris in our office, telephone: (601) 321-1120, or visit our website at <http://www.fws.gov/mississippiES/>.

Sincerely,

Stephen Ricks
Stephen M. Ricks
Field Supervisor
Mississippi Field Office



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Mississippi Ecological Services Field Office
6578 Dogwood View Parkway, Suite A
Jackson, Mississippi 39213
Phone: (601)965-4900 Fax: (601)965-4340

September 22, 2020

IN REPLY REFER TO:
2020-I-1406

Mr. Edward P. Lambert
Department of the Army
Memphis District Corps of Engineers
167 North Main Street B-202
Memphis, Tennessee 38103

Dear Mr. Lambert:

The Fish and Wildlife Service (Service) has reviewed your correspondence dated September 15, 2020, regarding the proposed North DeSoto County, Mississippi Feasibility Study. Our comments are submitted in accordance with the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

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No further coordination is required with this office unless there are changes in scope or location of the proposed project. If you have any questions, please contact Kelly Morris in our office, telephone: (601) 321-1120, or visit our website at <http://www.fws.gov/mississippiES/>.

Sincerely,

Stephen Ricks
Stephen M. Ricks
Field Supervisor
Mississippi Field Office

Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form

Federal agencies should use this form for the optional streamlined consultation framework for the northern long-eared bat (NLEB). This framework allows federal agencies to rely upon the U.S. Fish and Wildlife Service's (USFWS) January 5, 2016, intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule for the NLEB for section 7(a)(2) compliance by: (1) notifying the USFWS that an action agency will use the streamlined framework; (2) describing the project with sufficient detail to support the required determination; and (3) enabling the USFWS to track effects and determine if reinitiation of consultation is required per 50 CFR 402.16.

This form is not necessary if an agency determines that a proposed action will have no effect to the NLEB or if the USFWS has concurred in writing with an agency's determination that a proposed action may affect, but is not likely to adversely affect the NLEB (i.e., the standard informal consultation process). Actions that may cause prohibited incidental take require separate formal consultation. Providing this information does not address section 7(a)(2) compliance for any other listed species.

Information to Determine 4(d) Rule Compliance:

YES NO

1. Does the project occur wholly outside of the WNS Zone ¹ ?	<input type="checkbox"/>	<input type="checkbox"/>
2. Have you contacted the appropriate agency ² to determine if your project is near known hibernacula or maternity roost trees?	<input type="checkbox"/>	<input type="checkbox"/>
3. Could the project disturb hibernating NLEBs in a known hibernaculum?	<input type="checkbox"/>	<input type="checkbox"/>
4. Could the project alter the entrance or interior environment of a known hibernaculum?	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the project remove any trees within 0.25 miles of a known hibernaculum at any time of year?	<input type="checkbox"/>	<input type="checkbox"/>
6. Would the project cut or destroy known occupied maternity roost trees, or any other trees within a 150-foot radius from the maternity roost tree from June 1 through July 31.	<input type="checkbox"/>	<input type="checkbox"/>

You are eligible to use this form if you have answered yes to question #1 **or** yes to question #2 **and** no to questions 3, 4, 5 and 6. The remainder of the form will be used by the USFWS to track our assumptions in the BO.

Agency and Applicant³ (Name, Email, Phone No.):

Project Name:

Project Location (include coordinates if known):

Basic Project Description (provide narrative below or attach additional information):

¹ <http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>

² See <http://www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html>

³ If applicable - only needed for federal actions with applicants (e.g., for a permit, etc.) who are party to the consultation.

General Project Information	YES	NO
Does the project occur within 0.25 miles of a known hibernaculum?	<input type="checkbox"/>	<input type="checkbox"/>
Does the project occur within 150 feet of a known maternity roost tree?	<input type="checkbox"/>	<input type="checkbox"/>
Does the project include forest conversion ⁴ ? (if yes, report acreage below)	<input type="checkbox"/>	<input type="checkbox"/>
Estimated total acres of forest conversion		
If known, estimated acres ⁵ of forest conversion from April 1 to October 31		
If known, estimated acres of forest conversion from June 1 to July 31 ⁶		
Does the project include timber harvest? (if yes, report acreage below)	<input type="checkbox"/>	<input type="checkbox"/>
Estimated total acres of timber harvest		
If known, estimated acres of timber harvest from April 1 to October 31		
If known, estimated acres of timber harvest from June 1 to July 31		
Does the project include prescribed fire? (if yes, report acreage below)	<input type="checkbox"/>	<input type="checkbox"/>
Estimated total acres of prescribed fire		
If known, estimated acres of prescribed fire from April 1 to October 31		
If known, estimated acres of prescribed fire from June 1 to July 31		
Does the project install new wind turbines? (if yes, report capacity in MW below)	<input type="checkbox"/>	<input type="checkbox"/>
Estimated wind capacity (MW)		

Agency Determination:

By signing this form, the action agency determines that this project may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule.

If the USFWS does not respond within 30 days from submittal of this form, the action agency may presume that its determination is informed by the best available information and that its project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016, Programmatic BO. The action agency will update this determination annually for multi-year activities.

The action agency understands that the USFWS presumes that all activities are implemented as described herein. The action agency will promptly report any departures from the described activities to the appropriate USFWS Field Office. The action agency will provide the appropriate USFWS Field Office with the results of any surveys conducted for the NLEB. Involved parties will promptly notify the appropriate USFWS Field Office upon finding a dead, injured, or sick NLEB.

Signature: _____

Date Submitted: _____

⁴ Any activity that temporarily or permanently removes suitable forested habitat, including, but not limited to, tree removal from development, energy production and transmission, mining, agriculture, etc. (see page 48 of the BO).

⁵ If the project removes less than 10 trees and the acreage is unknown, report the acreage as less than 0.1 acre.

⁶ If the activity includes tree clearing in June and July, also include those acreage in April to October.

From: [Morris, Kelly M](#)
To: [Carpenter Crowther, Andrea L CIV USARMY CEMVN \(US\)](#)
Subject: [Non-DoD Source] Re: [EXTERNAL] RE: North DeSoto County Feasibility Study Tentatively Selected Plan
Date: Wednesday, July 1, 2020 10:21:00 AM

Hey Andrea,

Hope you are doing well. FWS has no specific concerns with the proposed channel enlargement and rip-rap bottom on Horn Lake Creek, in these urbanized streams rip-rap will provide microhabitats suitable for aquatic species found in this area. As far as the modeling approaches, FWS would prefer the Corps uses the SCI model, however HSI models will suffice if the Corps determines the SCI models are not warranted.

I'm not too familiar with certified green spaces, but you might want to try and contact following which I found on the county website: Contact Greenways & Parks at 662-489-9708 about specific greenways, bike trails or walking trails around the I-269 corridor.

Finally, I spoke with the state fish biologist (Matt Wagner, MDWFP) regarding any state species of concern/FWS at-risk species in the Horn Lake and Coldwater River areas. One species of particular concern is the Piebald Madtom (*Noturus gladiator*), this is a candidate species for listing under the ESA, with a high potential for listing. Areas within the Coldwater River where the Piebald Madtom are currently known are ~20 miles of unchannelized river from Highway 305 (34.814037, -89.826300) to Cayce Road (34.907095, -89.617588). This is their last "stronghold" in the Yazoo as they are extirpated from the Tallahatchie River. Any area near or withing this reach would be ideal for any restoration/mitigation projects. Potential restoration projects in this type of situation would add instream habitat and contribute to streambank stabilization. We would recommend restoration projects that create riffles using rip-rap and woody debris, strategically sunken coarse woody debris, and creation bank habitat utilizing various structures. There is great example of this in Water Valley which is doing wonders for Yazoo Darters. Additionally, streambank restoration work would be beneficial for this area, involving planting the correct vegetation and properly grading the bank to prevent future erosion. Matt would be the best contact to address any madtom issues/questions, his contact information is: E-mail: matthew.wagner@mmns.ms.gov; Phone: 610-763-9074.

Hopefully I've covered all the bases, please feel free to reach out if you have any additional questions. Hope you have a happy, relaxing 4th!

Kelly

From: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US)
<Andrea.L.Carpenter@usace.army.mil>

Sent: Monday, June 22, 2020 9:51 AM

To: Morris, Kelly M <kelly_morris@fws.gov>

Subject: RE: [EXTERNAL] RE: North DeSoto County Feasibility Study Tentatively Selected Plan

Great, thanks. Feel free to give me a call anytime.

-----Original Message-----

From: Morris, Kelly M [mailto:kelly_morris@fws.gov]

Sent: Monday, June 22, 2020 9:46 AM

To: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US)

<Andrea.L.Carpenter@usace.army.mil>

Subject: [Non-DoD Source] Re: [EXTERNAL] RE: North DeSoto County Feasibility Study Tentatively Selected Plan

Hey Andrea, thanks for the update. Planning to get you comments this week, I'll give you a call if I have any questions.

From: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US)

<Andrea.L.Carpenter@usace.army.mil>

Sent: Monday, June 15, 2020 1:50 PM

To: Morris, Kelly M <kelly_morris@fws.gov>; Dennis Riecke <Dennis.Riecke@wfp.ms.gov>; FBass@mdeq.ms.gov <FBass@mdeq.ms.gov>; larry.long@epa.gov <larry.long@epa.gov>; Stacey Ricks <sricks@mema.ms.gov>; Everitt, Jared H CIV USARMY CEMVN (US)

<Jared.H.Everitt@usace.army.mil>; Price, Jaybus J ERD-MS <Jaybus.J.Price@usace.army.mil>;

Felder, David <david_felder@fws.gov>; Garreth DeKlerk <gdeKlerk@mema.ms.gov>; Angela Matthews <amatthews@mema.ms.gov>; Berkowitz, Jacob F CIV USARMY CEERD-EL (USA)

<Jacob.F.Berkowitz@usace.army.mil>; Killgore, Jack ERDC-EL-MS

<Jack.Killgore@erdc.dren.mil>

Subject: [EXTERNAL] RE: North DeSoto County Feasibility Study Tentatively Selected Plan

Hello everyone,

It's been a while since I was able to send out an update in the feasibility study in DeSoto County, Mississippi, and I would like to correct that.

As you know, USACE delayed the Tentatively Selected Plan (TSP) milestone date. The current National Economic Development (NED) plan includes a 0.5 mile channel enlargement with a full riprap bottom. The channel bottom would be widened to approximately 40 feet. Tree clearing would be required for access, bank excavation, etc. I have attached an aerial map of the site that is proposed for enlargement, it isn't detailed, but it will give you an idea of the site. In addition, there is a non-structural component that would potentially raise or relocate residential structures and/or dry floodproof commercial structures in the 25-year floodplain (0.04 annual exceedance probability floodplain) of Horn Lake Creek and the Coldwater River.

The USACE is currently working with the Sponsor to ensure that the identified alternatives are suitable to meet the needs of the public.

As a reminder, the final array of alternatives includes the following (NED plan is 3B):

No Action

1A 3 detention sites (Cow Pen, Lateral D and Rocky)

1B 3 detention sites (Cow Pen, Lateral D and Rocky), plus 50 YR Nonstructural

2A 3 detention sites (Cow Pen, Lateral D, and Rocky) plus HLC Channel Enlargement 18.86-

19.41

3A Channel Enlargement RM 18.86-19.41

3B Channel Enlargement RM 18.86-19.41 plus 25 YR Nonstructural

4A 0.04 AEP "25 YR" Nonstructural Aggregation

4B 0.02 AEP "50 YR" Nonstructural Aggregation

I'm working to determine the modeling that will be used to determine impacts and compensatory mitigation for this action, and I need your input.

The USACE has identified the Hydrogeomorphic Method to model wetland functions. Some field work has been conducted, and initial modeling indicates that wetlands in the project area produce moderate levels of functionality. During a preliminary survey of potential project areas, data was collected from the review of satellite imagery and site surveys to determine the functional capacity of wetlands and terrestrial habitat in the area, as well as potential impacts to those resources. The preliminary data on wetland functional conditions within the project area suggest that the wetlands in the vicinity of the project area provide functions at a moderate level (average functional capacity index [FCI] = 0.65). We don't expect to incur impacts to wetlands due to the NED plan, but we haven't had boots on the ground out there.

Currently, the pdt is determining if the development of an ecological model using a Stream Condition Index (SCI) is appropriate and warranted. This approach would evaluate the cause and effect relationship between stream and watershed conditions and aquatic biota at an appropriate scale. The SCI can also be used to plan and conduct site-specific, intensive ecosystem studies, and assess ecosystem outcomes (i.e., ecological lift) applicable to future with and without restoration actions including alternative, feasibility, and cost/benefit analyses and adaptive management. Please see the attached Tech Note from our Engineering Research and Design Center. If a determination is made that using SCI for ecological modelling is not appropriate due to cost or time restraints, the Habitat Evaluation Procedures (using Habitat Suitability Index models) are expected to be utilized to determine potential impacts and the mitigation required to offset those impacts. An appropriate guild of species will be selected to evaluate any habitat types that may be impacted.

Finally, I am tracking that Horn Lake Creek and possibly some reaches of the Coldwater River, are on the 303(d) list for sedimentation, and that we have a likely HTRW site adjacent to our proposed action. This proposed plan occurs within the range of the wood stork and northern long-eared bat, federally listed (threatened) species, and we are not likely to adversely affect these species. This is also within or adjacent to a 'certified green space'. I haven't dealt with this issue before. Does anyone have insight? What else do we have either in the vicinity, County, or NED project area that I need to know about and address in the report that we will eventually release to the public?

I'm looking forward to your input, if you have any questions, please let me know. I can set up a call or teleconference at your request, if needed.

Thanks for taking time to look at this with me, Andrea

-----Original Message-----

From: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US)

Sent: Wednesday, April 1, 2020 10:40 AM

To: Morris, Kelly <kelly_morris@fws.gov>; Dennis Riecke <Dennis.Riecke@wfp.ms.gov>; FBass@mdeq.ms.gov; larry.long@epa.gov; Stacey Ricks <sricks@mema.ms.gov>; Everitt, Jared H CIV USARMY CEMVN (US) <Jared.H.Everitt@usace.army.mil>; Price, Jaybus J ERD-MS <Jaybus.J.Price@usace.army.mil>; David Felder <david_felder@fws.gov>; Garreth DeKlerk <gdeKlerk@mema.ms.gov>; Angela Matthews <amatthews@mema.ms.gov>; Berkowitz, Jacob F CIV USARMY CEERD-EL (USA) <Jacob.F.Berkowitz@usace.army.mil>

Subject: North DeSoto County Feasibility Study Tentatively Selected Plan

Good Morning,

The North DeSoto project development team has arrived at a tentatively selected plan (TSP) to Reduce flood damages to businesses, residents, and infrastructure in DeSoto County; Reduce risks to critical infrastructure; Reduce risk to human life from flooding and rainfall events throughout the county.

Measures that were evaluated include channel improvement measures such as enlargement, concrete lining, riprap stabilization, and diversion; levees and floodwalls; detention basins; constriction removal; and non-structural measures such as raising residences and flood-proofing commercial properties.

The TSP identified from the final array is a combination of the Horn Lake Creek Channel Enlargement (RM 18.86-19.41) and an optimized nonstructural plan aggregated by floodplain. The 25 or 50 yr. nonstructural aggregation will be refined by assessing the channel enlargement as the new base condition for the hydrology. The TSP is also the National Economic Development (NED) Plan. The net annual benefits for the Channel Enlargement with 50 YR nonstructural aggregation are \$2,793,178 and the BCR is 1.77. This plan has the greatest economic net benefit and is consistent with protecting the Nation's environment.

You are invited to attend the TSP meeting to be held on 2 April 2020 at 2:30pm. Please see the following teleconference information, as well as the supporting documentation pertaining to the meeting. I do apologize for the tardiness of this message. The USACE is hopeful that you can attend the meeting. If any further discussion is required prior to the meeting, please give me a call at (901) 544-0817 or (901) 489-2257, or contact me by email at Andrea.L.Carpenter@usace.army.mil <<mailto:Andrea.L.Carpenter@usace.army.mil>> .

Conf/Webinar

- BlockedBlockedhttps://usace.webex.com/meet/mvd_planning
- No. - 877-402-9757
- Access - 7067116
- Host - 3515
- Security - 1111

Thank you for attention to this matter,

Andrea L. Carpenter
Biologist
USACE, Regional Planning and Environment Division South
167 N. Main St., Rm. B-202
Memphis, TN 38103
Phone: 901-544-0817
Fax: 901-544-3955
Email: Andrea.L.Carpenter@usace.army.mil



DEPARTMENT OF THE ARMY

MEMPHIS DISTRICT CORPS OF ENGINEERS

167 NORTH MAIN STREET B-202
MEMPHIS TN 38103-1894

September 6, 2019

Christopher A. Militscher
U.S. Environmental Protection Agency
Region 4
Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960

Dear Mr. Militscher,

The U.S. Army Corps of Engineers (USACE), Memphis District (MVM), thanks the U.S. Environmental Protection Agency (USEPA) for the scoping comments provided August 22, 2019 regarding the *North DeSoto County, Mississippi Feasibility Study*. The USACE MVM is working to incorporate the comments and will utilize the information provided, thus far.

The USACE MVM is preparing a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project entitled *North DeSoto County, Mississippi Feasibility Study*. The study focuses on the development of multi-purpose features to reduce flood risk and damages in the project area. Flooding inundates major transportation corridors and damages public infrastructure and development, including residential, commercial and industrial properties; isolates neighborhoods and communities; and threatens life safety. Removal of suitable riparian cover, loss of wetlands and floodplains, and an increase in development for residential and commercial purposes have contributed to an altered flow regime and repeated flooding within the City of Horn Lake, Southaven, Olive Branch, and Hernando as well as causing channel instability and further degradation of aquatic and wetland resources. Retention and/or detention basins, channel modifications, floodplain restoration, and other features are being investigated in this study to determine if these options would be effective and feasible in reducing damages from flooding.

The USACE MVM formally invites the USEPA to become a cooperating agency. Per the National Environmental Policy Act (NEPA), 40 CFR 1501.6, a cooperating agency would participate in the NEPA process at the earliest possible time; participate in the scoping process; assume, on request of the lead agency, responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement which the cooperating agency has special expertise; make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability; and would normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies.

Project formulation will be in accordance with NEPA and Engineering Regulation 1105-2-100 and will fully consider a range of environmental, economic and social factors. As a

cooperating agency, the USEPA would fully consider the views need and benefits of competing interests. A cooperating agency may, in response to a lead agency's request for assistance in preparing the environmental impact statement, reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council on Environmental Quality.

Please indicate whether the USEPA accepts the formal invitation to become a cooperating agency within 30 days of this letter. If you have questions, please contact Andrea Carpenter by phone at (901) 544-0817 or by email at Andrea.L.Carpenter@usace.army.mil.

Sincerely,

A handwritten signature in cursive script, reading "Edward P. Lambert".

Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environment Division South



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 26 2019

Edward P. Lambert
Chief, Environmental Compliance Branch
U.S. Army Corps of Engineers, Memphis District
167 North Main Street, B-202
Memphis, Tennessee 38103-1894

Re: Cooperating Agency Request for the North Desoto County, Mississippi Feasibility Study

Dear Mr. Lambert:

The U.S. Environmental Protection Agency, Region 4, received your letter dated September 6, 2019, offering this Agency an opportunity to be a cooperating agency for the subject document. The U.S. Army Corps of Engineers (USACE), Memphis District is preparing a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project.

We accept the Memphis District's offer to become a cooperating agency for the proposed project. However, it should be noted that our status as a cooperating agency has no effect on our review responsibilities under Section 102(2)(C) of the National Environmental Policy Act or Section 309 of the Clean Air Act and being a cooperating agency does not imply that the EPA will necessarily concur with all aspects of the DIFR-EIS.

Contingent upon agency resources, the EPA agrees to provide preliminary agency feedback on areas in which we have a level of expertise. The USACE should ensure that information relevant for providing comments will be provided to the agency in a timely manner, allowing sufficient review time, and with levels of detail necessary for meaningful feedback. The EPA also agrees to participate in the USACE's scoping activities and other important milestone meetings and technical reviews.

We appreciate your coordination with us and look forward to reviewing the environmental document for the proposed project. If you have any further questions or concerns, you may contact Mr. Larry Long at (404) 562-9460 or at long.larry@epa.gov. Please note that future correspondence pertaining to EPA's cooperating agency status should be directed to Ms. Ntale Kajumba, Acting Chief for the NEPA Section at (404) 562-9620 or kajumba.ntale@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris A. Militscher".

Christopher A. Militscher
Chief, NEPA Section
Strategic Programs Office



DEPARTMENT OF THE ARMY

MEMPHIS DISTRICT CORPS OF ENGINEERS

167 NORTH MAIN STREET B-202
MEMPHIS TN 38103-1894

September 6, 2019

Larry Pugh
Mississippi Department of Wildlife, Fisheries and Parks
Fisheries Bureau
1505 Eastover Drive, Jackson, Mississippi 39211

Dear Mr. Pugh,

The U.S. Army Corps of Engineers (USACE), Memphis District (MVM), thanks the Mississippi Department of Wildlife, Fisheries and Parks (MDWFP) for the informal comments and information provided on the *North DeSoto County, Mississippi Feasibility Study*, thus far.

The USACE MVM is preparing a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project entitled *North DeSoto County, Mississippi Feasibility Study*. The study focuses on the development of multi-purpose features to reduce flood risk and damages in the project area. Flooding inundates major transportation corridors and damages public infrastructure and development, including residential, commercial and industrial properties; isolates neighborhoods and communities; and threatens life safety. Removal of suitable riparian cover, loss of wetlands and floodplains, and an increase in development for residential and commercial purposes have contributed to an altered flow regime and repeated flooding within the City of Horn Lake, Southaven, Olive Branch, and Hernando as well as causing channel instability and further degradation of aquatic and wetland resources. Retention and/or detention basins, channel modifications, floodplain restoration, and other features are being investigated in this study to determine if these options would be effective and feasible in reducing damages from flooding.

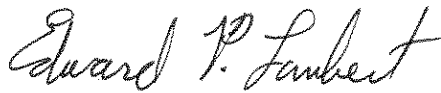
The USACE MVM formally invites the MDWFP to become a cooperating agency. Per the National Environmental Policy Act (NEPA), 40 CFR 1501.6, a cooperating agency would participate in the NEPA process at the earliest possible time; participate in the scoping process; assume, on request of the lead agency, responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement which the cooperating agency has special expertise; make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability; and would normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies.

Project formulation will be in accordance with NEPA and Engineering Regulation 1105-2-100 and will fully consider a range of environmental, economic and social factors. As a cooperating agency, the MDWFP would fully consider the views need and benefits of competing interests. A cooperating agency may, in response to a lead agency's request for assistance in preparing the environmental impact statement, reply that other program commitments preclude

any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council on Environmental Quality.

Please indicate whether the MDWFP accepts the formal invitation to become a cooperating agency within 30 days of this letter. If you have questions, please contact Andrea Carpenter by phone at (901) 544-0817 or by email at Andrea.L.Carpenter@usace.army.mil.

Sincerely,

A handwritten signature in cursive script that reads "Edward P. Lambert".

Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environment Division South



**MISSISSIPPI
DEPARTMENT OF WILDLIFE, FISHERIES, AND PARKS**

SAM POLLES, Ph.D
Executive Director

September 24, 2019

Mr. Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South
Memphis District Corps of Engineers
167 North Main Street B-202
Memphis, TN 38103-1894

Dear Mr. Lambert,

I am in receipt of your letter regarding the *North Desoto County, Mississippi Feasibility Study*. Thank you for inviting the Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) to become a cooperating agency.

The MDWFP appreciates the USACE for taking into consideration the informal comments and information that we provided in 2018. The MDWFP recognizes the importance of this project; however, we do not desire to become a cooperating agency under the National Environmental Policy Act, 40 CFR 1501.6. We will be glad to participate in the planning process by reviewing and commenting on project documents.

Please let me know if you need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry Pugh", written over a horizontal line.

Larry Pugh
Fisheries Bureau Chief of Staff

From: [Carpenter Crowther, Andrea L CIV USARMY CEMVN \(US\)](#)
To: [Dennis Riecke](#)
Subject: RE: North DeSoto
Date: Tuesday, June 30, 2020 3:53:00 PM
Attachments: [Wood Stork MS SLOPES FY2019 final fillable.pdf](#)
[From Horn Lake Road Bridge Looking DS.JPG](#)
[Lagoon 2.jpg](#)
[Lagoon.jpg](#)
[Looking US toward HL Road Bridge.jpg](#)

Hi Dennis,

Sorry for taking so long to get back you. I started this email last week. Are you interested in seeing one of the SLOPES documents? I have attached the wood stork SLOPES that we will likely use for the project.

I got the project into the Heritage system after talking with Nicole, so no worries there. I'm waiting for the letter back. I asked for species of concern in several of the basins in DeSoto County because the scope of the project may be expanded, we aren't sure yet.

I believe that part of the area is a designated green space and it looks like the landowners on the left descending bank planted all of those trees, so I'm sure they'll want to keep as much as possible. I have proposed avoiding where possible, and replanting that riparian zone where impacts are unavoidable. There are some concerns, as it may increase expected roughness and decrease the flood risk reduction benefits that are expected. I'll keep working for it, and we will certainly minimize impacts everywhere possible; however, I already know that the flood risk management and maintenance will take priority. I was down there earlier last week, and I have attached some photos. There is some pretty decent habitat locally, but a lot of the habitat is isolated into fairly small areas. I like the idea of native grasses. Would there be any requirements of acquiring native eco-types, or do you know if there are any programs in Mississippi that produce native seed?

Recreation (small primitive boat launch) is a little complicated. I think the Sponsor has to pay for 100% of that cost, maybe. I have never worked on doing something like that, but I know some people who have, so I will ask. Since it is a County or City designated Greenspace, it may be more promising.

The SWAP is very helpful. I think you sent that a while ago, I have referenced it in several places in the draft report already. It took a little bit to find my way around in it there is so much info, but it is a great help.

Thank you for the feedback, Dennis.

Have a great 4th if I don't have a chance to talk to you before then!

Thanks,
Andrea

-----Original Message-----

From: Dennis Riecke [<mailto:Dennis.Riecke@wfp.ms.gov>]
Sent: Monday, June 22, 2020 7:25 PM
To: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US) <Andrea.L.Carpenter@usace.army.mil>
Subject: [Non-DoD Source] Re: North DeSoto

It would be great if we could preserve as much of that wooded area adjacent to this stream as possible. I know some of the riparian zone will have to be cleared for the channel enlargement/stabilization. But after the work is done, perhaps we could replant trees on one side and native grasses and shrubs on the other side. I would hate to see development take all of the riparian zone. That will increase runoff from the additional amount of impervious surfaces. A fifty foot buffer is too narrow, we need to push for more, perhaps up to 300 feet. Some developed access to the creek with some canoe/kayak launching areas would be great. My agency is starting to build those. Saw one on a creek in AR. Just a trail down to the water and then a small platform at the creek edge.

Email Nicole. She will be happy to help you and remember that all federally funded projects need our heritage survey review. I see Corps public notices that just refer to coordinating with the USFWS from something called SCOPES which I think is some standard agreed upon guidance statewide.

Dennis

From: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US) <Andrea.L.Carpenter@usace.army.mil>
Sent: Monday, June 22, 2020 5:19 PM
To: Dennis Riecke <Dennis.Riecke@wfp.ms.gov>
Subject: RE: North DeSoto

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks Dennis. I appreciate it. I tried to create a project in the heritage database, but it didn't work the first time. I'll email Nicole, and see what we can come up with.

There is water in Horn Lake Creek, pretty much all of the time if not ALL the time. I think it is perennial. Try this for the channel enlargement. If it doesn't, I will try something else.

Thank you for your comments and suggestions. I will keep working to incorporate these items into the project. Also, if you have any other recommendations on stream restoration, don't hesitate to let me know!

Thanks so much,
Andrea

-----Original Message-----

From: Dennis Riecke [<mailto:Dennis.Riecke@wfp.ms.gov>]
Sent: Monday, June 22, 2020 4:41 PM
To: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US) <Andrea.L.Carpenter@usace.army.mil>
Subject: [Non-DoD Source] Re: North DeSoto

Andrea,

I looked at the map and the table and read your Email. I could see the detention basins on the map but not the stream channelization. I like the idea of a bench cut to create a small floodplain adjacent to the channelized/stabilized creeks. I want the Corps to consider using "soft" technology, i.e. suitable shrubs to stabilize the banks in lieu of all or some of the riprap armoring being planned. I have seen this technique used in NW Arkansas with success to stabilize eroding banks. Large boulders and anchored logs were also placed in the channel to deflect flow, and create some structure as opposed to a channel totally armored with rip rap. Don't know if there is continuous flow in these streams or not. Urban streams typically have severely degraded aquatic habitat and are mainly inhabited by generalist species who are the only ones that can exist under such conditions. No information on any existing recreational fishing or access to the streams in the area. Such information would be nice to have to determine if we can enhance or provide such a recreational opportunity in an urban setting. Any NRCS programs available under the Fish and Wildlife partnership through NRCS State Wildlife Technical Committee., ?Supposedly there is a stream restoration component that could use appropriated funds, but to my knowledge it has never been utilized. Your contact for this is:

kevin.nelms@usda.gov

Start with him. He may refer you to someone else.

Dennis Riecke
Fisheries/Environmental Coordinator

Nolehoe

We do not currently have any records of rare, threatened, or endangered species or communities in the vicinity of Nolehoe Creek in DeSoto County, MS. The quantity and quality of data collected by the Mississippi Natural Heritage Program are dependent on the research and observations of many individuals and organizations and, in many cases, this information is not the result of comprehensive or site-specific field surveys.

Lick Creek

SNAME	SCOMNAME	Fed_Status	State_Status	S_RANK
<i>Antrostomus carolinensis</i>	Chuck-will's-widow			S4B
<i>Melanerpes erythrocephalus</i>	Red-headed Woodpecker			S4S5
<i>Hylocichla mustelina</i>	Wood Thrush			S5B
<i>Setophaga discolor</i>	Prairie Warbler			S5B
<i>Protonotaria citrea</i>	Prothonotary Warbler			S5B
<i>Geothlypis formosa</i>	Kentucky Warbler			S5B
<i>Mustela frenata</i>	Long-tailed Weasel			S2?

Horn Lake Creek

SNAME	SCOMNAME	Fed_Status	State_Status	S_RANK
<i>Ursus americanus</i>	American Black Bear		LE	S1
<i>Lasiurus borealis</i>	Eastern Red Bat			S4S5

Cow Pen Creek

SNAME	SCOMNAME	Fed_Status	State_Status	S_RANK
<i>Ursus americanus</i>	American Black Bear		LE	S1
<i>Lasiurus borealis</i>	Eastern Red Bat			S4S5

Coldwater River

SNAME	SCOMNAME	Fed_Status	State_Status	S_RANK
<i>Noturus gladiator</i>	Piebald Madtom		LE	S1
<i>Strophitus undulatus</i>	Squawfoot			S1
<i>Equisetum arvense</i>	Field Horsetail			S1S2
<i>Viola pubescens</i> var. <i>pubescens</i>	Smooth Yellow Violet			S1S2
<i>Anodontoides radiatus</i>	Rayed Creekshell			S2
<i>Mustela frenata</i>	Long-tailed Weasel			S2?
<i>Anas rubripes</i>	American Black Duck			S2N
<i>Cyprinella whipplei</i>	Steelcolor Shiner			S3
<i>Etheostoma asprigene</i>	Mud Darter			S3
<i>Hybopsis amnis</i>	Pallid Shiner			S3
<i>Ictiobus niger</i>	Black Buffalo			S3
<i>Haliaeetus leucocephalus</i>	Bald Eagle			S3B,S2N
<i>Pelecanus erythrorhynchos</i>	American White Pelican			S3N
<i>Tritogonia verrucosa</i>	Pistolgrip			S4
<i>Cyclonaias pustulosa</i>	Pimpleback			S5
<i>Fusconaia flava</i>	Wabash Pigtoe			S5
<i>Lampsilis teres</i>	Yellow Sandshell			S5
<i>Ligumia subrostrata</i>	Pondmussel			S5
<i>Potamilus purpuratus</i>	Bleufer			S5
<i>Utterbackia imbecillis</i>	Paper Pondshell			S5

Camp Creek Upper

SNAME	SCOMNAME	Fed_Status	State_Status	S_RANK
<i>Antrostomus carolinensis</i>	Chuck-will's-widow			S4B
<i>Melanerpes erythrocephalus</i>	Red-headed Woodpecker			S4S5
<i>Hylocichla mustelina</i>	Wood Thrush			S5B
<i>Setophaga discolor</i>	Prairie Warbler			S5B
<i>Protonotaria citrea</i>	Prothonotary Warbler			S5B
<i>Geothlypis formosa</i>	Kentucky Warbler			S5B

Camp Creek Canal

We do not currently have any records of rare, threatened, or endangered species or communities in the vicinity of Camp Creek Canal Creek in DeSoto County, MS. The quantity and quality of data collected by the Mississippi Natural Heritage Program are dependent on the research and observations of many individuals and organizations and, in many cases, this information is not the result of comprehensive or site-specific field surveys.

Rocky Creek				
SNAME	SCOMNAME	Fed_Status	State_Status	S_RANK
Ursus americanus	American Black Bear		LE	S1
Lasiurus borealis	Eastern Red Bat			S4S5

Rocky Creek DS of I-55				
SNAME	SCOMNAME	Fed_Status	State_Status	S_RANK
Ursus americanus	American Black Bear		LE	S1
Lasiurus borealis	Eastern Red Bat			S4S5



DEPARTMENT OF THE ARMY

MEMPHIS DISTRICT CORPS OF ENGINEERS

167 NORTH MAIN STREET B-202
MEMPHIS TN 38103-1894

September 6, 2019

Florance Bass
Mississippi Department of Environmental Quality
Environmental Permits Division
Office of Pollution Control Mississippi
Department of Environmental Quality
Jackson, MS 39213

Dear Ms. Bass,

The U.S. Army Corps of Engineers (USACE), Memphis District (MVM), thanks the Mississippi Department of Environmental Quality (MDEQ) for the informal comments and information provided on the *North DeSoto County, Mississippi Feasibility Study*, thus far.

The USACE MVM is preparing a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project entitled *North DeSoto County, Mississippi Feasibility Study*. The study focuses on the development of multi-purpose features to reduce flood risk and damages in the project area. Flooding inundates major transportation corridors and damages public infrastructure and development, including residential, commercial and industrial properties; isolates neighborhoods and communities; and threatens life safety. Removal of suitable riparian cover, loss of wetlands and floodplains, and an increase in development for residential and commercial purposes have contributed to an altered flow regime and repeated flooding within the City of Horn Lake, Southaven, Olive Branch, and Hernando as well as causing channel instability and further degradation of aquatic and wetland resources. Retention and/or detention basins, channel modifications, floodplain restoration, and other features are being investigated in this study to determine if these options would be effective and feasible in reducing damages from flooding.

The USACE MVM formally invites the MDWQ to become a cooperating agency. Per the National Environmental Policy Act (NEPA), 40 CFR 1501.6, a cooperating agency would participate in the NEPA process at the earliest possible time; participate in the scoping process; assume, on request of the lead agency, responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement which the cooperating agency has special expertise; make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability; and would normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies.

Project formulation will be in accordance with NEPA and Engineering Regulation 1105-2-100 and will fully consider a range of environmental, economic and social factors. As a cooperating agency, the MDEQ would fully consider the views need and benefits of competing

interests. A cooperating agency may, in response to a lead agency's request for assistance in preparing the environmental impact statement, reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council on Environmental Quality.

Please indicate whether the MDEQ accepts the formal invitation to become a cooperating agency within 30 days of this letter. If you have questions, please contact Andrea Carpenter by phone at (901) 544-0817 or by email at Andrea.L.Carpenter@usace.army.mil.

Sincerely,

A handwritten signature in cursive script that reads "Edward P. Lambert". The signature is written in dark ink and is positioned above the printed name and title.

Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environment Division South

From: [Carpenter Crowther, Andrea L CIV USARMY CEMVN \(US\)](#)
To: ["Florance Bass"; "larry.long@epa.gov"; "Mike Freiman"](#)
Subject: RE: North DeSoto
Date: Thursday, June 18, 2020 4:49:00 PM
Attachments: [channel enlargement only HLC.KMZ](#)

Hello All,

Do you have any availability tomorrow or Monday for a call? I can set up a webinar so we can see maps and things.

I am attaching a map that indicates where the likely National Economic Development Plan would occur, if approved. The basics of the proposed project (currently) include approximately 0.5-mile channel enlargement with a riprap bottom. Are there any environmental features, such as a bench cut, or another feasible item that MDEQ has seen used successfully. Do you have any suggestions? Do you see any other items for concern?

I'd also like to discuss 303(d) and 305(b) streams. It looks like all of the streams in DeSoto County that we are looking at are not listed on the 303(d) list, some are listed as in-attainment for their uses (support of fish and wildlife, mostly). How do those 'moves' occur? I understand there are assessments and TMDL's, how I can ensure with you guys that we are not exceeding these/.

Also, if there are any specific items that EPA or MDEQ would like to recommend for monitoring of water quality etc. I'd be very interested.

Finally, there is a potential HTRW site adjacent to the (not yet) proposed channel enlargement per Will Stacey at MDEQ. It was a sewage lagoon about 40-50 years ago. MDEQ doesn't have much as far as records go and I can't currently find my map of it... Sorry about that. I can't get it to pull up on EnviroMapper today either. What do we need to do to determine if there is danger of an impacts here?

I appreciate your feedback.

Thank you,
Andrea L. Carpenter
Biologist
USACE, Regional Planning and Environment Division South
167 N. Main St., Rm. B-202
Memphis, TN 38103
Phone: 901-544-0817
Fax: 901-544-3955
Email: Andrea.L.Carpenter@usace.army.mil

-----Original Message-----

From: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US)
Sent: Monday, April 20, 2020 2:12 PM
To: Florance Bass <FBass@mdeq.ms.gov>
Cc: Mike Freiman <mfreiman@mdeq.ms.gov>
Subject: RE: North DeSoto

Thanks Florance.

We have a pdt on the subject project tomorrow morning. I'm going to spend the next few hours looking into the link you provided.

If you guys are available, maybe we can have a call later this week?

-----Original Message-----

From: Florance Bass [<mailto:FBass@mdeq.ms.gov>]

Sent: Thursday, April 16, 2020 1:23 PM

To: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US) <Andrea.L.Carpenter@usace.army.mil>

Cc: Mike Freiman <mfreiman@mdeq.ms.gov>

Subject: [Non-DoD Source] RE: North DeSoto

Andrea,

We discussed what would be included in a WQC application review and considerations that should be made when eliminating possible project alternatives. You can find our regulations at the following link:

Blocked<https://www.mdeq.ms.gov/wp-content/uploads/2017/06/11-Miss.-Admin.-Code-Pt.-6-Ch.-1..pdf>

You will find the scope of review which outlines factors of decision and basis of denial. That is located on pages 143-145. It is Rule 1.3.4. I would also pay attention to our definition of feasible alternatives as well. That definition can be found on page 11 (Rule 1.1.1.A.27)

Also, I mentioned that I would reach out to Mike Freiman to see if there are any concerns or additional monitoring data that may be needed from our Surface Water Division for the project. This is needed to discuss what may need to be addressed to be in compliance with any TMDLS or additional listings for Horn Lake Creek. I am copying Mike on this email so you will have his contact information. Mike, I'll reach out to you to discuss what I know thus far.

****In light of current events, please note that I may not be available by phone directly in my office. I am frequently checking email and voicemail. I will be communicating by email or phone. If you call, please leave a voicemail. I will return your call as soon as possible.****

Florance Bass, P.E., BCEE

Manager, 401/Stormwater Branch

Environmental Permits Division, Office of Pollution Control MS Department of Environmental Quality

(601)961-5614 (office)

(769)233-3276 (cell)

-----Original Message-----

From: Carpenter Crowther, Andrea L CIV USARMY CEMVN (US) <Andrea.L.Carpenter@usace.army.mil>

Sent: Thursday, April 16, 2020 1:07 PM

To: Florance Bass <FBass@mdeq.ms.gov>

Subject: North DeSoto

Hi Florance,

Can you send me the link to the permitting items we were discussing earlier today when you get a chance? We were talking about the scope of review for permitting actions, denial factors, and also talking with one of your MDEQ counterparts about the 303(d) component of Horn Lake Creek, and how to address it.

Thank you,

Andrea

From: [Robin Soweka Jr.](#)
To: [Lieb, Pamela D CIV USARMY CEMVM \(USA\)](#)
Subject: [Non-DoD Source] Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi
Date: Tuesday, October 8, 2019 8:36:24 AM

Good morning Ms. Lieb,

Thank you for sending the correspondence regarding the intent to prepare a feasibility and EIS for the Memphis Metropolitan stormwater management project located in North Desoto County, Mississippi. Desoto county is located within the Muscogee (Creek) Nation's historic area of interest and is of importance to us. The Muscogee Nation is interested in consulting on this project and request to be notified when the undertaking is about to begin. The Muscogee Nation also requests all of the sites that are within 1 mile of the proposed APE as well as maps showing more information of the exact locations such as lats and longs and/or townships, ranges, and sections. Please feel free to contact me if there any more questions or concerns and we look forward to consulting with you on this project.

Thank you,

Robin Soweka Jr.

Historic and Cultural Preservation Department | Cultural Resource Specialist

Muscogee (Creek) Nation

P.O. Box 580 | Okmulgee, OK 74447

T 918.732.7820

F 918.758.0649

[Blockedhttp://www.muscogeenation-nsn.gov/](http://www.muscogeenation-nsn.gov/)

THIS MESSAGE AND ANY ATTACHMENTS ARE COVERED BY THE ELECTRONIC COMMUNICATIONS PRIVACY ACT, 18 U.S.C. §§2510 et seq. AND CONTAIN INFORMATION THAT IS HIGHLY CONFIDENTIAL, PRIVILEGED AND EXEMPT FROM DISCLOSURE. ANY RECIPIENT OTHER THAN THE INTENDED RECIPIENT IS ADVISED THAT ANY DISSEMINATION, RETENTION, DISTRIBUTION, COPYING OR OTHER USE OF THE MESSAGE WITHOUT PRIOR WRITTEN CONSENT IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY.

From: [Lindsey Bilyeu](#)
To: [Lieb, Pamela D CIV USARMY CEMVM \(USA\)](#)
Subject: [Non-DoD Source] RE: Public Scoping Meeting for Memphis-Metropolitan Stormwater-North Desoto County, Mississippi
Date: Monday, October 14, 2019 4:24:22 PM

Pam,

Thank you for the additional information. As of right now, the area appears to be outside our partial area of interest in DeSoto Co., MS. The Choctaw Nation Historic Preservation Department respectfully defers to the other Tribes that have been contacted. However, if any changes involving the expansion or moving of the project area occur, please contact us.

If you have any questions, please contact me.

Thank you,

Lindsey D. Bilyeu, MS
Senior Compliance Review Officer
Historic Preservation Department
Choctaw Nation of Oklahoma
P.O. Box 1210
Durant, OK 74702
580-924-8280 ext. 2631

-----Original Message-----

From: Lieb, Pamela D CIV USARMY CEMVM (USA) <Pamela.D.Lieb@usace.army.mil>
Sent: Thursday, September 19, 2019 2:17 PM
To: Lindsey Bilyeu <lhbilyeu@choctawnation.com>
Subject: RE: Public Scoping Meeting for Memphis-Metropolitan Stormwater-North Desoto County, Mississippi

Halito: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Lindsey!

At this point in the study, we know for sure we will be focusing on the Horn Lake Creek Basin area. At this point, we are not anticipating anything outside of that area. We have not narrowed down what exactly we will be doing to the creek itself as far as channel improvements go such as concrete lined ditches, channel enlargements, or other options. We are looking at five detention ponds (we combined two of them as there were originally six). I will email you a kmz of the Horn Lake creek basin and the detention pond locations that I currently have. At this point, we are still running the hydrology on everything and alternatives are just now being developed but have not been set in stone. Thanks for getting in touch with me so quickly! Hope to see you at SEAC. Please let me know if you have any questions.

Pam

-----Original Message-----

From: Lindsey Bilyeu [<mailto:lhbilyeu@choctawnation.com>]
Sent: Thursday, September 19, 2019 1:13 PM
To: Lieb, Pamela D CIV USARMY CEMVM (USA) <Pamela.D.Lieb@usace.army.mil>
Subject: [Non-DoD Source] RE: Public Scoping Meeting for Memphis-Metropolitan Stormwater-North Desoto County, Mississippi

Pam,

The Choctaw Nation of Oklahoma thanks the USACE, Memphis District, for the correspondence regarding the above referenced project. Since only a small portion of the county is in our area of interest, could you please provide the GPS coordinates? This will help me to determine if it is in our area or not.

If you have any questions, please contact me.

Thank you,

Lindsey D. Bilyeu, MS
Senior Compliance Review Officer
Historic Preservation Department
Choctaw Nation of Oklahoma
P.O. Box 1210
Durant, OK 74702
580-924-8280 ext. 2631

-----Original Message-----

From: Lieb, Pamela D CIV USARMY CEMVM (USA) <Pamela.D.Lieb@usace.army.mil>
Sent: Monday, August 19, 2019 8:22 AM
To: Karen Brunso <Karen.Brunso@chickasaw.net>; Celestine Bryant <actrbe.org>; Lindsey Bilyeu <lhbilyeu@choctawnation.com>; Alina Shively <ashively@jenachoctaw.org>; Ken Carleton <choctaw.org>; carlii@tunica.org; ehandy@quapawtribe.com; Elizabeth Toombs <elizabeth.toombs@cherokee.org>; Section 106@mnce-nm.gov; John Underwood <junderwood@mdah.ms.gov>
Cc: Carpenter Crowther, Andrea L CIV USARMY CEMVM (US) <Andrea.L.Carpenter@usace.army.mil>
Subject: Public Scoping Meeting for Memphis-Metropolitan Stormwater-North Desoto County, Mississippi

Halito: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning:

The U.S. Army Corps of Engineers (USACE) will host a public scoping meeting to solicit comments and information from the public regarding flood impacts in DeSoto County, Mississippi. Findings from the meeting will be used to prepare a draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project: North DeSoto County, Mississippi. The DIFR-EIS will focus on developing a plan of improvement that provides flood risk reduction to public infrastructure as well as commercial and residential properties. Project features will be designed to avoid or minimize adverse environmental impacts. A project website has been set up for public access at the following: [BlockedBlockedhttps://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.mvm.usace.army.mil%2Fmissions%2Fprojects%2FNorth-DeSoto-County-Feasibility-Study%2F&data=02%7C01%7CBilyeu%40choctawnation.com%7C4bd85691c254493415e808d724a882da%7C47179c27f1eb43d2b07477f138da7144%7C0%7C1%7C637018179611076323&sdata=qWpJ9O2Okky%2BrEB%2B3pYPxBShfKLGrQbvbW9%2BvH9MfU%3D&reserved=0](https://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.mvm.usace.army.mil%2Fmissions%2Fprojects%2FNorth-DeSoto-County-Feasibility-Study%2F&data=02%7C01%7CBilyeu%40choctawnation.com%7C4bd85691c254493415e808d724a882da%7C47179c27f1eb43d2b07477f138da7144%7C0%7C1%7C637018179611076323&sdata=qWpJ9O2Okky%2BrEB%2B3pYPxBShfKLGrQbvbW9%2BvH9MfU%3D&reserved=0)

The USACE would like to invite you to participate in the scoping process which will aid in determining the scope and depth of issues to be analyzed including, but not limited to, significant problems within the project area, potential solutions, and issues that are considered significant by the public. In addition, we would appreciate any comments or concerns regarding cultural resources/historic properties within the project area. We would like to receive your comments by October 15, 2019. If you need additional information, please feel free to contact me.

Thank you,

Pam Lieb

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From: [Lieb, Pamela D CIV USARMY CEMVM \(USA\)](#)
To: [Karen Brunso](#); [Celestine.bryant@actribe.org](#); [Lindsey Bilyeu](#); [Alina Shively](#); [ken.carleton@choctaw.org](#); [earlji@tunica.org](#); [ebandy@quapawtribe.com](#); [Elizabeth Toombs](#); [Section106@mcn-nsn.gov](#); [John Underwood](#)
Cc: [Carpenter Crowther, Andrea L CIV USARMY CEMVN \(US\)](#)
Subject: Public Scoping Meeting for Memphis-Metropolitan Stormwater-North Desoto County, Mississippi
Date: Monday, August 19, 2019 8:22:00 AM
Attachments: [NOTICE.DOC](#)

Good Morning:

The U.S. Army Corps of Engineers (USACE) will host a public scoping meeting to solicit comments and information from the public regarding flood impacts in DeSoto County, Mississippi. Findings from the meeting will be used to prepare a draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project: North DeSoto County, Mississippi. The DIFR-EIS will focus on developing a plan of improvement that provides flood risk reduction to public infrastructure as well as commercial and residential properties. Project features will be designed to avoid or minimize adverse environmental impacts. A project website has been set up for public access at the following:
<https://www.mvm.usace.army.mil/Missions/Projects/North-DeSoto-County-Feasibility-Study/>.

The USACE would like to invite you to participate in the scoping process which will aid in determining the scope and depth of issues to be analyzed including, but not limited to, significant problems within the project area, potential solutions, and issues that are considered significant by the public. In addition, we would appreciate any comments or concerns regarding cultural resources/historic properties within the project area. We would like to receive your comments by October 15, 2019. If you need additional information, please feel free to contact me.

Thank you,
Pam Lieb



DEPARTMENT OF THE ARMY
MEMPHIS DISTRICT CORPS OF ENGINEERS
167 NORTH MAIN STREET B-202

MEMPHIS, TN 38103-1894

September 5, 2019

Environmental Compliance Branch
Regional Planning and Environmental Division South

Ms. Karen Brunso
Tribal Historic Preservation Officer
The Chickasaw Nation
P.O. Box 1548
Ada, Oklahoma 74821

RE: Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi.

Dear Ms. Brunso:

The U.S. Army Corps of Engineers (USACE) is soliciting comments and information from Tribes with interests in DeSoto County, Mississippi, in order to prepare a draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project: North DeSoto County, Mississippi. The DIFR-EIS will focus on developing a plan of improvement that provides flood risk reduction to public infrastructure as well as commercial and residential properties. Project features will be designed to avoid or minimize adverse environmental impacts to the extent practical. A project website has been set up for public access at the following:

<https://www.mvm.usace.army.mil/Missions/Projects/North-DeSoto-County-Feasibility-Study/>.

Pursuant to section 106 of the National Historic Preservation Act 1966 as amended (NHPA), the USACE invites you to be a consulting party in this feasibility study to help identify historic properties in the project area that may have religious and cultural significance to your tribe, and if such properties exist, to help assess how the project might affect them.

Project Background

The study area lies in the Horn Lake Creek, Camp Creek, Cow Pen Creek, Hurricane Creek, Johnson Creek, and Coldwater river watersheds in northern DeSoto County, Mississippi, including the cities of Horn Lake, Southaven, Olive Branch, Walls, and Hernando. At this time, the most significant issues are believed to be in the northern part of the county, but the entire county will be considered initially (Figure 1). Maps of the aforementioned watersheds are enclosed (Figure 2-6).

Several studies have been conducted that have indicated that a feasible plan for flood risk reduction may exist for the project area, with the most recent occurring in 2005, entitled *Horn Lake Creek and Tributaries, Tennessee and Mississippi, General Reevaluation Report*. A final plan to reduce flood surface elevations was proposed which included channel enlargement, concrete lining of some channel sections, rip rap bank protection, diversion ditch and weir construction, berm construction, and environmental enhancement.

An initial background review of the study area and six possible detention areas was conducted using the Mississippi Historical Site Management Tool (HMST) and included a research visit to the Mississippi State Historic Preservation Office (MSSHPO). The background review indicated multiple surveys and sites within these watersheds. If you have any additional information or concerns within this study area not listed in the HMST, please provide them to us to be included in the DIFR-EIS. This will aid in determining the scope and depth of issues to be analyzed when developing the project and project alternatives. Locational information will not be included in the DIFR-EIS nor made public.

Do not hesitate to notify USACE regarding any information your office may wish to provide at this time concerning the proposed undertaking and its potential to significantly affect historic properties and/or any other relevant parties who you feel may have an interest in participating in this consultation.

USACE proposes to forward future notices and other background information to the consulting parties by e-mail to minimize communication delays and expedite the process. Please let USACE know if this is impractical so that alternative arrangements can be made. Please notify Pam Lieb, District Archaeologist and Tribal Liaison, at (901) 544-0710 or Pamela.D.Lieb@usace.army.mil if you have any comments.

Sincerely,



Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South

cc: Mrs. Katie Blount, Mississippi Department of Archives and History
Ms. Alina Shively, Jena Band of Choctaw Indians
Mrs. Lindsey Bilyeu, Choctaw Nation of Oklahoma
Mr. Ken Carleton, Mississippi Band of Choctaw Indians
Mr. Everett Bandy, Quapaw Tribe of Oklahoma
Ms. Corain Lowe, Zepeda, Muscogee (Creek) Nation
Mr. Earl J. Barby, Jr., Tunica-Biloxi Tribe of Louisiana

Enclosures

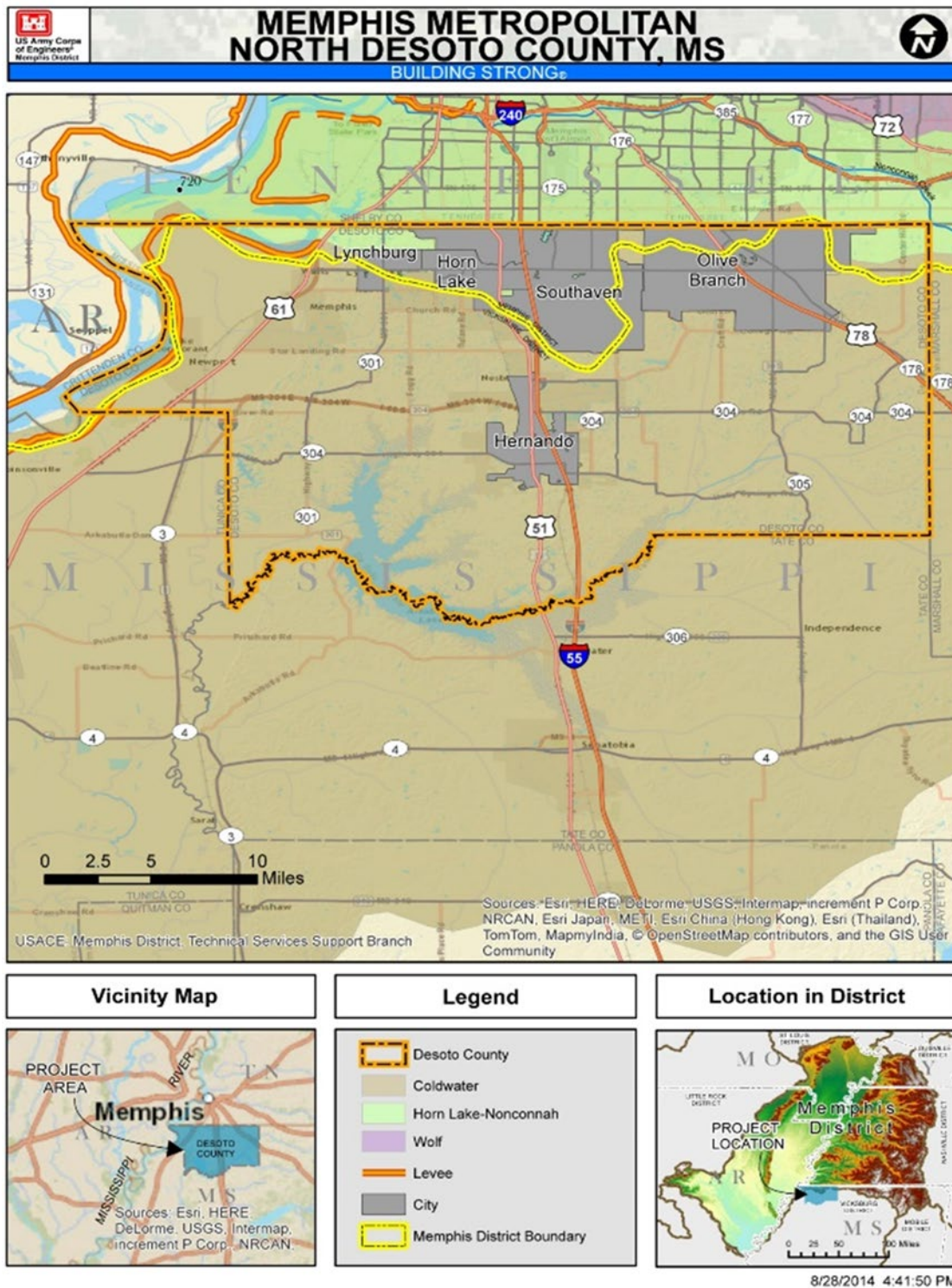


Figure 1. DeSoto County, Mississippi.

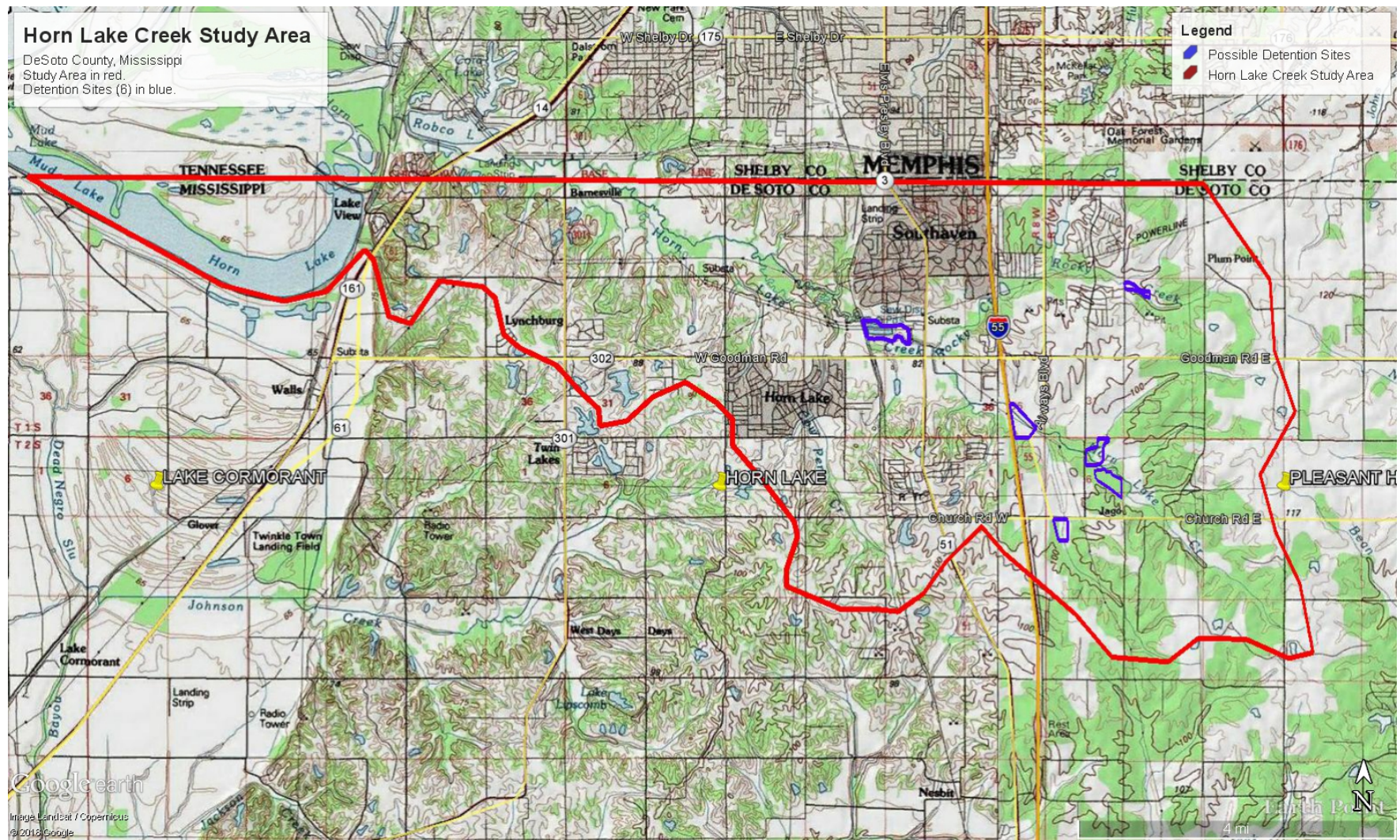


Figure 2. Horn Lake Creek Watershed Study Area (red) with Six Detention Areas (blue).

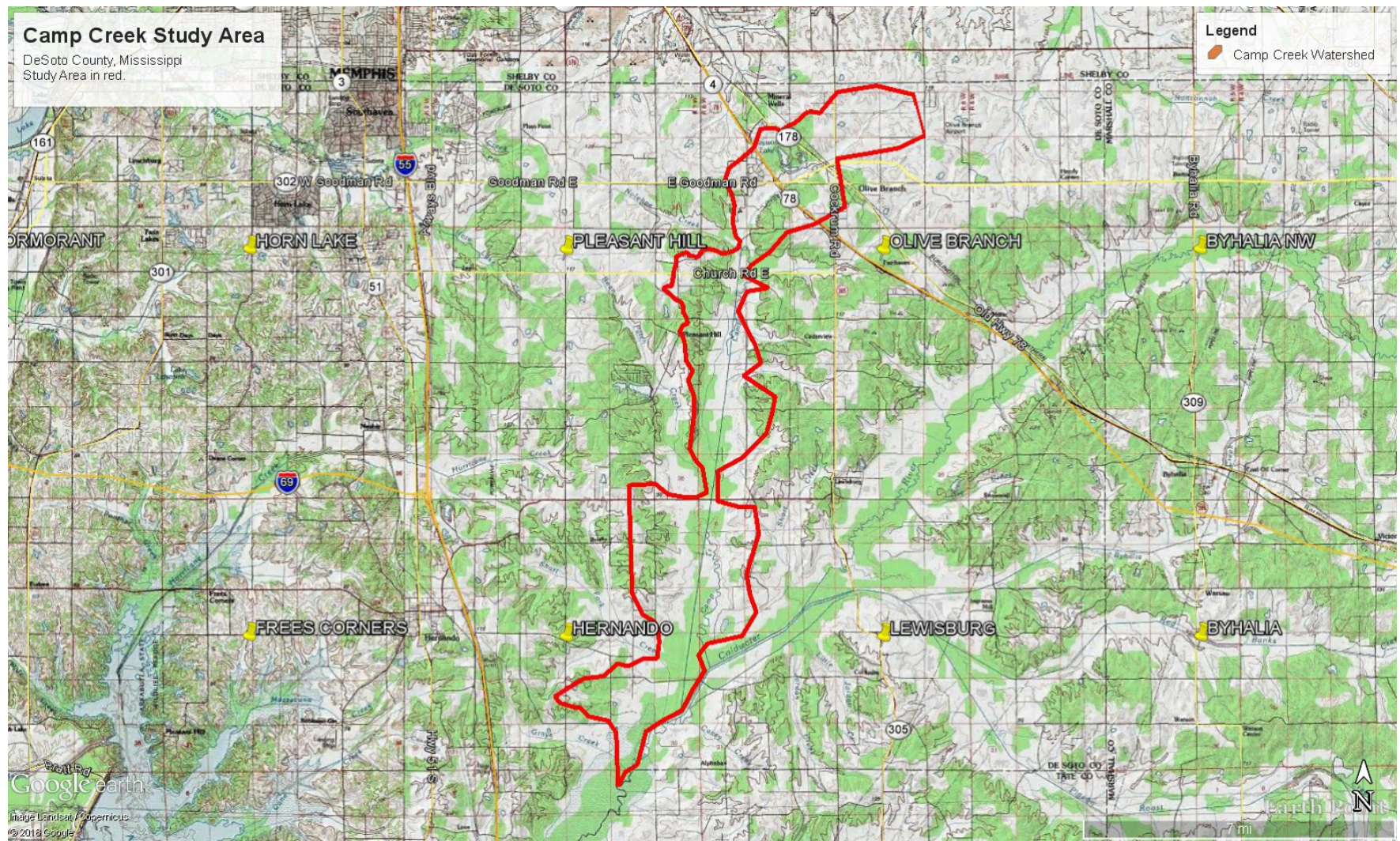


Figure 3. Camp Creek Watershed Study Area.

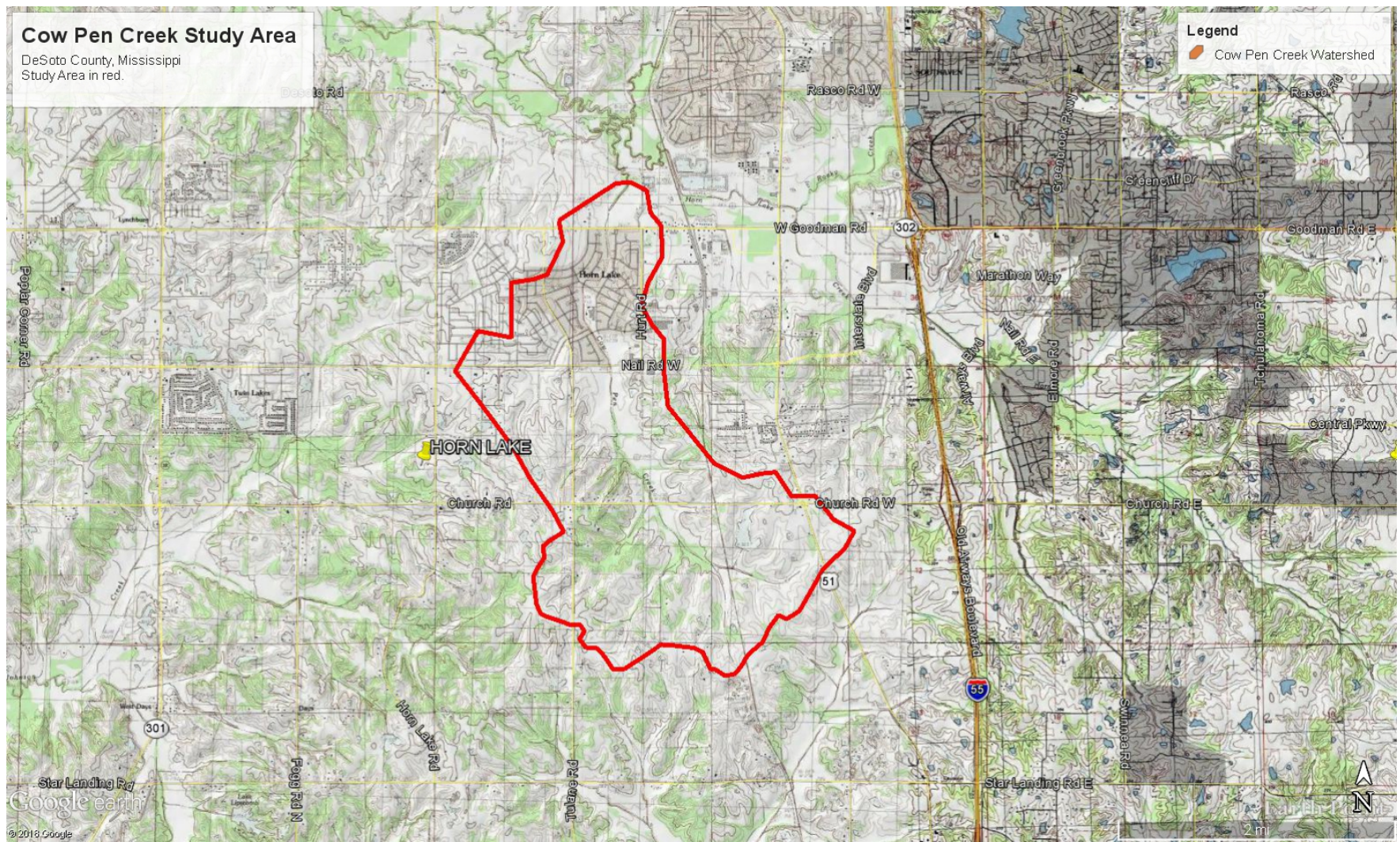


Figure 4. Cow Pen Creek Watershed Study Area.

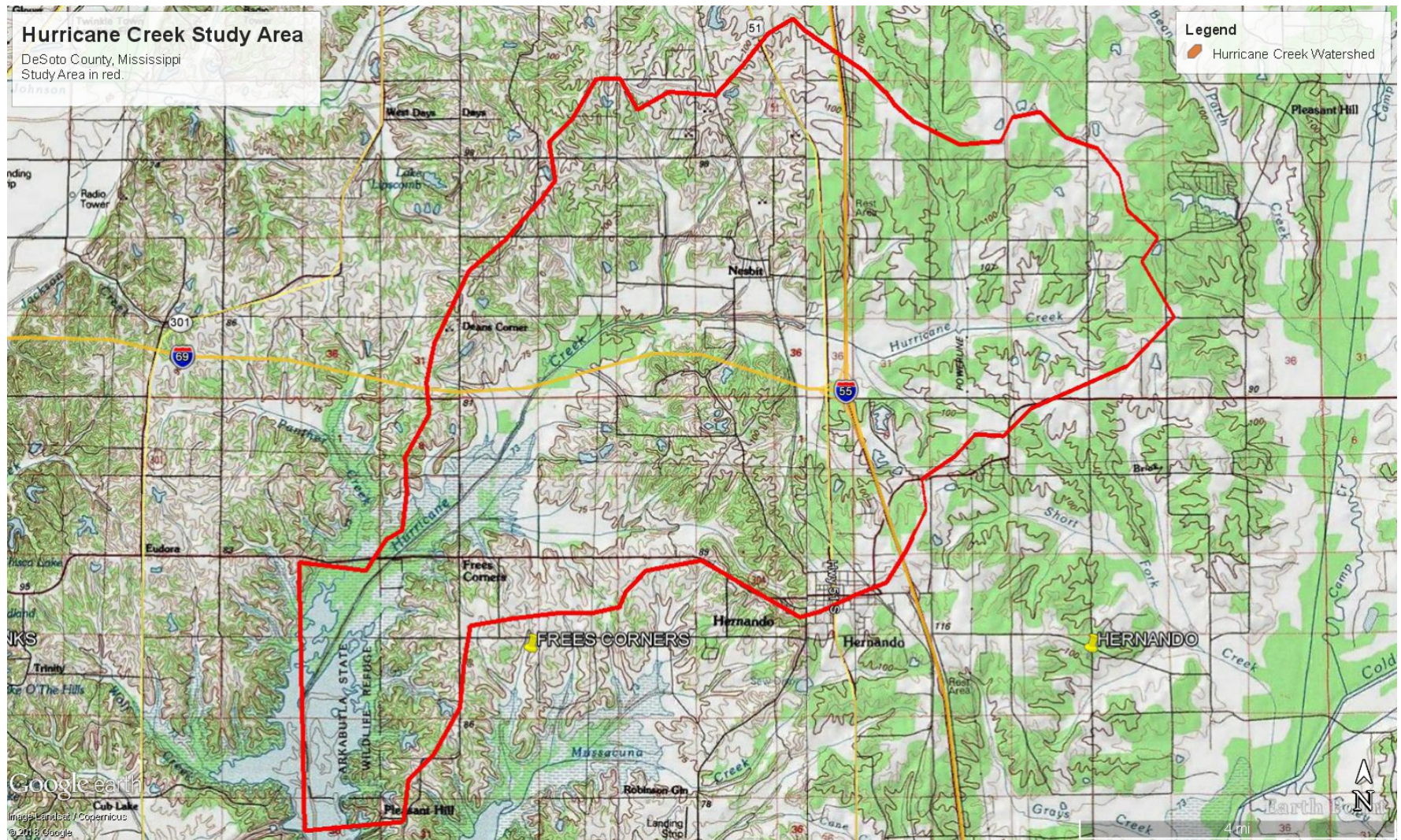


Figure 5. Hurricane Creek Watershed Study Area.

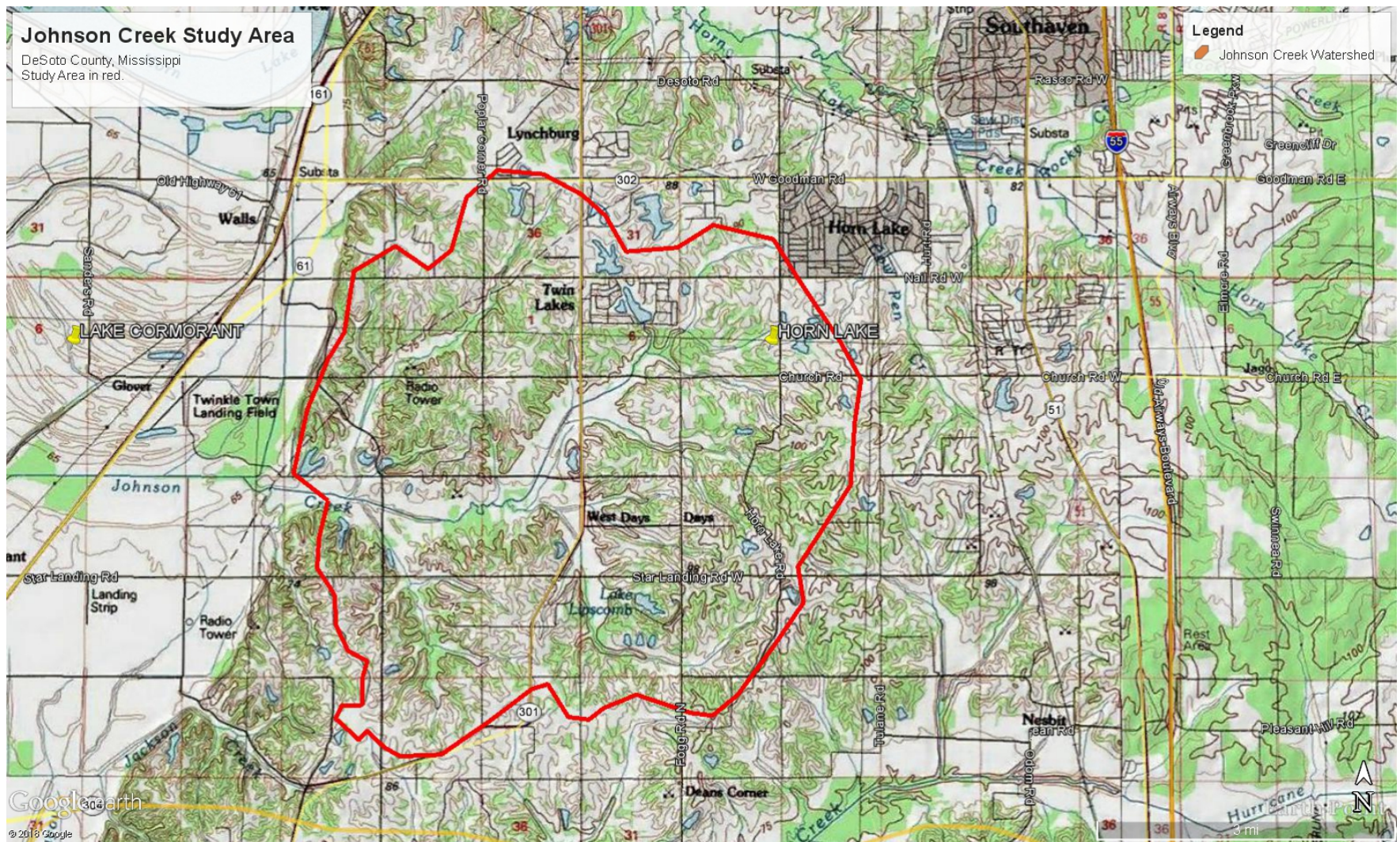


Figure 6. Johnson Creek Watershed Study Area.

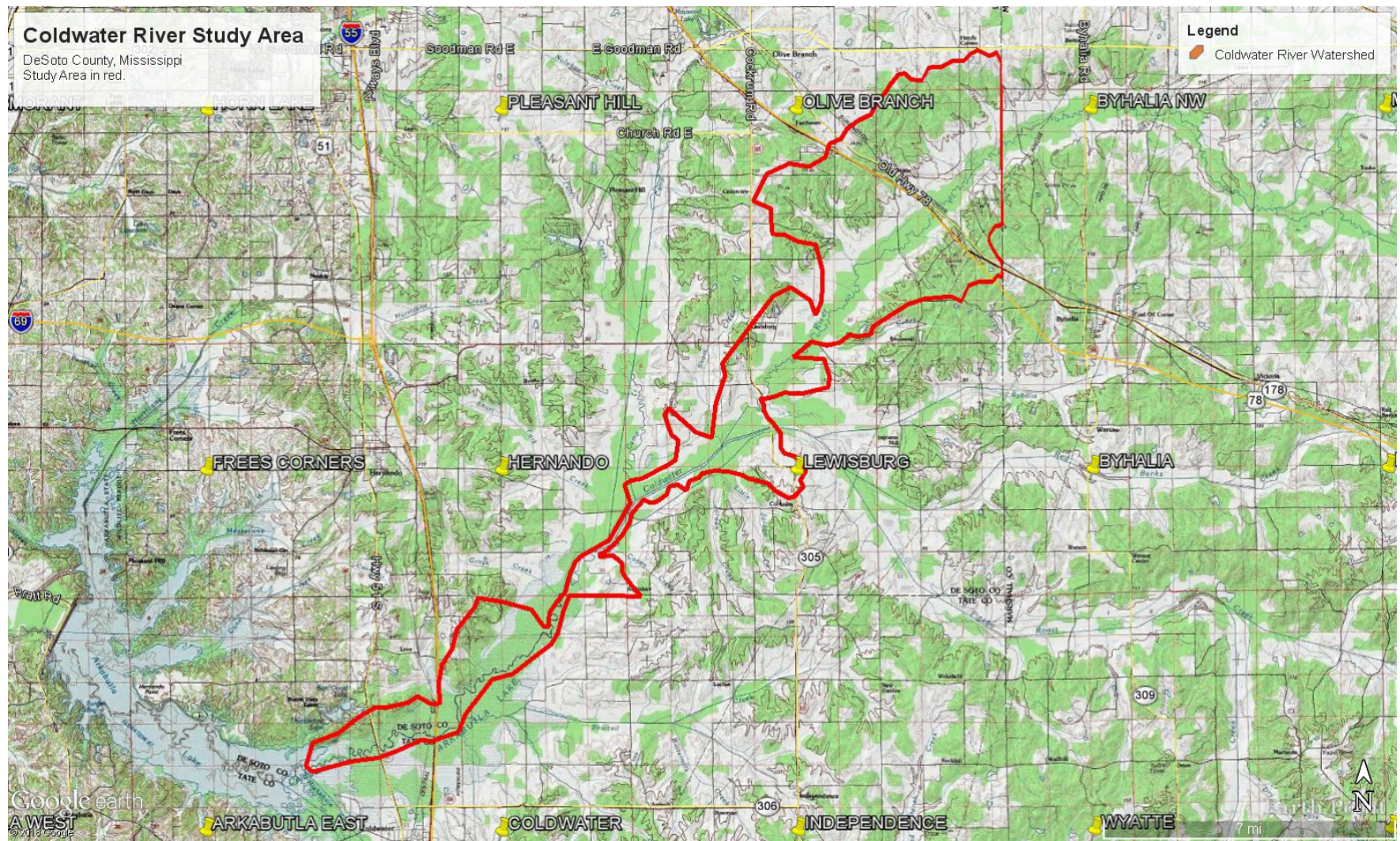


Figure 7. Coldwater River Watershed Study Area.



DEPARTMENT OF THE ARMY
MEMPHIS DISTRICT CORPS OF ENGINEERS
167 NORTH MAIN STREET B-202

MEMPHIS, TN 38103-1894

September 5, 2019

Environmental Compliance Branch
Regional Planning and Environmental Division South

Mrs. Lindsey Bilyeu
Choctaw Nation
Historic Preservation Department
P.O. Box 1210
Durant, Oklahoma 74702-1210

RE: Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi.

Dear Mrs. Bilyeu:

The U.S. Army Corps of Engineers (USACE) is soliciting comments and information from Tribes with interests in DeSoto County, Mississippi, in order to prepare a draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project: North DeSoto County, Mississippi. The DIFR-EIS will focus on developing a plan of improvement that provides flood risk reduction to public infrastructure as well as commercial and residential properties. Project features will be designed to avoid or minimize adverse environmental impacts to the extent practical. A project website has been set up for public access at the following:

<https://www.mvm.usace.army.mil/Missions/Projects/North-DeSoto-County-Feasibility-Study/>.

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Sincerely,



Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South

cc: Mrs. Katie Blount, Mississippi Department of Archives and History
Ms. Alina Shively, Jena Band of Choctaw Indians
Mr. Everett Bandy, Quapaw Nation of Oklahoma
Mr. Ken Carleton, Mississippi Band of Choctaw Indians
Ms. Karen Brunso, The Chickasaw Nation
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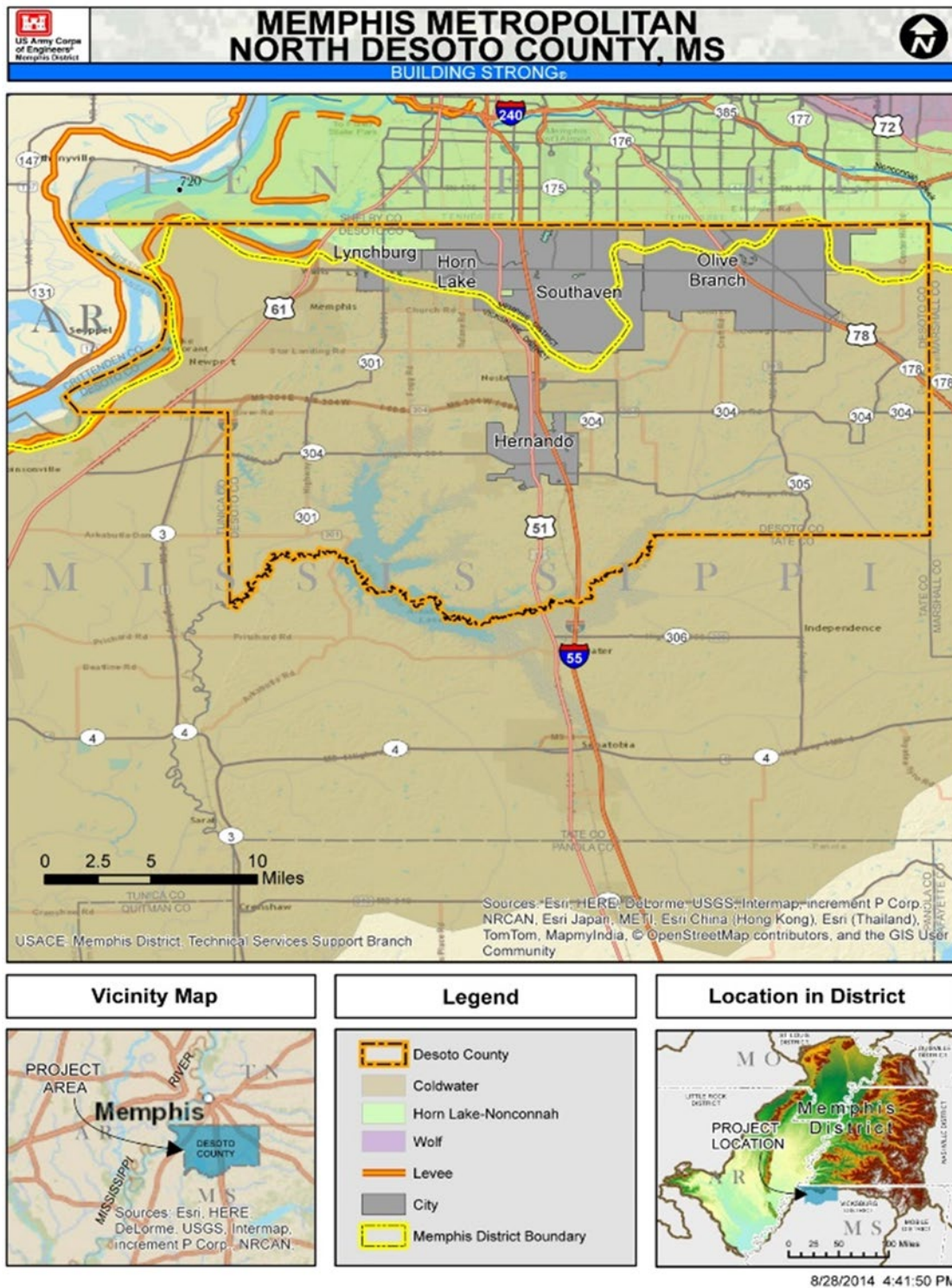


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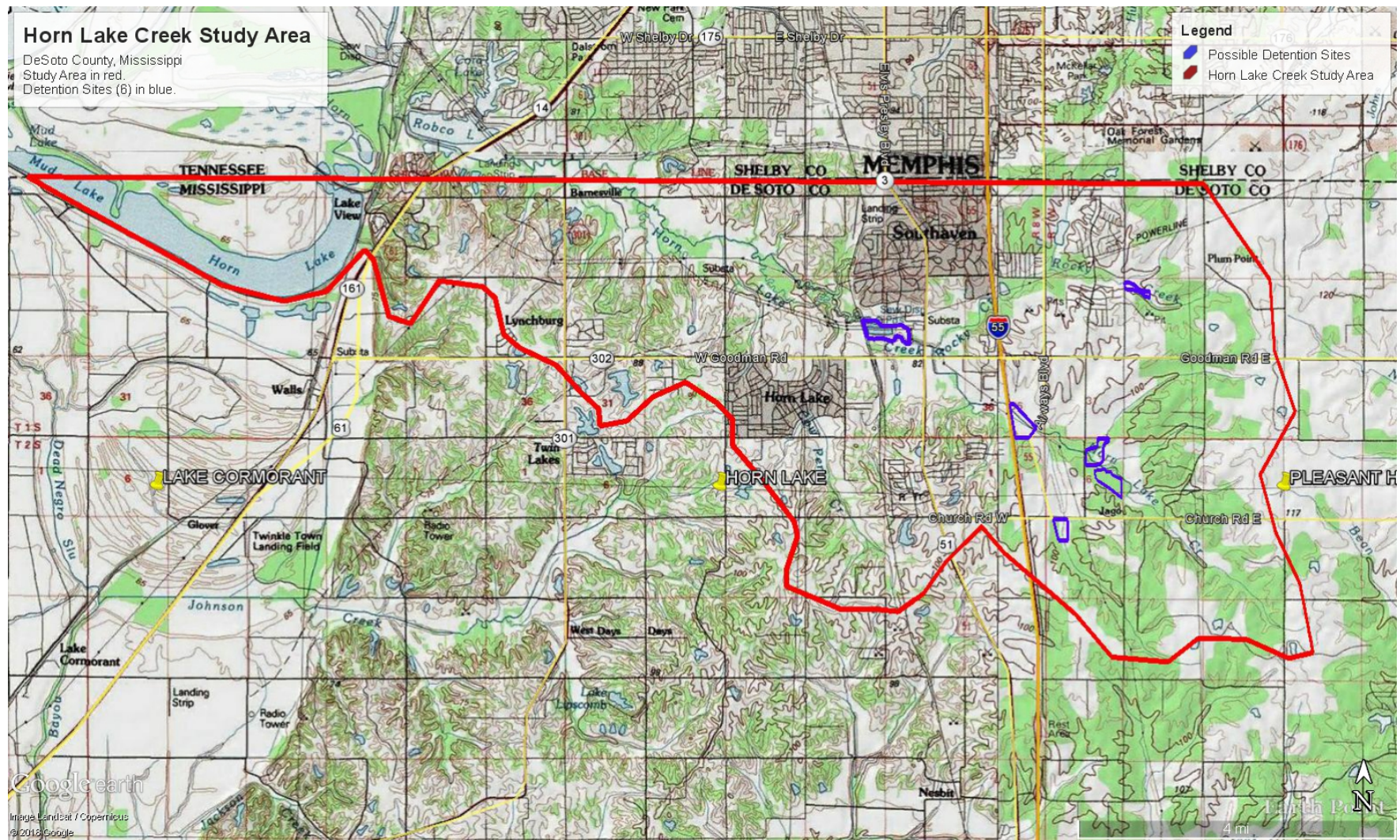


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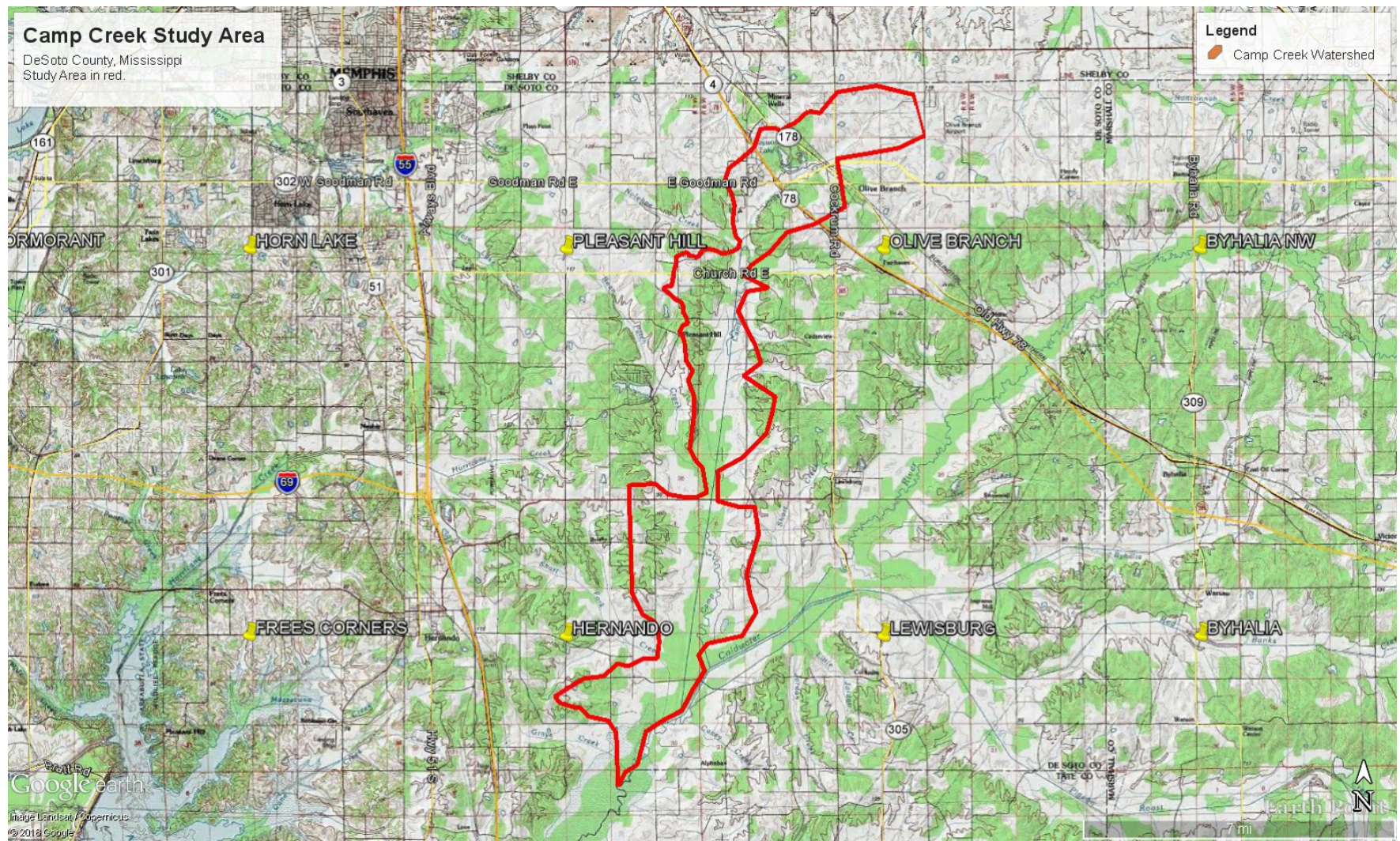


Figure 3. Camp Creek Watershed Study Area.

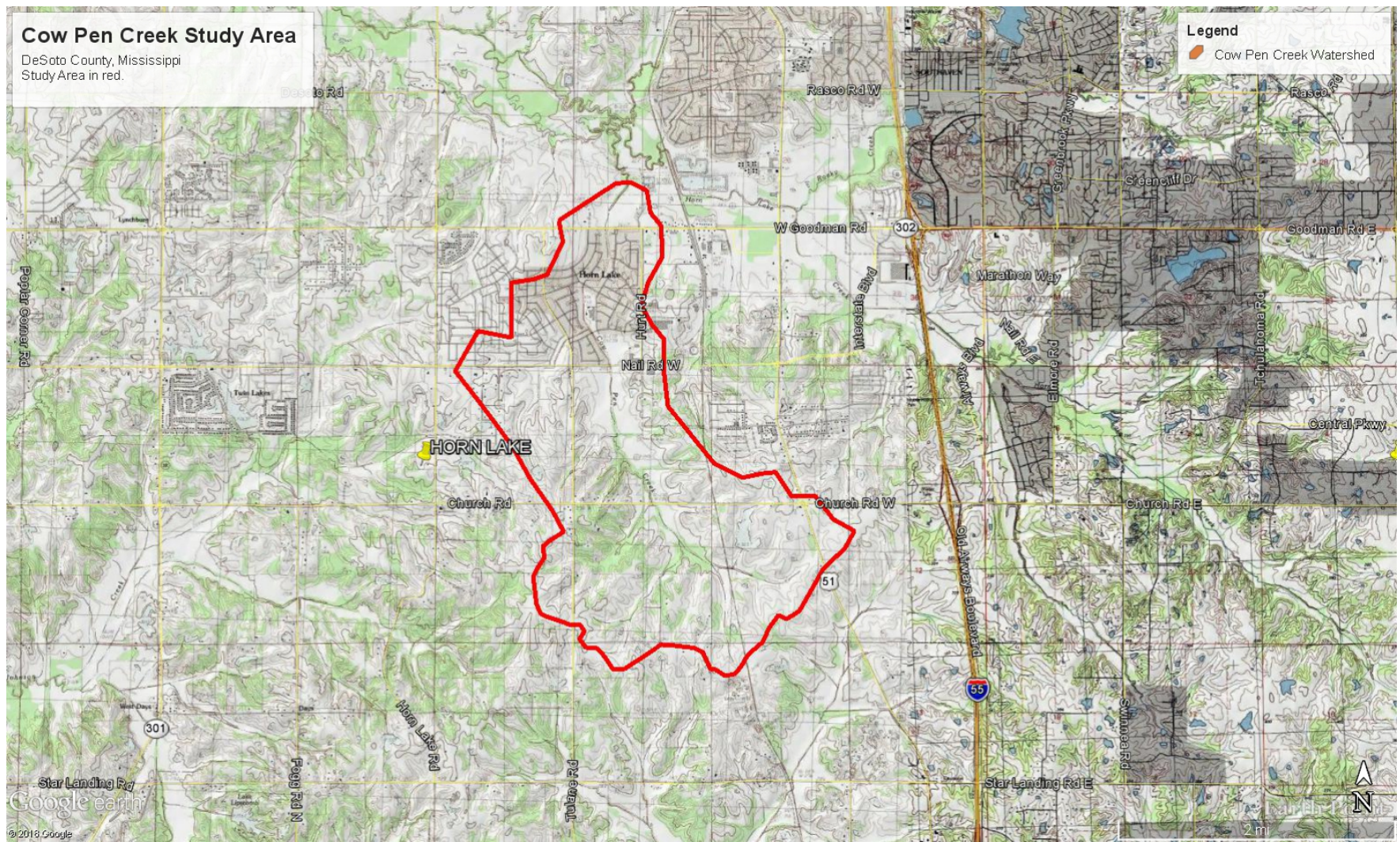


Figure 4. Cow Pen Creek Watershed Study Area.

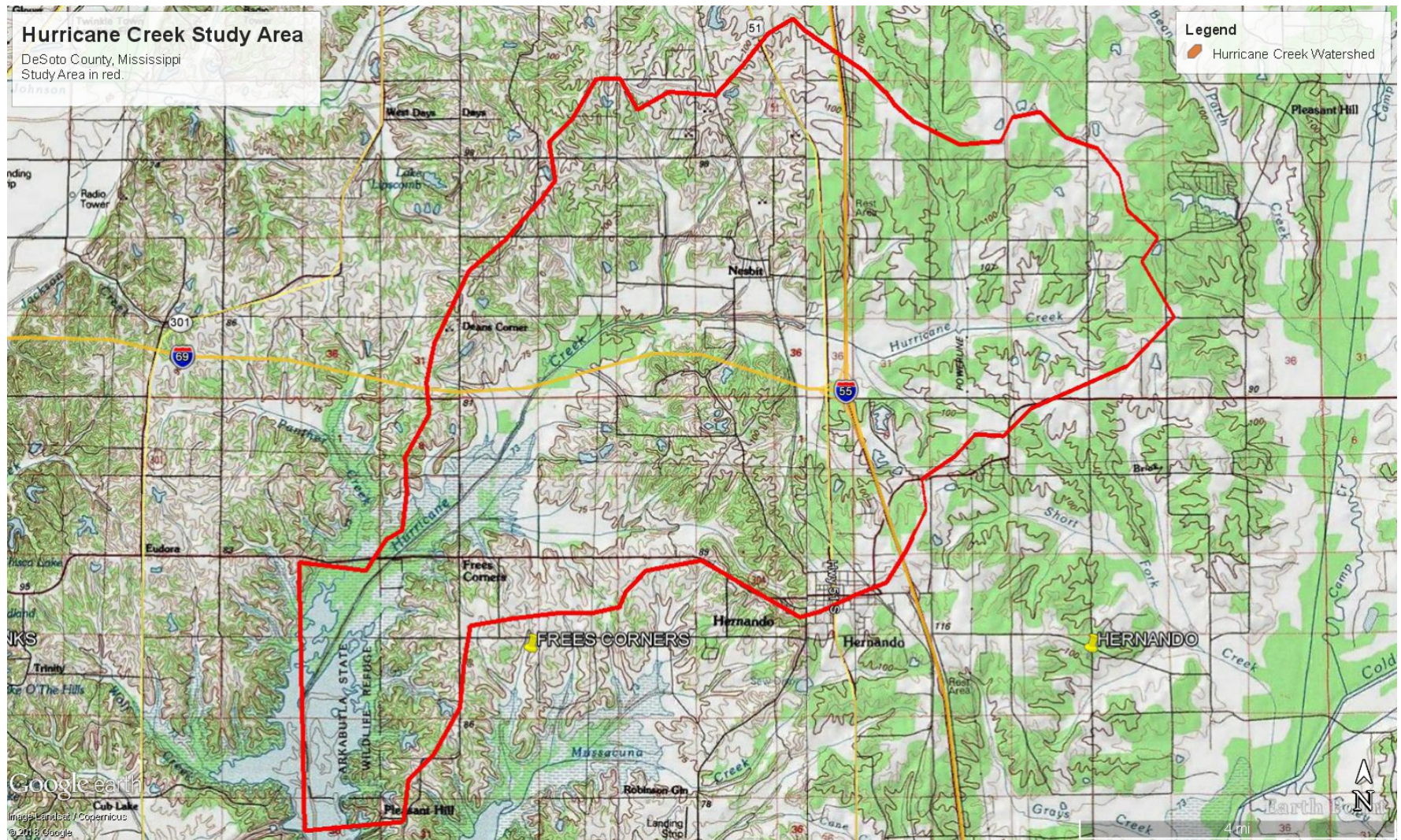


Figure 5. Hurricane Creek Watershed Study Area.

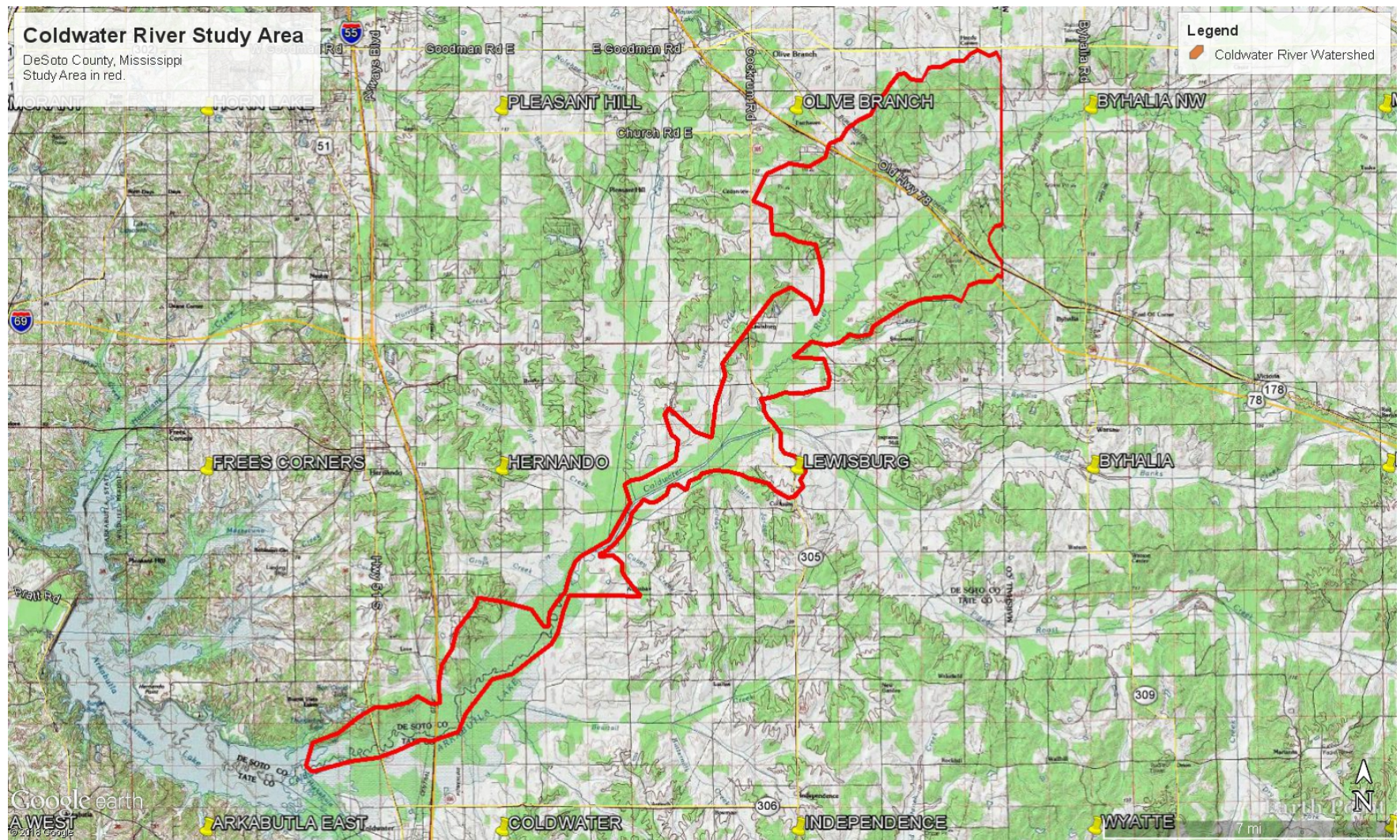


Figure 7. Coldwater River Watershed Study Area.



DEPARTMENT OF THE ARMY
MEMPHIS DISTRICT CORPS OF ENGINEERS
167 NORTH MAIN STREET B-202

MEMPHIS, TN 38103-1894

September 5, 2019

Environmental Compliance Branch
Regional Planning and Environmental Division South

Alina J. Shively
Jena Band of Choctaw Indians
Tribal Historic Preservation Officer
P.O. Box 14
Jena, LA 71342

RE: Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi.

Dear Ms. Shively:

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Sincerely,



Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South

cc: Mrs. Katie Blount, Mississippi Department of Archives and History
Mr. Ken Carleton, Mississippi Band of Choctaw Indians
Mrs. Lindsey Bilyeu, Choctaw Nation of Oklahoma
Ms. Corain Lowe-Zepeda, Muscogee (Creek) Nation
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Enclosures

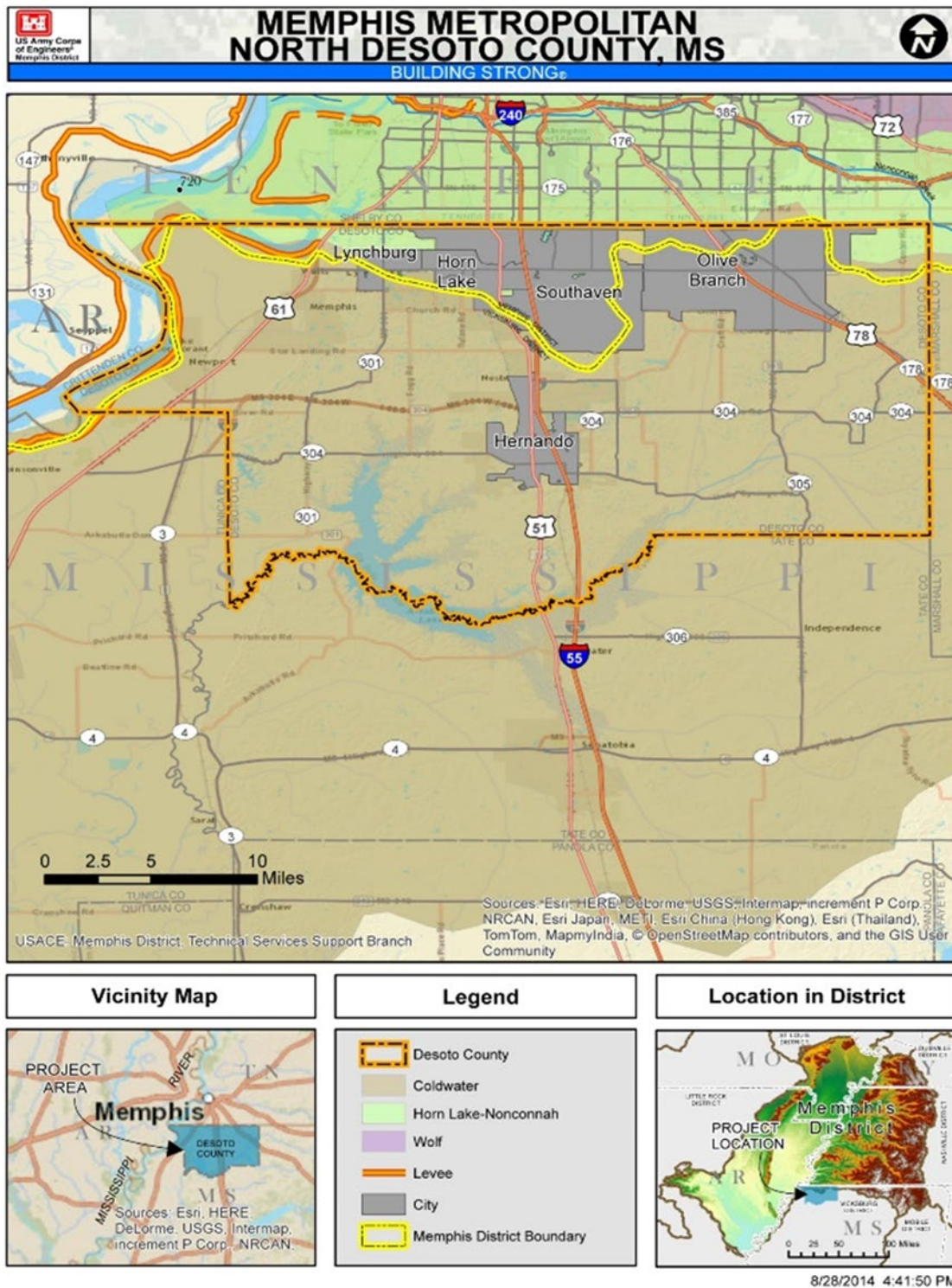


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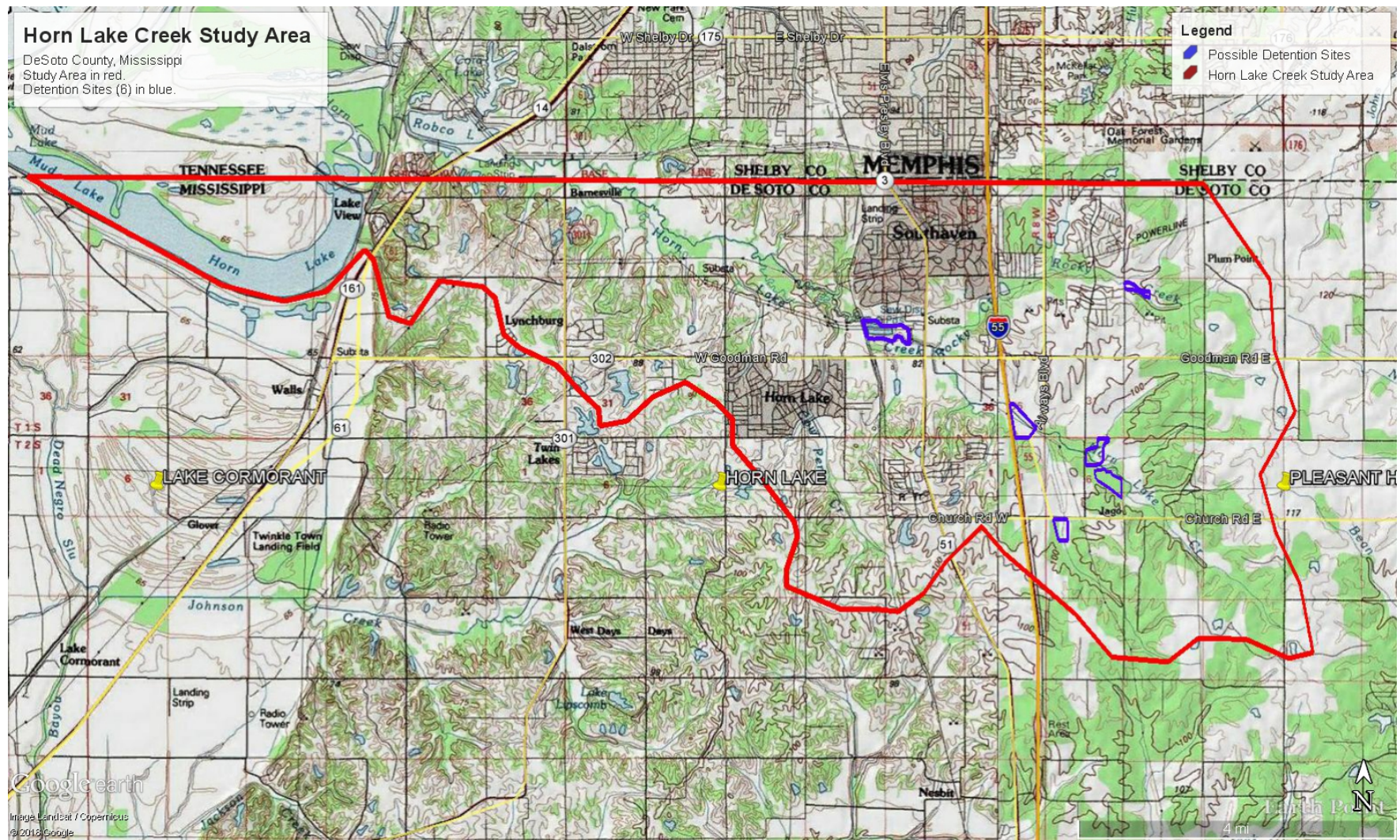


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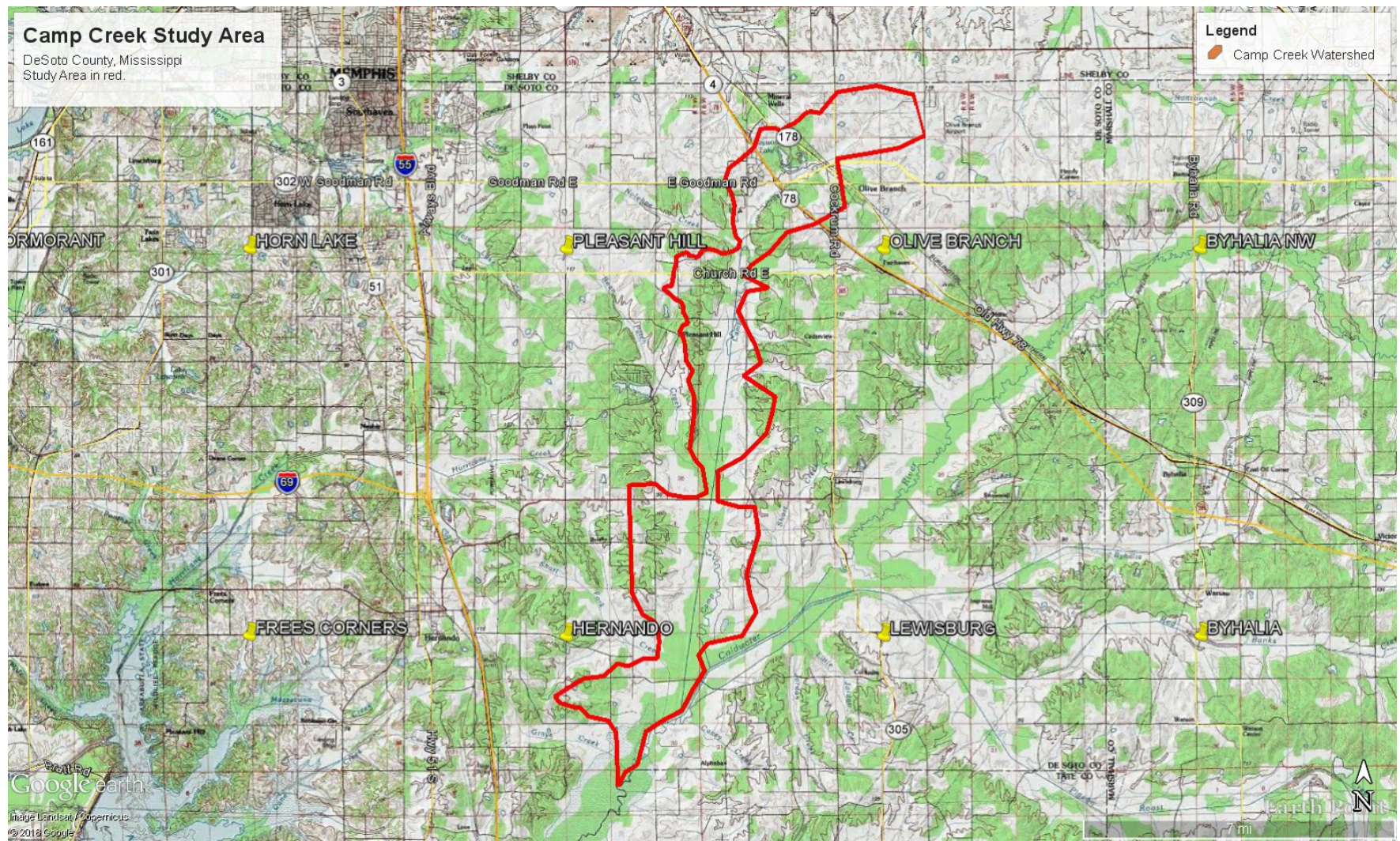


Figure 3. Camp Creek Watershed Study Area.

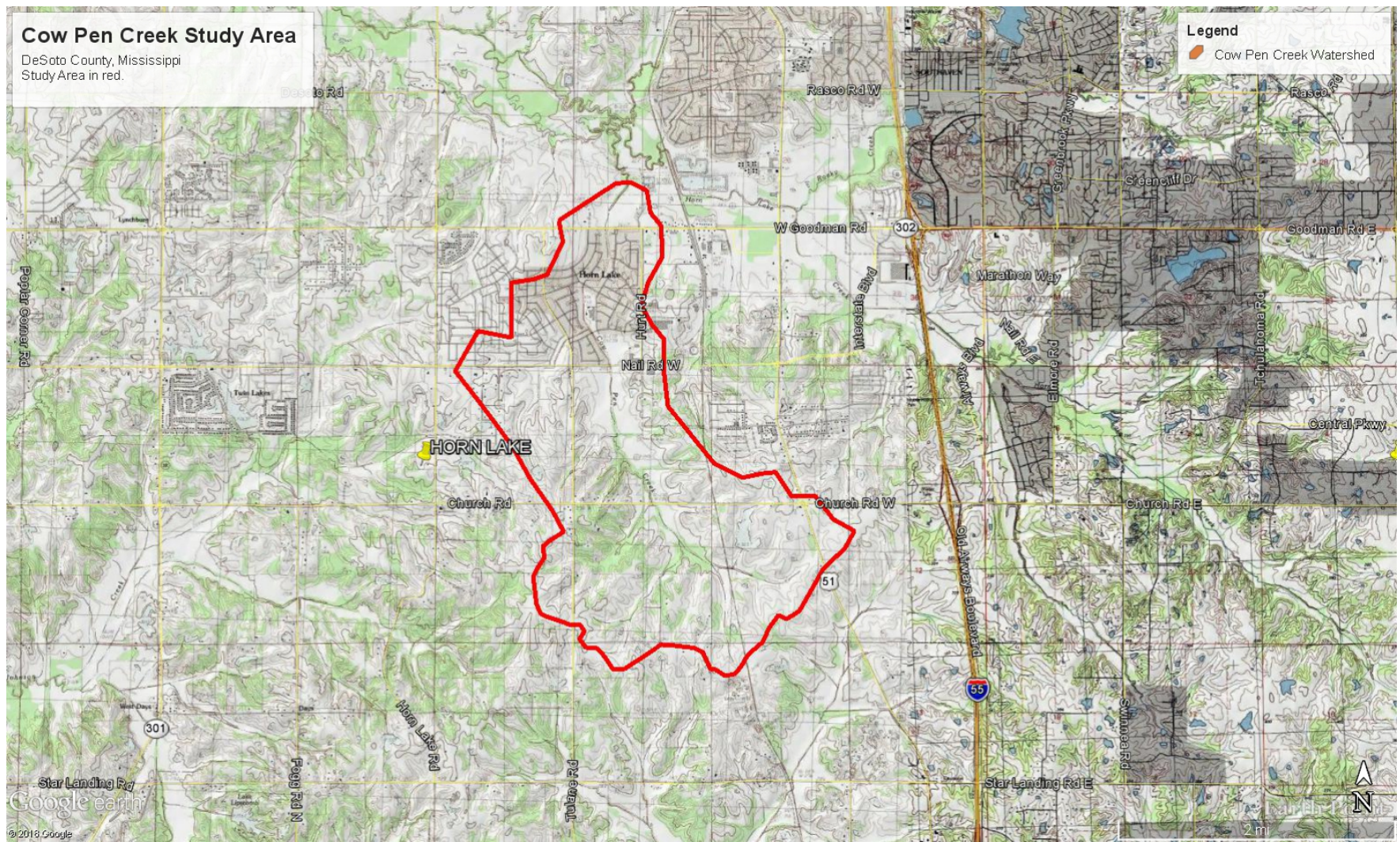


Figure 4. Cow Pen Creek Watershed Study Area.

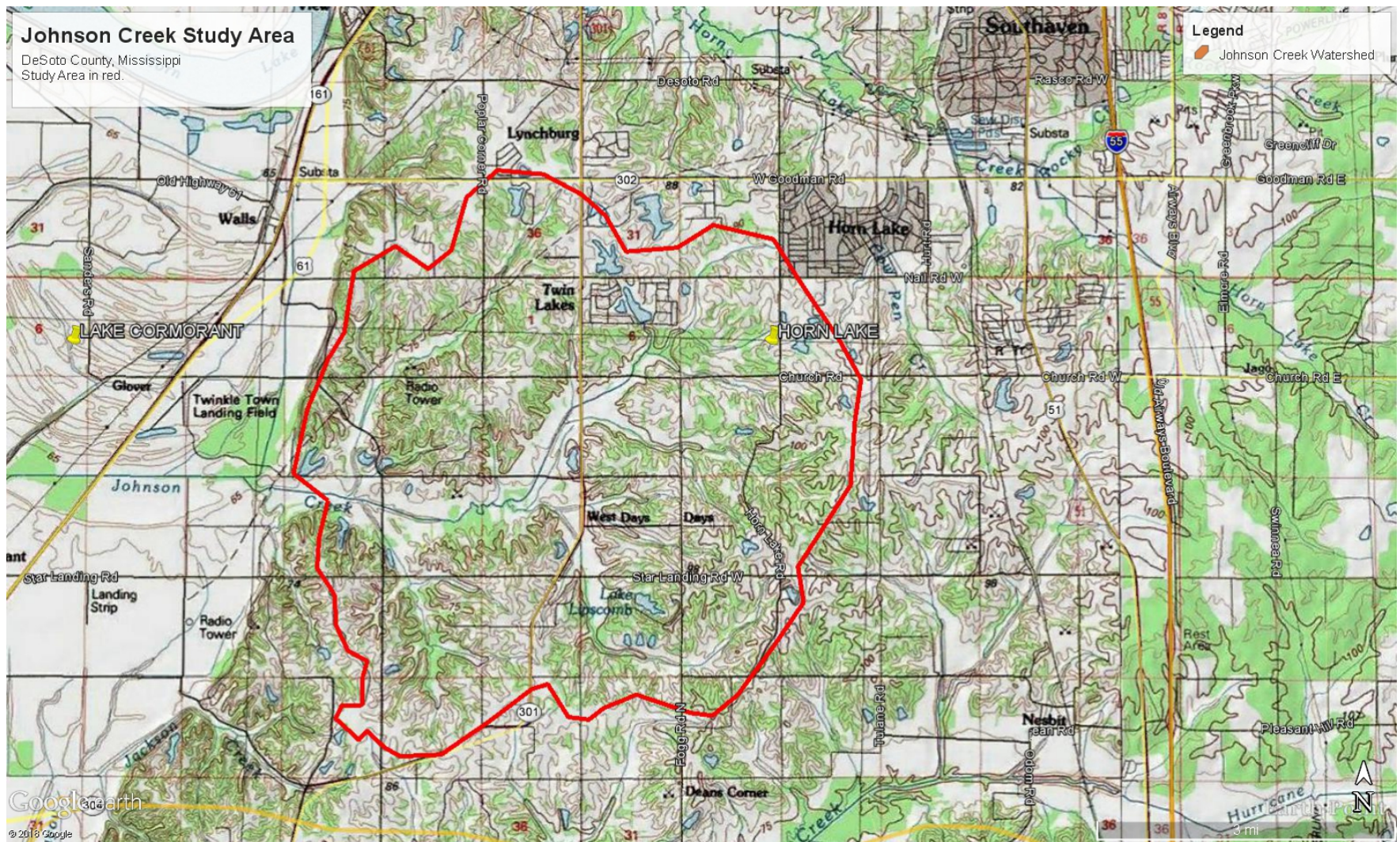


Figure 6. Johnson Creek Watershed Study Area.

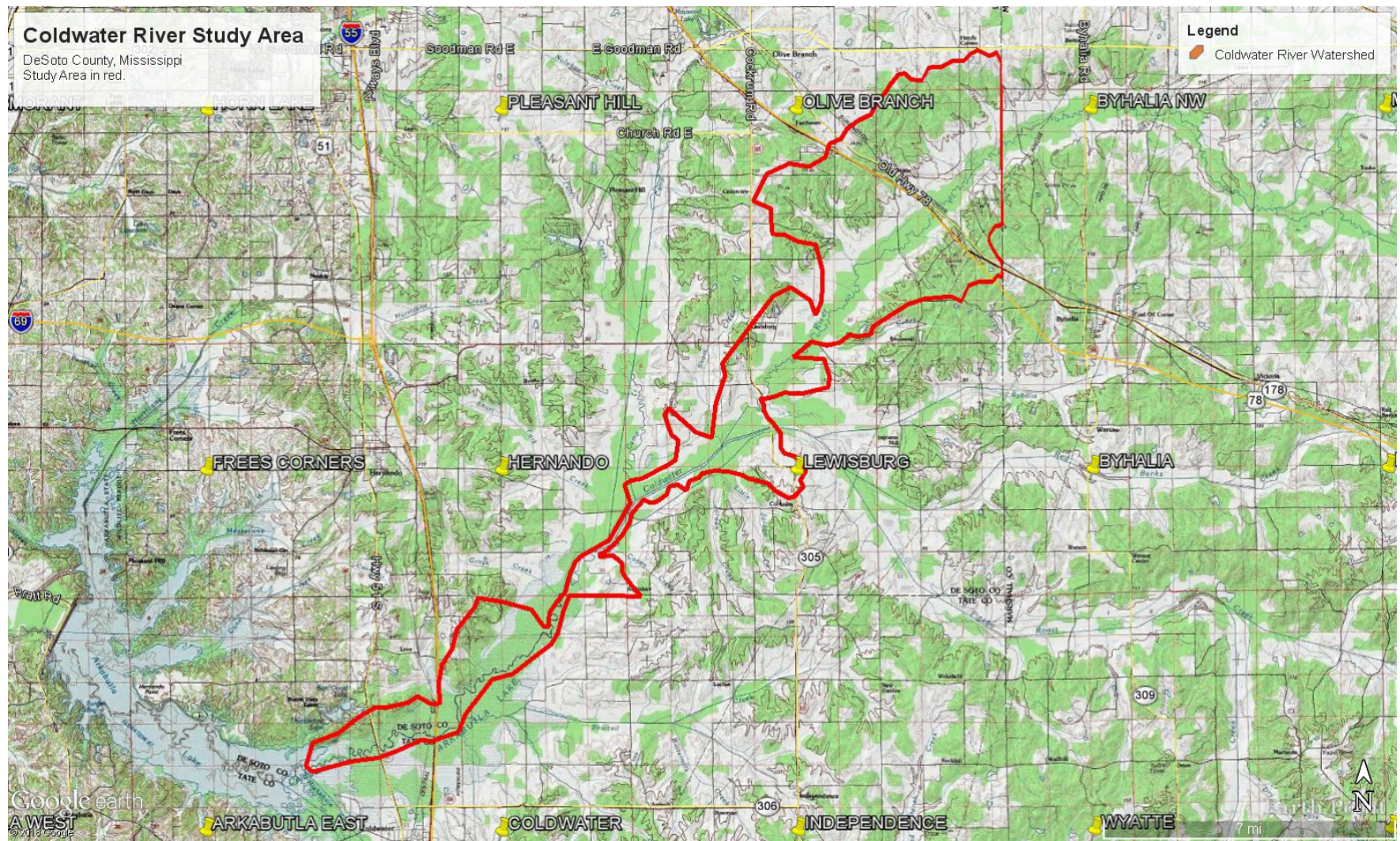


Figure 7. Coldwater River Watershed Study Area.



DEPARTMENT OF THE ARMY
MEMPHIS DISTRICT CORPS OF ENGINEERS
167 NORTH MAIN STREET B-202

MEMPHIS, TN 38103-1894

September 5, 2019

Environmental Compliance Branch
Regional Planning and Environmental Division South

Mr. Ken Carleton
Tribal Archaeologist
Mississippi Band of Choctaw Indians
101 Industrial Road
Choctaw, Mississippi 39350

RE: Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi.

Dear Mr. Carleton:

The U.S. Army Corps of Engineers (USACE) is soliciting comments and information from Tribes with interests in DeSoto County, Mississippi, in order to prepare a draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project: North DeSoto County, Mississippi. The DIFR-EIS will focus on developing a plan of improvement that provides flood risk reduction to public infrastructure as well as commercial and residential properties. Project features will be designed to avoid or minimize adverse environmental impacts to the extent practical. A project website has been set up for public access at the following:

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Sincerely,



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Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South

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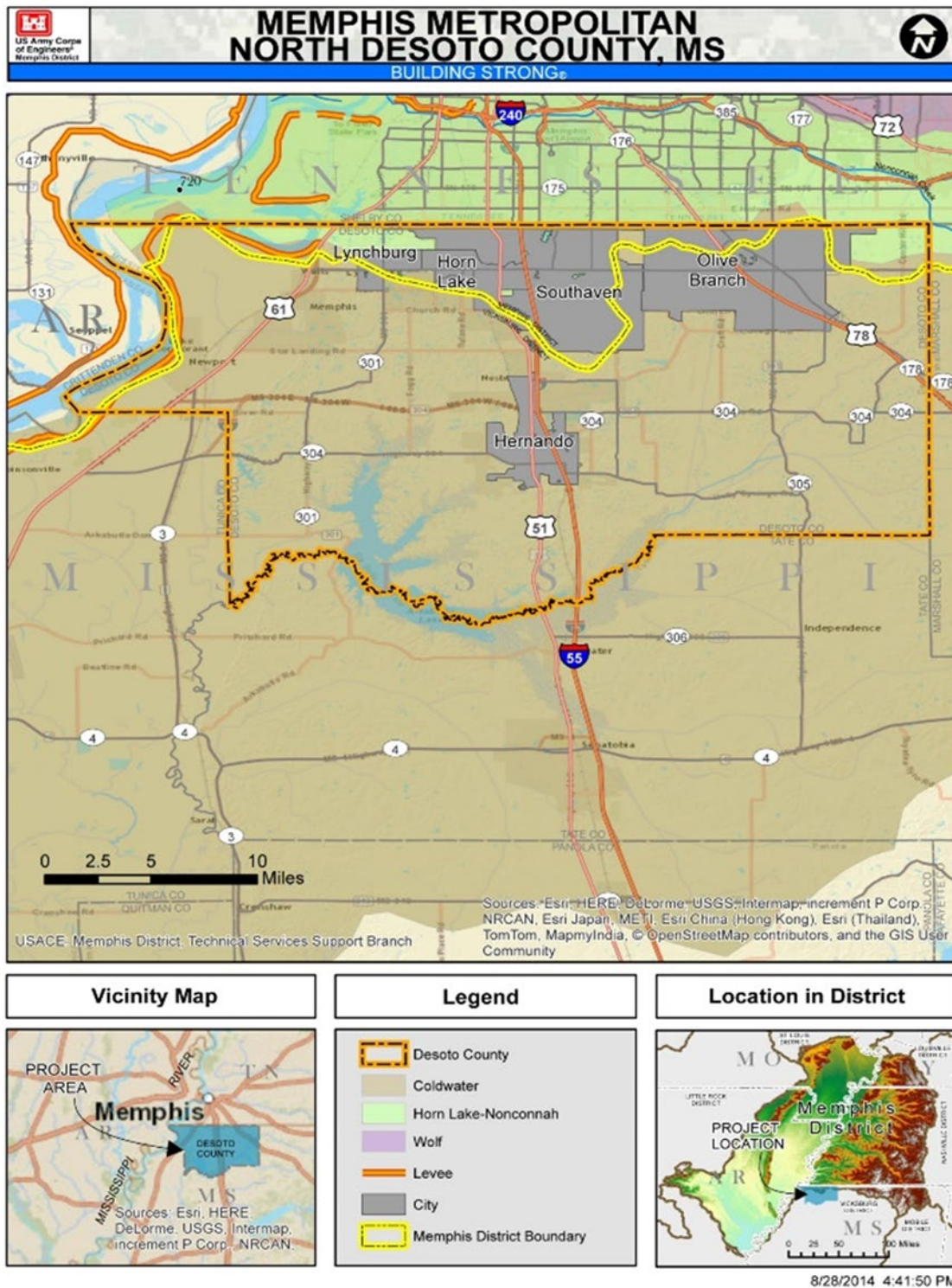


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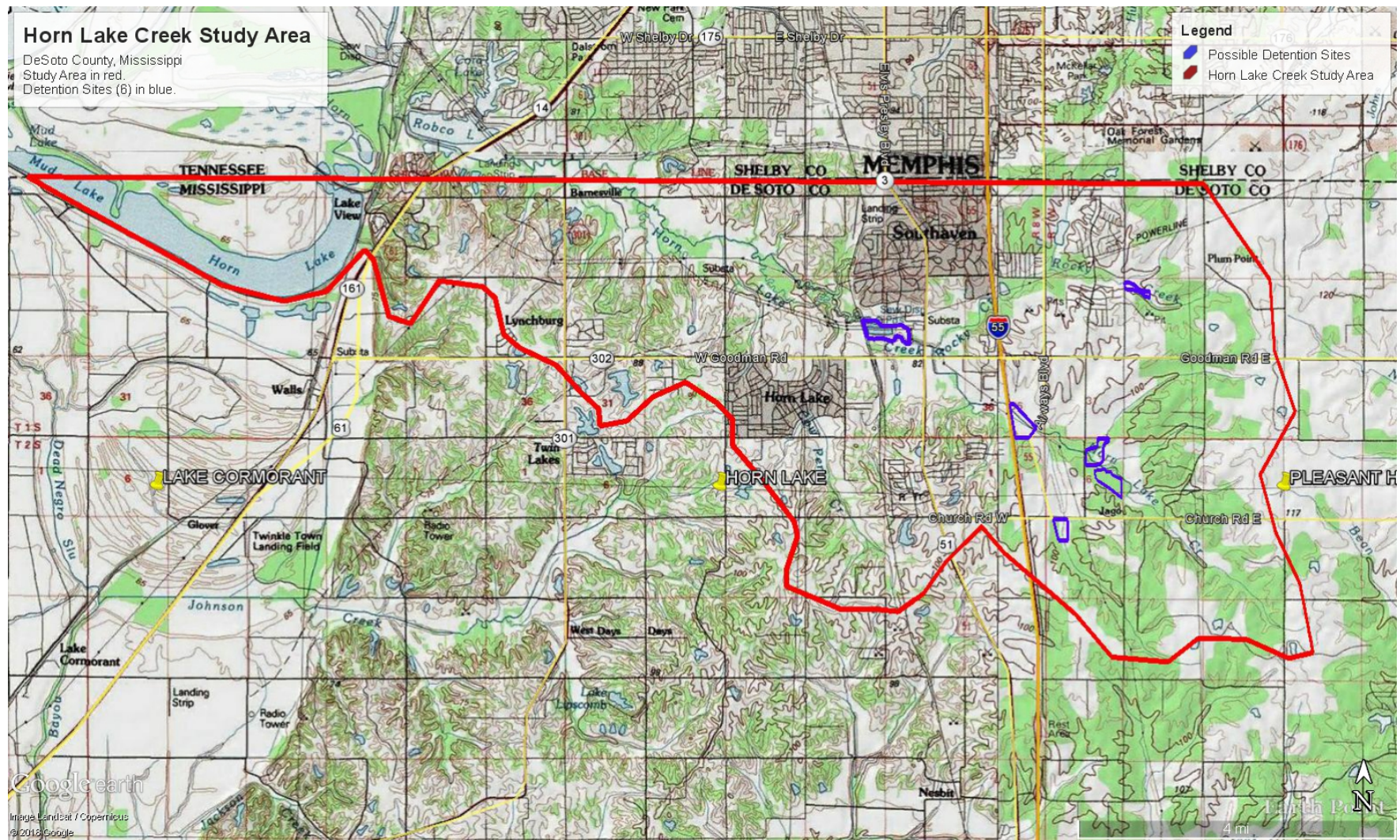


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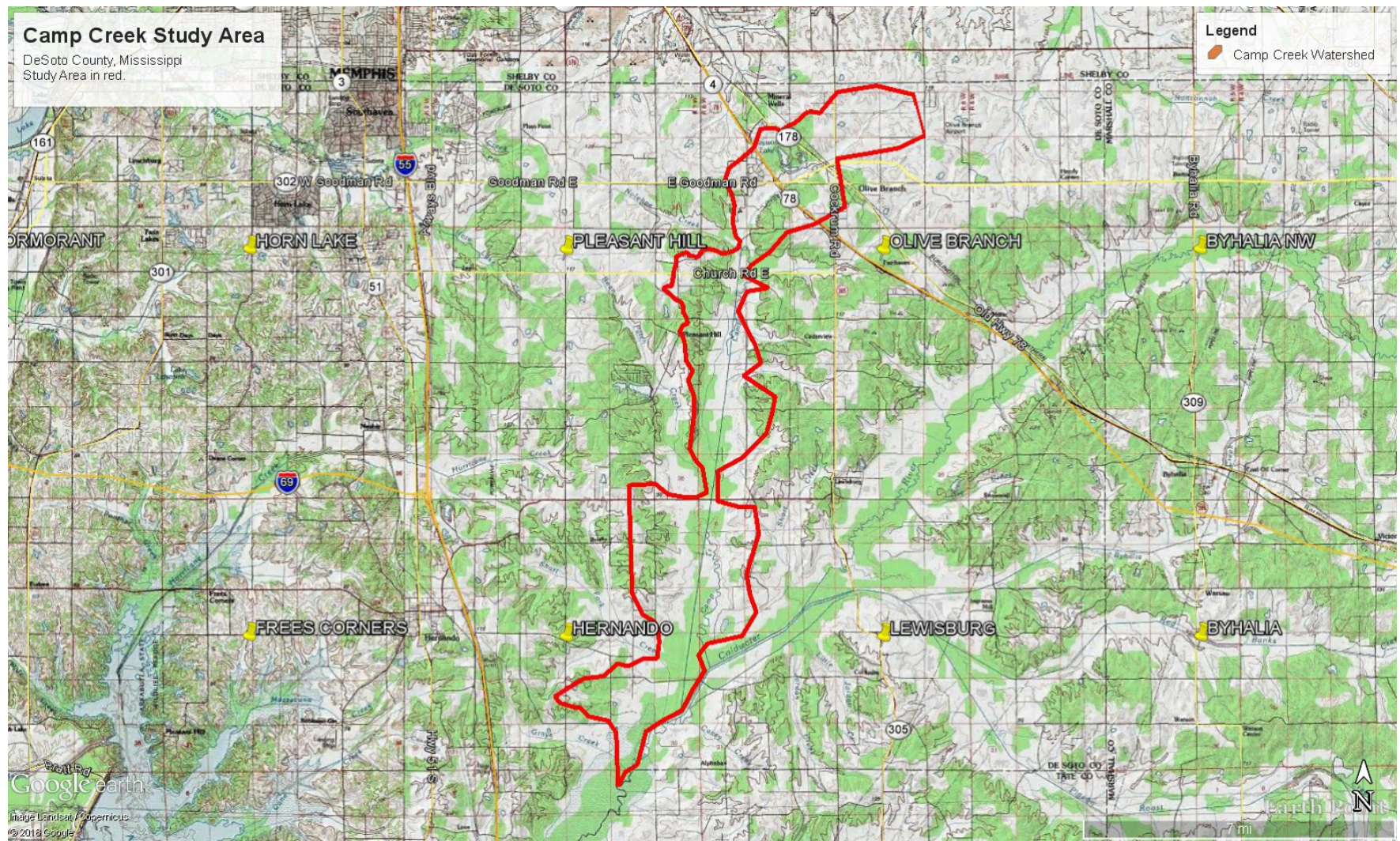


Figure 3. Camp Creek Watershed Study Area.

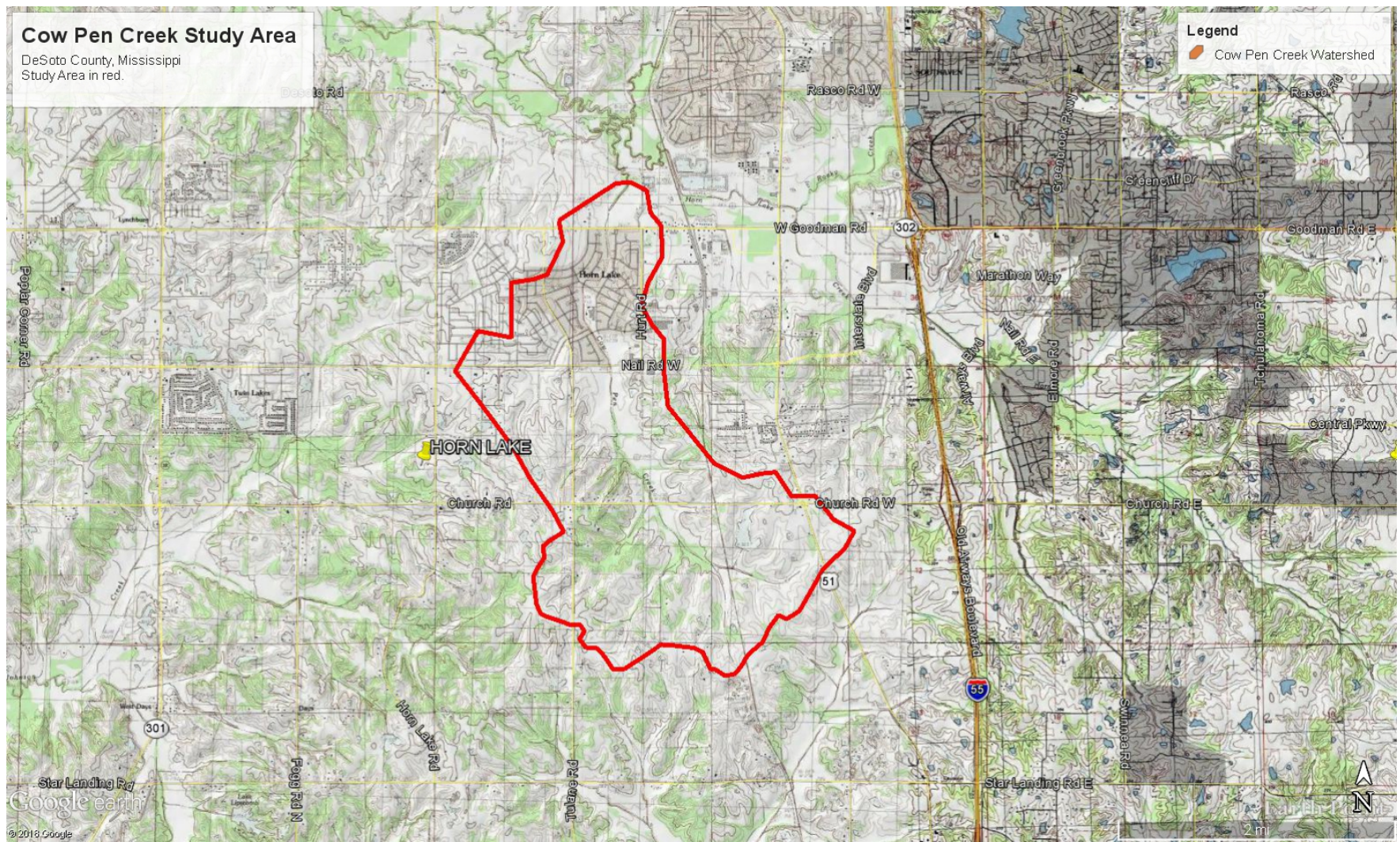


Figure 4. Cow Pen Creek Watershed Study Area.

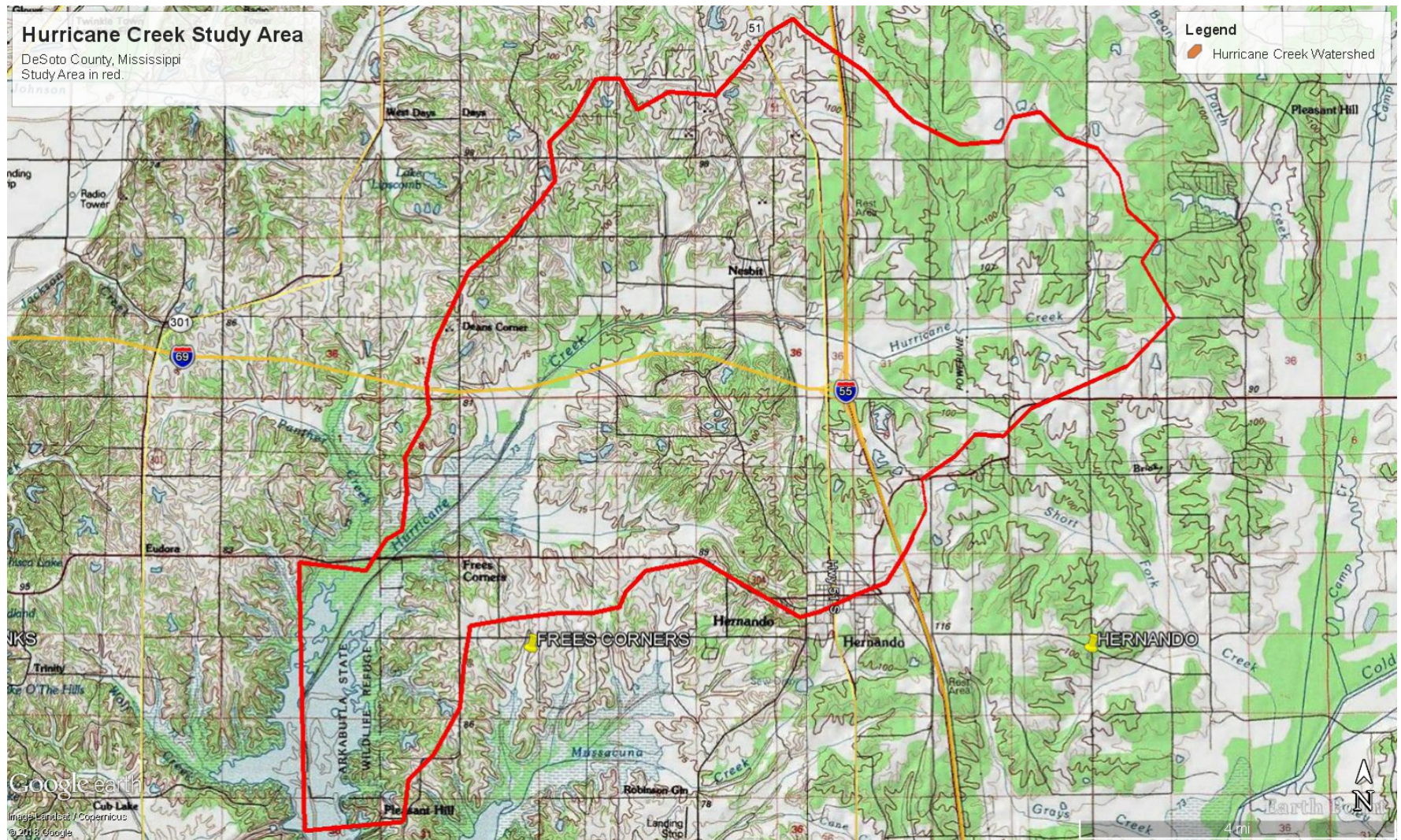


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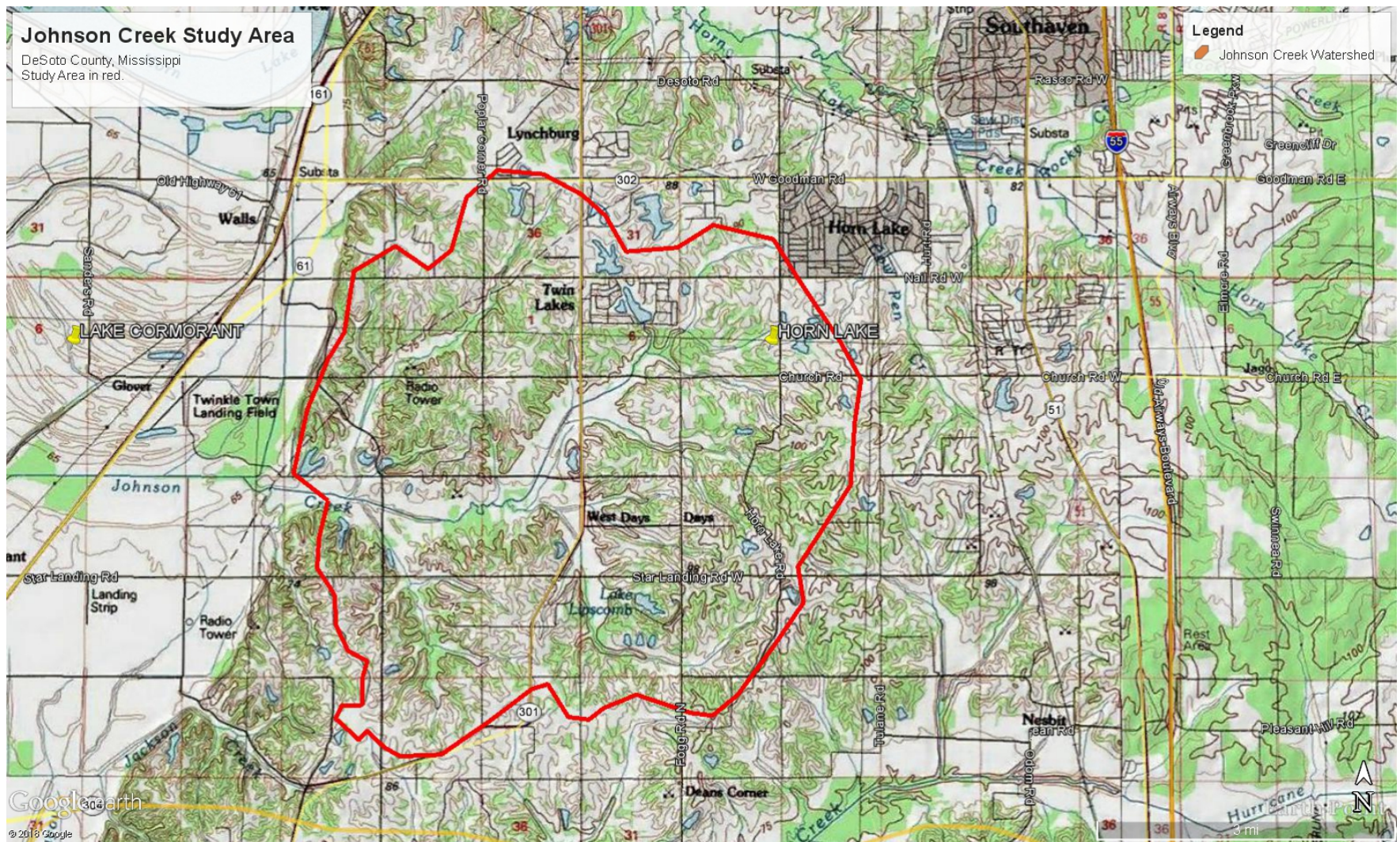


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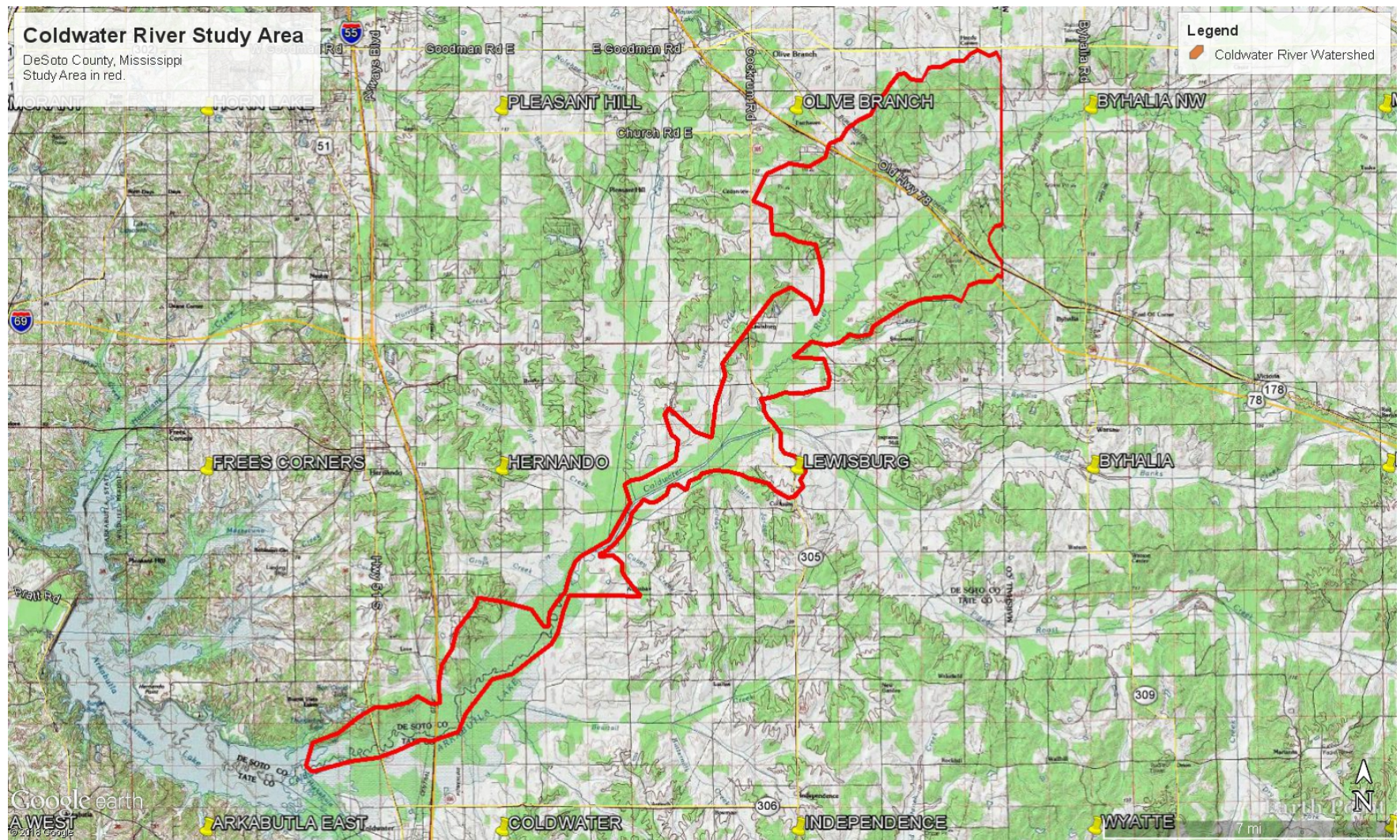


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September 5, 2019

Environmental Compliance Branch
Regional Planning and Environmental Division South

Ms. Corain Lowe-Zepeda
Tribal Historic Preservation Officer
Muscogee (Creek) Nation
P.O. Box 580
Okmulgee, OK 74447

RE: Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi.

Dear Ms. Lowe-Zepeda:

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Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South

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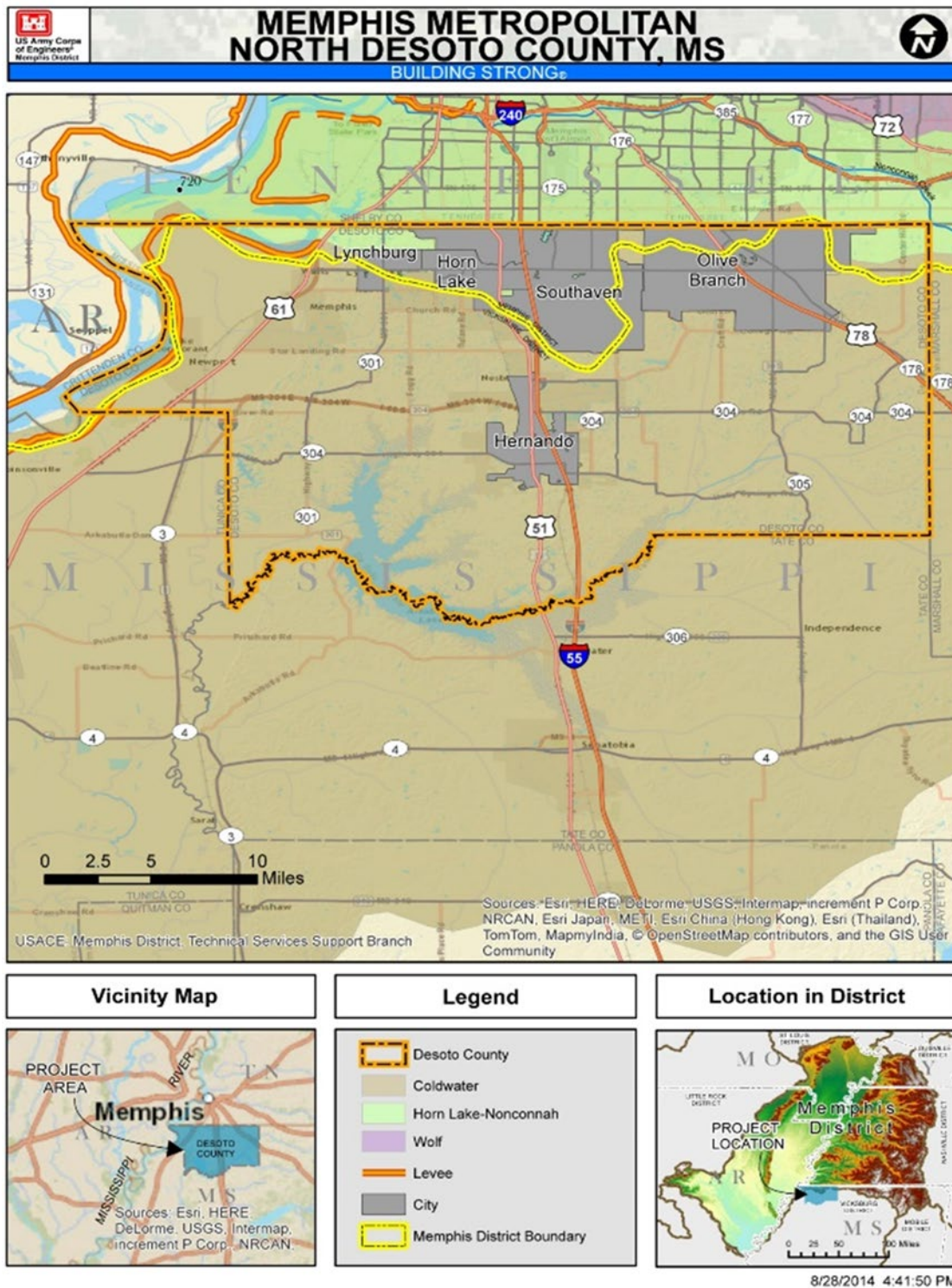


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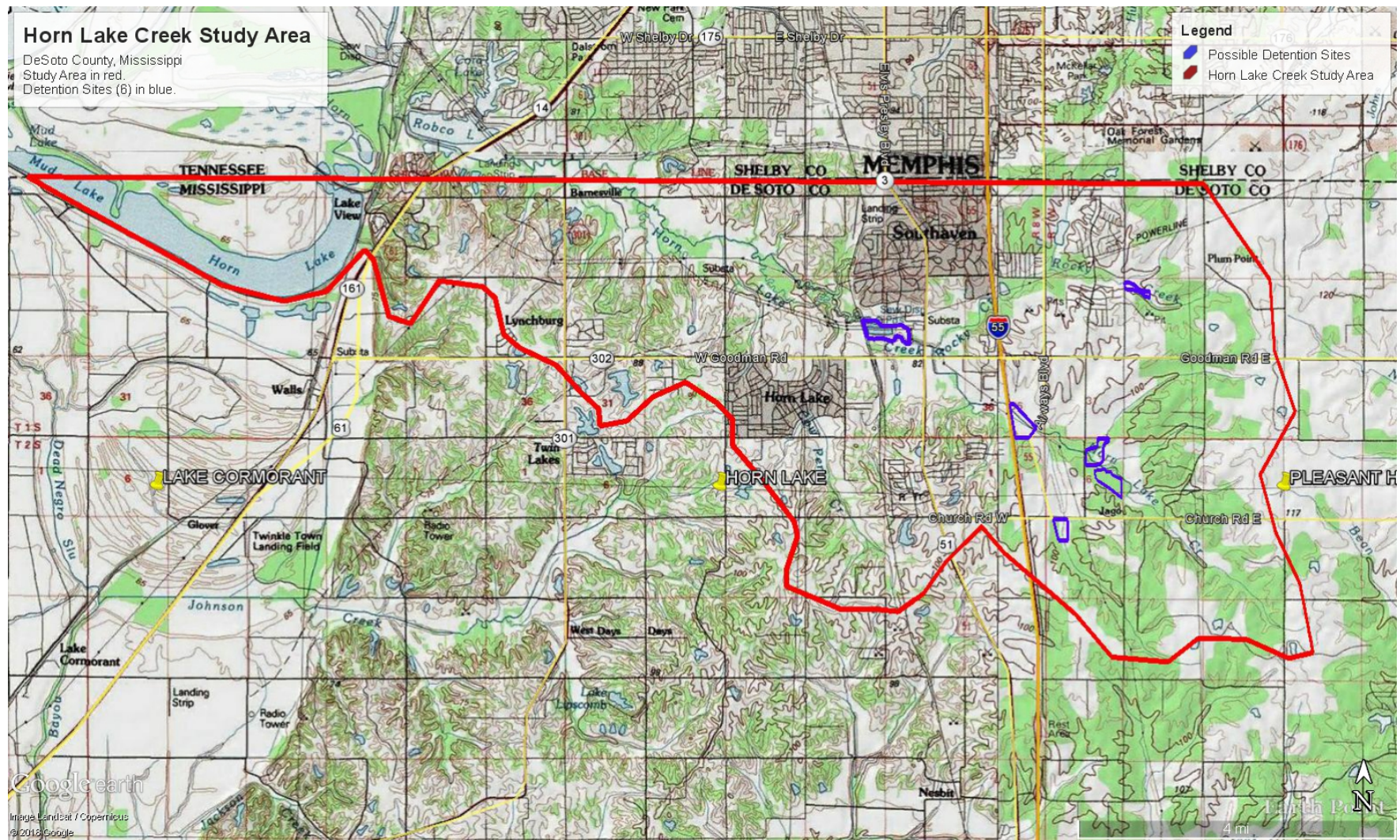


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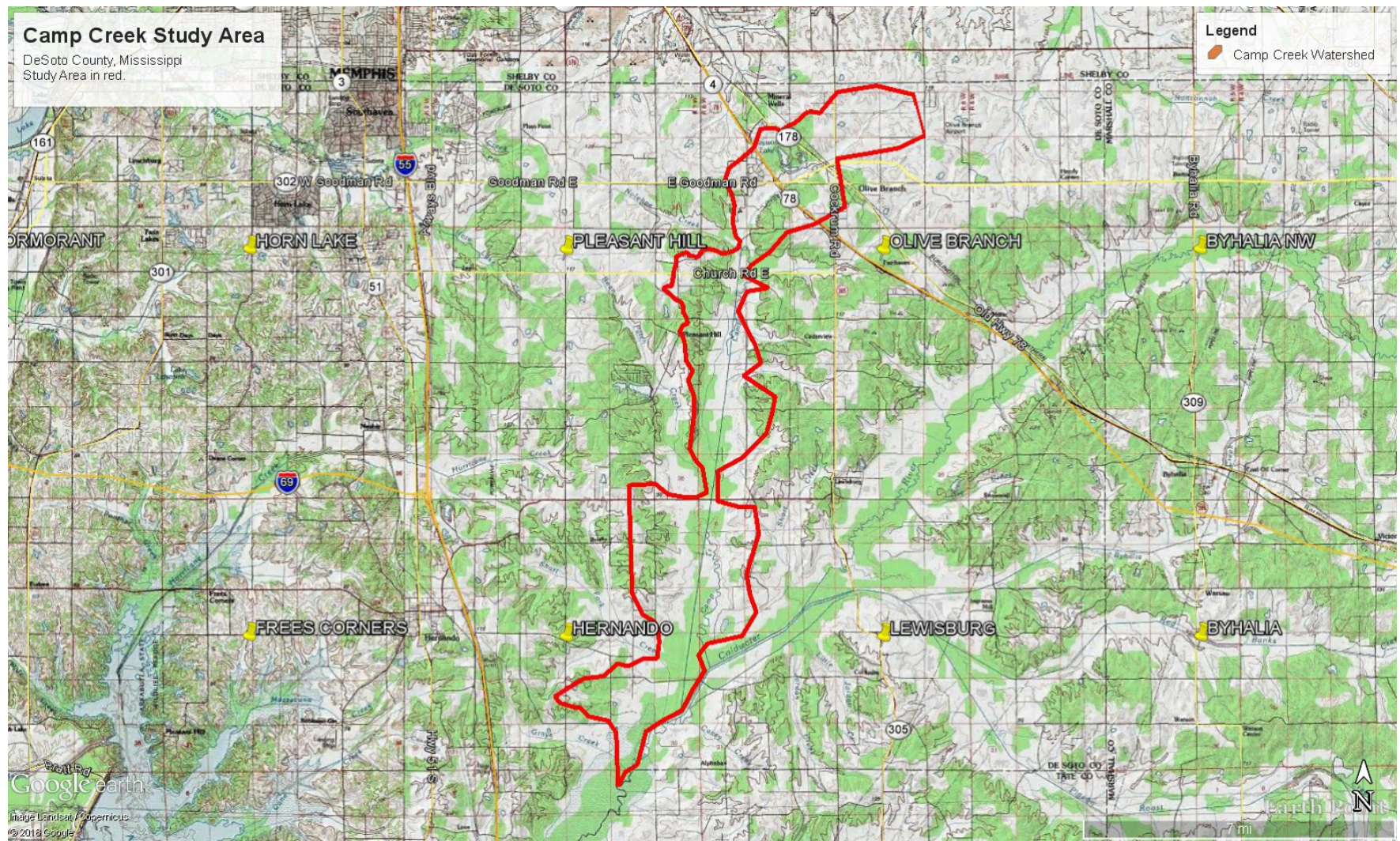


Figure 3. Camp Creek Watershed Study Area.

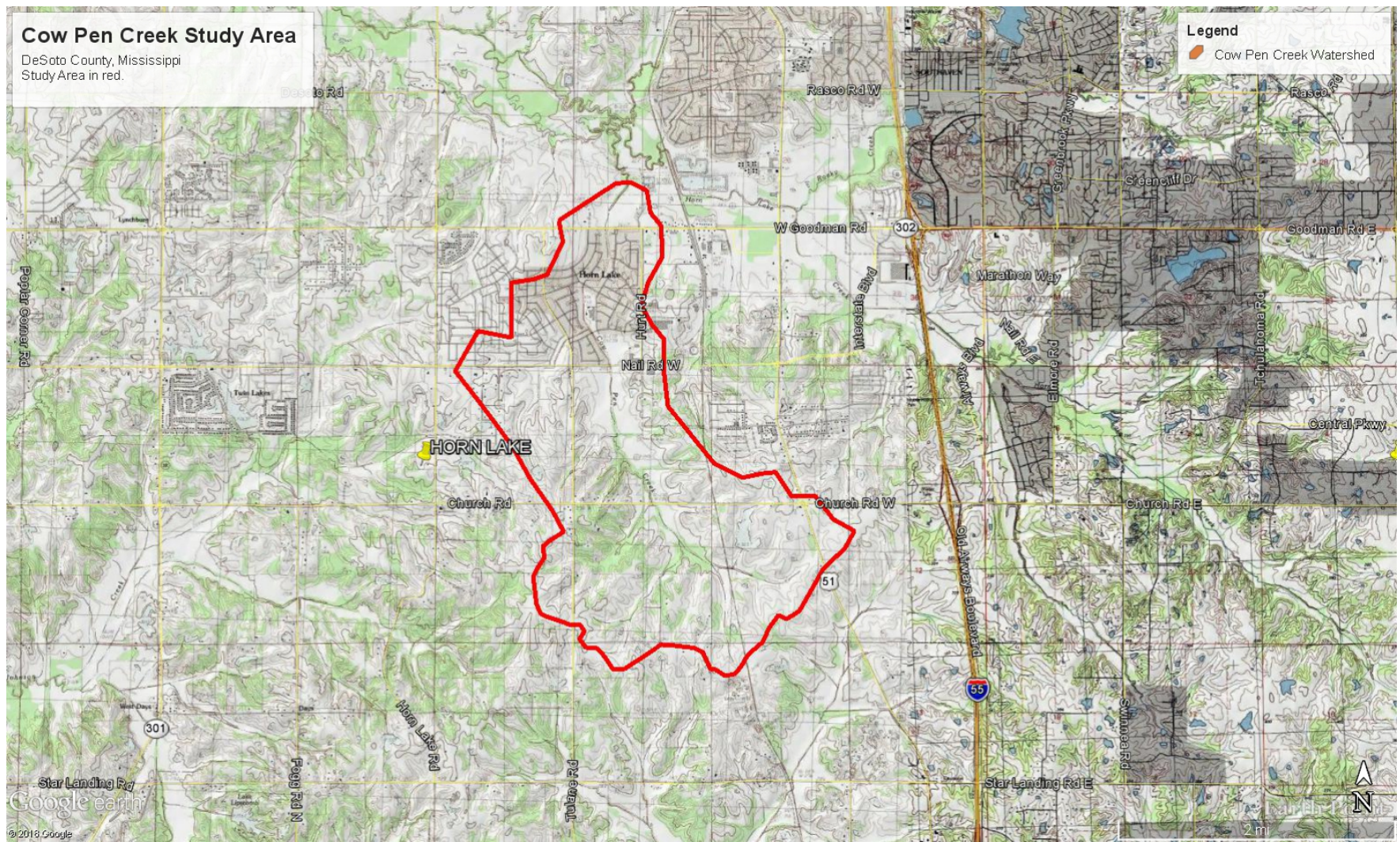
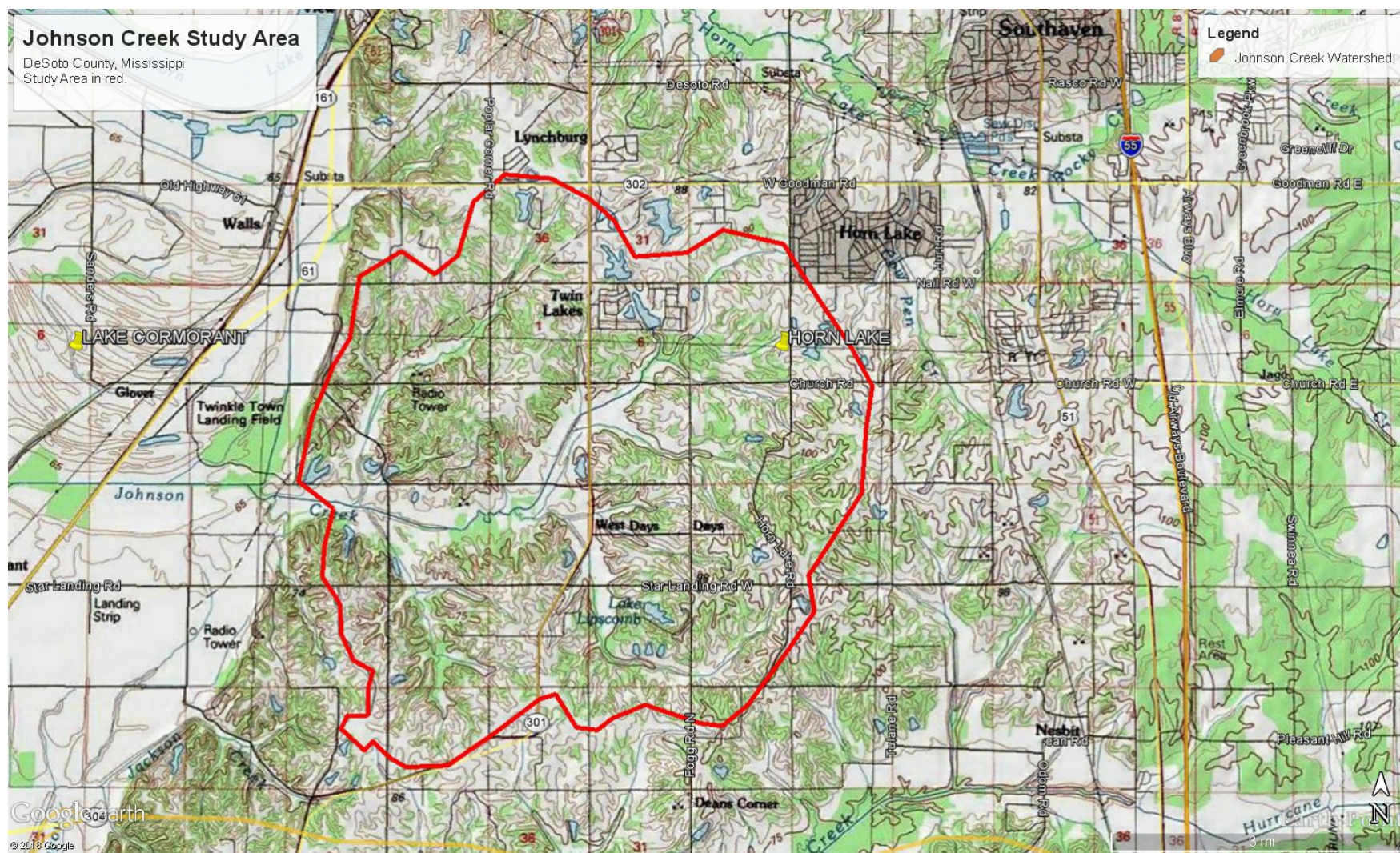


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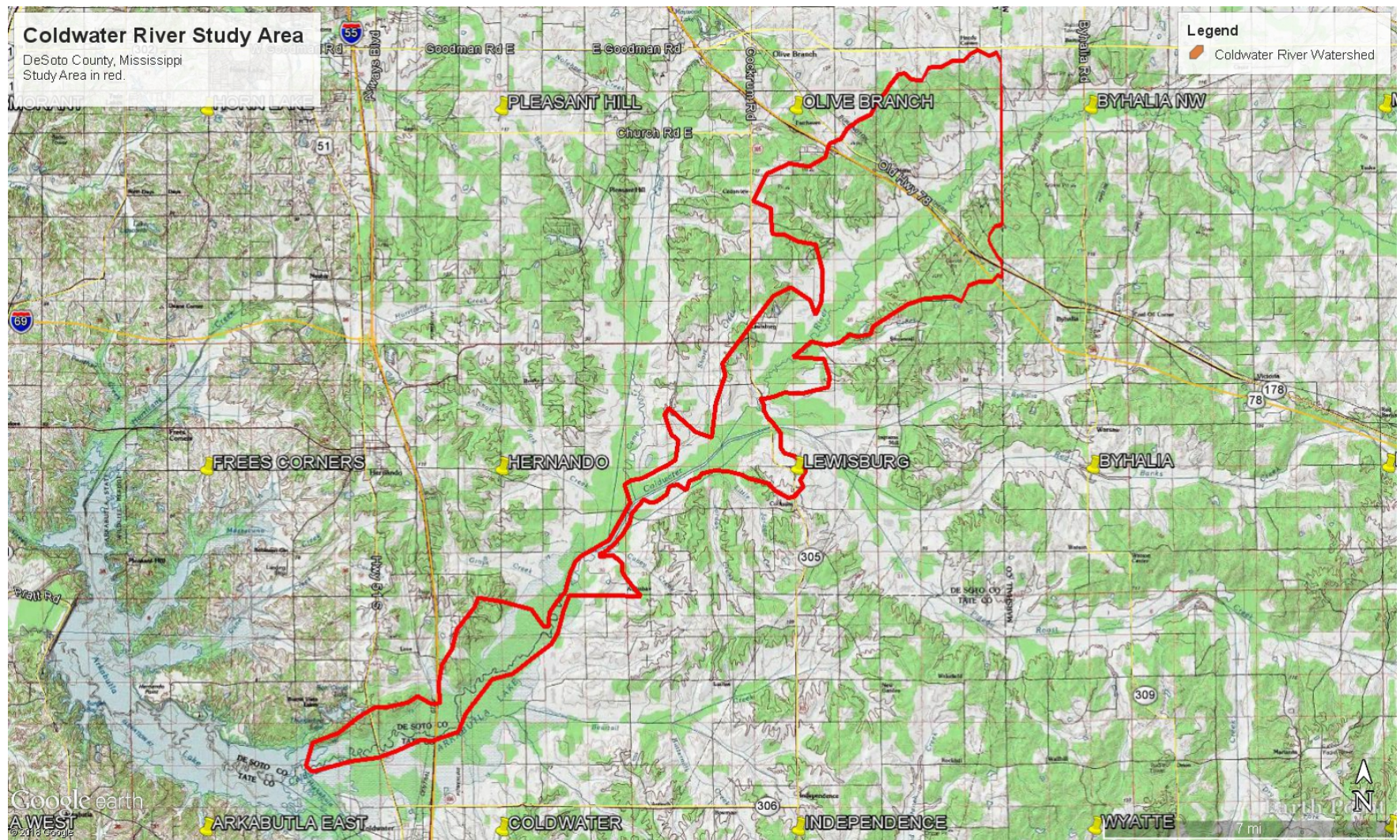


Figure 7. Coldwater River Watershed Study Area.



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September 5, 2019

Environmental Compliance Branch
Regional Planning and Environmental Division South

Mr. Everett Bandy
Tribal Historic Preservation Officer
Quapaw Tribe of Oklahoma
P.O. Box 765
Quapaw, Oklahoma 74363-0765

RE: Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi.

Dear Mr. Bandy:

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Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South

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Mrs. Lindsey Bilyeu, Choctaw Nation of Oklahoma
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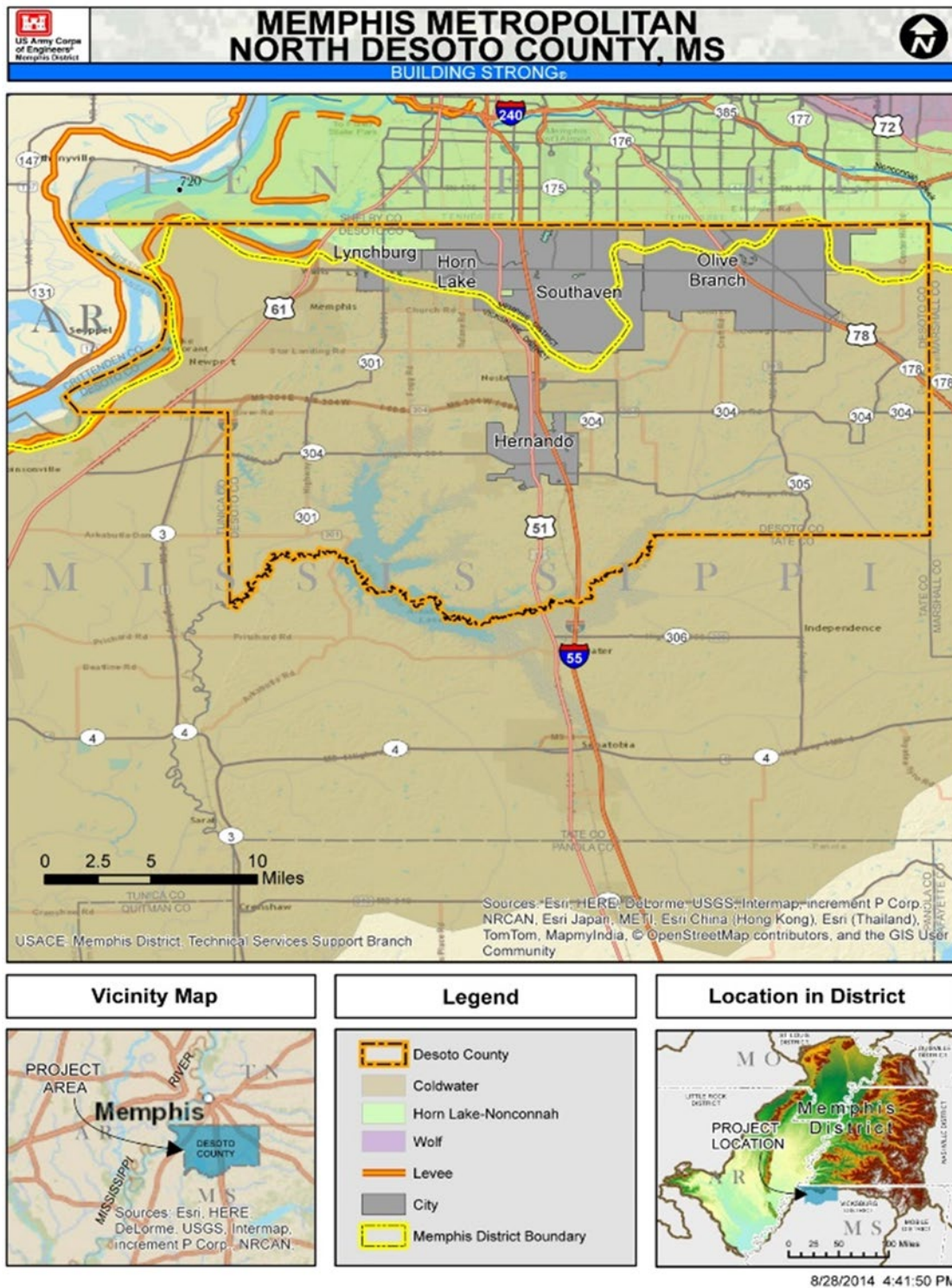


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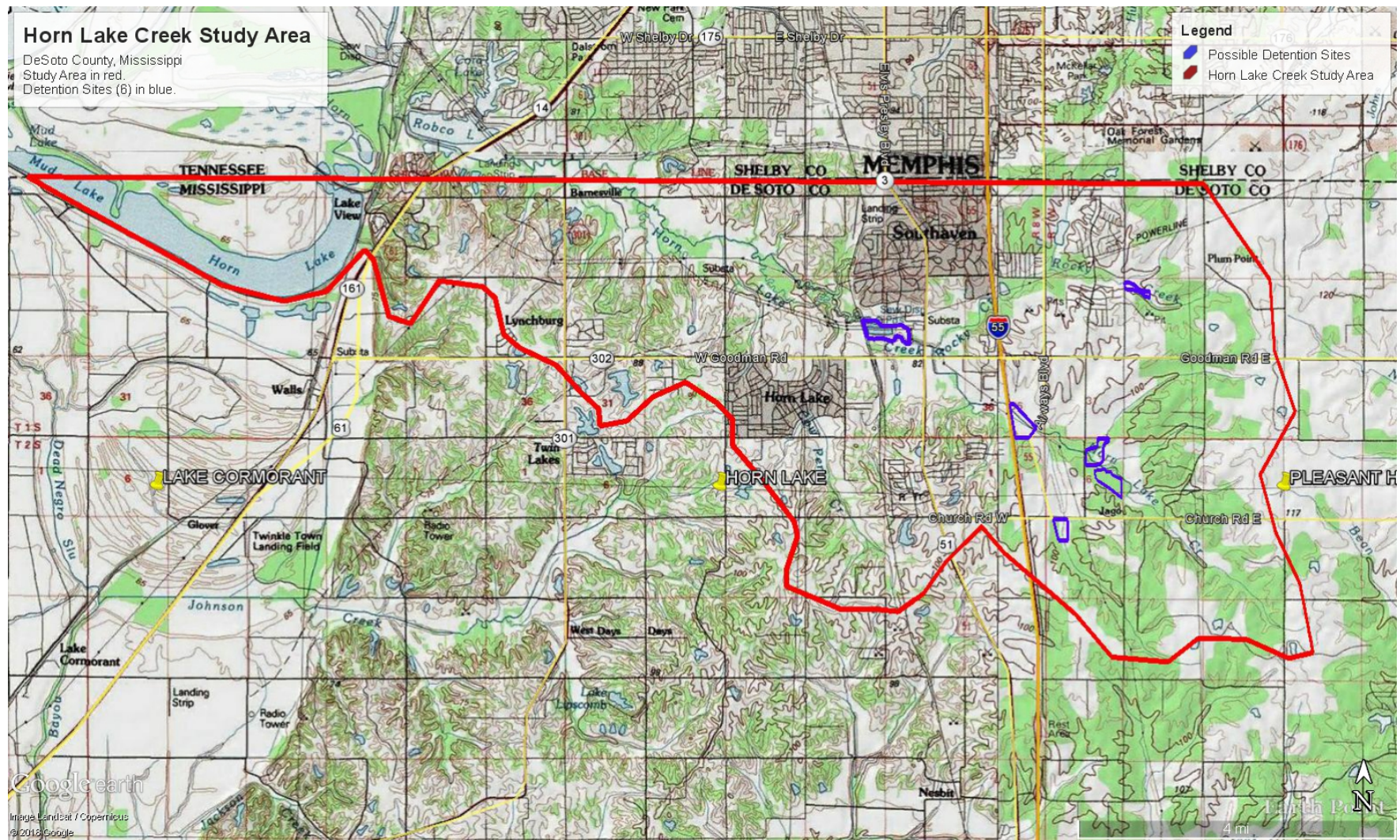
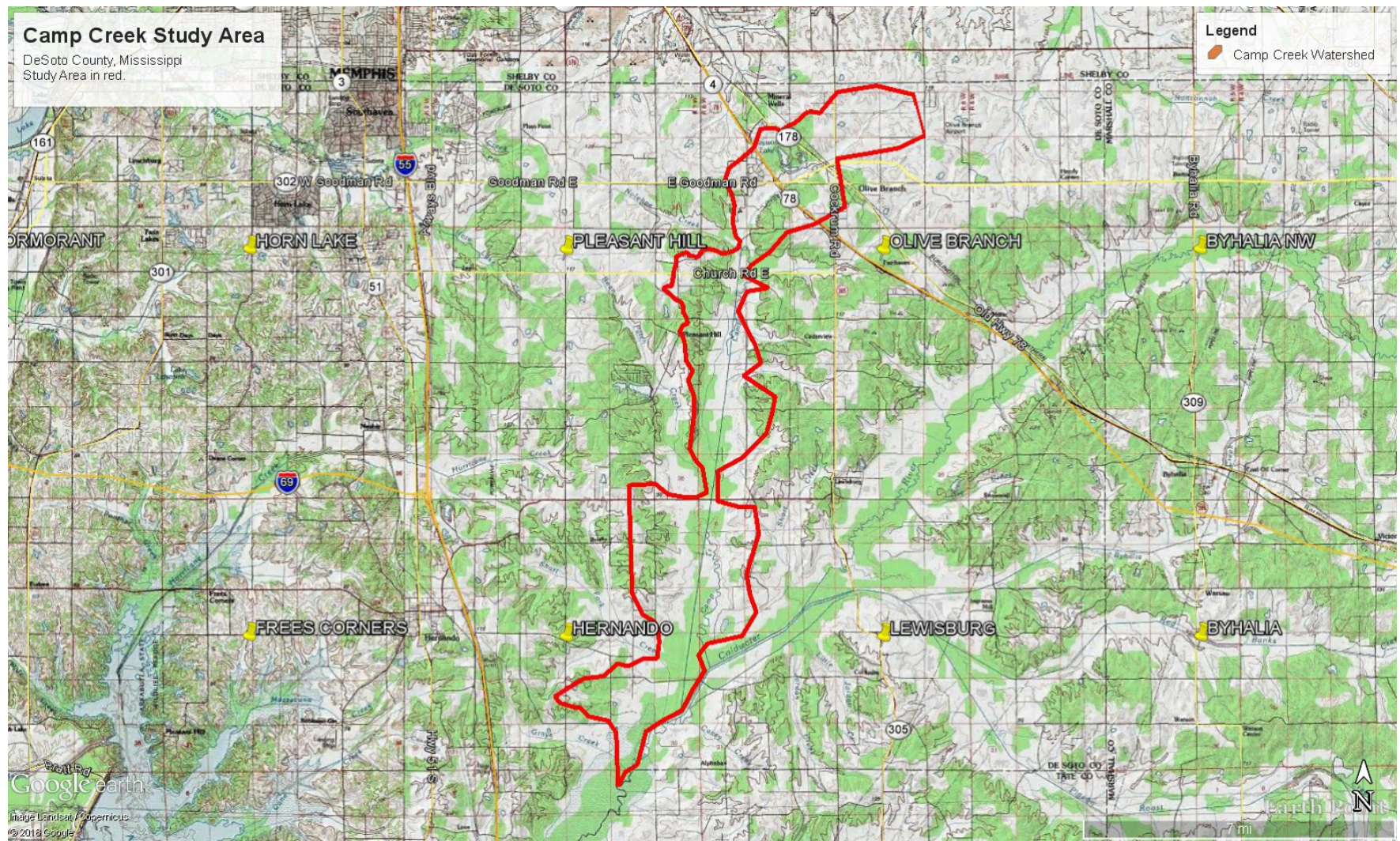


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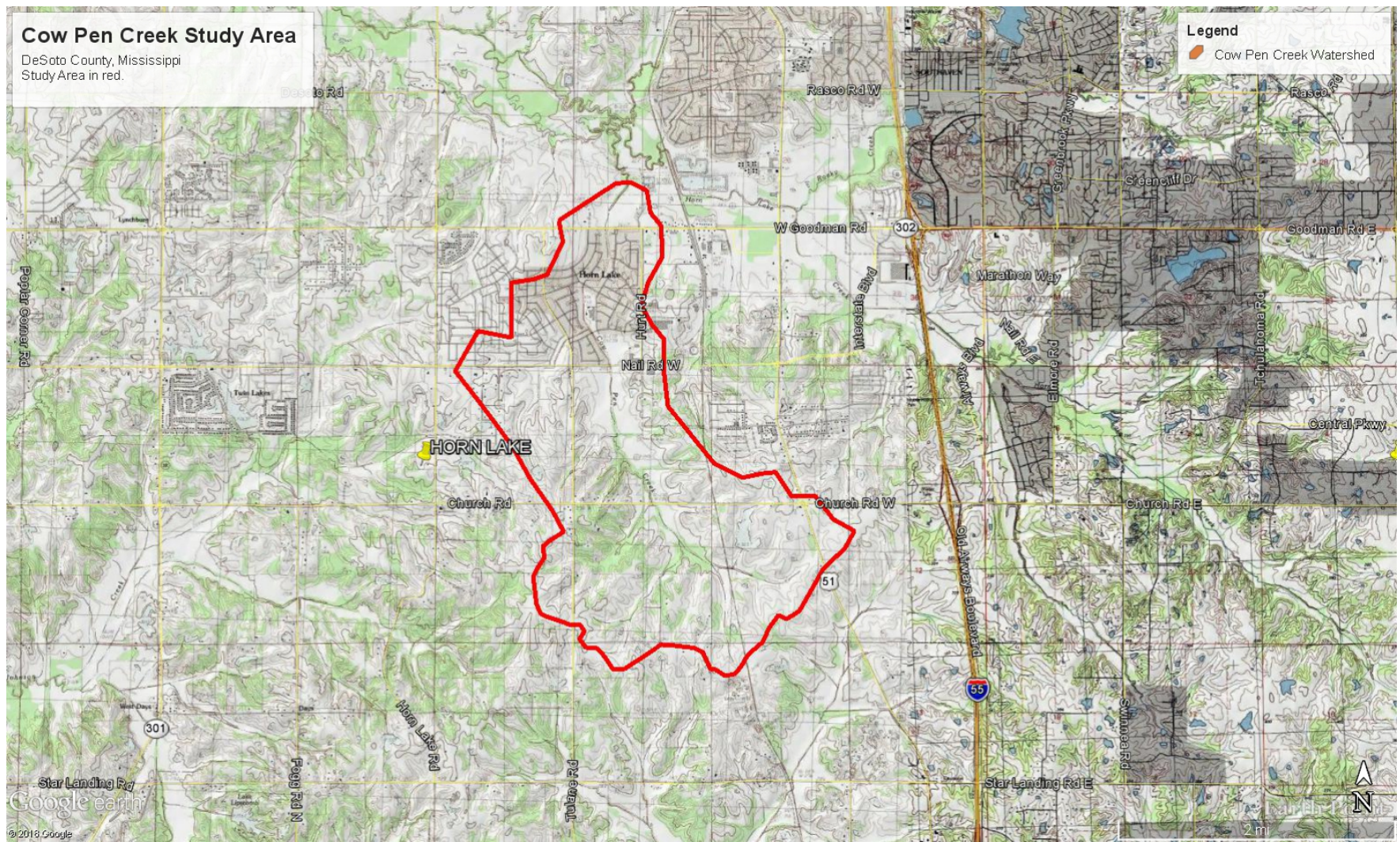


Figure 4. Cow Pen Creek Watershed Study Area.

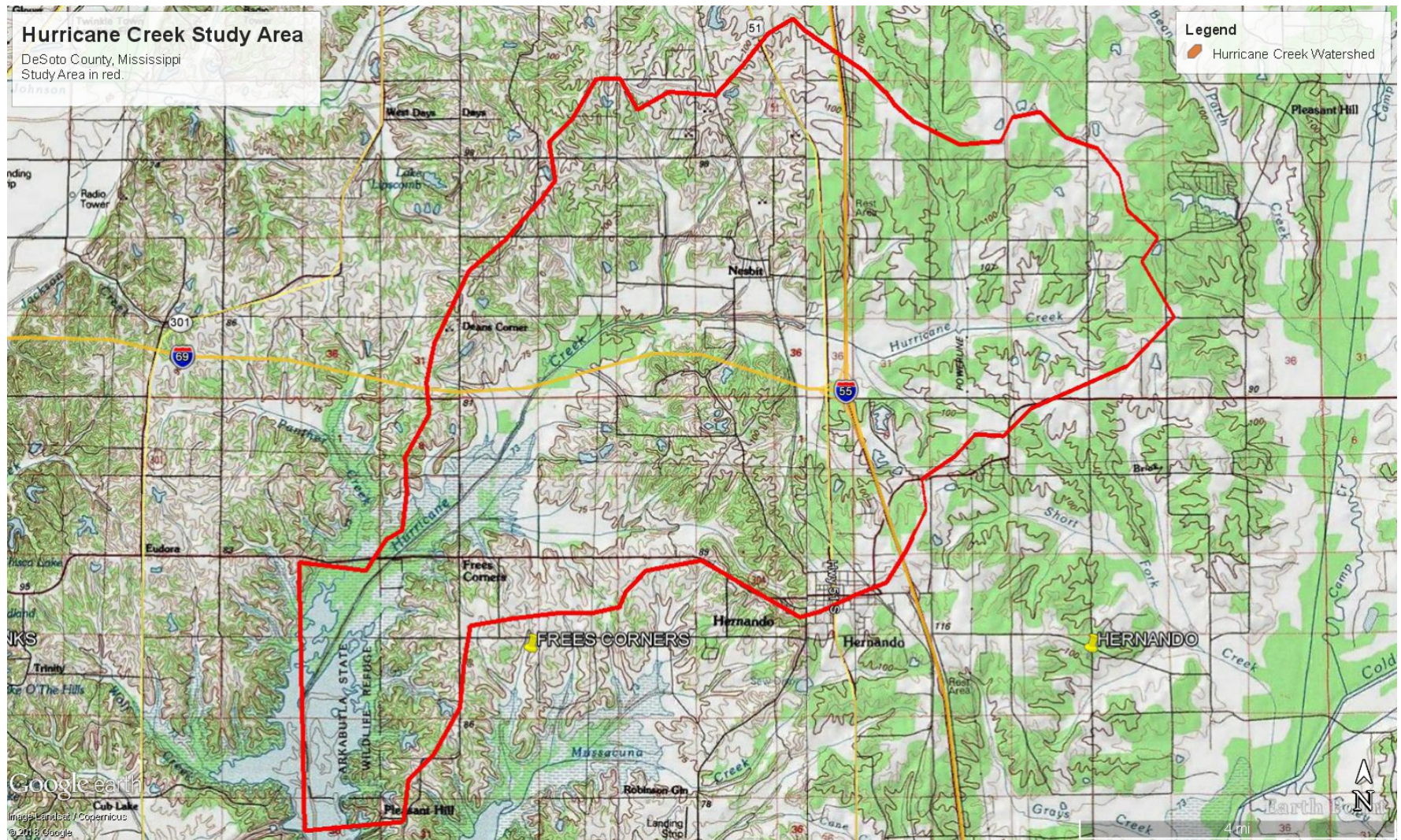


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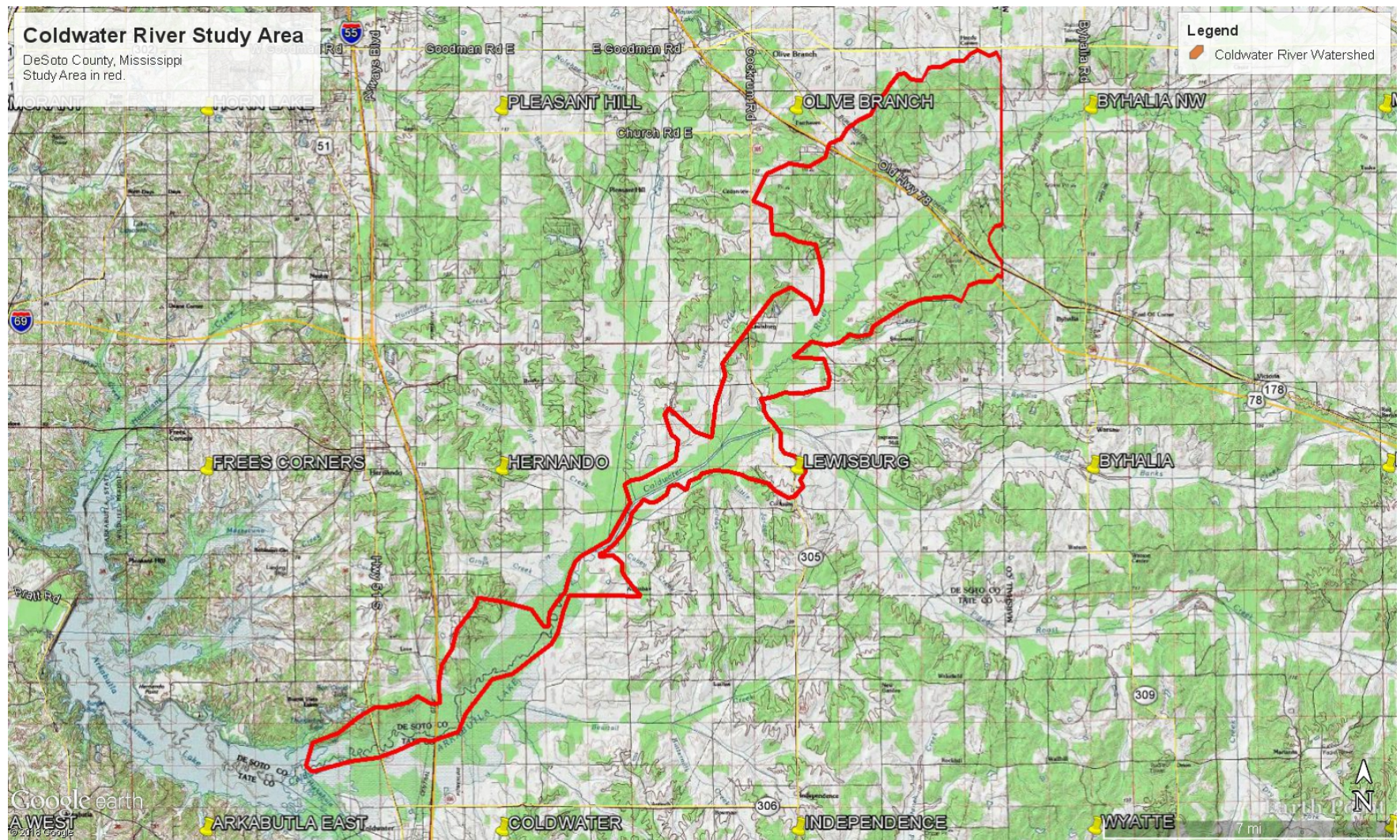


Figure 7. Coldwater River Watershed Study Area.



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September 5, 2019

Environmental Compliance Branch
Regional Planning and Environmental Division South

Mrs. Katie Blount
State Historic Preservation Officer
Mississippi Department of Archives and History
100 North Street
Jackson, Mississippi 39201

RE: Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North DeSoto County, Mississippi.

Dear Mrs. Blount:

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Pursuant to section 106 of the National Historic Preservation Act 1966 as amended (NHPA), the USACE invites you to be a consulting party in this feasibility study to help identify historic properties in the project area.

Project Background

The study area lies in the Horn Lake Creek, Camp Creek, Cow Pen Creek, Hurricane Creek, Johnson Creek, and Coldwater river watersheds in northern DeSoto County, Mississippi, including the cities of Horn Lake, Southaven, Olive Branch, Walls, and Hernando. At this time, the most significant issues are believed to be in the northern part of the county, but the entire county will be considered initially (Figure 1). Maps of the aforementioned watersheds are enclosed (Figure 2-6).

Several studies have been conducted that have indicated that a feasible plan for flood risk reduction may exist for the project area, with the most recent occurring in 2005, entitled *Horn Lake Creek and Tributaries, Tennessee and Mississippi, General Reevaluation Report*. A final plan to reduce flood surface elevations was proposed which included channel enlargement, concrete lining of some channel sections, rip rap bank protection, diversion ditch and weir construction, berm construction, and environmental enhancement.

An initial background review of the study area and six possible detention areas was conducted using the Mississippi Historical Site Management Tool (HMST) and included a research visit to the Mississippi State Historic Preservation Office (MSSHPO). The background review indicated multiple surveys and sites within these watersheds. If you have any additional information or concerns within this study area not listed in the HMST, please provide them to us to be included in the DIFR-EIS. This will aid in determining the scope and depth of issues to be analyzed when developing the project and project alternatives. Locational information will not be included in the DIFR-EIS nor made public.

Do not hesitate to notify USACE regarding any information your office may wish to provide at this time concerning the proposed undertaking and its potential to significantly affect historic properties and/or any other relevant parties who you feel may have an interest in participating in this consultation.

USACE proposes to forward future notices and other background information to the consulting parties by e-mail to minimize communication delays and expedite the process. Please let USACE know if this is impractical so that alternative arrangements can be made. Please notify Pam Lieb, District Archaeologist and Tribal Liaison, at (901) 544-0710 or Pamela.D.Lieb@usace.army.mil if you have any comments.

Sincerely,



Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South

cc: Mr. Earl J. Barbry, Jr., Tunica Biloxi Tribe of Louisiana
Ms. Alina Shively, Jena Band of Choctaw Indians
Mr. Everett Bandy, Quapaw Nation of Oklahoma
Mr. Ken Carleton, Mississippi Band of Choctaw Indians
Ms. Karen Brunso, The Chickasaw Nation
Ms. Corain Lowe, Zepeda, Muscogee (Creek) Nation
Mrs. Lindsey Bilyeu, Choctaw Nation of Oklahoma

Enclosures

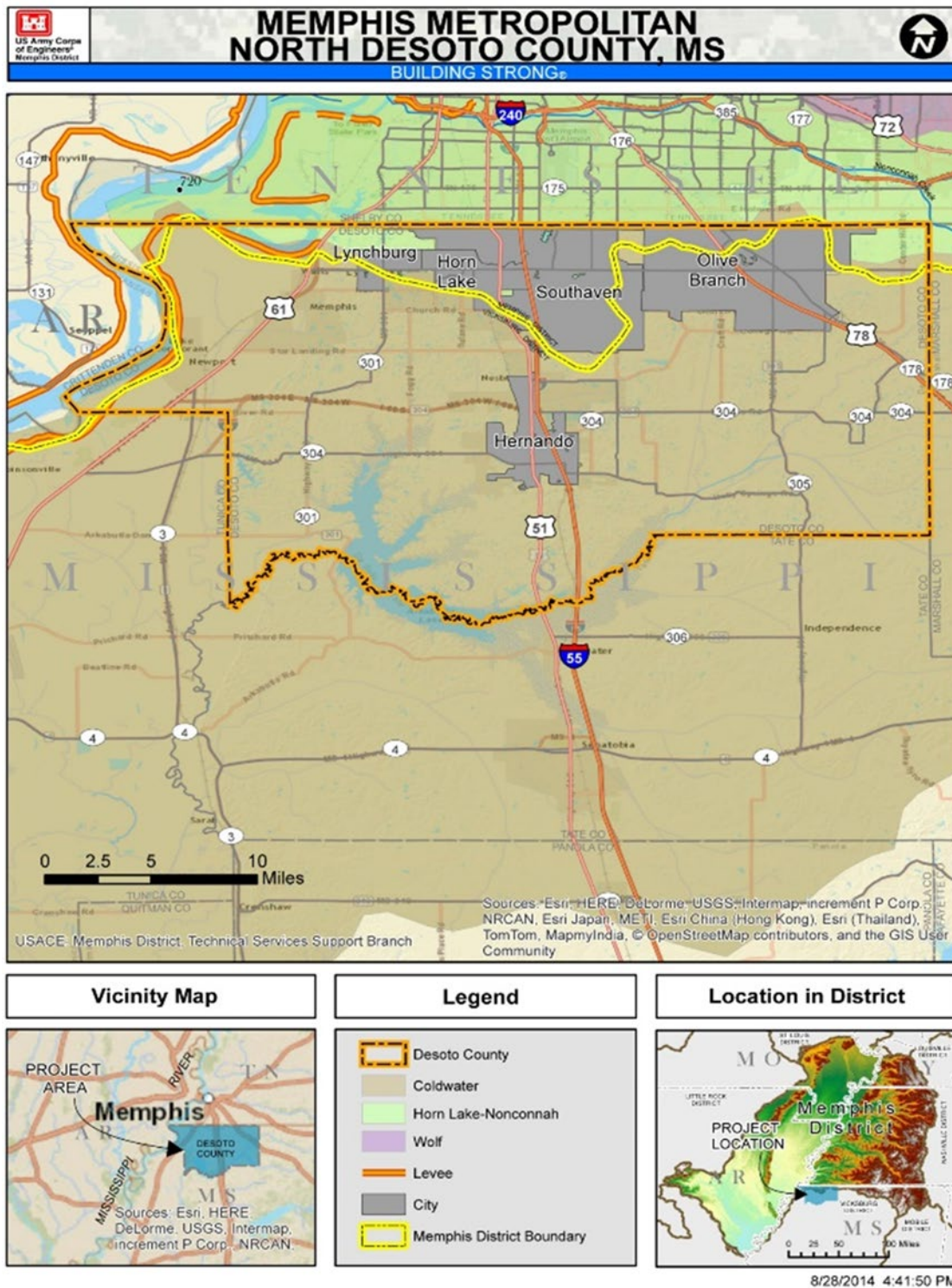


Figure 1. DeSoto County, Mississippi.

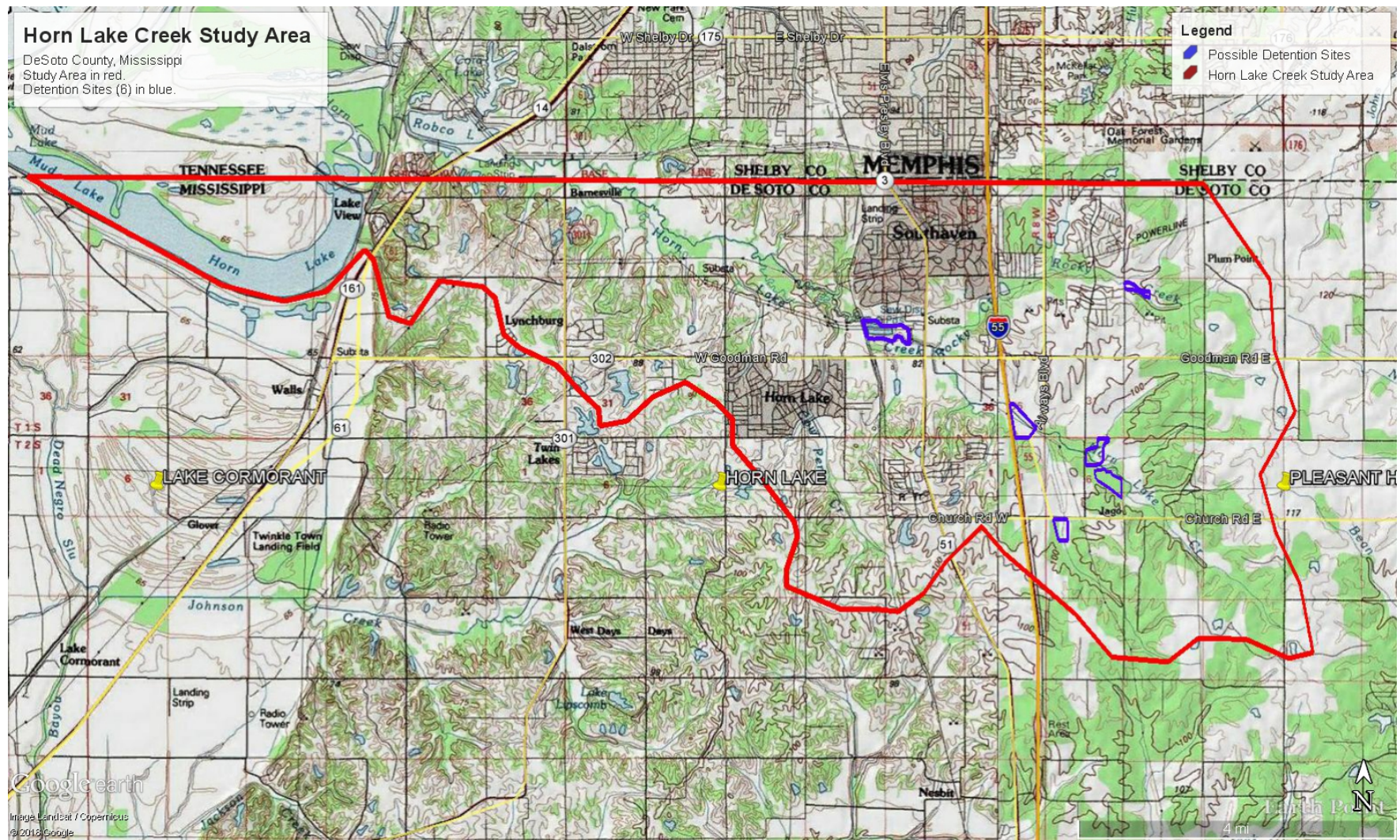


Figure 2. Horn Lake Creek Watershed Study Area (red) with Six Detention Areas (blue).

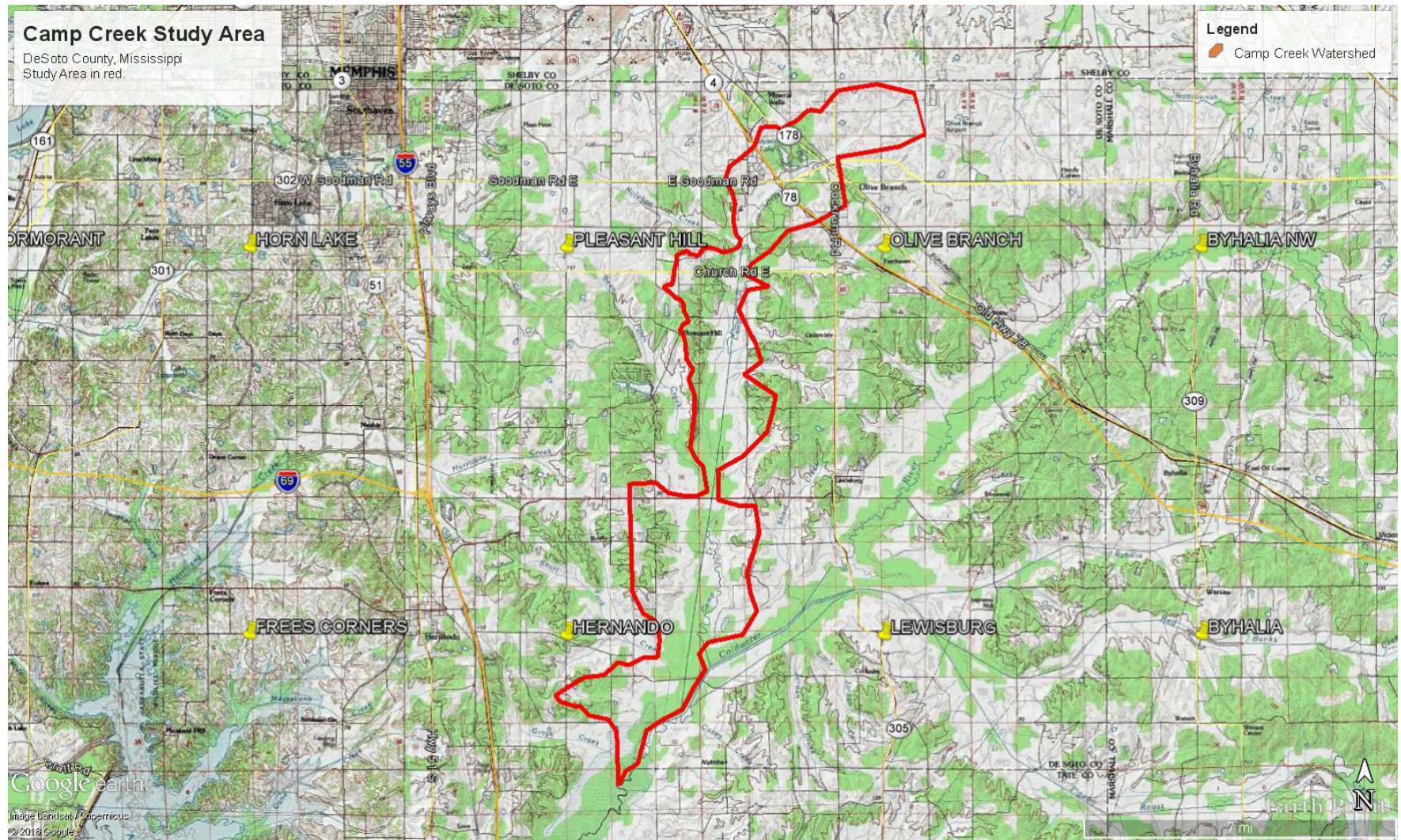


Figure 3. Camp Creek Watershed Study Area.

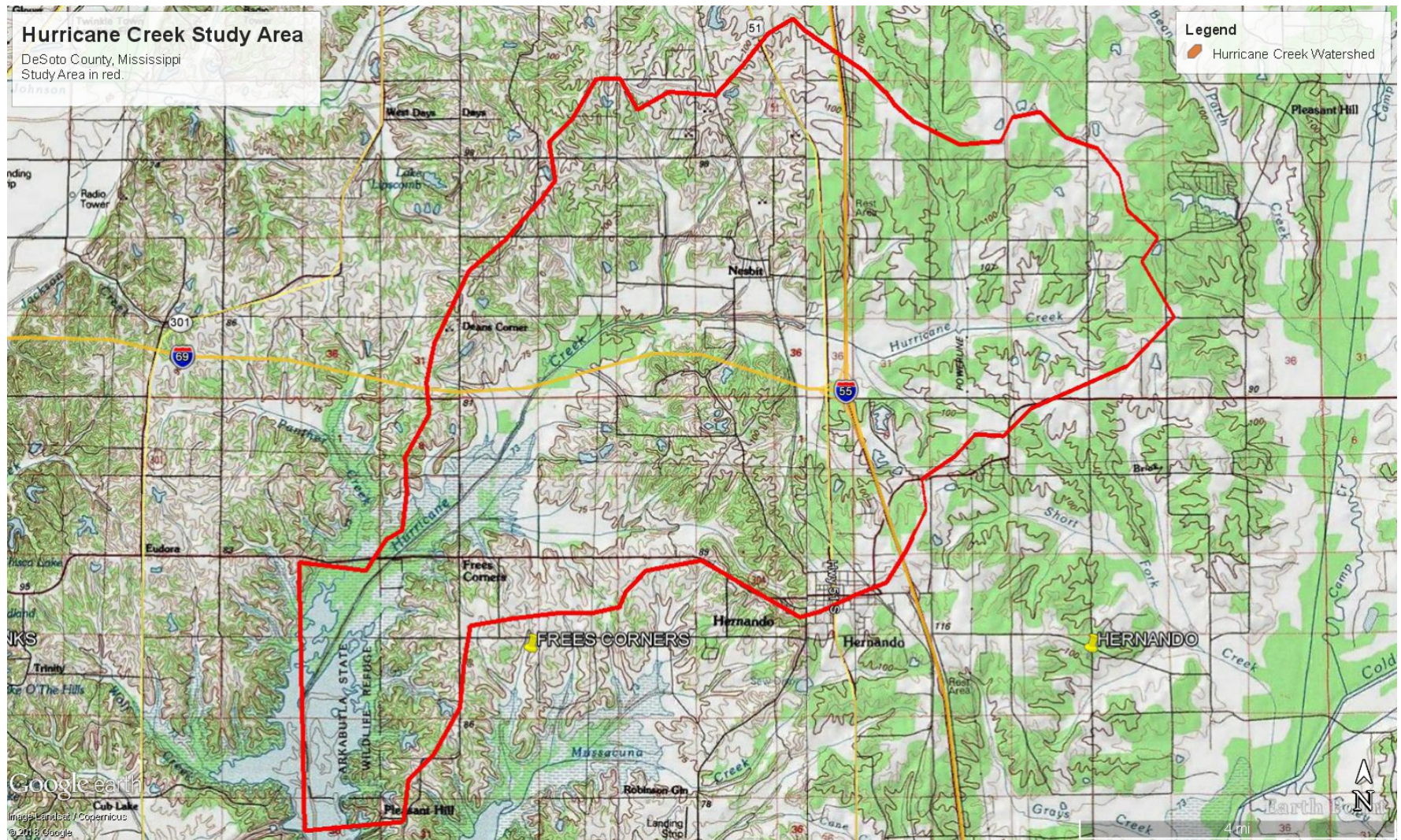


Figure 5. Hurricane Creek Watershed Study Area.

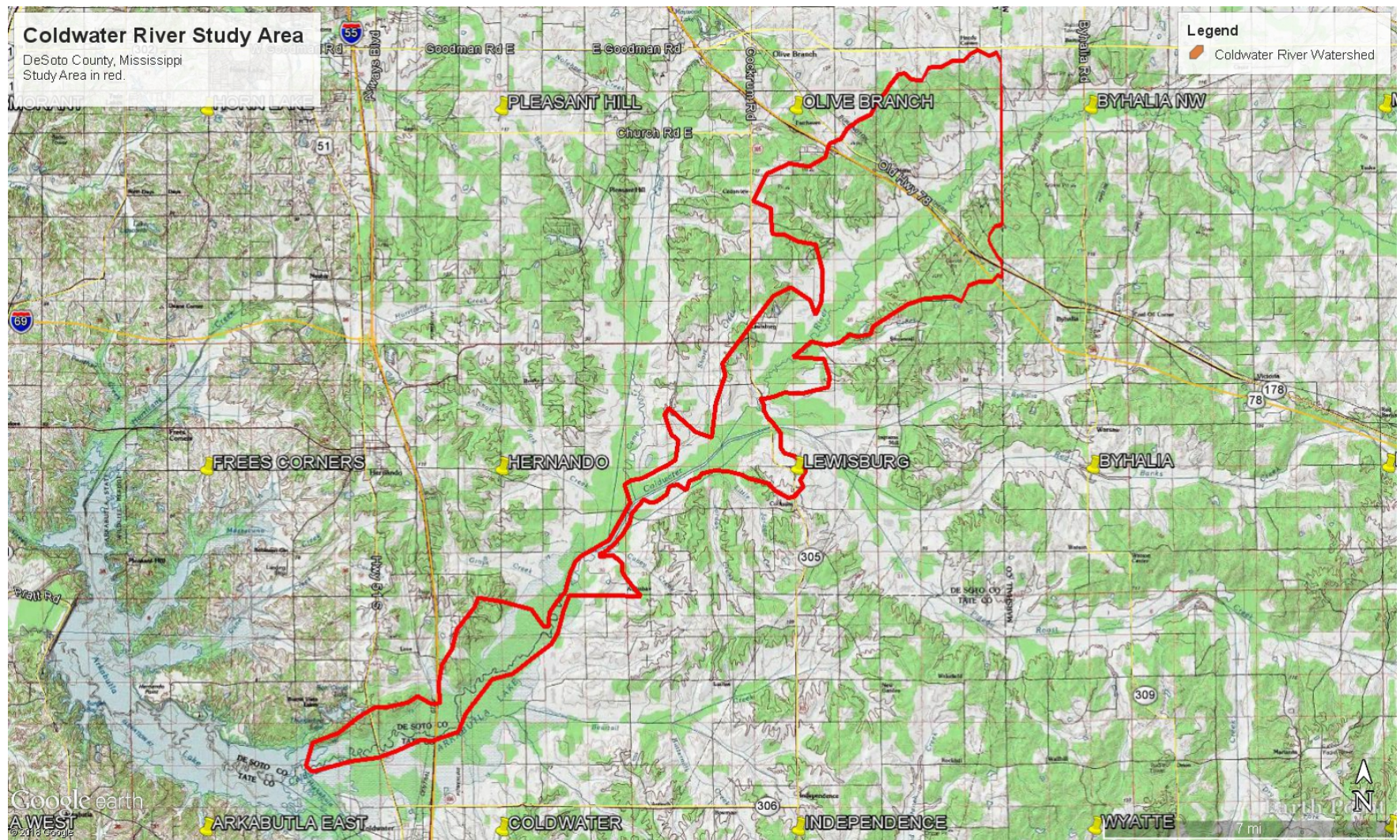


Figure 7. Coldwater River Watershed Study Area.



DEPARTMENT OF THE ARMY
MEMPHIS DISTRICT CORPS OF ENGINEERS
167 NORTH MAIN STREET B-202

MEMPHIS, TN 38103-1894

September 5, 2019

Environmental Compliance Branch
Regional Planning and Environmental Division South

Mr. Earl J. Barbry, Jr.
Tribal Historic Preservation Officer
Tunica-Biloxi Tribal Historic Preservation Office
P.O. Box 1589
Marksville, Louisiana 71351

RE: Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi.

Dear Mr. Barbry:

The U.S. Army Corps of Engineers (USACE) is soliciting comments and information from Tribes with interests in DeSoto County, Mississippi, in order to prepare a draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Memphis Metropolitan Stormwater Management Project: North DeSoto County, Mississippi. The DIFR-EIS will focus on developing a plan of improvement that provides flood risk reduction to public infrastructure as well as commercial and residential properties. Project features will be designed to avoid or minimize adverse environmental impacts to the extent practical. A project website has been set up for public access at the following:

<https://www.mvm.usace.army.mil/Missions/Projects/North-DeSoto-County-Feasibility-Study/>.

Pursuant to section 106 of the National Historic Preservation Act 1966 as amended (NHPA), the USACE invites you to be a consulting party in this feasibility study to help identify historic properties in the project area that may have religious and cultural significance to your tribe, and if such properties exist, to help assess how the project might affect them.

Project Background

The study area lies in the Horn Lake Creek, Camp Creek, Cow Pen Creek, Hurricane Creek, Johnson Creek, and Coldwater river watersheds in northern DeSoto County, Mississippi, including the cities of Horn Lake, Southaven, Olive Branch, Walls, and Hernando. At this time, the most significant issues are believed to be in the northern part of the county, but the entire county will be considered initially (Figure 1). Maps of the aforementioned watersheds are enclosed (Figure 2-6).

Several studies have been conducted that have indicated that a feasible plan for flood risk reduction may exist for the project area, with the most recent occurring in 2005, entitled *Horn Lake Creek and Tributaries, Tennessee and Mississippi, General Reevaluation Report*. A final plan to reduce flood surface elevations was proposed which included channel enlargement, concrete lining of some channel sections, rip rap bank protection, diversion ditch and weir construction, berm construction, and environmental enhancement.

An initial background review of the study area and six possible detention areas was conducted using the Mississippi Historical Site Management Tool (HMST) and included a research visit to the Mississippi State Historic Preservation Office (MSSHPO). The background review indicated multiple surveys and sites within these watersheds. If you have any additional information or concerns within this study area not listed in the HMST, please provide them to us to be included in the DIFR-EIS. This will aid in determining the scope and depth of issues to be analyzed when developing the project and project alternatives. Locational information will not be included in the DIFR-EIS nor made public.

Do not hesitate to notify USACE regarding any information your office may wish to provide at this time concerning the proposed undertaking and its potential to significantly affect historic properties and/or any other relevant parties who you feel may have an interest in participating in this consultation.

USACE proposes to forward future notices and other background information to the consulting parties by e-mail to minimize communication delays and expedite the process. Please let USACE know if this is impractical so that alternative arrangements can be made. Please notify Pam Lieb, District Archaeologist and Tribal Liaison, at (901) 544-0710 or Pamela.D.Lieb@usace.army.mil if you have any comments.

Sincerely,



Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South

cc: Mrs. Katie Blount, Mississippi Department of Archives and History
Ms. Alina Shively, Jena Band of Choctaw Indians
Mr. Everett Bandy, Quapaw Nation of Oklahoma
Mr. Ken Carleton, Mississippi Band of Choctaw Indians
Ms. Karen Brunso, The Chickasaw Nation
Ms. Corain Lowe, Zepeda, Muscogee (Creek) Nation
Mrs. Lindsey Bilyeu, Choctaw Nation of Oklahoma

Enclosures

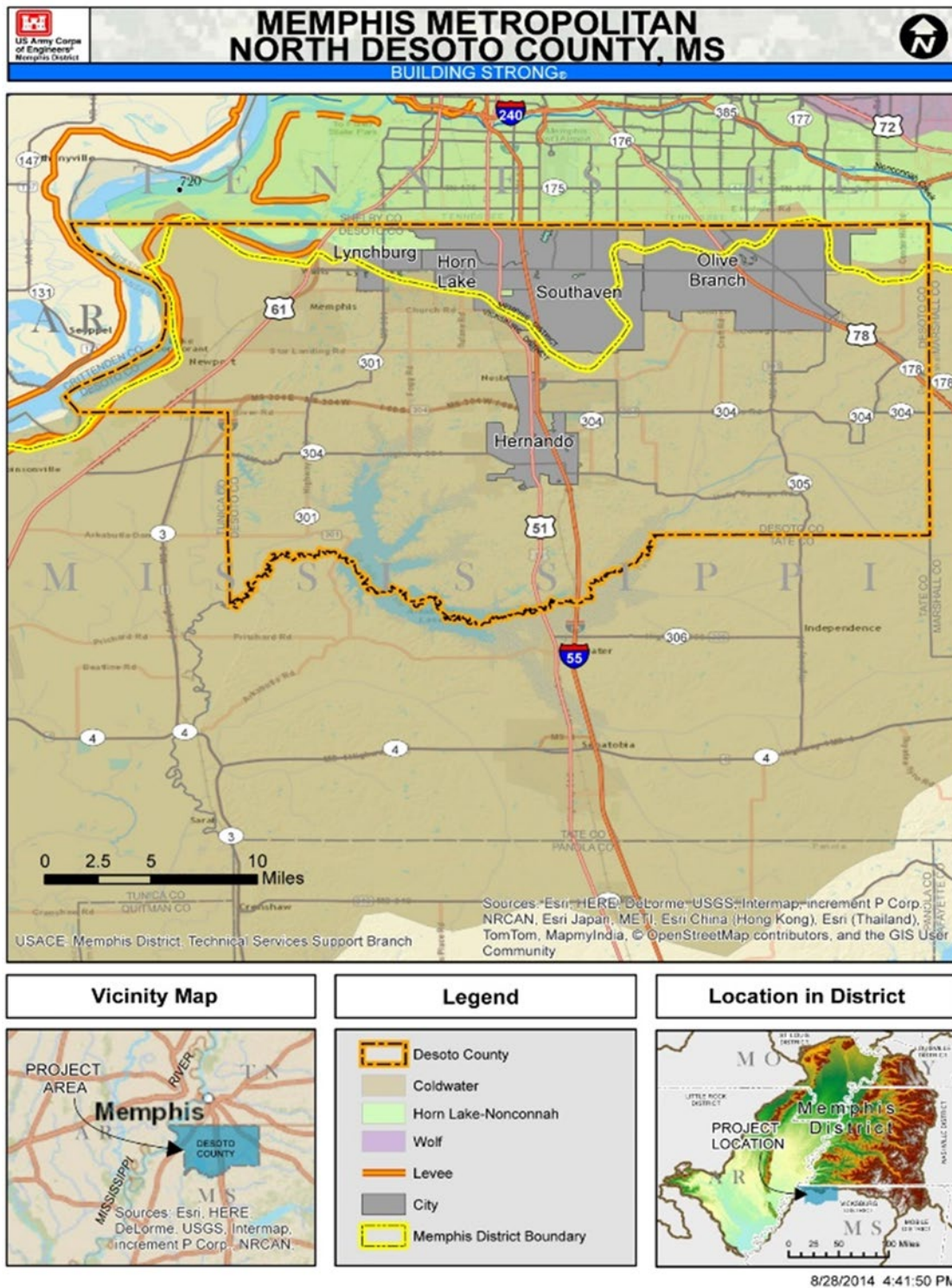


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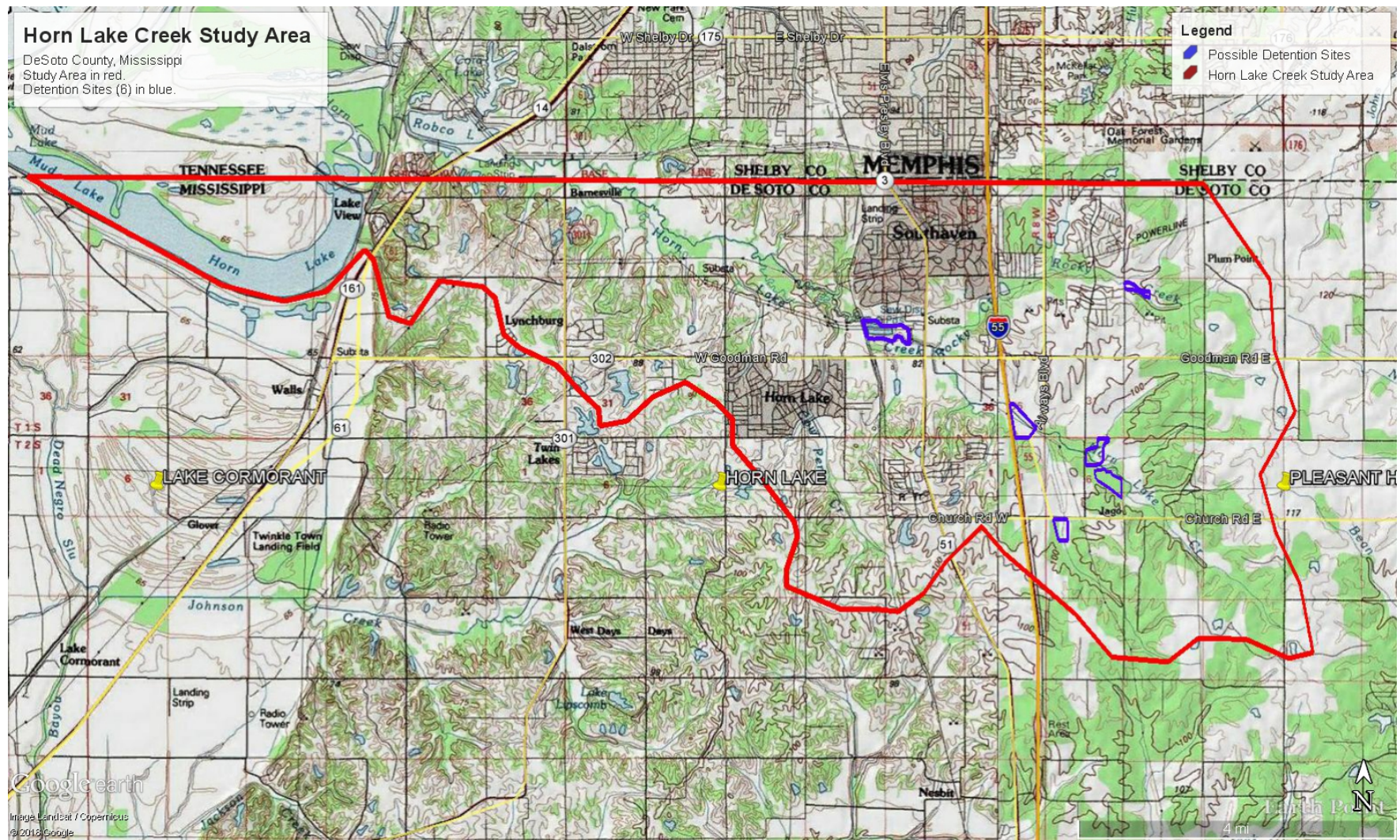


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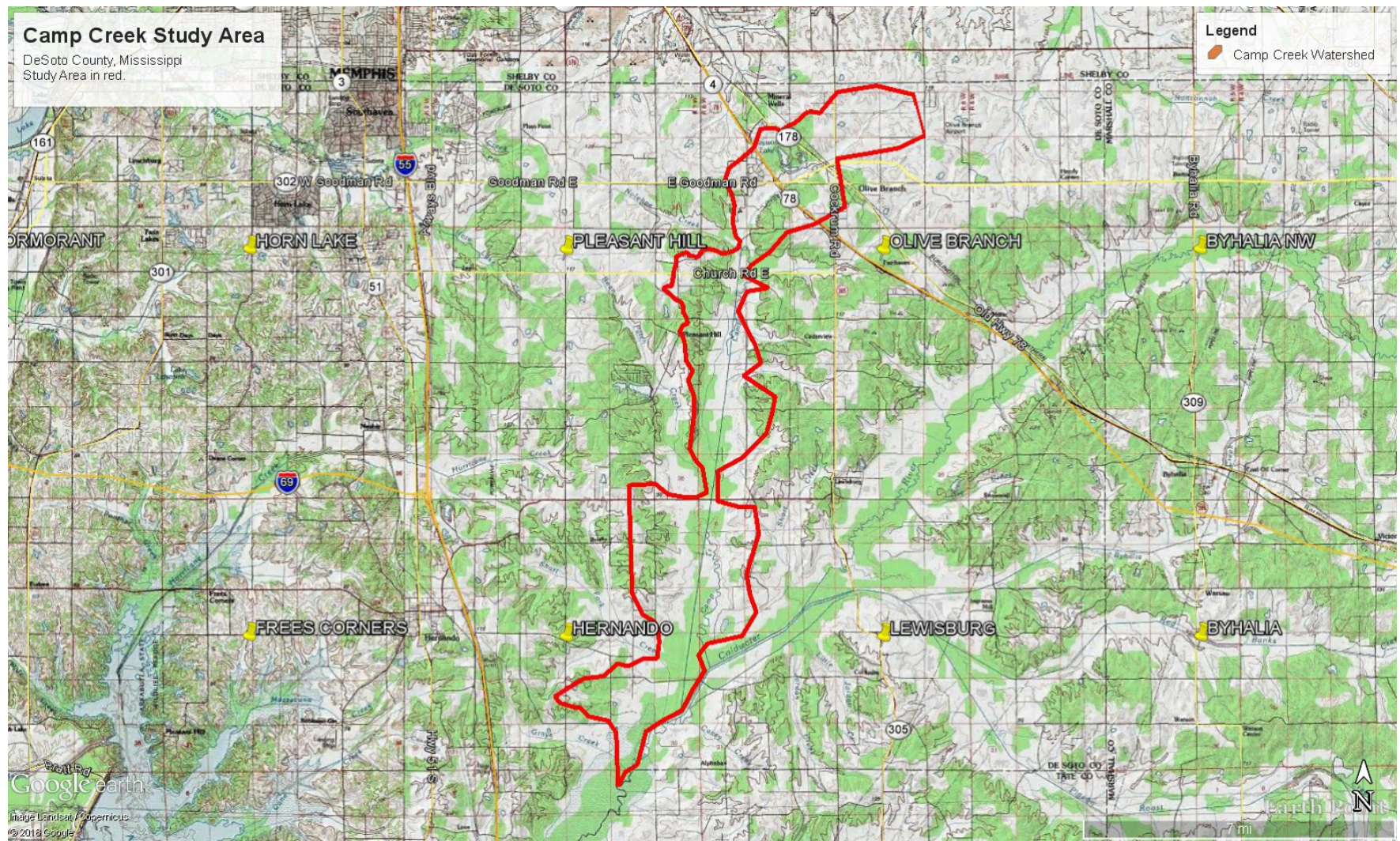


Figure 3. Camp Creek Watershed Study Area.

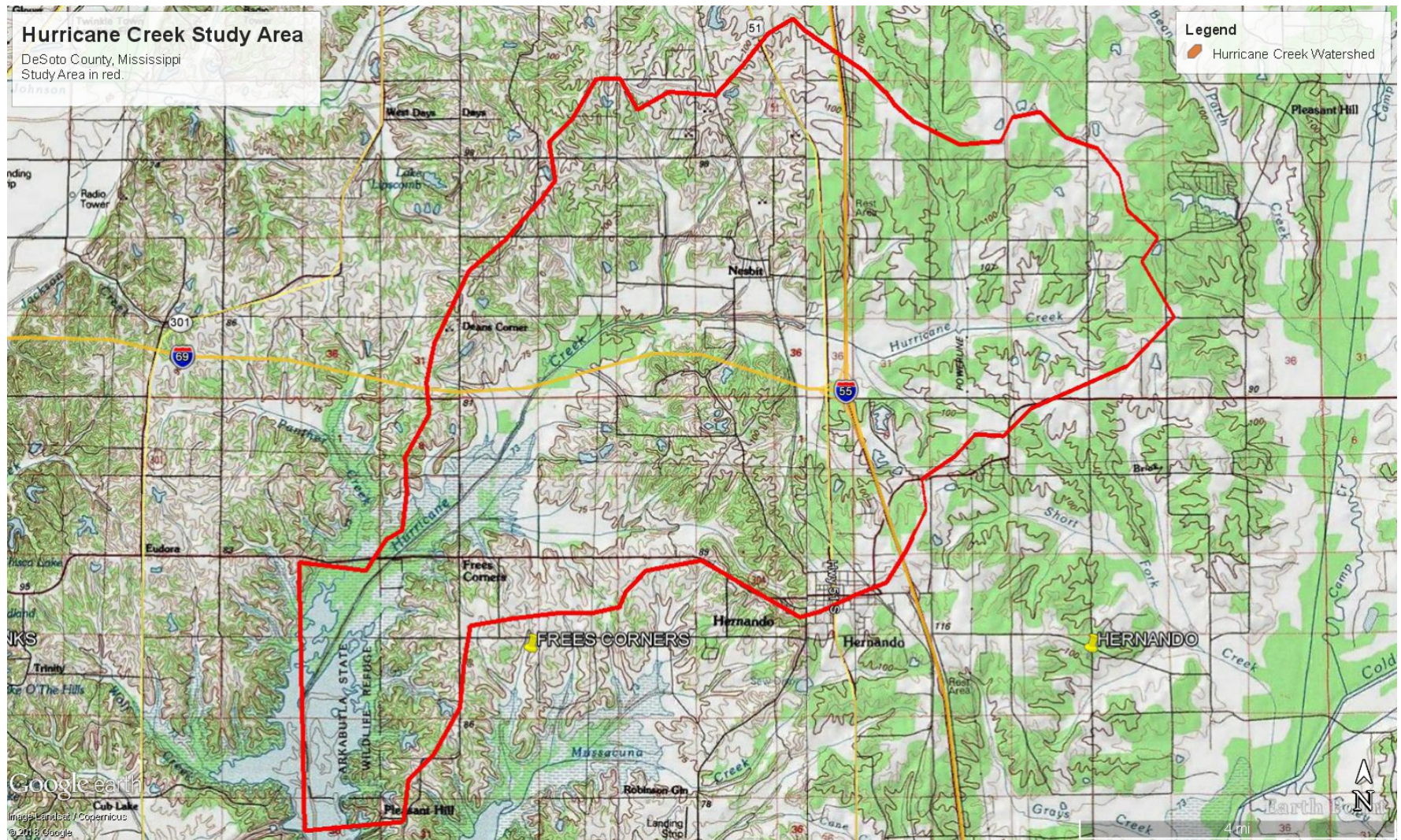


Figure 5. Hurricane Creek Watershed Study Area.

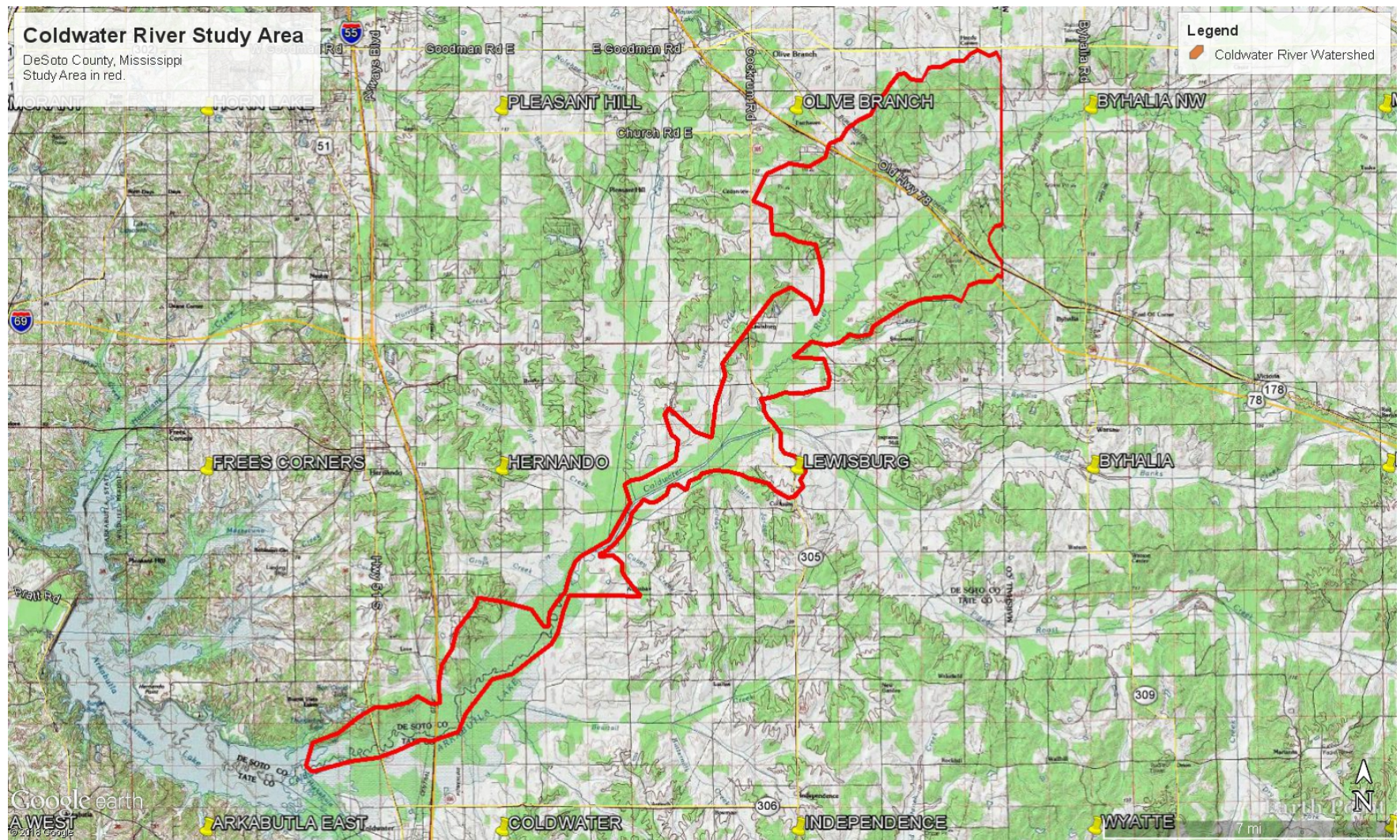


Figure 7. Coldwater River Watershed Study Area.

From: [Lieb, Pamela D CIV USARMY CEMVM \(USA\)](#)
To: e106@achp.gov
Subject: 106 Documentation Form and Supporting Documentation for Memphis Metropolitan Stormwater Desoto County, Mississippi Feasibility Study
Date: Thursday, April 29, 2021 7:18:00 PM
Attachments: [Non-DoD Source RE Public Scoping Meeting for Memphis-Metropolitan Stormwater-North Desoto County Mississippi.msg](#)
[Non-DoD Source Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project North Desoto County Mississippi.msg](#)
[Detention Ponds and Grade Control Structure Maps.docx](#)
[Consultation Letter to Tribes Desoto County-Muscogee.doc](#)
[ACHP Section 106 document North Desoto.docx](#)
[Consultation Letter to MSSHPO Desoto County.doc](#)

Good Evening:

Attached please find the ACHP Section 106 form and associated necessary information. We would like to invite the ACHP to participate in this section 106 process and in developing a project Programmatic Agreement. If you have any questions, please feel free to contact me.

Pamela Lieb
District Archaeologist
Regional Planning and Environment Division South
Environmental Compliance Branch
Memphis District
Office Phone: 901-544-0710
Email: Pamela.Lieb@usace.army.mil



Advisory Council on Historic Preservation
Electronic Section 106 Documentation Submittal System (e106) Form
MS Word format

Send to: e106@achp.gov

Please review the instructions at www.achp.gov/e106-email-form prior to completing this form. Questions about whether to use the e106 form should be directed to the assigned ACHP staff member in the Office of Federal Agency Programs.

I. Basic information

1. Purpose of notification. Indicate whether this documentation is to:

- ☐ Notify the ACHP of a finding that an undertaking may adversely affect historic properties
- ☒ Invite the ACHP to participate in a Section 106 consultation
- ☒ Propose to develop a project Programmatic Agreement (project PA) for complex or multiple undertakings in accordance with 36 C.F.R. 800.14(b)(3)
- ☐ Supply additional documentation for a case already entered into the ACHP record system
- ☐ File an executed MOA or PA with the ACHP in accordance with 800.6(b)(iv) (where the ACHP did not participate in consultation)
- ☐ Other, please describe

[Click here to enter text.](#)

2. ACHP Project Number (If the ACHP was previously notified of the undertaking and an ACHP Project Number has been provided, enter project number here and skip to Item 7 below): [Click here to enter text.](#)

3. Name of federal agency (If multiple agencies, list them all and indicate whether one is the lead agency):

USACE, Memphis District

4. Name of undertaking/project (Include project/permit/application number if applicable):

Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi.

5. Location of undertaking (Indicate city(s), county(s), state(s), land ownership, and whether it would occur on or affect historic properties located on tribal lands):

The location of the undertaking is in Desoto County, Mississippi.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 ☐ Washington, DC 20001-2637

Phone: 202-517-0200 ☐ Fax: 202-517-6381 ☐ achp@achp.gov ☐ www.achp.gov

6. Name and title of federal agency official and contact person for this undertaking, including email address and phone number:

Pamela Lieb, Memphis District Archaeologist, Pamela.D.Lieb@usace.army.mil

(901)544-0710

II. Information on the Undertaking*

6. Describe the undertaking and nature of federal involvement (if multiple federal agencies are involved, specify involvement of each):

There are two components within this study: flood risk management (FRM) and ecosystem restoration (ER). The flood risk management component involves developing alternatives to reduce the severity of flood risk to infrastructure and human life. The ecosystem restoration component involves stabilizing channels and connecting/improving riparian buffer strips to minimize channel degradation and erosion to support aquatic ecosystem form and function along the project area.

7. Describe the Area of Potential Effects (APE):

The specific project areas have been defined as Horn Lake Creek, the headwaters of Nonconnah Creek, tributaries to the Coldwater River and/or Arkabutla Lake including the Camp Creek Basin (including Nolehoe and Licks Creeks), Hurricane Creek, Cane Creek, Mussacuna Creek, Short Fork Creek, Red Banks Creek, and Johnson Creek in DeSoto County, Mississippi.

The tentatively selected plan to address flood risk is the Locally Preferred Plan (LPP) addressing flood risk management which includes the National Economic Development Plan (NED). The NED Plan includes a Horn Lake Creek (HLC) channel enlargement, a detention basin along Lateral D, and a non-structural component which would likely entail the elevation of homes within the 25-year floodplain and floodproofing businesses within the 25-year floodplain with flood gates or similar means. The channel enlargement would increase the bottom width of the HLC to approximately 40 feet for approximately 0.8 mile downstream of Goodman Road in Horn Lake, Mississippi, requiring excavation, slope flattening, and riprap placement over filter material for the full length and width of the project. Riprap would key into both banks for stabilization and scour prevention, and the upper banks would be protected with turf reinforcing mat. The Lateral D detention basin would encompass approximately 26 acres with 3:1 slopes to a depth of approximately 10 feet. In addition to the NED Plan, the LPP includes two additional detention basins. One along Cow Pen Creek totaling approximately 25 acres (2 pools), and one along Rocky Creek totaling approximately 12.5 acres.

The tentatively selected plan to address ecosystem restoration is the National Ecosystem Restoration (NER) Plan which includes a system of grade control structures within the streams which will direct water flow and stabilize the stream beds and banks. This system includes construction and/or replacement of 81 grade control structures totaling up to approximately 405 acres of area of potential effect (APE). In addition, planting bottomland hardwood and other native vegetative species along creeks within DeSoto County will provide a riparian buffer within tracts of cleared agricultural land, as appropriate. This will include 25% of the reforestable project area per stream with a one-hundred-meter width on each side of the creeks totaling approximately 1,037 acres of APE.

9. Describe steps taken to identify historic properties:

An initial background review of the study area and three detention areas was conducted using the Mississippi Historical Site Management Tool (HMST) and included a research visit to the Mississippi State Historic Preservation Office (MSSHPO). The background review indicated multiple surveys and sites within these watersheds. In addition, a letter of Notice of Intent to Prepare a Draft Integrated Feasibility Report and Environmental Impact Statement for the Memphis Metropolitan Stormwater Management Project: North Desoto County, Mississippi was mailed to the MS SHPO and THPOs on September 5, 2019 (included). Currently, we are revising a letter to the ACHP, MS SHPO, and THPOs to set up an initial kick-off meeting for a Notice of Intent to Prepare a Programmatic Agreement to support the Memphis Metropolitan Stormwater Management Project Feasibility Study: North Desoto County, Mississippi.

10. Describe the historic property (or properties) and any National Historic Landmarks within the APE (or attach documentation or provide specific link to this information):

Desoto County is rich in archaeological and architectural resources. In the Horn Lake Creek drainage area, which encompasses Cowpen Creek, Rocky Creek, and Lateral D, there have been 27 surveys completed since 1986. There are 17 sites within this watershed including 2 mound centers (22DS500 and 22DS509), 14 ineligible lithic and ceramic scatters, and 1 unknown aboriginal. None of these sites will be impacted by the project areas.

In the Coldwater River drainage area, there have been 17 surveys since 1979. There are 32 sites within this drainage area, included two eligible sites, 22 DS518, an unknown aboriginal mound site and 22DS746, an historic cemetery. Ten of the sites are ineligible and 20 are unknown or unevaluated. These sites range from lithic and ceramic scatters to historic scatters. None of these sites will be impacted by the project.

There are eight properties and four districts listed in the National Register of Historic Places (NRHP) in Desoto County. In addition, there are seven Mississippi Landmark Properties within Desoto County. The majority of these properties and districts are located in Hernando, Mississippi, with one NRHP property and one Mississippi Landmark located in Olive Branch. None of these sites will be impacted by the project. Areas that have not been surveyed within the project study area will be surveyed prior to any future construction.

11. Describe the undertaking's effects on historic properties:

The undertaking would be unlikely to have any impact on known cultural resources. The majority of this undertaking has been previously surveyed for the last 40 years and no eligible resources are located within the project area. Currently, USACE is developing a programmatic agreement with the MS SHPO and federally recognized tribes to establish protocols for additional surveys prior to construction.

12. Explain how this undertaking would adversely affect historic properties (include information on any conditions or future actions known to date to avoid, minimize, or mitigate adverse effects):

The undertaking would be unlikely to have any impact on known cultural resources. The majority of the undertaking has been previously surveyed for the last 40 years and no eligible resources are located within the project area. Currently, USACE is developing a programmatic agreement with the MS SHPO and federally recognized tribes to establish protocols for additional surveys prior to construction.

13. Provide copies or summaries of the views provided to date by any consulting parties, Indian tribes or Native Hawai'ian organizations, or the public, including any correspondence from the SHPO and/or THPO.

Attached: Copy of Notice of Intent Letter to Muscogee and MS SHPO

(Other Tribal letters are available on request the files were too large to include on this email)

Copy of Muscogee Creek Nation and Choctaw Nation response to Notice of Intent Letter

Copies of additional information request and response to The Choctaw Nation

Study Area Maps

III. Additional Information

14. Please indicate the status of any consultation that has occurred to date, including whether there are any unresolved concerns or issues the ACHP should know about in deciding whether to participate in consultation. Providing a list of consulting parties, including email addresses and phone numbers if known, can facilitate the ACHP's review response.

Initial correspondence was sent to the Mississippi SHPO and interested THPOs which included project description and maps. We are currently working on an official letter initiating consultation for the MS SHPO and THPOs and requesting a PA be developed.

Agency/Tribe	Point of Contact	Email Address
Mississippi Department of Archives and History (SHPO)	Katie Blount	kblount@mdah.ms.gov
The Chickasaw Nation	Karen Brunso	Karen.Brunso@chickasaw.net
The Choctaw Nation of Oklahoma	Lindsey Bilyeu	lbilyeu@choctawnation.com
The Jena Band of Choctaw Indians	Alina Shively	ashively@jenachoctaw.org
Mississippi Band of Choctaw Indians	Ken Carleton	ken.carleton@choctaw.org
The Muscogee Creek Nation	Corain Lowe-Zepeda	Section106@mcn-nsn.gov
The Quapaw Nation	Everett Bandy	ebandy@quapawnation.com

Tunica-Biloxi Tribe of Louisiana	Earl Barby, Jr.	earlii@tunica.org
----------------------------------	-----------------	-------------------

15 Does your agency have a website or website link where the interested public can find out about this project and/or provide comments? Please provide relevant links:

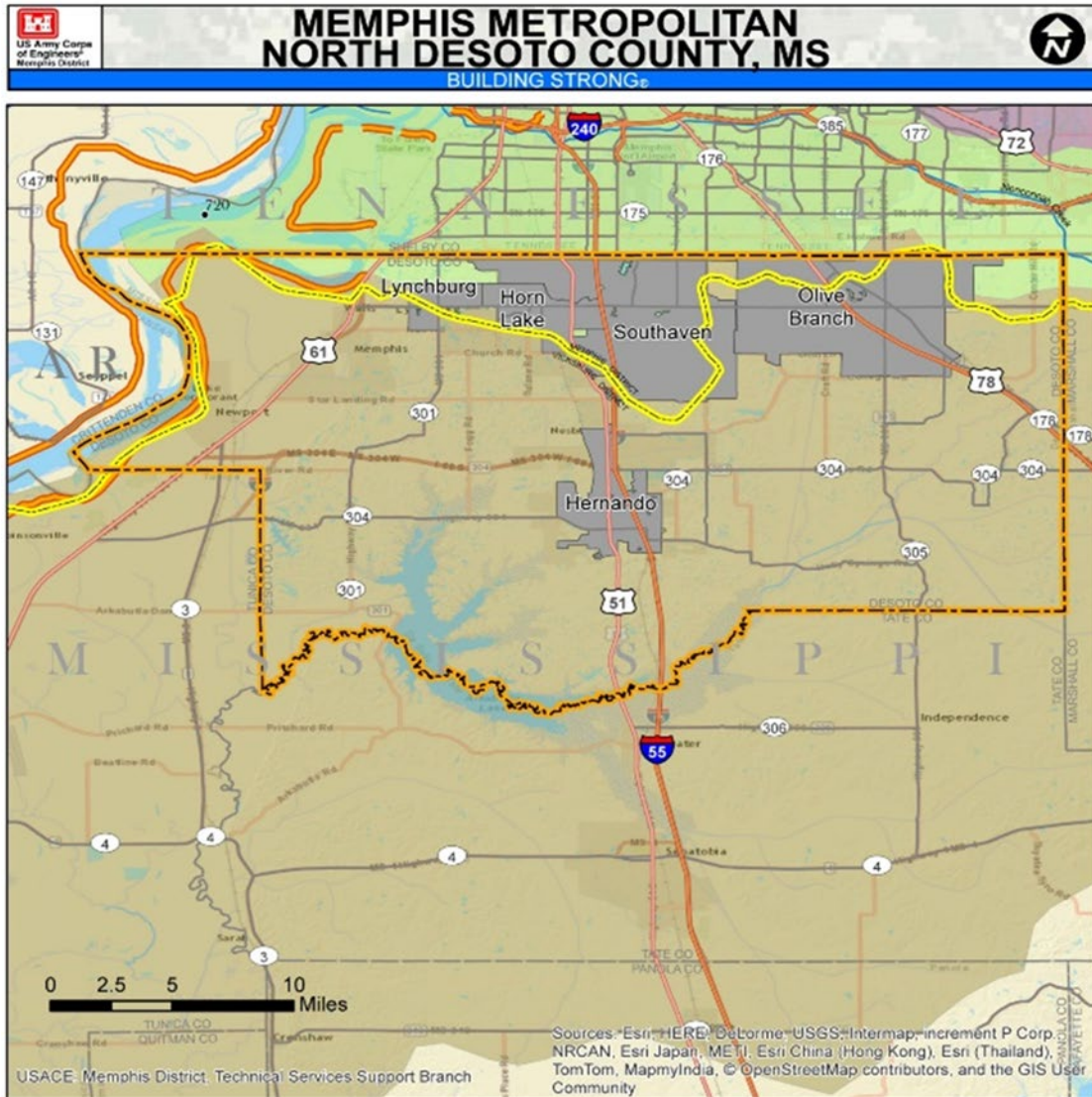
N/A

16. Is this undertaking considered a “major” or “covered” project listed on the Federal Infrastructure Projects Permitting Dashboard? If so, please provide the link:

N/A

The following are attached to this form (check all that apply):

- ☒ Section 106 consultation correspondence
- ☒ Maps, photographs, drawings, and/or plans
- ☐ Additional historic property information
- ☒ Consulting party list with known contact information
- ☐ Other:



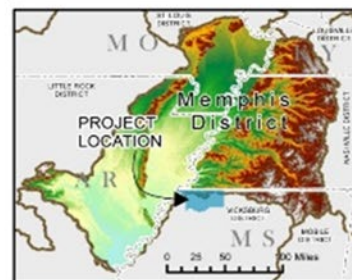
Vicinity Map



Legend



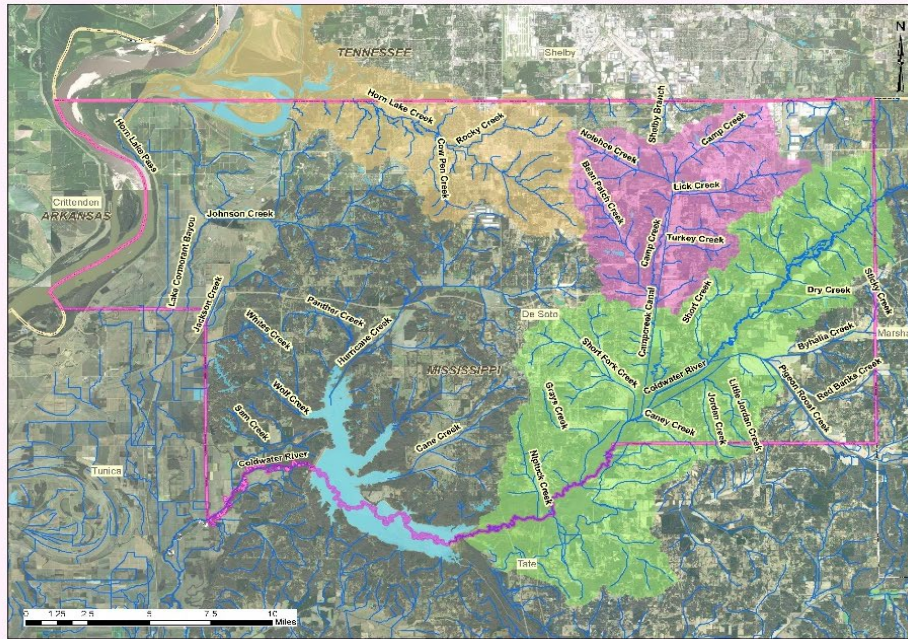
Location in District



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DeSoto County Study: Watersheds of Interest



U.S. Army Corps of Engineers
New Orleans District

Legend

- DeSoto County
- Streams
- Waterbodies
- State Boundary
- County Boundary
- Hom Lake Creek Watershed
- Camp Creek Watershed
- Coldwater River Watershed

Location Map



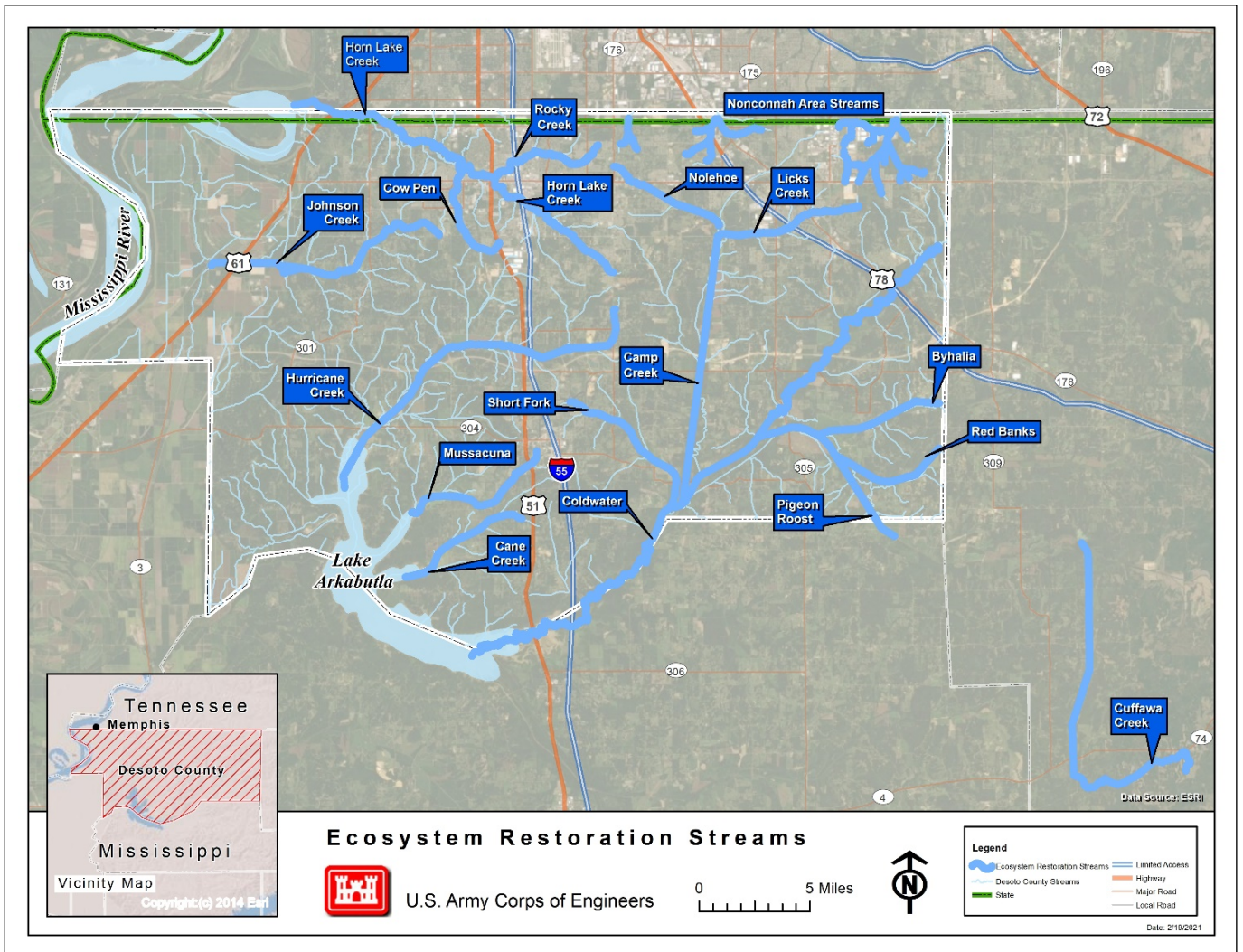
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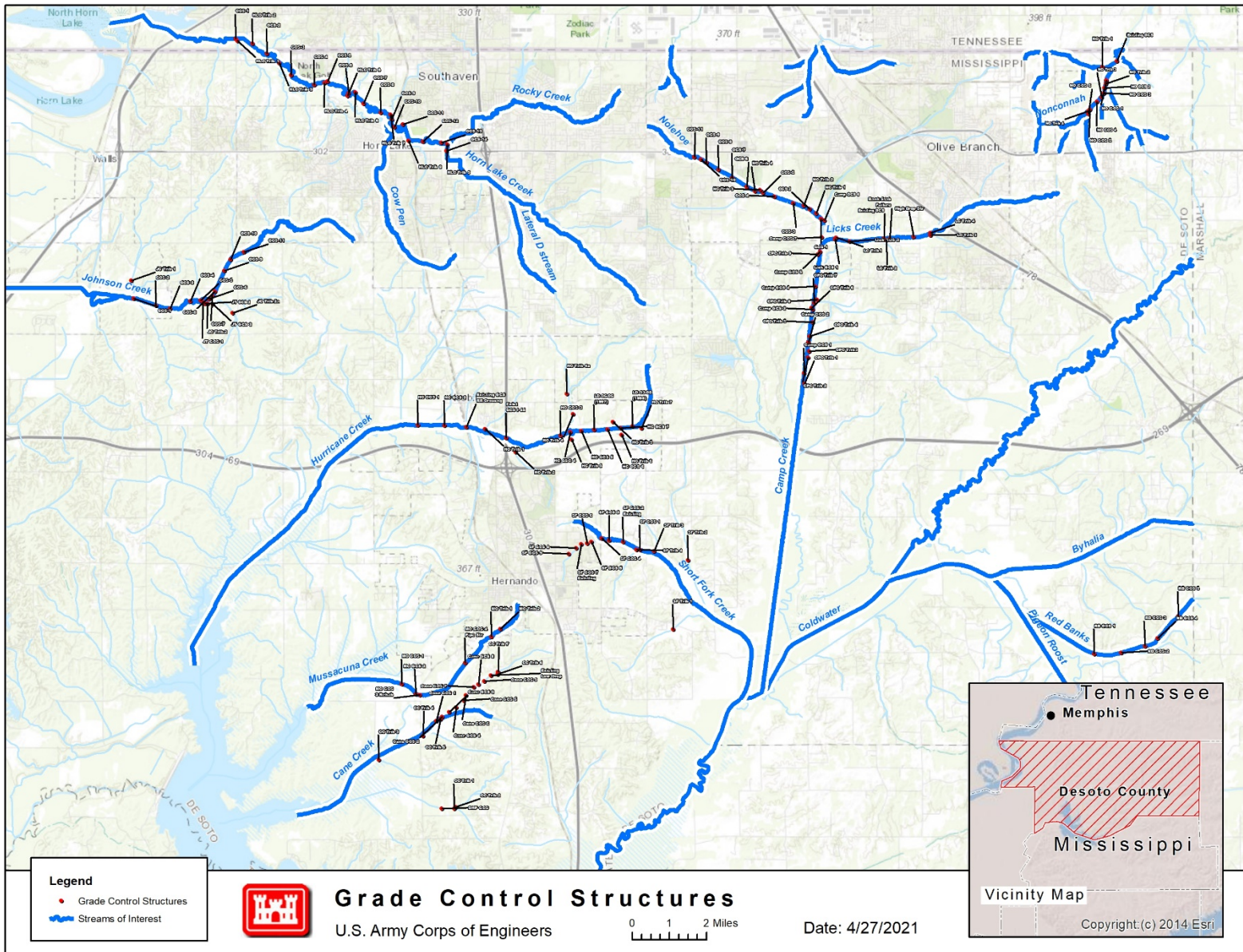
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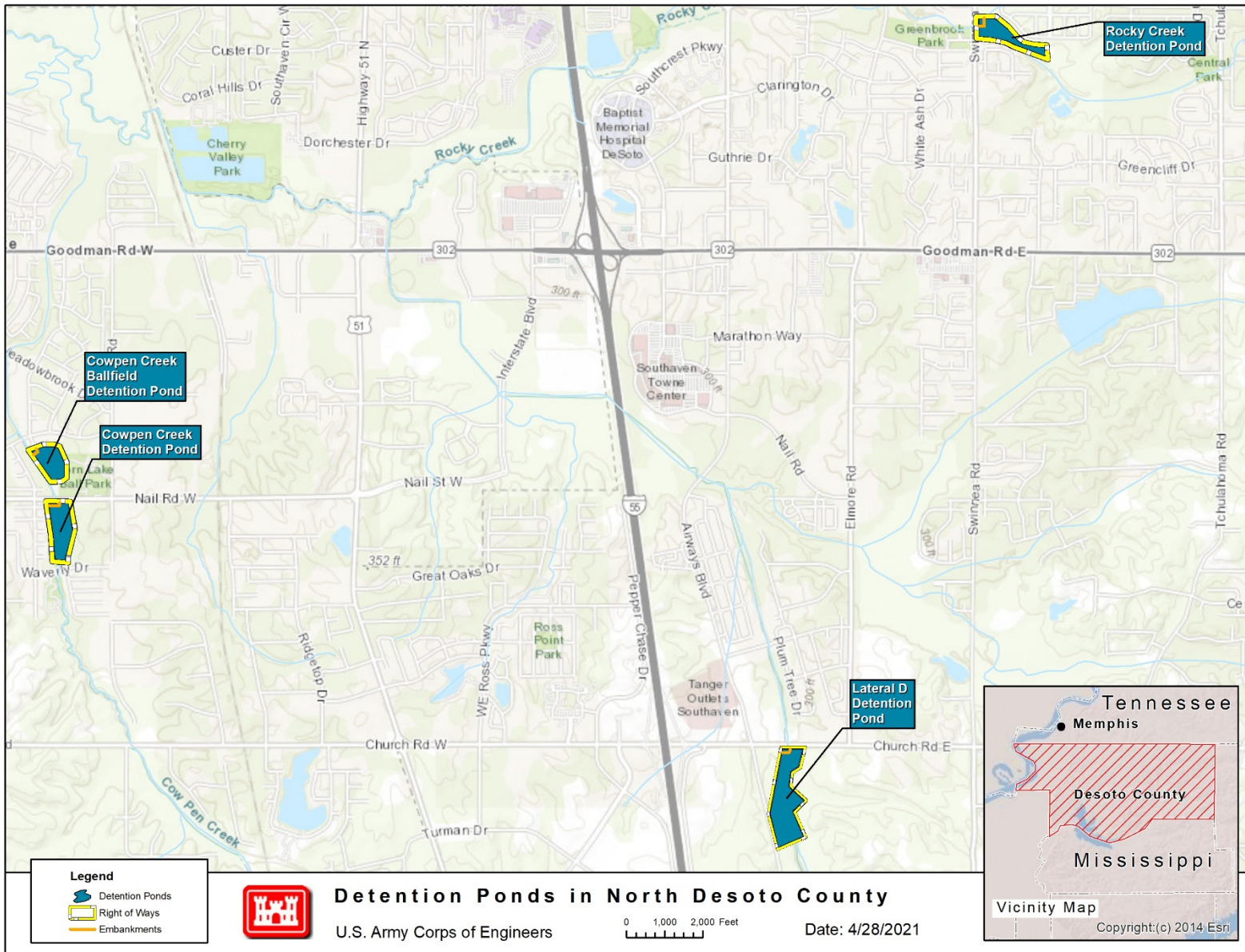
ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 Washington, DC 20001-2637

Phone: 202-517-0200 Fax: 202-517-6381 achp@achp.gov www.achp.gov







**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT,
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER,
AND THE CHICKASAW NATION
REGARDING THE MANAGEMENT MEASURES TO BE IMPLEMENTED
AS A RESULT OF THE MEMPHIS METRO STORMWATER – NORTH
DESOTO COUNTY FEASIBILITY STUDY
DESOTO COUNTY
MISSISSIPPI**

PREAMBLE

WHEREAS, the U.S. Army Corps of Engineers, Memphis District (USACE), is conducting a feasibility study (Study) as authorized by the 1996 Memphis Metro Authority and a House Resolution issued on 7 March 1996 stating that a review of the Wolf River and its Tributaries, Tennessee and Mississippi shall evaluate the effectiveness of existing Federal and non-Federal improvements and determine the need for additional improvements to flooding from storm water, to restore environmental resources, and to improve the quality of water entering the Mississippi River and its Tributaries; and

WHEREAS, the Study is being conducted to identify and respond to problems and opportunities associated with flooding and channel degradation, as well as, ecosystem restoration in the Horn Lake Creek and Coldwater River Basins. It is anticipated that the Study will identify a flood risk management plan that reasonably maximizes National Economic Development (NED) benefits, as well as, an ecosystem restoration plan that reasonably maximizes National Ecosystem Restoration (NER) benefits; and

WHEREAS, USACE proposes to study alternatives and measures that relate to reducing the flood damages to businesses, residential, and critical infrastructure in Horn Lake and Coldwater Basins in DeSoto County, reducing risk to human life from flooding and rainfall events throughout the county, and restoring and protecting aquatic and riparian ecosystems including, but not limited to, the following measures: levee and floodwall protection, channel enlargement of Horn Lake Creek, detention basins, nonstructural aggregation, bank stabilization, grade control structures (GCS), and riparian restoration; and

WHEREAS, USACE is the lead federal agency for purposes of the National Environmental Policy Act of 1969 (NEPA) and its implementing regulations, set out at 40 CFR Parts 1500-1508 (43 FR 55978), “Section 106” of the National Historic Preservation Act (NHPA) [54 U.S.C. § 300101 et seq.], as amended (54 U.S.C. § 306108), and its implementing regulations, set out at 36 CFR Part 800, and in accordance with 36 CFR § §800.2(a)(2) and 800.8; and

WHEREAS, USACE has determined that the Study, and any subsequent associated project activities (Project), constitute an Undertaking, as defined in 36 CFR § 800.16(y), and therefore is subject to Section 106 of the National Historic Preservation Act of 1966, 54 U.S.C. § 306108 (NHPA); and

WHEREAS, USACE has defined the undertaking's preliminary area of potential effects (APE) as the Horn Lake Creek-Nonconnah and Coldwater River Basins in DeSoto County, Mississippi. This includes Horn Lake Creek and tributaries, Nonconnah River, Camp Creek and Tributaries, Hurricane Creek, Johnson Creek, and numerous tributaries of the Coldwater River watershed in northern DeSoto County, Mississippi (Appendix A); and

WHEREAS, multiple properties are known to be present within the APE, many of which have not been evaluated for National Register eligibility, and although extensive archaeological inventory has been completed within the APE under other projects, large portions of the APE have not been inventoried for Historic Properties; and

WHEREAS, USACE initiated consultation with the Mississippi State Historic Preservation Officer (MS SHPO), the Alabama-Coushatta Tribe of Texas, the Cherokee Nation, the Choctaw Nation, the Jena Band of Choctaw Indians, the Mississippi Band of Choctaw Indians, The Chickasaw Nation, The Muscogee (Creek) Nation, The Quapaw Nation, and the Tunica-Biloxi Tribe of Louisiana via letter sent on May 14, 2021, pursuant to the NHPA; and

WHEREAS, USACE, with the concurrence of the SHPO and Tribal Historic Preservation Officers (THPOs), has determined to comply with Section 106 of the NHPA for the Project through the execution and implementation of this Programmatic Agreement (PA) because USACE cannot fully determine the effects of the Undertaking on Historic Properties [36 CFR § 800.14(b)(1)(ii)], for all segments of the Project at this time; and

WHEREAS, this PA shall establish the process USACE shall follow for compliance with 54 U.S.C. § 306108 (referred to hereinafter as "Section 106"), taking into consideration the views of the Signatories, Invited Signatories, and Concurring Parties; and

WHEREAS, the Desoto County Board of Supervisors is the non-Federal Sponsor for the study and has been invited to participate in the development of this PA, but declined to participate via email; and

WHEREAS, in accordance with 36 CFR §§ 800.2(c)(2)(ii)(A), 800.3(f)(2), and 800.14(b)(2)(i), USACE has contacted Federally Recognized Native American Tribes (Tribes) via letter(s), phone call(s), email(s), and meeting(s), to invite them to consult on this PA, including the Alabama-Coushatta Tribe of Texas, the Cherokee Nation, the Choctaw Nation, the Jena Band of Choctaw Indians, the Mississippi Band of Choctaw Indians, The Chickasaw Nation, The Muscogee (Creek) Nation, The Quapaw Nation, and the Tunica-Biloxi Tribe of Louisiana; USACE has invited them (and others who may be identified in the future as appropriate Concurring Parties) to participate as Concurring Parties to this PA; and USACE will continue consultation throughout the duration of this PA; and

WHEREAS, The Chickasaw Nation has participated in the development of this Agreement and CEMVM has invited them to sign this Agreement as an Invited Signatory; and

WHEREAS, the Cherokee Nation has participated in the development of this Agreement and CEMVM has invited them to concur in this Agreement; and

WHEREAS, CEMVM has and will continue to consult with any interested Tribe who may have not yet requested to consult; and

WHEREAS, the definitions set forth in 36 CFR § 800.16 are incorporated herein by reference and apply throughout this PA; and

WHEREAS, the definitions for Signatory Parties set forth in 36 CFR § 800.6(c)(1), and the definitions for Concurring Parties set forth in 36 CFR § 800.6(c)(3), are incorporated herein by reference and apply throughout this PA; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), USACE has notified the Advisory Council on Historic Preservation (ACHP) of its intent to develop a Programmatic Agreement with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii) through written documentation received 28 June 2021; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(4) and 36 CFR § 800.14(b)(2)(ii), USACE has notified the public of the Project and provided an opportunity for members of the public to comment on the project and the Section 106 process as outlined in this PA;

NOW THEREFORE, USACE, and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on Historic Properties.

STIPULATIONS

To the extent of its legal authority, and in coordination with other Signatories, USACE shall ensure that the following stipulations are implemented and shall not authorize an individual Undertaking until Section 106 review is completed pursuant to this PA.

I. APPLICABILITY

- A.** This Agreement applies to Undertakings within the preliminary APE of this Study which are subsequently recommended in any Chief's Report, specifically including USACE actions in Horn Lake Creek-Nonconnah and Coldwater River Basins.
- B.** If another federal program or federal agency has concluded Section 106 consultation review and approved an Undertaking within the past five (5) years, and no new

substantial information has been revealed, USACE has no further requirement for Section 106 compliance regarding that Undertaking provided that USACE:

1. Confirms that the Area of Potential Effects (APE) and effect [as defined by 36 CFR § 800.16(i)] of its Undertaking are the same as that of the Undertaking reviewed by the previous agency, and;
2. Determines that the previous agency complied with Section 106, including tribal consultation, appropriately and;
3. Adopts the findings and determinations of the previous agency.
4. USACE shall notify the SHPO and consulting Tribes regarding this determination. If USACE, in consultation with the SHPO and Consulting Tribes determine that the previous Section 106 review was insufficient or involved interagency disagreements about eligibility, effect determinations, and/or resolution of adverse effects (implementation of Treatment Measures), USACE shall conduct additional Section 106 consultation in accordance with the terms of this Agreement.
5. USACE shall document these findings in its project file in order to confirm that the requirements of Section 106 have been satisfied.

C. USACE has determined that the following types of activities have limited or no potential to affect historic properties and USACE has no further Section 106 responsibilities with regard to them, pursuant to 36 CFR § 800.3(a)(1):

1. Administrative actions such as personnel actions, travel, procurement of services, and supplies (including vehicles and equipment) for the support of day-to-day operational activities, and the temporary storage of materials provided storage occurs within existing facilities or on previously disturbed soils.
2. Providing funding for planning, studies, and design and engineering costs that involve no commitment of resources other than staffing and associated funding.
3. Funding the administrative action of acquiring properties, including the real estate transactions and transfers.
4. Boundary surveying, monitoring, data gathering, and reporting in support of planning or design activities (e.g., conducting geotechnical boring investigations or other geophysical and engineering activities provided no clearing or grubbing is necessary).
5. Demarcation of project areas and resources (e.g., cultural sites, wetlands, threatened and endangered species habitat).

Memphis Metro Stormwater – North Desoto County Feasibility Study PA

II. ROLES AND RESPONSIBILITIES OF THE CONSULTING PARTIES

A. USACE:

1. Shall not authorize implementation of an individual Undertaking until Section 106 review is completed pursuant to this Agreement.
2. Shall notify and consult with the SHPO, Tribes, and other Consulting Parties. Consultations may include face-to-face meetings, as well as communications by U.S. mail, e-mail, facsimile, and/or telephone. Times and places of meetings, as well as an agenda for meetings, will be developed with mutual acceptance and done in a timely manner.
3. Shall consult with any Tribes on a government-to-government basis in recognition of its sovereign status, whether a signatory to this Agreement or not, but particularly regarding sites that may have traditional, religious, and/or cultural importance to Tribes. In meeting its federal trust responsibility, USACE alone shall conduct all government-to-government consultation with Tribes.
4. Shall be responsible for determining the APE, identifying historic properties located within the APE, providing NRHP eligibility determinations, and findings of effect, in consultation with SHPO, Tribes, and other Consulting Parties.
5. Shall ensure all Cultural Resources review is conducted by qualified professional staff as outlined in Stipulation V.
6. Shall ensure that all documentation generated as part of the NHPA process resulting from these Undertakings shall be consistent with applicable Standards (State and Federal) (Stipulation V) and confidentiality provisions outlined in Stipulation III.
7. Shall use federal staff who meet the Professional Qualifications Standards as set forth in the Federal Register at 48 Fed. Reg., Vol. 190, 44716-01 (September 29, 1983), as amended (Qualified Staff) in defining APE boundaries, completing identification and evaluation of all historic properties, and making determinations of effects.
8. Shall ensure, to the greatest extent practicable, that the MS SHPO and the appropriate Tribe(s) are consulted at the same time. And will, prior to submitting any determinations of eligibility and/or finding of effect as part of the consultation, review National Register eligibility recommendations provided by a cultural resources contractor and make its own determination.

9. USACE contractors shall not consult directly with the MS SHPO or THPO, Consulting Tribes, or Tribes. Consultation with SHPO/THPO, Consulting Tribes, or Tribes remains a federal responsibility. This is/will be documented in any Scope of Work (SOW) for Cultural Resource Management activities or other construction work.
10. Shall, when authorizing individual Undertakings requiring environmental/cultural conditions pursuant to this Agreement, include all stipulations and conditions negotiated as part of the Section 106 Process. USACE will ensure that this information is communicated to the USACE contractor and will be available for technical questions related to its implementation. This information is conveyed through the Buildability, Constructability, Operability, Environmental and Sustainability Reviews (BCOES Process), per Engineering Regulation 415-1-11, leading to solicitation.

B. MISSISSIPPI SHPO:

1. The SHPO shall coordinate with USACE, to identify Consulting Parties, including any communities, organizations, or individuals that may have an interest in a specific Undertaking and its effects on historic properties.
2. The SHPO shall consult with USACE regarding USACE's determination of the APE, National Register eligibility, and findings of effect responding within timeframes set out in Stipulation IV.B.
3. On a project basis, the SHPO shall provide, as part of the consultation, available information about historic properties (such as access to site files, GIS data, survey information, geographic areas of concern) for the purposes of addressing effects to historic properties. Only Qualified Staff, per Stipulation V.A. 1. shall be afforded access to protected historic property information. USACE and the SHPO may execute a written agreement to clarify and memorialize data sharing if it extends beyond any basic fee structure or access schedule.
4. The SHPO staff shall be reasonably available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation has occurred, USACE shall provide a written summary via e-mail or regular mail to SHPO, including any decisions that were reached.

C. FEDERALLY RECOGNIZED TRIBES:

1. USACE acknowledges that Tribes possess special expertise in assessing the National Register eligibility of properties with religious and cultural significance to that particular Tribe. Tribal leaders, and as appropriate, their representatives, shall designate an individual(s) for the Tribe's review of Undertakings affecting properties with religious and cultural significance to that particular Tribe. Designations such as this will follow the intent and processes laid out in USACE's 2012 Tribal Consultation Policy.
2. Tribes (THPOs and other designees) may coordinate with USACE, to identify Consulting Parties, including any communities, organizations, or individuals that may have an interest in a specific Undertaking and its effects on historic properties.
3. Tribes (THPOs and other designees) may consult with USACE regarding USACE's determination of the APE, National Register eligibility, and findings of effect responding within timeframes set out in Stipulation IV.B.
4. On a project basis, Tribes (THPOs and other designees) may provide, as part of the consultation, available information about historic properties (such as access to site files, GIS data, survey information, geographic areas of concern) for the purposes of addressing effects to historic properties. Only Qualified Staff, per Stipulation V.A. 1. shall be afforded access to protected historic property information. USACE and any Tribe may execute a written agreement to clarify and memorialize data sharing, if it extends beyond any basic fee structure or access schedule.
5. Tribes (THPOs and other designees) shall be reasonably available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation has occurred, USACE shall provide a written summary via e-mail or regular mail to THPO, including any decisions that were reached.

III. CONFIDENTIALITY OF HISTORIC PROPERTY INFORMATION

- A. USACE will safeguard information about historic properties to the extent allowed by Section 304 of NHPA (54 U.S.C. § 307103), Section 9 of the Archaeological Resources Protection Act (ARPA), and other applicable federal laws, as well as implementing restrictions conveyed to USACE by MS SHPO and Tribes, consistent with state and tribal guidelines. These safeguards will be included in any developed cultural resources Scopes of Work, as well.
- B. Only USACE staff meeting the Professional Standards (Stipulation V. A. 1.), shall be afforded access to protected historic property information provided by any SHPO and/or Tribes;

- C. Regarding sensitive information shared by Tribes, USACE, in accordance with provisions of federal law, will not share non-public information, without first confirming (in writing with the provider of the information) the appropriateness of sharing.
- D. USACE shall provide to all Consulting Parties the documentation specified in 36 CFR § 800.11 subject to the confidentiality provisions of 36 CFR § 800.11(c) and such other documentation as may be developed during consultation to resolve adverse effects to the extent permitted by federal law.
- E. SHPO/THPO, and/or designee(s), shall safeguard historic property information (locational and other non-public) in accordance with the provisions of Section 304 of the NHPA and applicable state and tribal legal authorities.
- F. USACE anticipates the presentation of historic property data as part of any Standard Treatment Measure (STM) or Memorandum of Agreement Treatment Measure (MOA TM) but shall ensure that these products, presentations, or other publications are adequately coordinated and consulted upon before release/presentation to ensure that any otherwise protected information is being represented appropriately.

IV. CONSULTATION STANDARDS, TIME FRAMES AND CORRESPONDENCE

A. Consultation Standards:

- 1. Consultation among all Consulting Parties to this Agreement will continue throughout the implementation of this Agreement. Consultation is mutual, meaningful dialogue regarding the fulfillment of this Agreement, the process of Section 106 compliance, and the treatment of historic properties that may be affected by USACE undertakings.
- 2. USACE, when consulting with any Indian Tribe, whether a signatory to this Agreement or not, will do so on a government-to-government basis in recognition of their sovereign status.
- 3. USACE will consult with the SHPO, Tribes, and other consulting parties, based on expressed areas of interest in the case of Tribes or jurisdiction in case of SHPO offices. Consultations may include face-to-face meetings, as well as communications by regular mail, electronic mail, and/or telephone. Times and places of meetings, as well as an agenda for meetings, will be developed with mutual acceptance and done in a timely manner.

B. Timeframes:

- 1. All time designations in this Agreement shall be in calendar days unless otherwise expressly stipulated in writing in this Agreement:

Memphis Metro Stormwater – North Desoto County Feasibility Study PA

- a. For emergency Undertakings as reviewed under Stipulation VI.A, USACE shall follow the timeframes as indicated in 36 CFR 800.12 (b) (2.).
 - b. For Undertakings associated with all other activities as reviewed under the Streamlined Project Review Stipulations of this Agreement, the response time for each request for concurrence shall be a maximum of thirty (30) days, unless otherwise agreed to by the parties to the specific consultation on a case-by-case basis.
2. The review period will be extended until the next business day, if a review period included in this Agreement concludes on a Saturday, Sunday, state, or federal, or tribal holiday. If requested, USACE may consider an extension of a review period consistent with the time designations in this Agreement for parties affected by an unanticipated state or tribal office closure (e.g., hurricane, tornado or similar).
3. Any electronic communication forwarding plans or other documents for review under the terms of this Agreement that is sent after 4:00 pm Central Time will be deemed to have been received by the reviewing party on the next business day.
4. E-mail comments by the Consulting Parties on any documents submitted for review under this Agreement are timely if they are received at any time on or before the last day of a review period. Responses sent by mail will be accepted as timely if they are postmarked by the last day allowed for the review.
5. If any Consulting Parties does not object to USACE's finding or determination related to an Undertaking within an agreed upon timeframe, USACE may proceed to the next step in the consultation process as described in Stipulation VI, Project Review.
6. Timeframes are contingent upon USACE ensuring that its findings and determinations are made by Qualified Staff and supported by documentation as required by 36 CFR § 800.11(d) and 36 CFR § 800.11(e), and consistent with USACE guidance.

C. Correspondence:

1. The Consulting Parties may send and accept official notices, comments, requests for further information and documentation, and other communications required by this Agreement in accordance with the protocol in Appendix B.

- a. If the size of an e-mail message is unusually large or an e-mail is returned to a sender because its size prevents delivery, the sender will contact the intended recipient(s) and determine alternative methods to deliver the information (including available file sharing platforms).
- b. Time-sensitive information that is not sent by e-mail should be sent by overnight mail, courier, or hand-delivered. The timeframe for requests for review not sent by e-mail will be measured by the date the delivery is signed for by the SHPO, Tribe, or other organization representing the Consulting Party.

V. STANDARDS

- A. In addition to the definitions utilized in 36 CFR § 800, this Agreement uses the definitions presented in the subsequent paragraphs to establish standards for performing all cultural resource project reviews and investigations required under the terms of this Agreement including, but not limited to, site identification, NRHP eligibility evaluations, and as appropriate, STM or MOA TM for the resolution of adverse effects to historic properties:
 1. “Qualified Staff” - shall mean staff who meet, at a minimum, the SOI Professional Qualifications Standards set forth at 48 FR 44738 (September 29, 1983), for History, Archaeology, Architectural History, Architecture, or Historic Architecture (https://www.nps.gov/history/local-law/arch_stnds_9.htm) and the appropriate qualifications presented in Professional Qualifications (36 CFR Part 61, Appendix A).
 2. “Standards” - shall mean the Secretary of the Interior’s (SOI) Standards and Guidelines for Archaeology and Historic Preservation [Federal Register 48(190) 1983:44716-44737](https://www.nps.gov/history/local-law/arch_stnds_0.htm);
 3. “Meeting Professional Standards” -- shall mean that all cultural resource investigations shall be performed by, or under the direct (in-field) supervision of appropriate professional(s) or by contractors, who are “Qualified Staff.”;
 4. “Field and Reporting Standards” – shall mean the current historic standing structure and archaeological guidance from the SHPO.
 5. “Policies and Guidelines” - shall mean guidance from any of the following:

- a) The National Park Service publication The Archaeological Survey: Methods and Uses (National Park Service 1978);
- b) ACHP's Treatment of Archeological Properties: A Handbook (1980)
(<https://www.achp.gov/sites/default/files/documents/2018-11/Treatment%20of%20Archeological%20Properties-A%20Handbook-OCR.pdf>);
- c) Identification of Historic Properties: A Decision-making Guide for Managers (1988, joint ACHP-NPS publication);
- d) Consulting About Archeology Under Section 106 (1990);
- e) ACHP's Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites (1999);
- f) ACHP's Policy Statement Regarding the Treatment of Burial Sites, Human Remains and Funerary Objects (2007)
(<https://www.achp.gov/staging.achp.gov/sites/default/files/policies/201806/ACHPPolicyStatementRegardingTreatmentofBurialSitesHumanRemainsandFuneraryObjects0207.pdf>);
and
- g) Section 106 Archaeology Guidance: A reference guide to assist federal agencies in making effective decisions about archaeological sites(2009)
(<https://www.achp.gov/sites/default/files/guidance/2017-02/ACHP%20ARCHAEOLOGY%20GUIDANCE.pdf>)

- B. In developing SOW for identification and evaluation studies, STM or MOA TM(s), or any other cultural resources activities required under the terms of this Agreement, USACE will comply with the requirements of the Standards, Field and Reporting Standards, and the Policies and Guidelines, in existence at the time this work is performed.

VI. PROJECT REVIEW

A. Review for Emergency Undertakings

- 1. For review of actions that are emergencies, an essential and immediate response to a disaster or emergency declared by the President, a tribal government, or the Governor of a State or another immediate threat to life or property USACE shall follow the provisions of 36 CFR 800.12 (b).

Memphis Metro Stormwater – North Desoto County Feasibility Study PA

B. Streamlined Project Review:

USACE shall ensure that the following project review steps are implemented. In the interest of streamlining, USACE may combine some or all of these steps during consultation in accordance with 36 CFR § 800.3(g).

1. Area of Potential Effects (APE): The APE for Project activities includes the construction footprint of the activity and a reasonable buffer determined through consultation between the SHPO, Concurring Parties, Tribes, and USACE and takes into account the likelihood of direct and indirect effects to Historic Properties resulting from the Project. Appendix A includes an overall APE map for the Project.

The APE will be defined as all areas to be affected by construction activities and areas of associated ground disturbance including but not limited to haul roads, borrow areas, staging and stockpiling areas. The APE would generally include all areas for which a Right-of-Entry is sought by USACE. Additional effects that will be considered shall include visual, auditory, and off-site anticipated erosion resulting from the constructed feature.

2. Identification and Evaluation: Qualified Staff shall determine, in consultation with SHPO and Tribe(s), if the APE contains historic properties, including properties of religious and cultural significance to Tribes. This may include the review of newly developed or previously produced documentation in coordination with the SHPO of jurisdiction, appropriate Tribe(s), and any additional Consulting Parties.

- a. Level of Effort: USACE shall make a reasonable and good faith effort to identify historic properties in accordance with 36 CFR § 800.4(b)(1). USACE shall consult with the SHPO of jurisdiction and appropriate Tribe(s) to determine the level of effort, methodology necessary to identify and evaluate a variety of historic property types, and any reporting requirements. For properties of religious and cultural significance to affected Tribe(s), USACE shall consult with the affected Tribe(s) to determine if the APE contains such properties and determine the necessary level of effort to identify and evaluate or avoid any such historic properties. All Identification and Evaluation studies will comply with the Standards (Stipulation V).

b. Timing:

- i. With respect to each part of the Undertaking, USACE shall achieve compliance with all relevant terms of this Agreement prior to initiating physical construction of that Work Item.

- ii. The results of all field investigations will be subject to a review and comment period of no less than thirty (30) days by the appropriate

Consulting Parties, following the receipt by the SHPO and the Tribe(s) of the completed reporting document architectural survey, Phase I or II archaeological reports, and any other supporting documentation.

iii. Coordination of consultation will be through the designated POC.

3. Determinations of Eligibility: USACE shall make determinations of National Register eligibility based on identification and evaluation efforts, and consult with the SHPO, Tribe(s), and other Consulting Parties regarding these determinations. Should the MS SHPO, or appropriate Tribe(s) disagree with the determination of eligibility, USACE shall:
 - a. Consult further with the objecting party to resolve the objection;
 - b. Treat the property as eligible for the National Register; or
 - c. Obtain a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR § 63.2(d)-(e) and 36 CFR § 800.4 (c).
4. Determination of Effects: Avoidance of adverse effects to Historic Properties is the preferred treatment approach. USACE will consider redesign of Project elements in order to avoid Historic Properties and Project effects that may be adverse. However, it may not be possible to redesign the Project in order to avoid adverse effects to Historic Properties.

USACE will apply the criteria of adverse effect, pursuant to 36 CFR § 800.5(a)(1), to all Historic Properties within the APE. USACE shall prepare and submit the finding of effect documentation in accordance with Stipulation IV. If effects to Historic Properties are determined to be adverse, see Stipulation VII (Historic Properties Treatment Plan).

5. Reports:
 - a. USACE shall ensure that all reports and other documents resulting from the actions pursuant to this Agreement will be provided in a format acceptable to the SHPO and Tribes. USACE will ensure that all such reports (e.g., identification surveys, evaluation reports, treatment plans, and data recovery reports) meet or exceed the Department of the Interior's Format Standards for Final Reports of Data Recovery (42 FR 5377-79) and the Field and Report Standards identified in Stipulation V.A.4.
 - b. USACE shall provide all documentation for these efforts to the SHPO, Tribes, or other Consulting Parties, as appropriate, consistent with the confidentiality provisions of Stipulation III of this Agreement.
 - c. Once supporting documentation is received, SHPO and Tribes will have thirty

(30) days to review supporting documentation (e.g., site forms and reports). If the SHPO or Tribes intend to review and comment on documentation, and are unable to do so within the thirty (30)-day review period, a request for additional review time must be made in writing to USACE and specify the anticipated completion date. USACE will consider the request and work with the requesting party to come to a mutually agreeable timeframe. USACE will notify other Consulting Parties of any mutually approved extension by e-mail.

VII. HISTORIC PROPERTIES TREATMENT PLAN

If it is determined that project activities will result in adverse effects, USACE, in consultation with the MS SHPO, Concurring Parties, and Tribes shall develop a Historic Properties Treatment Plan (HPTP) to resolve all adverse effects resulting from the Project. The HPTP shall outline the minimization and mitigation measures necessary to resolve the adverse effects to Historic Properties. Proposed mitigation measures may include, but are not limited to, oral history, historic markers, interpretive brochures, data recovery, and publications depending on the criterion for eligibility. Development of appropriate measures shall include consideration of Historic Property types and provisions for avoidance or protection of Historic Properties where possible. If it is determined that archaeological monitors are appropriate, the HPTP shall include Monitoring Plan. If adverse effects are identified, the HPTP shall be in effect before construction commences.

VIII. CURATION

Recovered archaeological collections from a USACE-required archaeological survey, evaluation, and/or mitigation remain the property of the landowner (either private, state, federal, etc.). USACE, in coordination with the SHPO and Tribe(s) may, as determined through consultation, encourage private landowners to transfer any recovered artifacts and related documentation to an appropriate archive or public or Tribal entity. USACE, in coordination with SHPO and Tribe(s), shall work with all tribal, state, and local agents to support steps that ensure the long-term curation of these artifacts and documents through the transfer of the materials to a suitable repository as agreed to by USACE, the SHPO, and Tribes(s) and following applicable state or tribal guidelines which also meet federal standards (36 C.F.R. 79).

IX. TREATMENT OF HUMAN REMAINS AND ITEMS OF RELIGIOUS AND CULTURAL IMPORTANCE

A. Documenting Human Remains: The recordation of human remains in a burial context or as individual elements is a task that requires sensitivity and good judgment, as defined through consultation. Consultation is a necessary part of documenting any human remains (in a discovery situation or during the treatment of historic properties) following the provisions of this stipulation. In planning how to document human remains (photography, drawing for the purposes of illustration, videography, or

other), the determination will be made in consultation and concurrence with the MS SHPO, Tribe(s), and, as appropriate, other descendant communities. Even if it is determined to photo document the human remains, the photographs should not be published or made publicly available in any way. The USACE will maintain records for the purpose of management of the human remains, with the intent of satisfying the protection provisions of the federal and state laws governing human remains, the records will be hardcopy and digital. When the records are digital, they will not be connected to externally available electronic resources like GIS servers or other and marked as restricted (per NHPA, FOIA, and, as appropriate, ARPA). As part of the consultation for each Work Item where Human Remains are present, the USACE will ensure that the consultation happens to determine the course of action for each situation.

B. General Human Remains Discovery Process:

1. In the event that previously unreported or unanticipated human remains, burials, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony are encountered during field investigations, laboratory work, or during construction or maintenance activities originating from federal, state, or private lands, (Federal and Non-Federal Lands) USACE shall notify the SHPO, and Tribal representatives) within 24-hrs of the discovery. Concurrently, USACE will implement the provisions 2 thru 5, below:
2. Any USACE employee or contractor(s) who knows or has reason to know that they have inadvertently discovered human remains, burials, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony must provide immediate telephone notification of the inadvertent discovery to the responsible Federal construction official, with written confirmation, to the Memphis District Archaeologist. The written notification should contain the results, if any, of the field evaluation. The Memphis District Archaeologist will begin to develop a plan of action to inform the District Commander of the consultation tasks necessary to address the discovery. No photographs should be taken at this time of the human remains.
3. All fieldwork, construction or maintenance activities, must stop immediately within a one hundred (100) meter (328 ft.) radius buffer zone around the point of discovery; unless there is reason to believe that the area of the discovery may extend beyond the one hundred (100) meter (328 ft.) radius buffer zone in which case the buffer zone will be expanded appropriately, within the APE. USACE will implement measures to protect the discovery from theft and vandalism. Any human remains or other items in the immediate vicinity of the discovery must not be removed or otherwise disturbed. USACE will take immediate steps, if necessary, to further secure and protect inadvertently discovered human remains, burials, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony, as appropriate, including stabilization, or covering the find location.

4. USACE will notify local law enforcement, coroner, or medical examiner, as appropriate, and the SHPO, per the POC in Appendix B, by telephone to assess the nature and age of the human skeletal remains within twenty-four (24) hours of the discovery of unmarked human remains and accompany local law enforcement personnel during all field investigations. USACE will also notify Tribes of the discovery within the same period. If the appropriate local law enforcement official determines that the remains are not involved in a criminal investigation, USACE will follow jurisdictional guidelines as provided for based on land ownership (per Stipulation IX. B.).
 - a. In cases where human remains, burials, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony are discovered during the implementation of a USACE-funded undertaking on Federal Land, USACE will notify by telephone and e-mail, the SHPO, Tribes, and other affected parties (e.g., living descendants) that may that might attach religious and cultural significance to the discovery at the earliest possible time, but no later than forty-eight (48) hours and inform them of the steps already taken to address the discovery.
 - b. In cases where the human remains are discovered on Non-Federal Lands and are determined to be Native American, the SHPO will notify and coordinate with Tribes as required by the appropriate state law, but not later than forty-eight (48)-hours from the time of their notification. As requested and to the extent of its legal authority, USACE will assist the SHPO, to consult with Tribes and affected parties, as appropriate.
 - c. In cases where the human remains are discovered on Non-Federal Lands and determined to be other than Native American, the individual state's Designated Authority will notify and coordinate in accordance with the appropriate state law. As requested and to the extent of its legal authority, USACE will assist the Designated Authority to consult with the affected parties, as appropriate.
 5. Following the outcome of any consultation (Federal Lands or Non-Federal Lands) to address the discovery of human remains, USACE will coordinate with any contractor(s) regarding any required scope of project modification necessary to implement recommendations from the consultation and facilitate proceeding with the Undertaking.
- C. Specific Authorities and Processes for Addressing Human Remains: If human remains, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony are encountered during project field investigations or laboratory work or during construction activities, the USACE will comply with the provisions based on the nature of the land ownership at the time remains or objects

are encountered, in accordance with Engineering Regulation 1105-2-100 (Policy & Guidance), Appendix C-4.

1. Non-Federal Lands: If human remains are recovered from state or other private land,
 - a. Mississippi: Mississippi statutes related to the discovery of human remains are collected below.
 - i. Burial Excavation Permits (Native American only). Miss. Code §§ 25-59-1, 39-7-19 (1972, as amended);
 - ii. Abandoned Cemeteries, House Bill 780.
<https://www.mdah.ms.gov/historic-preservation/archaeology/permits>
 - iii. For unanticipated discoveries on private, county, or state land in Mississippi, which are Native American, the Chief Archaeologist is the lead authority and will consult with USACE, Tribe(s), landowner, and descendants as appropriate to determine the necessary course of action.
- D. If the human remains recovered are determined to be Native American, USACE, will explore ways to avoid moving human remains if it is determined necessary. Following that a determination that removal is necessary, USACE will identify and work with the Non-Federal Sponsor to secure a mutually agreeable reburial location in which to reinter the human remains removed from the project area. Other arrangements may be defined at the time it is determined that Native American human remains have been recovered, but will include at a minimum:
 - a. In person consultation regarding the human remains and any objects;
 - b. The identification of a reburial location as close to the disinterment location as feasible;
 - c. A commitment on the part of USACE to facilitate the reburial by an affiliated Tribe and to protect the human remains and associated grave goods, at no cost to the Tribes, or the SHPO.
 - d. Acknowledgment of the establishment of the cemetery in the administrative record and in the real estate records as determined best at time of reburial.
- E. If the remains are determined NOT to be Native American in origin, USACE will follow the principals outlined in the 2007 ACHP “Policy Statement Regarding Treatment Of Burial Sites, Human Remains and Funerary Objects” to respectfully treat the remains and determine proper disposition, disinterment, re-interment, and

memorialization, as well as any USACE real estate guidance at the time of the discovery.

X. PROVISIONS FOR POST-REVIEW DISCOVERIES (NON-HUMAN REMAINS)

- A. USACE is responsible for complying with 36 C.F.R. § 800.13(a) in the event of inadvertent discoveries of Historic Properties during implementation of the Project. Discoveries of previously unidentified Historic Properties or unanticipated adverse effects to known Historic Properties are not anticipated, however if there is an inadvertent discovery or unanticipated effect, USACE will ensure that the following stipulations are met. These provisions will be included in all construction, operations, and maintenance plans and project managers will brief field personnel.
- B. If previously unreported properties that may be eligible for nomination to the NR or that may be of significance to Tribes, and/or, if unanticipated effects on historic properties are found during the construction phase, USACE will implement the provisions outlined below that are intended to ensure that the Undertaking is in compliance with all applicable federal and state laws and regulations, including Section 106 of the NHPA:
- C. If there is no reasonable expectation that the property contains human remains, funerary objects, Native American sacred objects, or Native American objects of cultural patrimony, all work within a fifty (50) meter (164 ft.) radius buffer zone must stop immediately USACE will notify SHPO and Tribes, as appropriate, as well as any other affected party, of the discovery, and implement interim measures to protect the discovery from theft and vandalism. Construction may continue outside the fifty (50) meter (164 ft.) radius buffer zone. Within seventy-two (72) hours of receipt of notification of the discovery, USACE, as appropriate, will:
 - 1. Inspect the work site to determine the extent of the discovery and ensure that work activities have halted within the fifty (50) meter (164 ft.) radius buffer zone;
 - 2. Clearly mark the area of the discovery;
 - 3. Implement additional measures, as appropriate, to protect the discovery from theft and vandalism; and
 - 4. Provide an initial assessment of the site's condition and eligibility to the SHPO of jurisdiction and appropriate Tribes; and
 - 5. Notify other Consulting Parties, if applicable, of the discovery.
- D. If USACE, in consultation with the SHPO, Consulting Tribes, and other Consulting Parties, as appropriate, determines the site is either isolated, does not retain integrity sufficient for listing on the NRHP, or will not be further disturbed by construction activities, construction may resume within the fifty (50) meter (164 ft.) radius buffer zone.

- E. If USACE determines that the cultural resource site or artifact either is, or may be, eligible for inclusion on the NRHP, USACE will consult with the SHPO, Consulting Tribes, and other Consulting Parties, as appropriate, regarding appropriate measures for site treatment pursuant to 36 C.F.R. § 800.6(a). SHPO and Tribes will have seven (7)-days to provide their objections or concurrence on the proposed actions. These measures may include:
 - 1. Formal archaeological evaluation of the site;
 - 2. Visits to the site by SHPO and/or Consulting Tribes;
 - 3. Exploration of potential alternatives to avoid the site;
 - 4. Preparation and implementation of a mitigation plan by USACE in consultation and concurrence with the SHPO, Consulting Tribes, and other Consulting Parties, as appropriate.
- F. The notified Consulting Parties will have seven (7)-days following notification to provide comment regarding USACE's determination of the NRHP eligibility of the discovery.
- G. A report of findings describing the background history leading to and immediately following the reporting and resolution of an inadvertent discovery will be prepared by USACE within thirty (30)-days of the resolution of each inadvertent discovery.
- H. USACE will communicate the procedures to be observed with its contractors and personnel.
- I. USACE will provide Notice to Proceed to the contractor to work in the area. Notices to Proceed may be issued by USACE for individual construction segments, defined by USACE in its construction specifications, after the identification and evaluation of historic properties has been completed.

XI. PUBLIC CONSULTATION AND PUBLIC NOTICE

- A. USACE recognizes that the views of the public are essential to informed decision making throughout the Section 106 consultation process. USACE shall notify the public of proposed Undertakings in a manner that reflects the nature, complexity, significance of historic properties likely affected by the Undertaking, the likely public interest given USACE's specific involvement, and any confidentiality concerns of Tribe(s), private individuals and organizations.
- B. USACE may consult with the SHPO/THPO, Consulting Tribes, or Tribe(s), and other Consulting Parties, to determine if there are individuals or organizations with a demonstrated interest in historic properties that should be included as a Consulting

Party for the Undertaking in accordance with 36 CFR § 800.2(c)(5). If such parties are identified or identify themselves to USACE, USACE shall provide them with information regarding the Undertaking and its effects on historic properties, consistent with the confidentiality provisions of 36 CFR § 800.11(c).

- C. In accordance with the public outreach strategy developed for an Undertaking in consultation with the SHPO, Tribe(s), USACE shall identify the appropriate stages for seeking public input during the Section 106 consultation process. USACE shall consider all views provided by the public regarding an Undertaking.
- D. USACE shall also provide public notices and the opportunity for public comment or participation in an Undertaking through the public participation process of the National Environmental Policy Act (NEPA) and its implementing regulations set out at 40 CFR Parts 1500-1508, and/or Executive Orders 11988 and 11990 relating to floodplains and wetlands, and if applicable, Executive Order 12898, Environmental Justice, provided such notices specifically reference Section 106 as a basis for public involvement and provide the notices on a webpage established to address these future projects.

XII. CONFIDENTIALITY

Confidentiality regarding the nature and location of the archaeological sites and any other cultural resources discussed in this PA shall be limited to appropriate USACE personnel, USACE contractors, Tribes, SHPO, and those parties involved in planning, reviewing, and implementing this PA in accordance with Section 304 of the NHPA (54 U.S.C. § 307103).

XIII. DISPUTE RESOLUTION

- A. Should any Signatory, or Invited Signatory or Concurring Party to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, the USACE shall consult with such party to resolve the objection. If USACE determines that such objection cannot be resolved, the USACE will forward all documentation relevant to the dispute, including the USACE's proposed resolution, to the ACHP. The ACHP shall provide USACE with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Signatories, and Invited Signatories, and provide them with a copy of this written response. The USACE will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USACE shall prepare a written

response that takes into account any timely comments regarding the dispute from the Signatories and Invited Signatories to the Agreement, and provide them and the ACHP with a copy of such written response.

- C. The USACE's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

XIV. SEVERABILITY AND TERMINATION

- A. In the event any provision of this Agreement is deemed by a federal court to be contrary to, or in violation of, any applicable existing law or regulation of the United States of America, only the conflicting provision(s) shall be deemed null and void, and the remaining provisions of the Agreement shall remain in effect.
- B. USACE may terminate this Agreement by providing thirty (30) days written notice to the other Signatories, provided that the Signatories consult during this period to seek amendments or other actions that would prevent termination. If this Agreement is terminated, USACE shall comply with Section 106 through other applicable means pursuant to 36 CFR Part 800. Upon such determination, USACE shall provide all other Signatories with written notice of the termination of this Agreement and the current status of any on-going projects.
- C. A Consulting Tribe may notify the other Signatories that it is fully withdrawing from participation in the Agreement. Following such a withdrawal, USACE shall review Undertakings that may affect historic properties of religious and cultural significance to the Consulting Tribe, and Undertakings that occur on the Tribal Lands of the relevant Consulting Tribe, in accordance with 36 CFR §§ 800.3 through 800.7, 36 CFR §§ 800.8(c), or an applicable alternative under 36 CFR §§ 800.14. Withdrawal from this Agreement by a Consulting Tribe does not otherwise terminate the Agreement. At any time that this Agreement remains in effect, a Consulting Tribe that has withdrawn from the Agreement may notify USACE and SHPO in writing that it has elected to participate again rescinded its notice withdrawing from participation in the Agreement.
- D. The SHPO or Tribal Signatory may withdraw from this PA after providing USACE written notice ninety (90) calendar days prior to its withdrawal. USACE shall consult with the withdrawing party to identify any mutually acceptable measures that would avoid the party's withdrawal. In the case of SHPO withdrawal, the PA would no longer apply and USACE would comply with 36 CFR Part 800 for all undertakings previously subject to this PA. In the case of a Tribal Signatory withdrawing from the PA, USACE would consult with that Tribe pursuant to 36 CFR Part 800 for all undertakings previously subject to this PA that would have the potential to affect historic properties of religious and cultural significance to the Tribe. This PA would remain in effect for all other parties.

XV. AMENDMENTS

A. Body of the Programmatic Agreement:

May be amended when such an amendment is agreed to in writing by all Signatories and Invited Signatories. The amendment will be effective on the date a copy signed by all of the Signatories and Invited Signatories is filed with the ACHP.

B. Appendices:

May be amended at the request of USACE or another Signatory or Invited Signatory in the following manner:

1. USACE, on its own behalf or on behalf of another Signatory or Invited Signatory, shall notify the Signatories of the intent to modify the current Appendix or Appendices and shall provide a draft of the updated Appendix or Appendices to all Signatory parties.
2. If no Signatory or Invited Signatory objects in writing within thirty (30) days of receipt of USACE's proposed modification, USACE shall date and sign the amended Appendix and provide a copy of the amended Appendix to the other Signatories. Such an amendment shall go into effect on the date USACE transmits the amendment to the other Signatories.
3. Current List of Appendices:
 - a. Appendix A: Study APE Map
 - b. Appendix B: Point of Contacts (POC)

C. Any Amendments to the Body of the Agreement or the Appendices, shall be posted to the websites currently tracking the implementation of the Project.

XVI. DURATION

- A. The Agreement shall expire ten (10) years from the date of the last signature. One (1) year prior to the expiration of the Agreement, the USACE shall review the Agreement in order to determine whether it should be reissued or allowed to expire. If the Agreement requires reissue, the USACE shall consult with the Consulting Parties, as well as amend the Agreement in order to ensure compliance with the most current version of the Federal regulations implementing the NHPA.
- B. The Signatories and Invited Signatories may collectively agree to extend this Agreement to cover additional calendar years, or portions thereof, through an amendment provided that the original Agreement has not expired.

XVII. ANTI-DEFICIENCY ACT

USACE's obligations under this Agreement are subject to the availability of appropriated funds, and the stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act. USACE shall make reasonable and good faith efforts to secure the necessary funds to implement this Agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs USACE's ability to implement the stipulations of this Agreement, USACE shall consult in accordance with the amendment procedures found at Stipulation XIV and termination procedures found at Stipulation XIII.

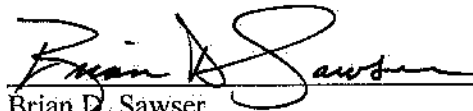
XVIII. EXECUTION AND IMPLEMENTATION

- A. Nothing in this Agreement is intended to prevent the USACE from consulting more frequently with the Consulting Parties concerning any questions that may arise or on the progress of any actions falling under or executed by this Agreement.
- B. This Agreement shall be executed in counterparts, with a separate page for each Signatory, and shall become effective on the date the agreement is signed by or filed with the ACHP.
- C. USACE shall ensure that each Signatory and Invited Signatory is provided with an electronic (pdf) and physical copies of the Agreement including signatures. USACE shall provide electronic copies of additional executed signature pages to the Consulting Parties as they are received. USACE shall provide a complete copy of the Agreement with original signatures to any Signatory on request.
- D. Execution of this Agreement by the Memphis District of USACE, the Mississippi SHPO, (Signatories), the Alabama-Coushatta Tribe of Texas, The Chickasaw Nation, the Quapaw Nation, and the Cherokee Nation (Invited Signatories) and implementation of its terms evidence that USACE has taken into account the effects of this undertaking on historic properties and afforded ACHP a reasonable opportunity to comment.

SIGNATORY PAGE

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT,
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER,
AND THE CHICKASAW NATION
REGARDING THE MANAGEMENT MEASURES TO BE IMPLEMENTED
AS A RESULT OF THE MEMPHIS METRO STORMWATER – NORTH
DESOTO COUNTY FEASIBILITY STUDY
DESOTO COUNTY
MISSISSIPPI**

UNITED STATES ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT (CEMVM)



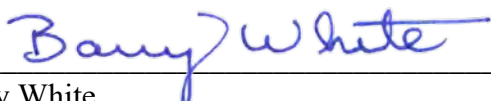
Brian D. Sawser
Colonel, Corps of Engineers
District Commander

Date: 6 OCT 2022

SIGNATORY PAGE

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT,
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER,
AND THE CHICKASAW NATION
REGARDING THE MANAGEMENT MEASURES TO BE IMPLEMENTED
AS A RESULT OF THE MEMPHIS METRO STORMWATER – NORTH
DESOTO COUNTY FEASIBILITY STUDY
DESOTO COUNTY
MISSISSIPPI**

The Mississippi State Historic Preservation Officer



Barry White
Deputy State Historic Preservation Officer

Date: 9/2/2022

For: Katie Blount
Mississippi State Historic Preservation Officer


INVITED SIGNATORY PAGE

**PROGRAMMATIC AGREEMENT
AMONG**

**THE U.S. ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT,
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER,
AND THE CHICKASAW NATION
REGARDING THE MANAGEMENT MEASURES TO BE IMPLEMENTED
AS A RESULT OF THE MEMPHIS METRO STORMWATER – NORTH
DESOTO COUNTY FEASIBILITY STUDY
DESOTO COUNTY
MISSISSIPPI**

The Chickasaw Nation

Nothing in this Agreement shall be construed to waive the sovereign rights and immunities of The Chickasaw Nation, its officers, employees, or agents.


Bill Anoatubby, Governor
The Chickasaw Nation

Date: DEC 06 2022

CONCURRING PARTY SIGNATORY PAGE

**PROGRAMMATIC AGREEMENT
AMONG**

**THE U.S. ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT,
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER,
AND THE CHICKASAW NATION
REGARDING THE MANAGEMENT MEASURES TO BE IMPLEMENTED
AS A RESULT OF THE MEMPHIS METRO STORMWATER – NORTH
DESOTO COUNTY FEASIBILITY STUDY
DESOTO COUNTY
MISSISSIPPI**

Cherokee Nation

Chuck Hoskin, Jr., Principal Chief

Date: _____

APPENDIX A: STUDY APE MAPS

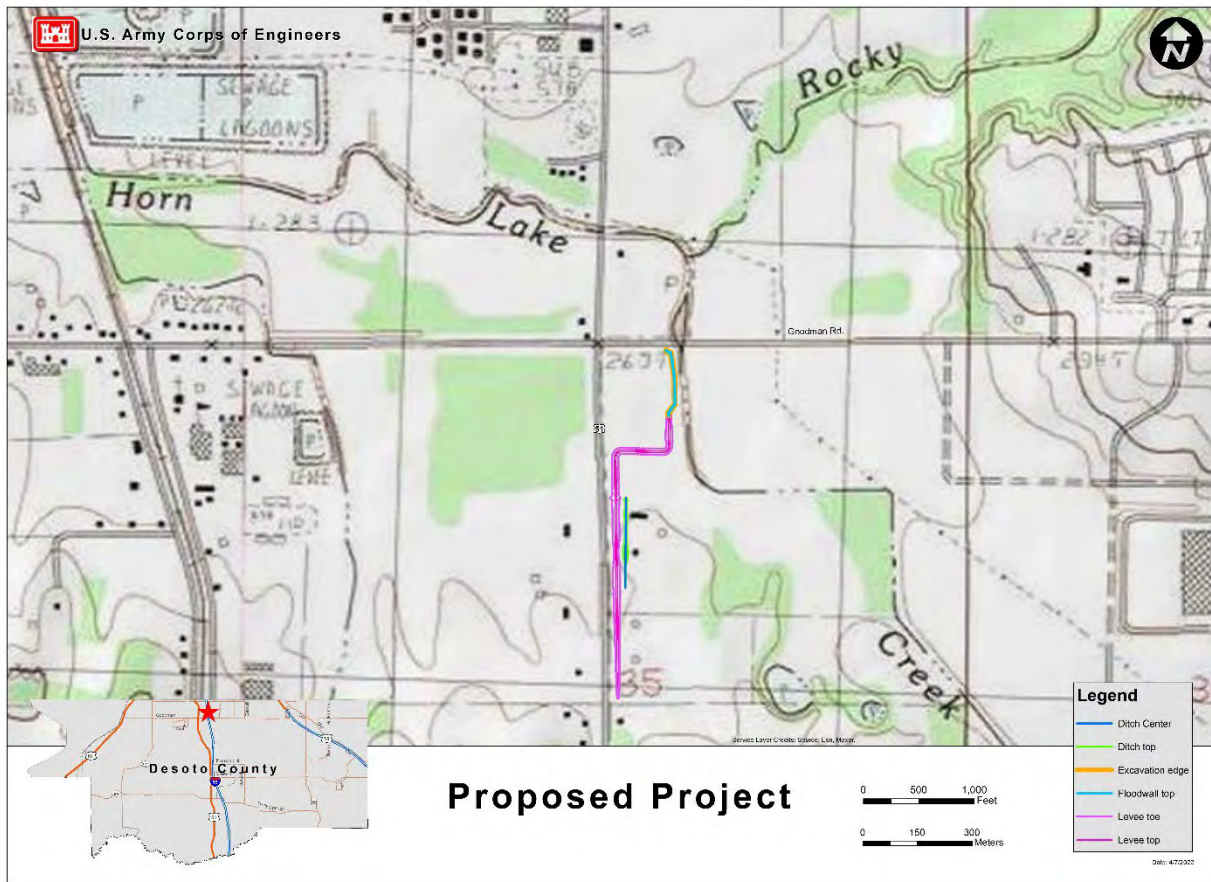


Figure 1. Proposed Levee and Floodwall Project.

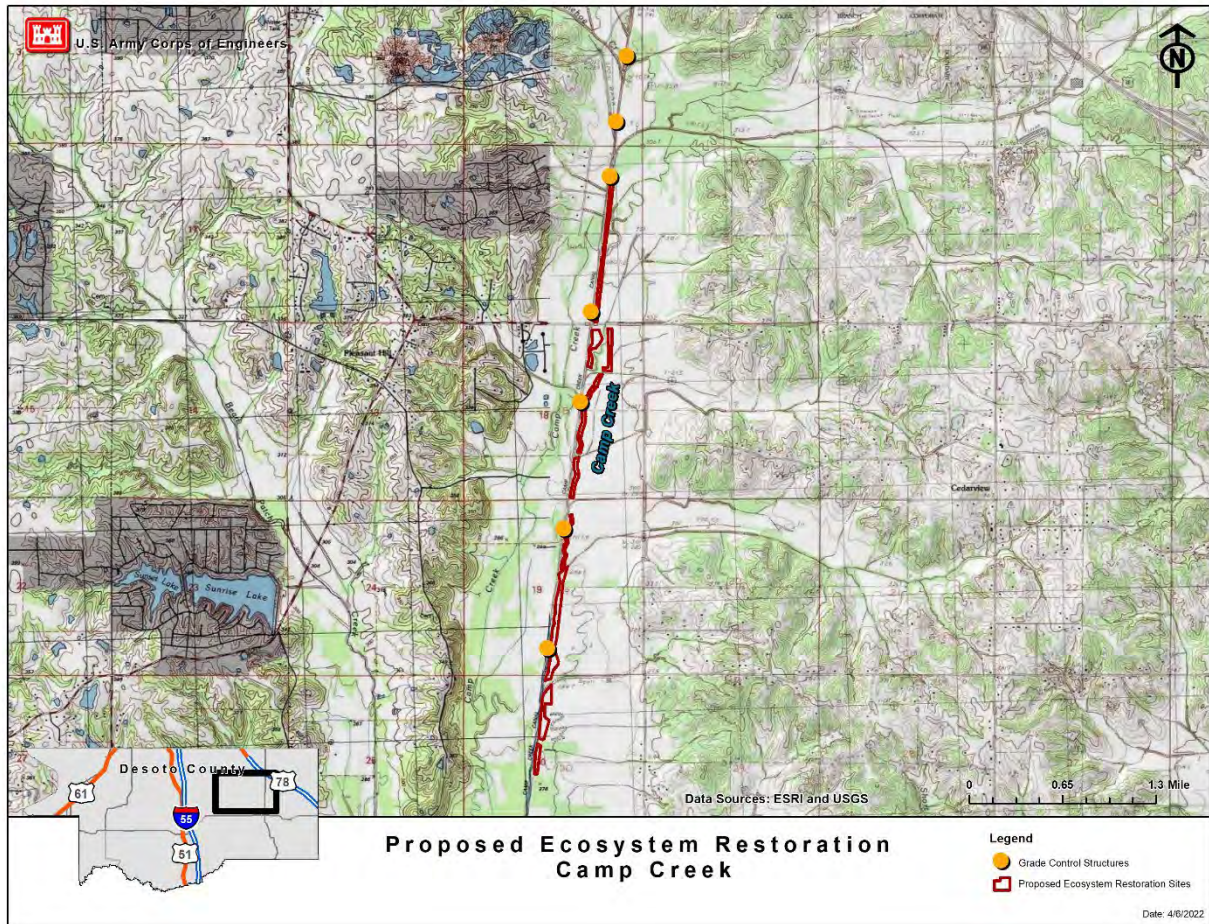


Figure 2. Proposed Ecosystem Restoration on Camp Creek.

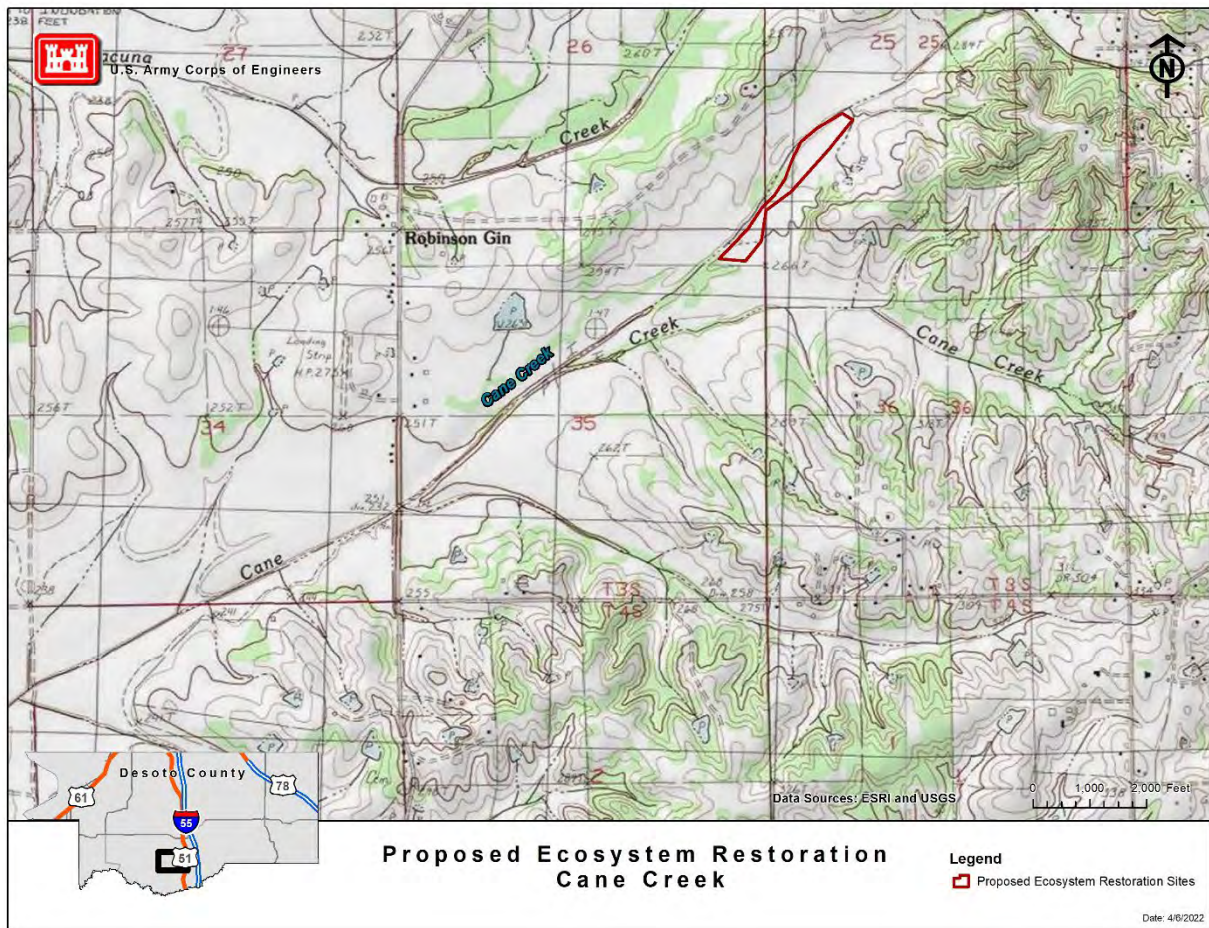


Figure 3. Proposed Ecosystem Restoration on Cane Creek.

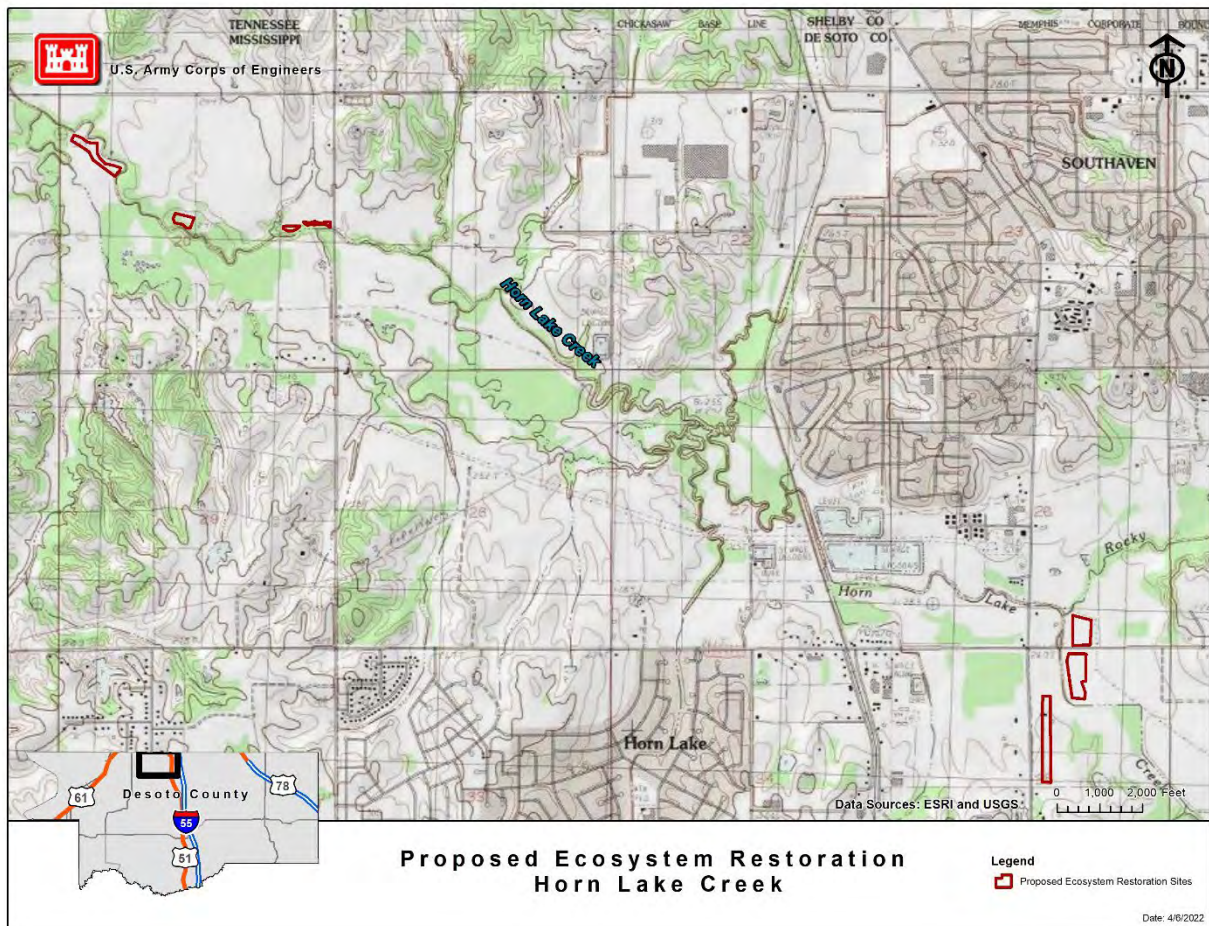


Figure 4. Proposed Ecosystem Restoration on Horn Lake Creek.

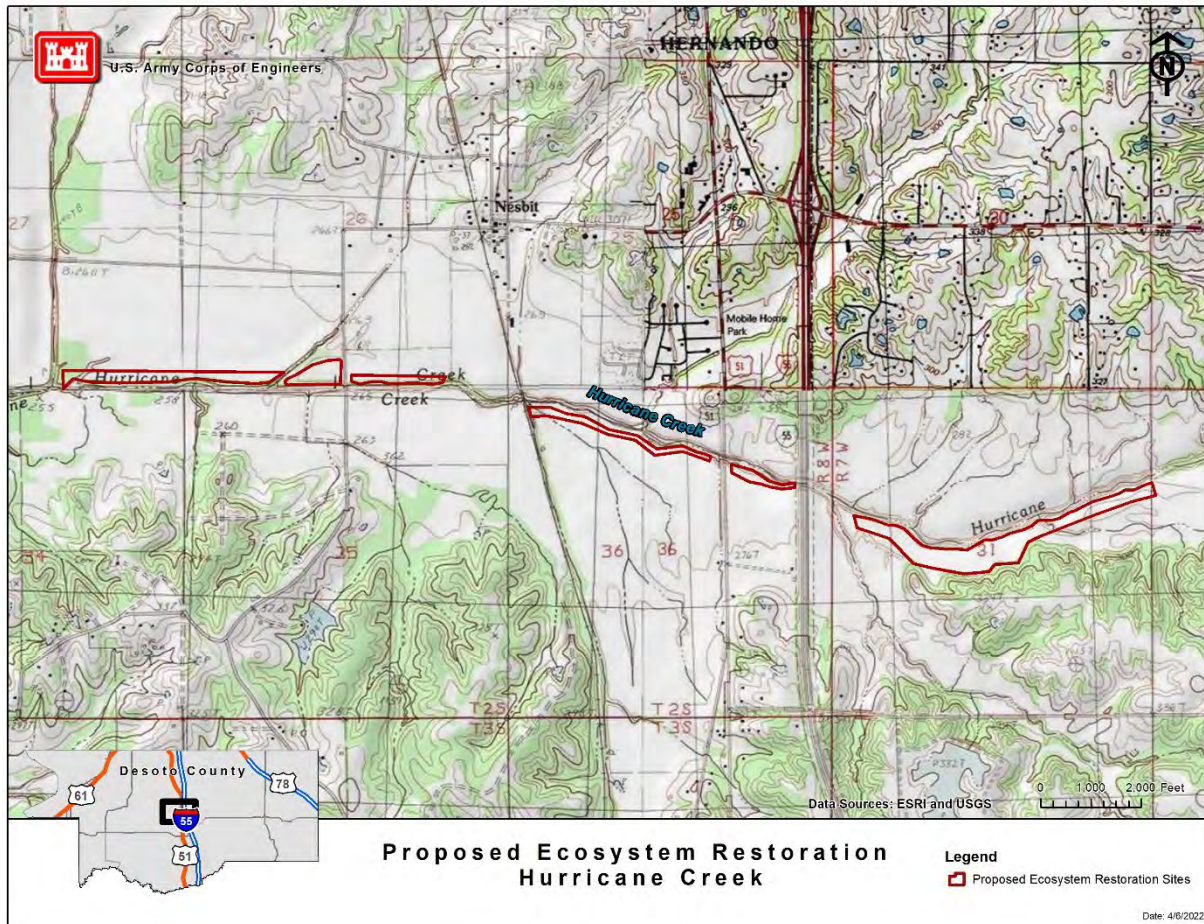


Figure 5. Proposed Ecosystem Restoration on Hurricane Creek.

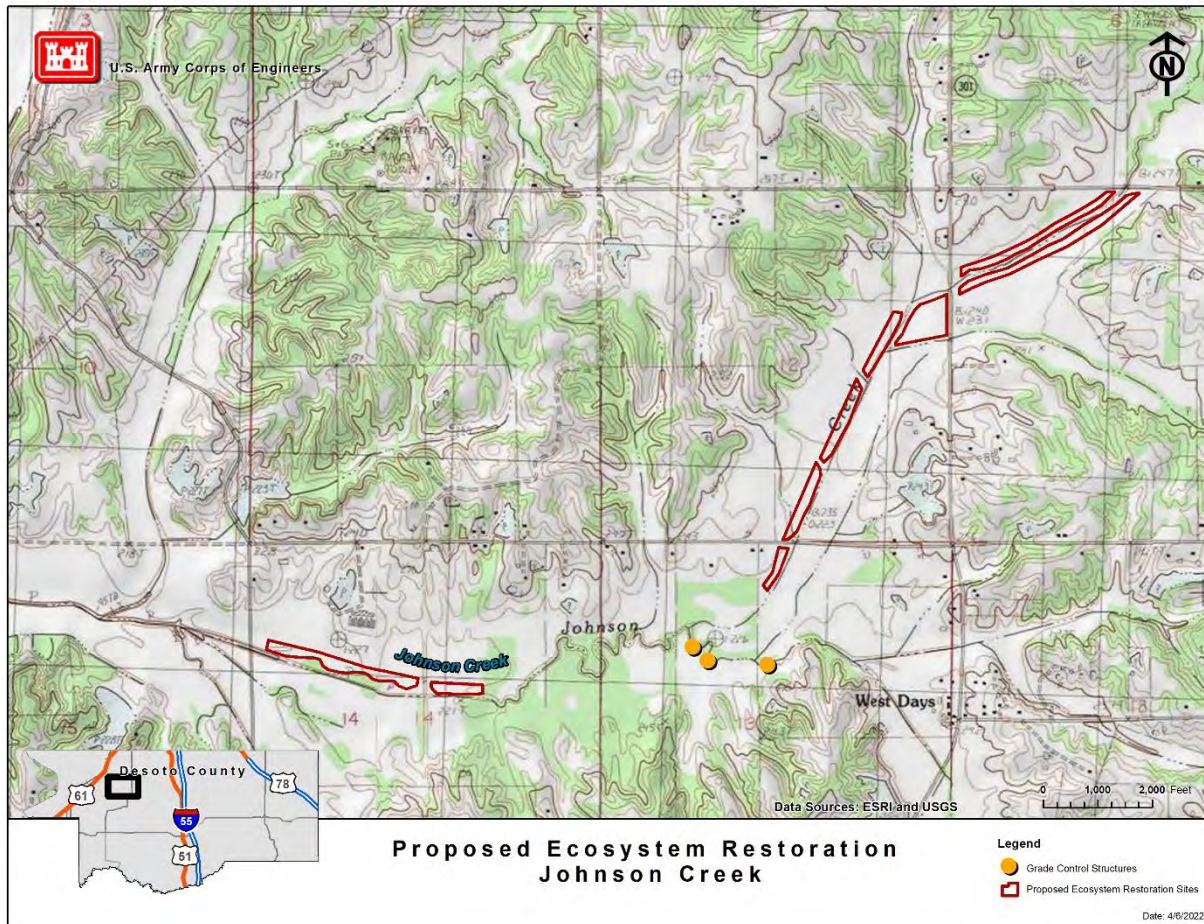


Figure 6. Proposed Ecosystem Restoration on Johnson Creek.

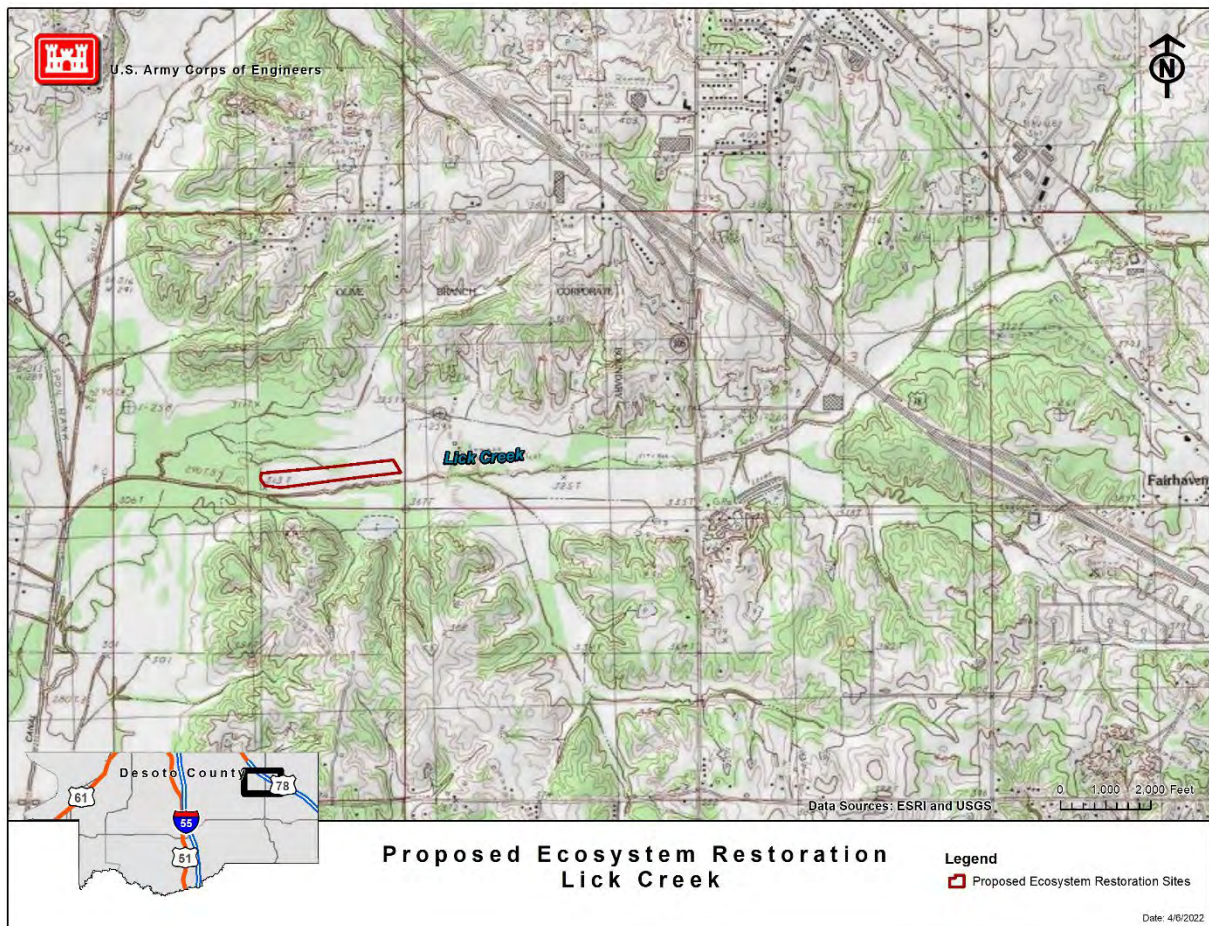


Figure 7. Proposed Ecosystem Restoration on Lick Creek.

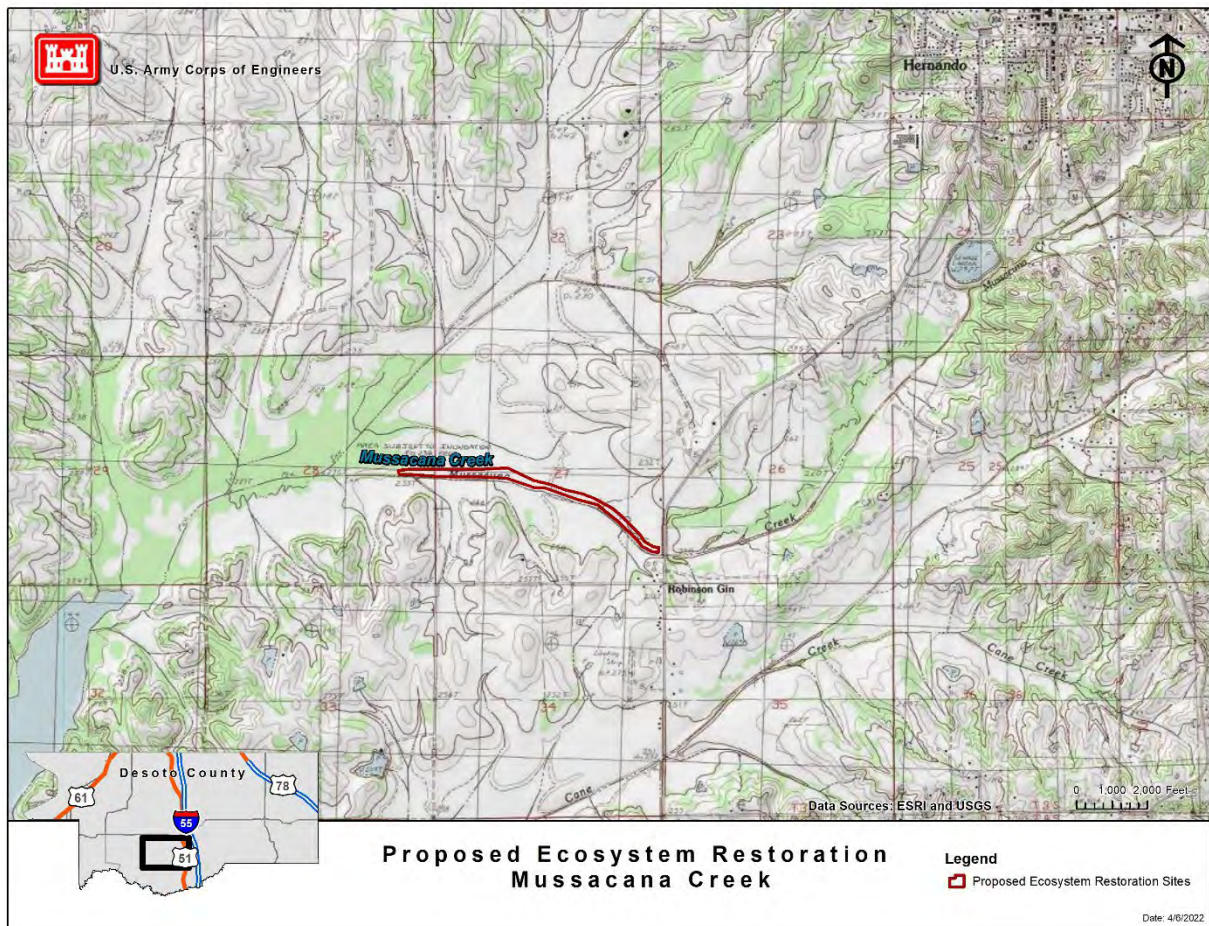


Figure 8. Proposed Ecosystem Restoration on Mussacana Creek.

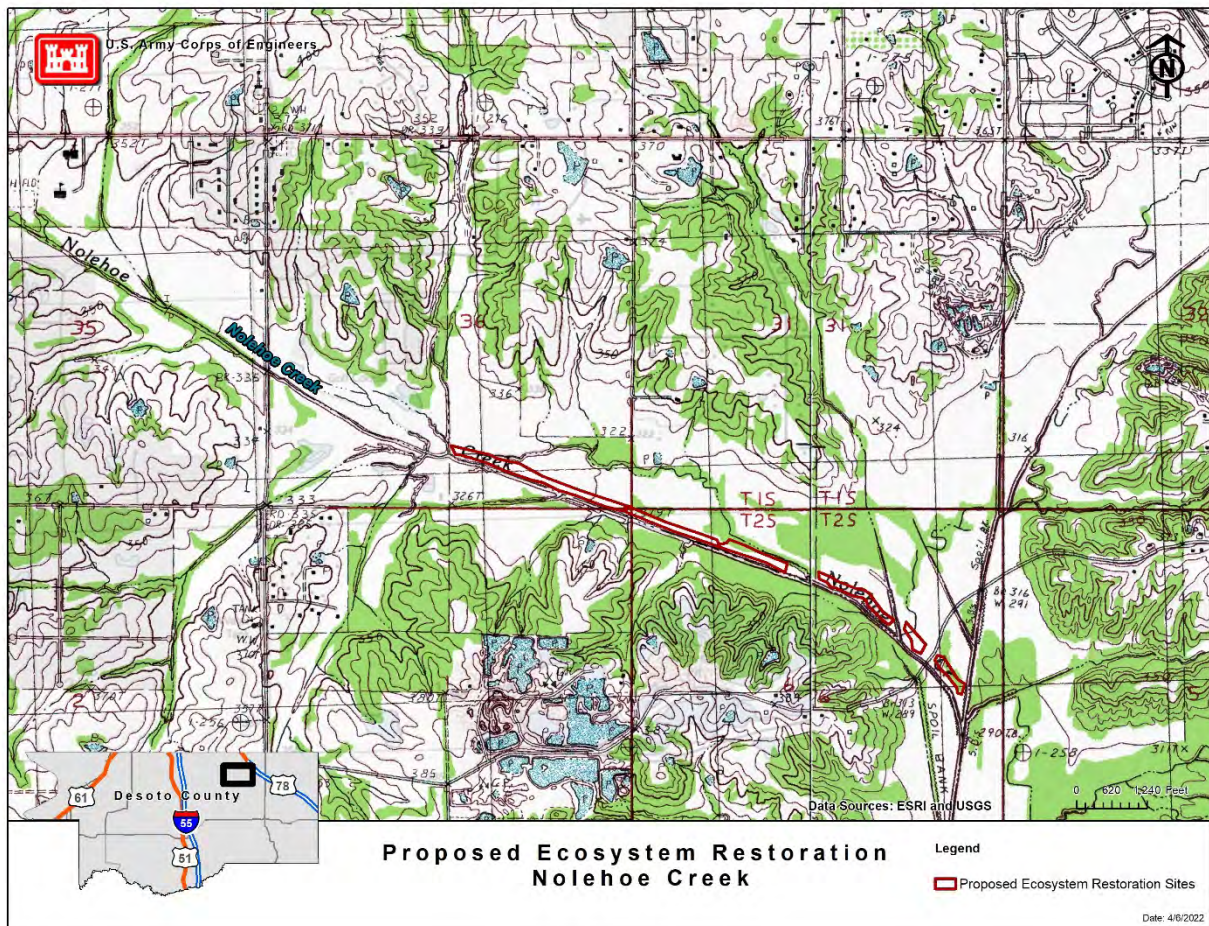


Figure 9. Proposed Ecosystem Restoration Nolehoe Creek.

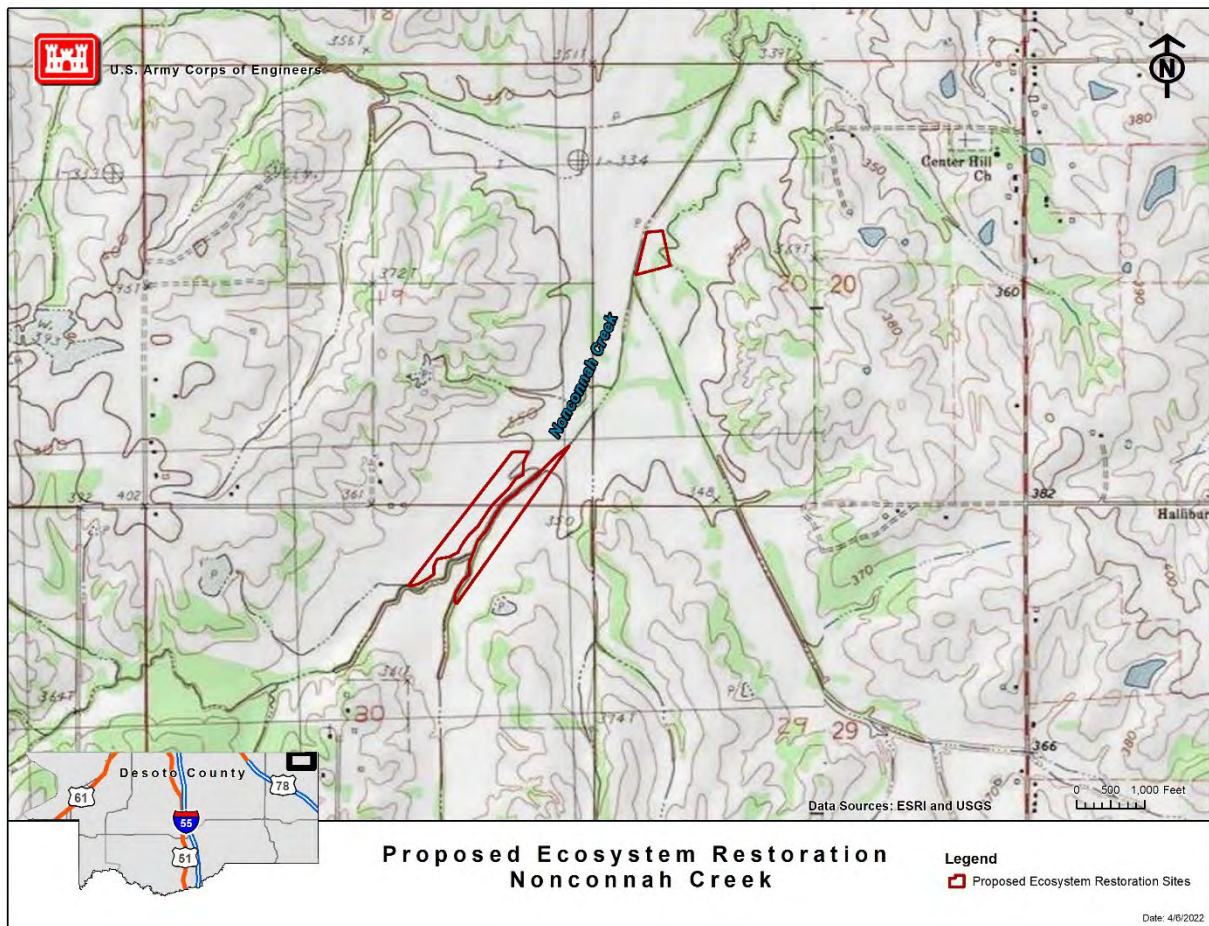


Figure 10. Proposed Ecosystem Restoration on Nonconnah Creek.

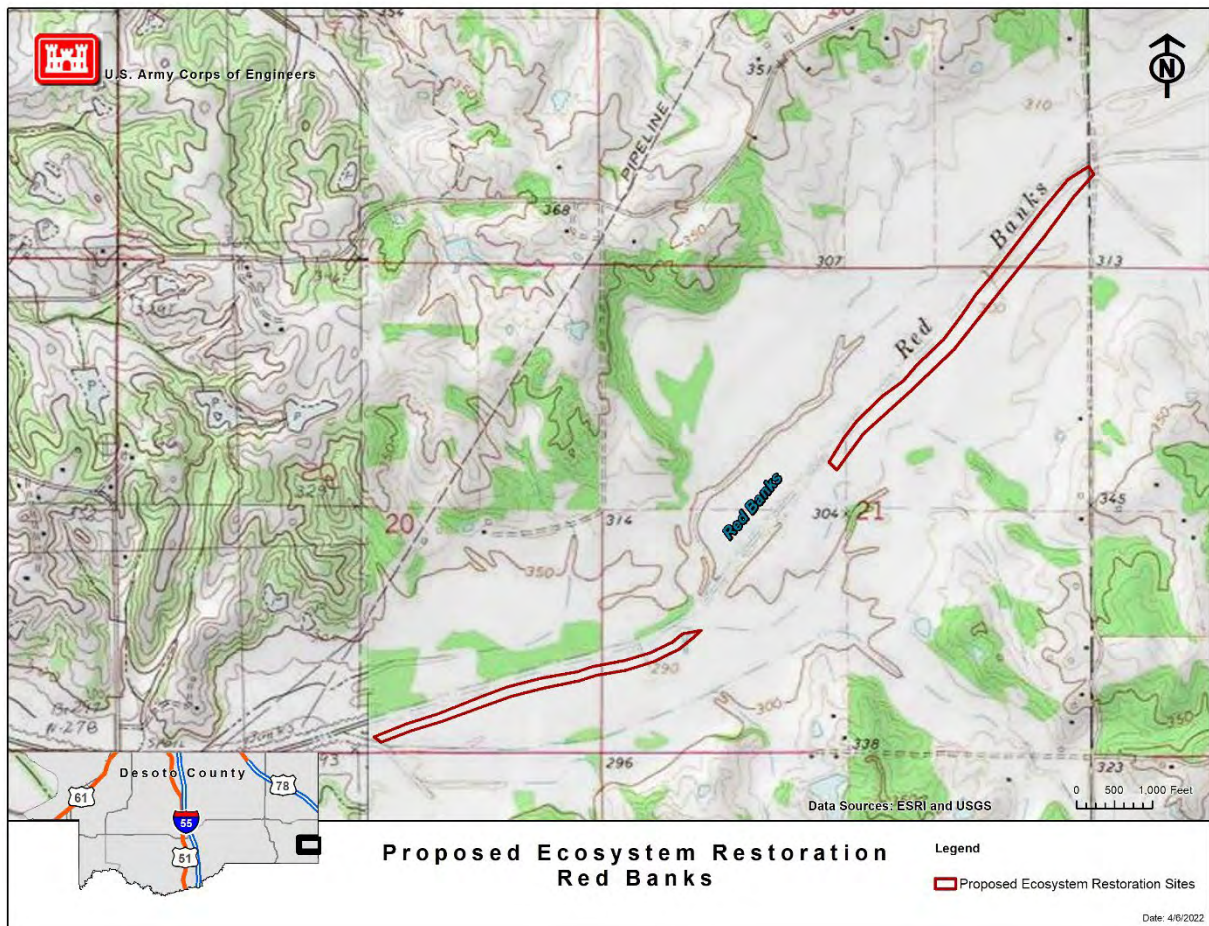


Figure 11. Proposed Ecosystem Restoration on Red Banks Creek.

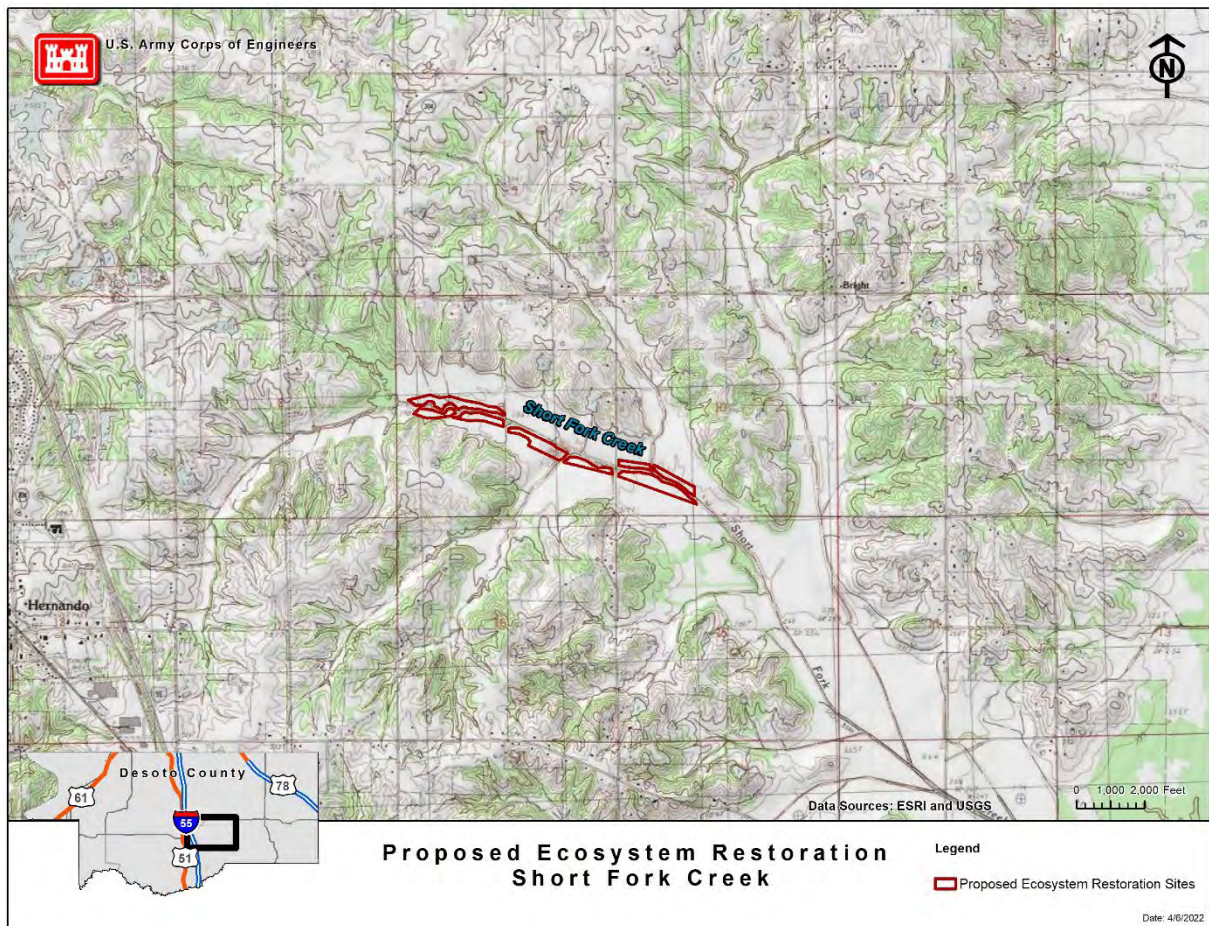


Figure 12. Proposed Ecosystem Restoration on Short Fork Creek.

APPENDIX B: POINTS OF CONTACTS (POC)

CONTACT INFORMATION FOR SIGNATORIES AND FEDERALLY RECOGNIZED TRIBES

Signatories shall provide USACE with updated contact information as it becomes available, and revisions to this Appendix B will be made without an amendment to this Agreement. This Appendix B will be updated annually by USACE and included in the Annual Report.

The Appendix captures that some consultations will be all email (except reports), while others will be all paper. This is captured so that the district archaeologist/Tribal Liaison has the right tool to communicate.

Federally Recognized Tribes

<p>Alabama -Coushatta Tribe of Texas <u>Primary Contact:</u> Bryant Celestine, THPO Alabama-Coushatta Tribe of Texas 571 State Park Road 56 Livingston, TX 77351 (936) 563-1181 celestine.bryant@actribe.org</p> <p>Method of contact for project notification and documentation: email to histspress@actribe.org and copy to primary email.</p> <p>Method of contact for other communication: email, phone call</p>	<p>Alabama-Coushatta Tribe of Texas <u>Secondary Contact:</u> Joann Battise, Chairwoman Alabama-Coushatta Tribe of Texas 571 State Park Road 56 Livingston, TX 77351 (936) 563-1181</p> <p>Email: histspress@actribe.org</p>
<p>Cherokee Nation <u>Primary Contact:</u> Elizabeth Toombs, THPO P.O. Box 948 Tahlequah, OK 74465-0948 elizabeth-toombs@cherokee.org</p> <p>Method of contact for project notification and documentation: email to primary contact email.</p> <p>Method of contact for other communication: email, phone call.</p>	<p>Cherokee Nation <u>Secondary Contact:</u> Chuck Hoskin Jr. Principal Chief P.O. Box 948 Tahlequah, OK 74465-0948 Chuck-hoskin@cherokee.org</p>

<p style="text-align: center;">Chickasaw Nation</p> <p><u>Primary Contact:</u> Karen Brunso, THPO Division of Historic Preservation P.O. Box 1548 Ada, Oklahoma 74821 (580) 272-1106 Karen.Brunso@chickasaw.net</p> <p>HPO@chickasaw.net</p> <p>Method of contact for project notification and documentation: email to HPO@chickasaw.net</p> <p>Method of contact for other communication: email, phone call.</p>	<p style="text-align: center;">Chickasaw Nation</p> <p><u>Secondary Contact:</u> Bill Anoatubby, Governor P.O. Box 1548 Ada, Oklahoma 74821 (580) 436-2603</p>
<p style="text-align: center;">Quapaw Nation</p> <p><u>Primary Contact:</u> Everett Bandy, Historic Preservation Officer Quapaw Nation Historic Preservation Program P.O. Box 765 Quapaw, OK 74363-0765 (918) 238-3100 ebandy@quapawnation.com</p> <p>Routine: Section email. Section106@quapawnation.com specific responses directed to THPO.</p> <p>Method of contact for project notification and documentation: hardy copy letter directly to THPO (post-pandemic) and email to Primary contact. In the meantime, continue email.</p> <p>Method of contact for other communication: email or phone call.</p>	<p style="text-align: center;">Quapaw Nation</p> <p><u>Secondary Contact:</u> Joseph Byrd Quapaw Nation Chairman P.O. Box 765 Quapaw, OK 74363-0765 joseph.byrd@quapawnation.com</p> <p>Follow guidance in letter. CC to Chairman.</p>

SHPO

Mississippi Department of Archives and History	Mississippi Department of Archives and History
<p><u>Primary Contact:</u> Hal Bell State Historic Preservation Office Mississippi Department of Archives and History Historic Preservation Division P.O. Box 571 Jackson, MS 39205-0571 (601) 576-6957 hbell@mdah.ms.gov</p> <p>Method of contact for project notification and documentation: email at section106@mdah.ms.gov with a copy to the primary and secondary contact.</p> <p>Archaeological Site Forms: Submit via email</p> <p>Reports: Hard copy and PDF on CD</p> <p>Method of contact for other communication: email and phone call.</p>	<p><u>Secondary Contact:</u> Cindy Carter-Davis, Chief Archaeologist P.O. Box 571 Jackson, MS 39205-0571 (601) 576-6945 (601) 307-0133 ccarterdavis@mdah.ms.gov</p>

