

US Army Corps  
of Engineers  
Memphis District

# Public Notice

**FILE NUMBER: MVM-2014-281 (RCW)**

**NOTICE DATE:**  
**December 4, 2014**

Attn: Postmaster,  
Please Post Until

**EXPIRATION DATE:**  
**January 5, 2015**

## Joint Public Notice

### **U.S. Army Corps of Engineers and State of Arkansas**

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

**APPLICANT:**

Ray Dawson, Jr.  
Cottonwood Partners, LLC  
5076 Highway 131 East  
Brickeys, Arkansas 72320  
Business Phone: (870) 295-2880

**Agent:**

Heath Garner  
Enercon Services, Inc.  
6525 N. Meridian Avenue, Suite 400  
Oklahoma City, Oklahoma 73116  
Business Phone: (405) 722-7693

**PURPOSE:** The purpose of this project is to improve drainage and increase irrigation and production efficiency while reducing aquifer dependency as a part of overall farmland improvements.

**LOCATION:** There are 3 separate project areas located on the applicant's farmland. Area 1 is a wetland (W1) located in Section 25, Township 3N, Range 5E, at latitude/longitude 34.837729° N/-90.532076° W. Area 2 was at one time a borrow pit established prior to 1985 that has since been abandoned to become a pond (P1) with fringe wetlands surrounding it located in Section 2, Township 2N, Range 5E, at latitude/longitude 34.801422° N/-90.541003° W. Area 3 is a stream (S2) located in Section 32, Township 3N, Range 6E, at latitude/longitude 34.826361° N/-90.490867° W. All projects are located in Lee County, Arkansas (Attachment 1: Project Locations, Attachments 2 through 4: Aerial Photographs of proposed projects).

**DESCRIPTION OF WORK:** The applicant's proposed project includes filling and relocation of mapped drainages, streams, wetlands, and an abandoned borrow pit/pond with fringe wetlands as part of land grading and agricultural irrigation improvements on three farm tracts. The work will be completed using tractors and dirt pans, bulldozers, and track-mounted excavators. Fill material will come from higher elevations within adjoining fields.

Area 1 is an approximate 0.95-acre cypress slough depression comprised of dead timber and scrub shrub vegetation at the western end of the project area. It is connected to a 1,280 foot stream. Both features would be filled and replaced with a 1,478 foot relocated channel to the east and connected to South Alligator Bayou (Attachment 2, Proposed Project Area 1).

Area 2 is a pond with fringe wetlands measuring approximately 4.93 acres. The proposed plan is to fill the pond/fringe wetlands and bring it to the same elevation as the surrounding field (Attachment 2, Proposed Project Area 2).

Area 3 is a stream. The proposed plan is to fill approximately 1,205 linear feet of the stream along the east and south perimeter of the tract. The relocated reach will have the same cross-section slopes (1:2) top width, and bottom width and be 1,282 linear feet in length (Attachment 4, Proposed Project Area 3).

The applicant's proposed work would require a discharge of fill material into waters of the U.S. and requires authorization from the U.S. Army Corps of Engineers.

**AVOIDANCE/MINIMIZATION:** According to the applicant, Area 1 has 1.4 acres of wetlands of which only 0.95 acres would be impacted, therefore 0.45 acres of wetlands would be avoided. The proposed plans for Area 2 include filling the entire pond and therefore no avoidance is feasible for this part of the project. The proposed plans for Area 3 include avoidance of 0.23 acres of forested wetlands along the southern boundary of the tract.

**MITIGATION:** According to the applicant, proposed compensatory mitigation would be on-site mitigation near the impact sites (Attachment 5 Mitigation Proposal Location Map and Attachments 6 through 8, Conceptual Mitigation Plans for Areas 1, 2 and 3). Wetland mitigation will include minor grading of a portion of an agricultural field, creating a deep water-emergent marsh wetland on 9.3 acres. This mitigation area will be graded to create seasonal flooded conditions over approximately 7.3 acres. The remaining, higher elevation area (2 acres) will be planted in a mixture of native warm season grasses and randomly spaced bottomland hardwoods (Attachment 6, Conceptual Mitigation Plan Area 1). To meet additional mitigation credits required based on Charleston Method calculations, an additional 15.2 acres of forested wetland will be created on three separate fields in two additional mitigation sites that are owned by the applicant (Attachments 7 and 8, Conceptual Mitigation Plan, Areas 2 and 3). Minor site grading will be completed on Mitigation Site 2 (Attachment 7, Conceptual Mitigation Plan Area 2) to create a cypress-tupelo depression associated with Alligator Bayou to replace the function of the cypress drainage channel of W1 and outstanding credits required from filling the pond P1. The graded areas will be planted with bare-root bottomland hardwood seedlings on 12-foot centers, establishing 302 trees per acre. Mast producing bare-root seedlings will also be planted on the remaining area outside the cypress-tupelo depression and on two smaller fields to enhance the vegetation community and increase wildlife habitat with the mitigation area as a whole. The combined created wetland acreage within all three mitigation areas will total 24.5 acres for a 4:1 mitigation ratio to compensate for unavoidable wetland and waters impacts. 1,205 linear feet of Stream 2 in Project Area 3 is planned to be filled and relocated along the east and south perimeter of the tract. The relocated reach will have the same cross-section slopes (1:2), top width, and bottom width and be 1,282 feet in length. Additionally, a 1.3-acre, 30 foot wide native warm season grass herbaceous buffer will be established along both sides of the relocated stream reach along the eastern border of the tract and the north side of the relocated stream reach along the southern border of the tract. All excavated spoil (soil) will be deposited on the field side of the relocated stream reach and utilized as a farm access road around the field.

**WATER QUALITY CERTIFICATION:** By copy of this public notice, the applicant is requesting water quality certification from the Arkansas Department of Environmental Quality that the activity will comply with applicable requirements set forth in 33 U.S.C. and 1341 (a)(1) of the Clean Water Act and all State laws and regulations promulgated pursuant thereto. This certification or evidence of the water quality certification or waiver of the right to certify must be submitted prior to the issuance of a Corps of Engineers permit. The Corps of Engineers' evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act.

**ENDANGERED SPECIES:** Our preliminary determination is that there are no endangered species or critical habitat affected by this proposal. However, this notice is being coordinated with the USFWS. Any comments USFWS may have regarding endangered or threatened wildlife or plants or their critical habitat, will be considered in our evaluation of the described work.

**CULTURAL RESOURCES:** The Memphis District will evaluate information provided by the State Historic Preservation Officer and the public in response to this public notice and we may conduct or require a survey of the project area.

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

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

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Federally recognized Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**PUBLIC HEARING:** Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reason for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision. If a public hearing is held, it will be for the purpose of obtaining additional information that we could not otherwise obtain through a public notice process; not to inform the public about the specific details of the project in greater detail than what is found in this notice. This is not a Corps project. We are not a proponent or are we an opponent of the project. We are merely the permitting authority of Section 404 and Section 10 permits required by our office.

**COMMENTS OR REQUEST FOR ADDITIONAL INFORMATION:** Send comments to the Corps of Engineers, Memphis District and Arkansas Department of Environmental Quality. Comments may be sent via mail or E-mail to the following:

U.S. Army Corps of Engineers Memphis District  
ATTN: Reginald Wuornos  
167 North Main Street, Room B-202  
Memphis, Tennessee 38103-1894  
E-mail: [reginald.c.wuornos@usace.army.mil](mailto:reginald.c.wuornos@usace.army.mil)  
phone: (901) 544-0731  
fax: (901) 544-0211

Mark Hathcote  
State Permits Branch, Water Division  
Arkansas Department of Environmental Quality  
5301 North Shore Drive  
Little Rock, Arkansas 72118-5317  
E-mail: [hathcote@adeq.state.ar.us](mailto:hathcote@adeq.state.ar.us)

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

For Final Individual Permits actions in the Memphis District, go to the following link: <http://geo.usace.army.mil/egis/f?p=340:2:0::NO:RP>. Using the Filter by District drop down box, select MVM-Memphis District, then select the year and month (information will populate in the table below). All pending individual permits can be located by selecting the **“Pending IP”** tab above. All of the environmental documents and statements of findings supporting issuance or denial of the permit decisions are available upon written request and where applicable, upon the payment of administrative fees. They are also available at the Memphis District, Regulatory Branch office for examination.

Gregg Williams  
Chief  
Regulatory Branch

Attachments



# MVM-2014-281, Ray Dawson Jr. Clear, Fill and Reroute for Farming

Topo, Brickeys & Council, AR Quad

Zone 15

Section, Township, Range

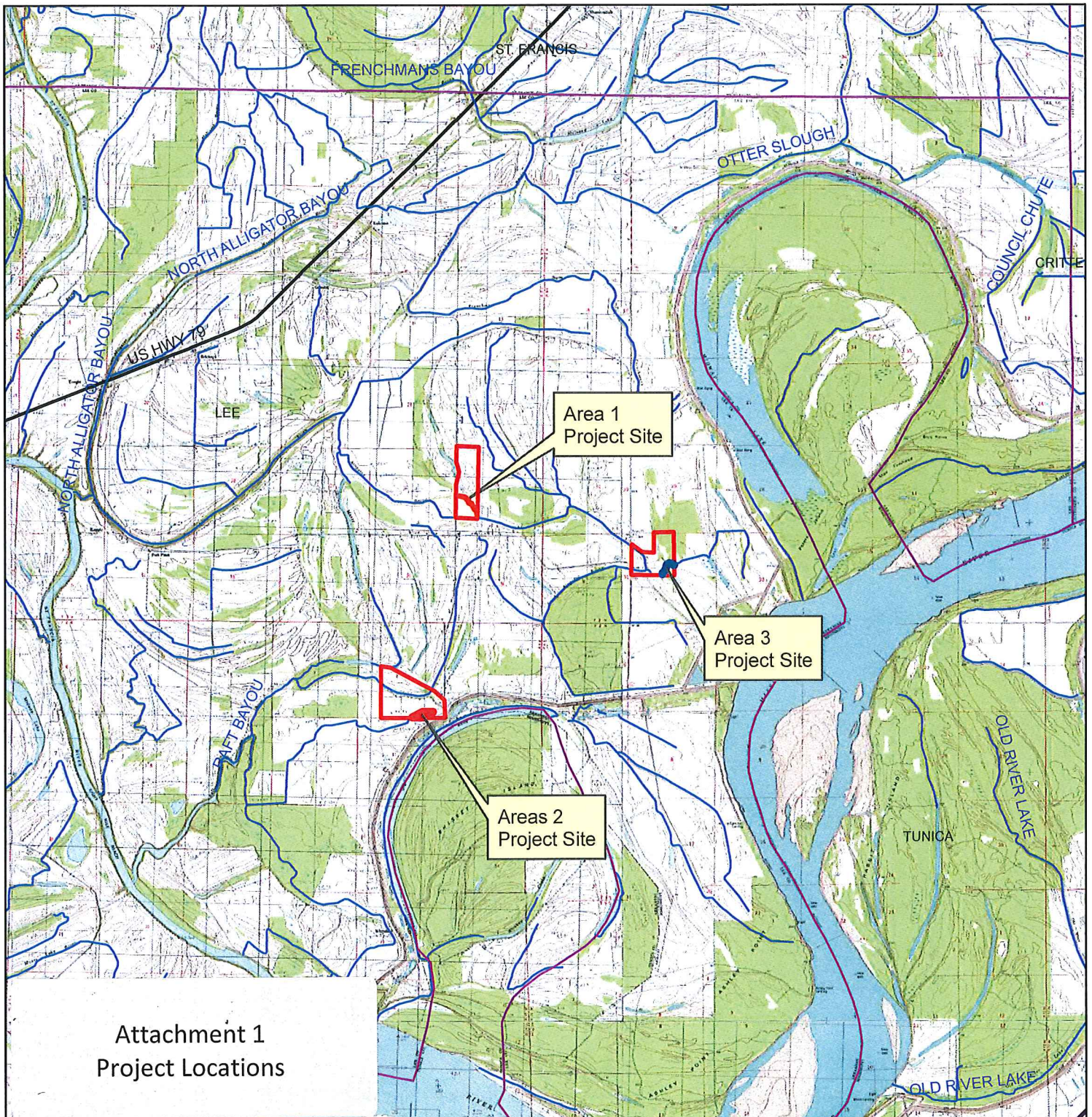
Area 1: S-25, T-3N, R-5E

Area 2: S-2, T-2N, R-5E

Area 3: S-32, T-3N, R-6E

## Legend

-  Counties
-  dist\_major\_roads
-  dist\_river&creeks



0 1 2 4 Miles



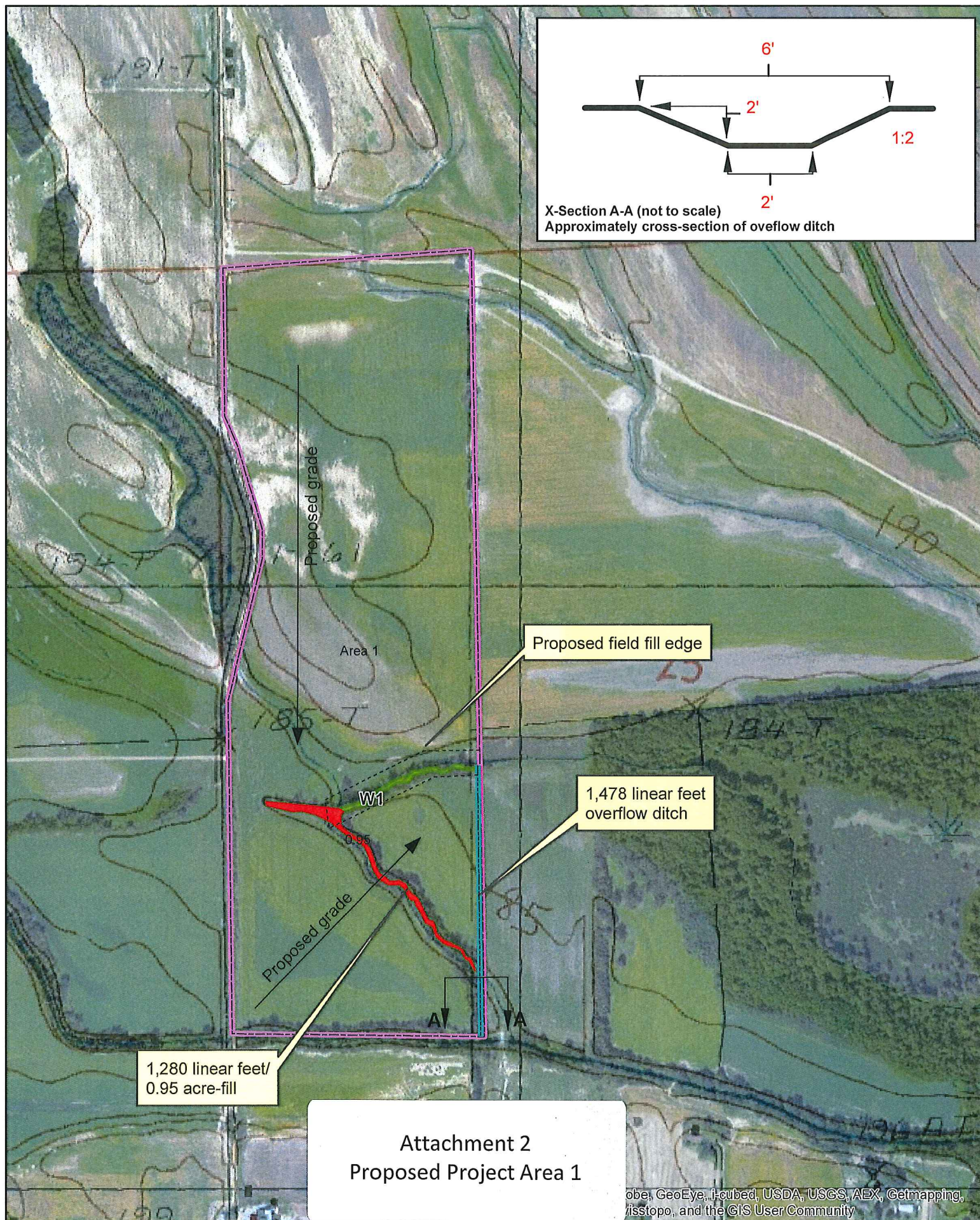


Figure 2. Proposed project Area 1 wetland impacts



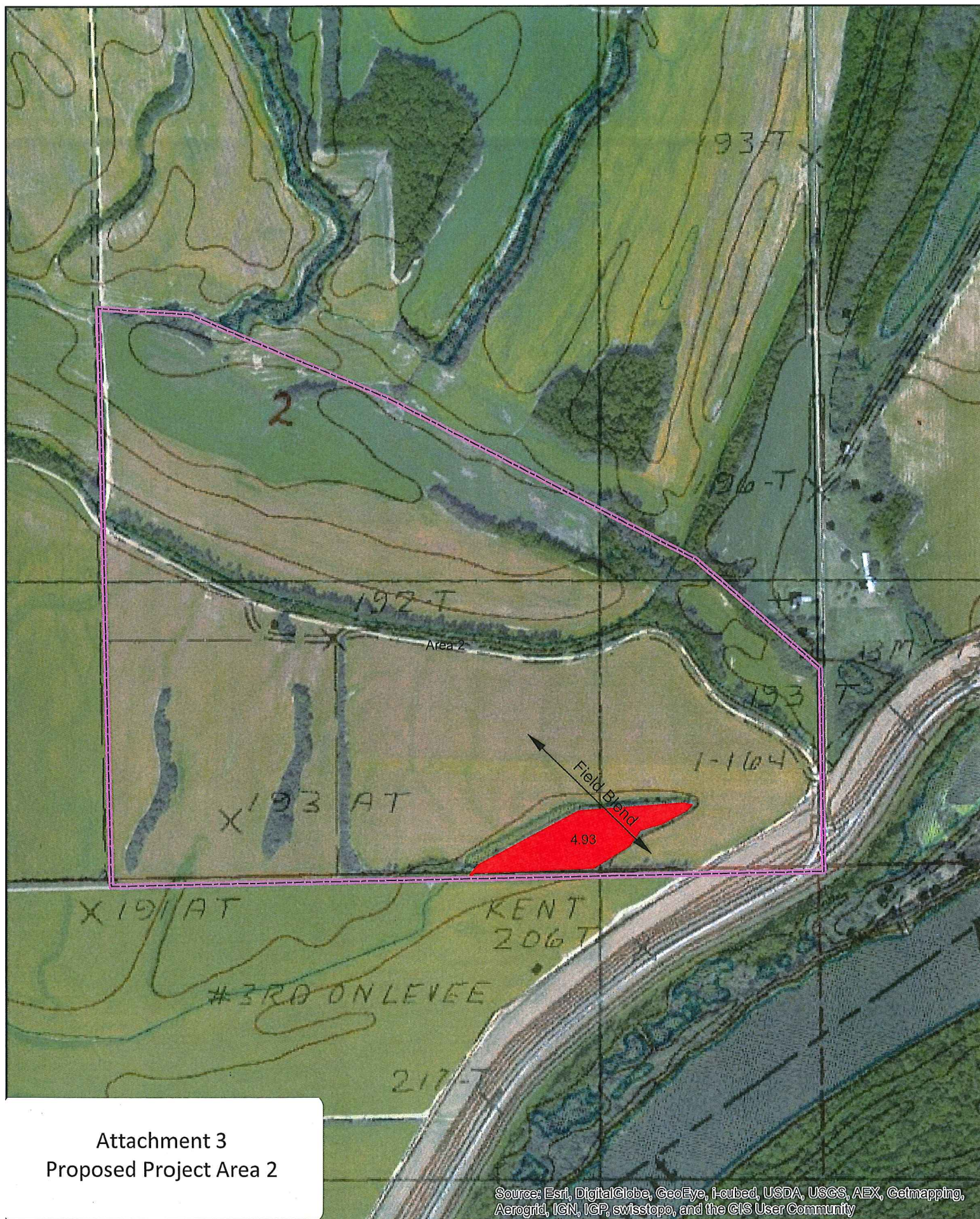
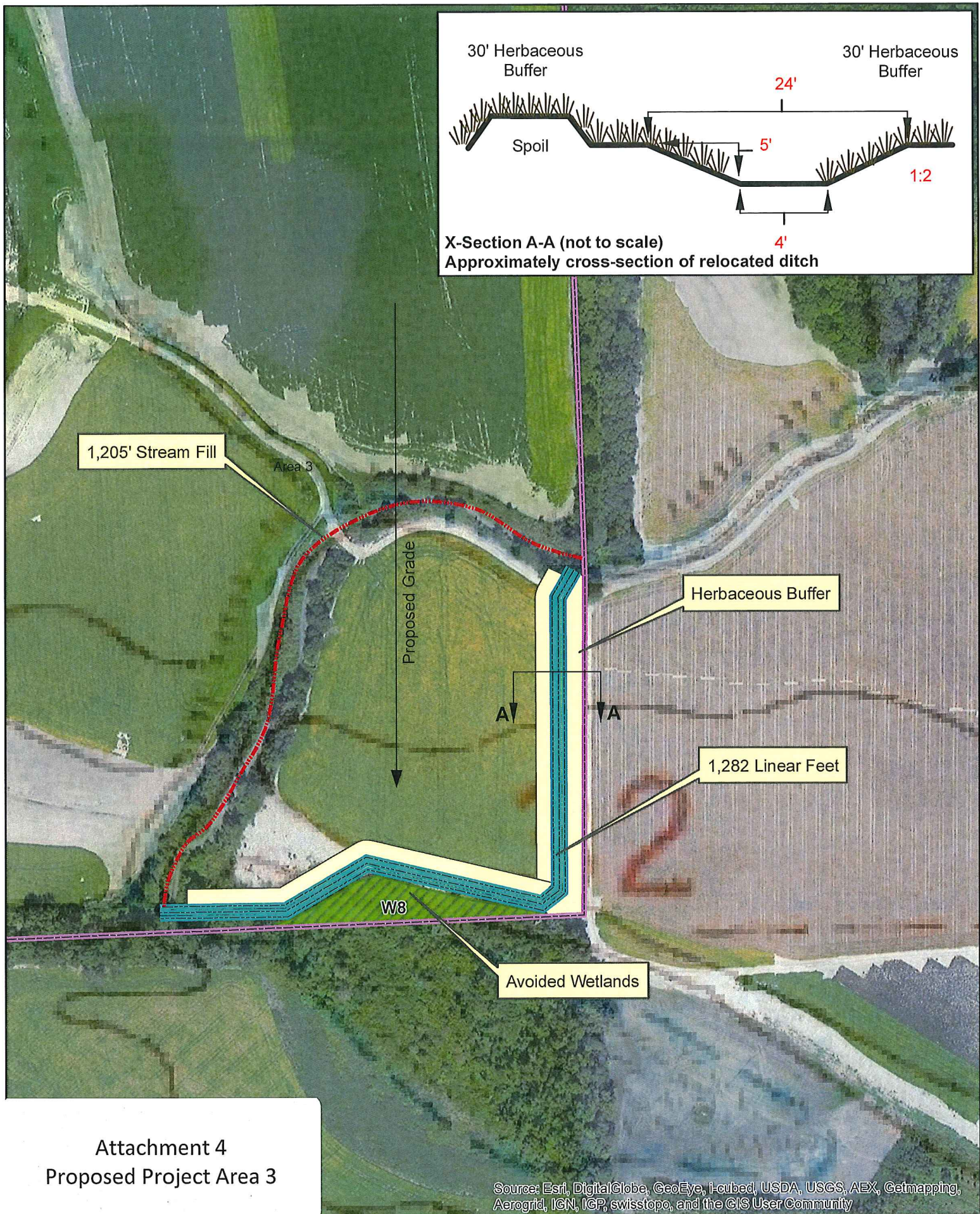


Figure 3. Proposed project Area 2  
waters of the U.S. impacts





Attachment 4  
Proposed Project Area 3

Figure 4. Proposed project Area 3  
stream impacts



Cottonwood Partners, LLC  
Farm Improvement Project  
Individual Sec. 404 Permit Application





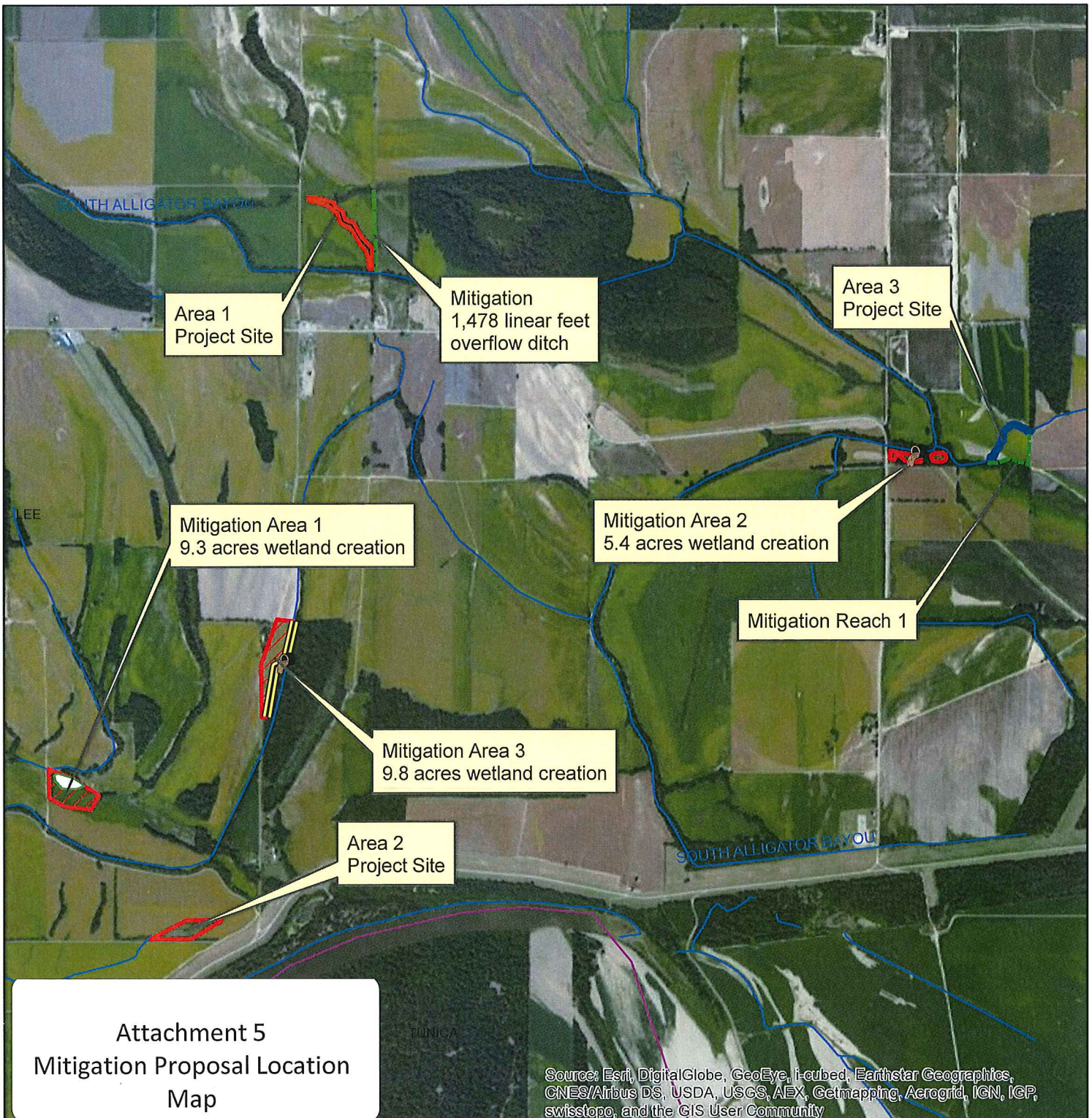
# MVM-2014-281, Ray Dawson Jr. Mitigation Proposal Map

Topo, Brickeys & Council, AR Quad  
Zone 15  
Section, Township, Range  
Area 1: S-25, T-3N, R-5E  
Area 2: S-2, T-2N, R-5E  
Area 3: S-32, T-3N, R-6E



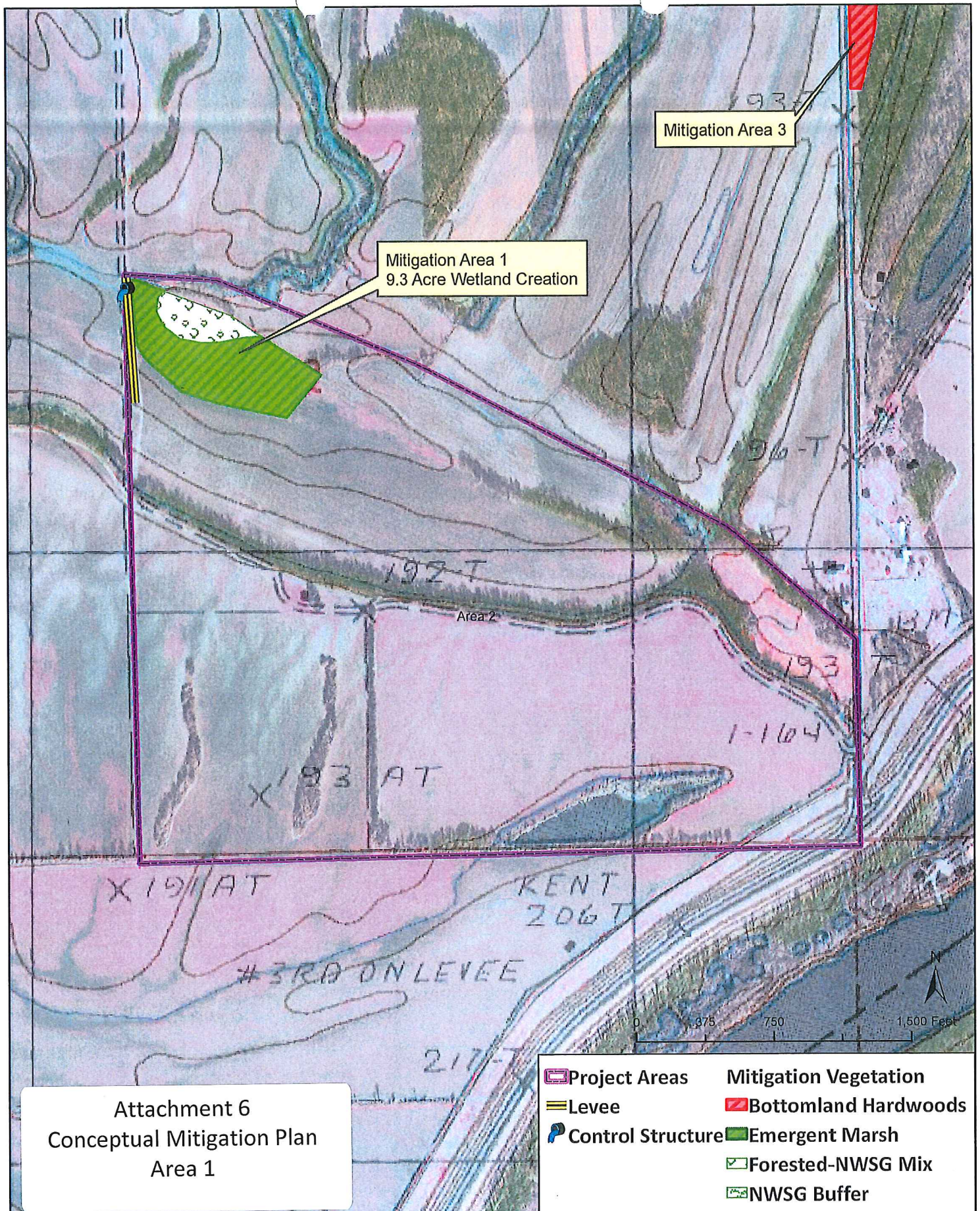
## Legend

-  Counties
-  dist\_major\_roads
-  dist\_river&creeks



0 0.3 0.6 1.2 Miles



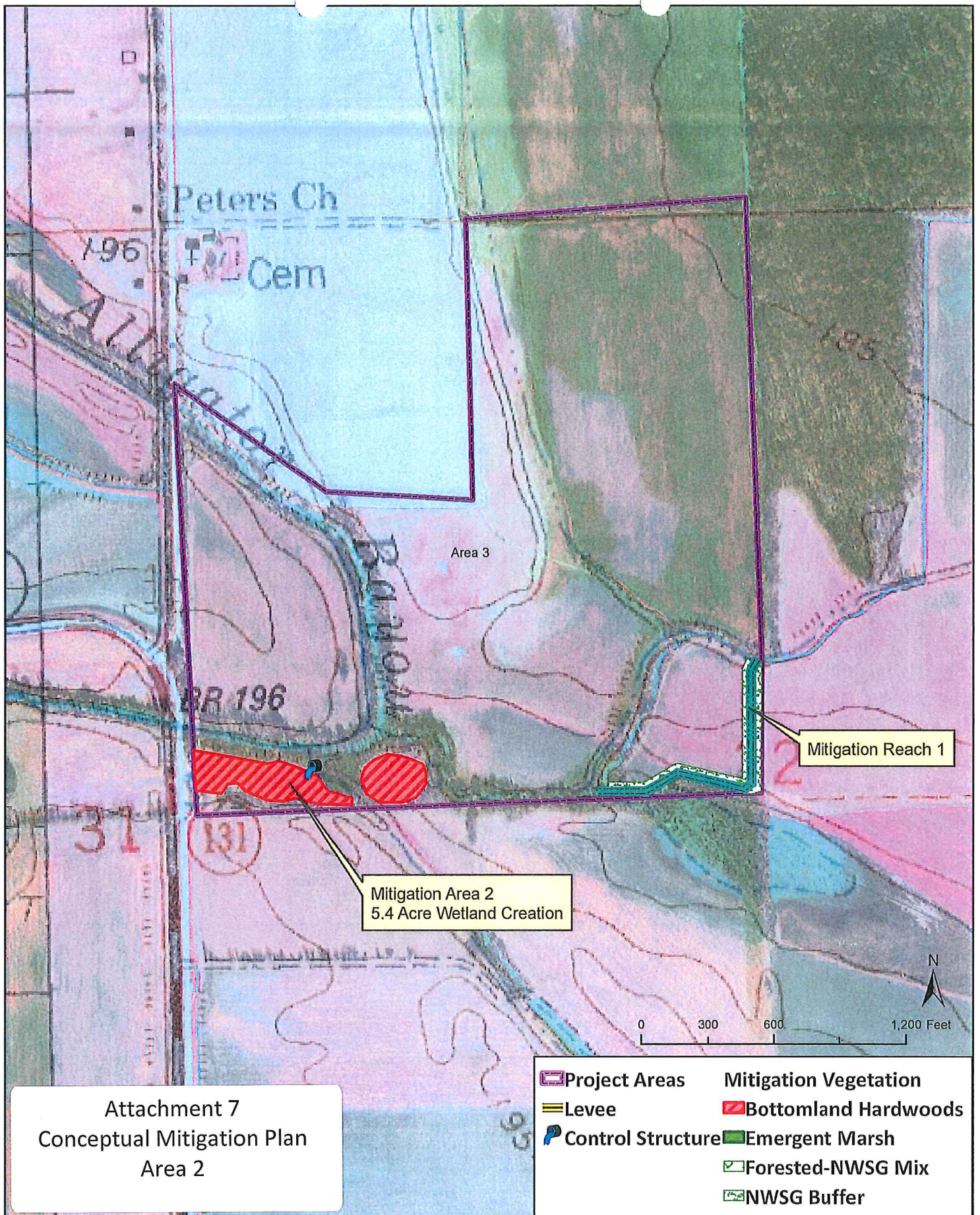


Conceptual mitigation plan-Area 1  
wetland creation in Project Area 2.



Cottonwood Partners, LLC  
Farm Improvement Project  
Individual Sec. 404 Permit Application



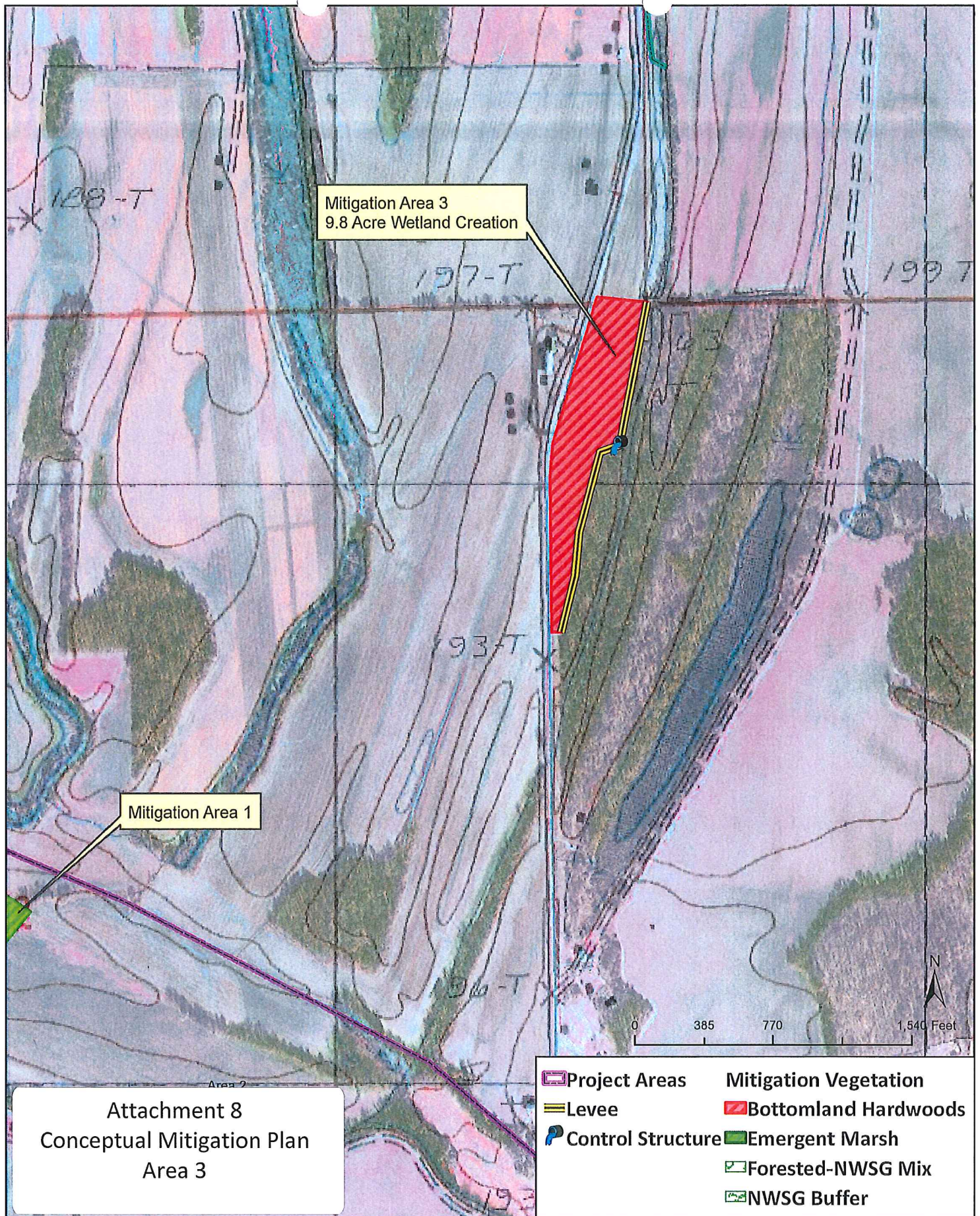


Conceptual mitigation plan-Area 2 wetland creation and stream restoration reach 1.



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Attachment 8  
Conceptual Mitigation Plan  
Area 3

Conceptual mitigation plan-Area 3  
wetland creation.



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Farm Improvement Project  
Individual Sec. 404 Permit Application