

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM-2021-201

NOTICE DATE:
October 31, 2022

Attn: Postmaster, **EXPIRATION DATE:**
Please Post Until **November 30, 2022**

Public Notice U.S. Army Corps of Engineers

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:

James Keathley
P.O. Box 845
Beebe, Arkansas 72012
Ph: (501) 940-7672

PURPOSE: The applicant's stated purpose is to create a level area out of the floodplain for future commercial development.

LOCATION: The project site is located south of U.S. Highway 64, west of Highway 31 and north of DeWitt Henry Drive in Beebe, White County, Arkansas at Latitude 35.08837° and Longitude -91.8825° as shown on the Beebe, Arkansas 1:24,000 USGS topographic quadrangle (Figure 1).

DESCRIPTION OF WORK: The applicant is requesting permit authorization to permanently fill 15.2 acres of wetland as part of the construction of a commercial development. The project site consists of two areas separated by an existing utility line right-of-way. Each of these project areas, Project Area 1 (14.58 acres) and Project Area 2 (3.19 acres), is shown on Figure 2. Fill material would be pushed from uplands on the project site into wetlands to bring the project site to grade. Some fill material may be hauled by truck from off-site road construction projects. This fill material would consist of concrete and earthen fill only. Delineated wetland boundaries are shown on Figure 3.

AVOIDANCE/MINIMIZATION: According to the applicant, avoidance of the wetlands could not be achieved due to the location of the wetlands adjacent to the exit ramp descending from Highway 67 and Highway 31. The applicant considered the possibility of shifting the development further west but determined this shift would have resulted in additional stream impacts located in that portion of the property. The applicant stated that wetland impacts were further avoided by reducing the footprint of the commercial development to only what was needed for the development. The Memphis District will review the applicant's alternatives evaluation for compliance with Section 404 (b)(1) Guidelines.

MITIGATION: The applicant is proposing compensatory mitigation for the proposed permanent wetland impacts through permittee-responsible mitigation (PRM) consisting of the preservation/enhancement of 61 acres of existing wetlands. The PRM preservation/enhancement site is located east of the proposed impact site to the north and south of Highway 367 and within the floodplain of Bull Creek, which is a tributary to Gum Creek, as shown on Figure 4. The applicant's proposed mitigation work plan consists of enhancing a portion of the existing wetlands by planting 200 containerized bald cypress and water tupelo trees. The applicant would then construct wood duck boxes

throughout the site and prepare and implement a beaver removal plan. Other performance standards the applicant intends to meet would be the occurrence of hydrophytic vegetation and wetland hydrology following the removal of the existing beaver dams. The applicant expects beaver dam removal to enhance the overall functional attributes of the existing wetlands. The applicant also intends to monitor the site for five years to ensure a 75 percent survivorship of the planted trees. A legally protected warranty deed restriction would be placed on the property (which is currently owned by the applicant) for long-term protection and signage would be erected at regular intervals along the property boundary indicating the property is a PRM site. The Memphis District will evaluate the proposed plans against the project impacts prior to making a formal decision on mitigation.

WATER QUALITY CERTIFICATION: The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying agency. In accordance with Certification Rule part 121.6, once the applicant submits a certification request the Corps of Engineers will determine the reasonable period of time for the certifying agency to act upon the certification and provide written notification.

ENDANGERED SPECIES: Our preliminary determination is that the proposal would have no effect on the Eastern Black Rail, Piping Plover, Red Knot, or Pondberry. This notice is being coordinated with the U.S. Fish and Wildlife Service (USFWS). Any comments USFWS may have regarding endangered or threatened wildlife or plants, or their critical habitat, will be considered in our evaluation of the described work.

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

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

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

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

The Corps of Engineers is soliciting comments from the public; federal, state and local agencies and officials; federally recognized 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 of Engineers project. We are not a proponent nor are we an opponent of the project. We are merely the permitting authority of Section 404 and Section 10 permits required by our office.

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

U.S. Army Corps of Engineers – Memphis District
ATTN: Mitch Elcan
167 North Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: james.m.elcan@usace.army.mil
phone: (901) 544-0737

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

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

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

Gregg W. Williams
Chief
Regulatory Division

Attachments

JAMES KEATHLEY,
HWY #31 PROJECT, FILE NO. MVM-2021-201
PROPOSED IMPACTED AREA

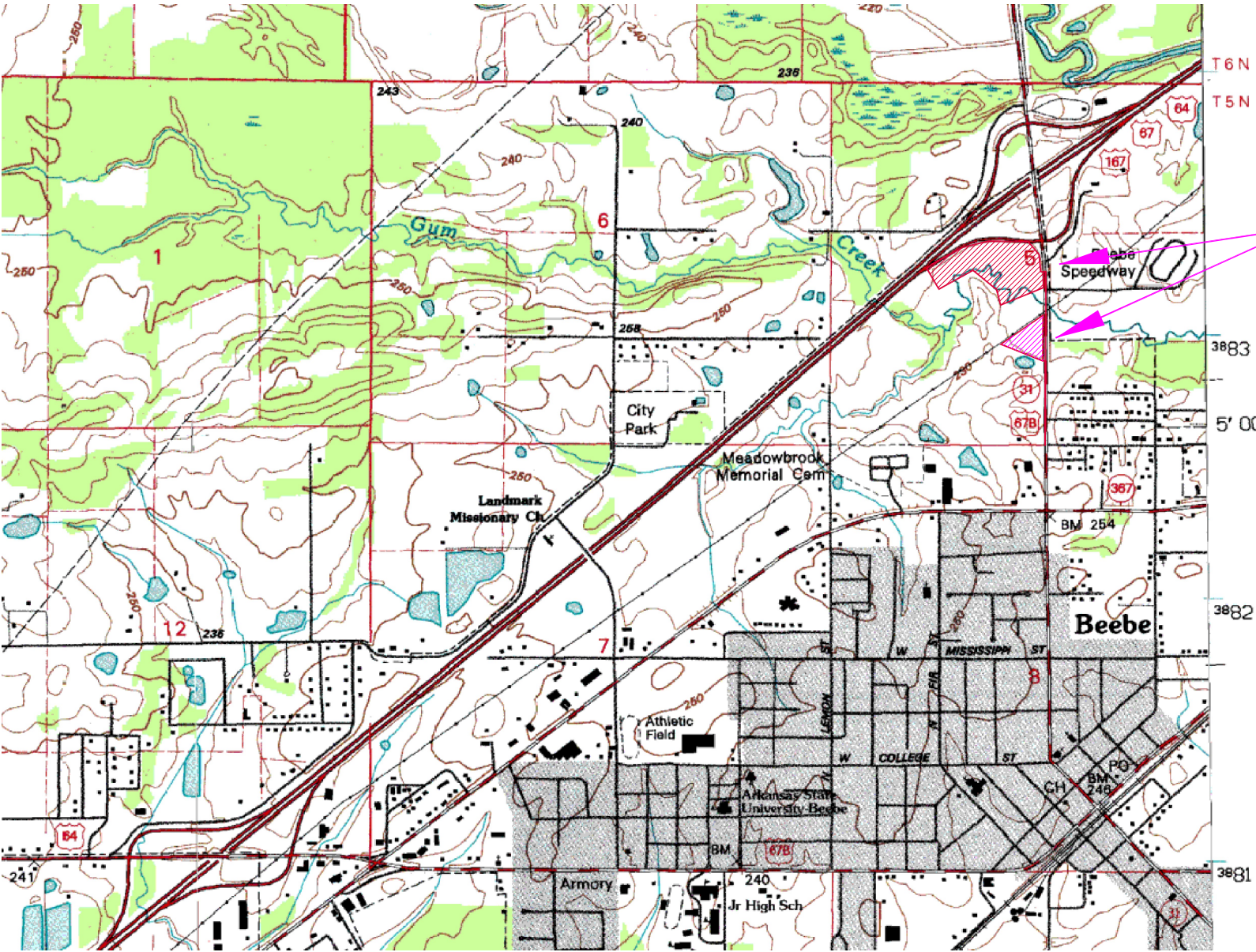
Prepared for: JAMES KEATHLEY
Date: 06-09-2022
Scale: 1" = 100'



DECIMAL DEGREES, NAD83, COORDINATES

1	35.088553	-91.881779
2	35.088553	-91.881879
3	35.089117	-91.881946
4	35.089546	-91.882388
5	35.089564	-91.883993
6	35.089349	-91.885027
7	35.088790	-91.886258
8	35.088656	-91.886446
9	35.087981	-91.885962
10	35.088596	-91.884597
11	35.087966	-91.883654
12	35.087453	-91.883489
13	35.088024	-91.881781
14	35.087124	-91.881786
15	35.086162	-91.883483
16	35.085611	-91.881798

SEE PAGES 2 OF 4 &
(4-4) OF 4 FOR DETAILS.



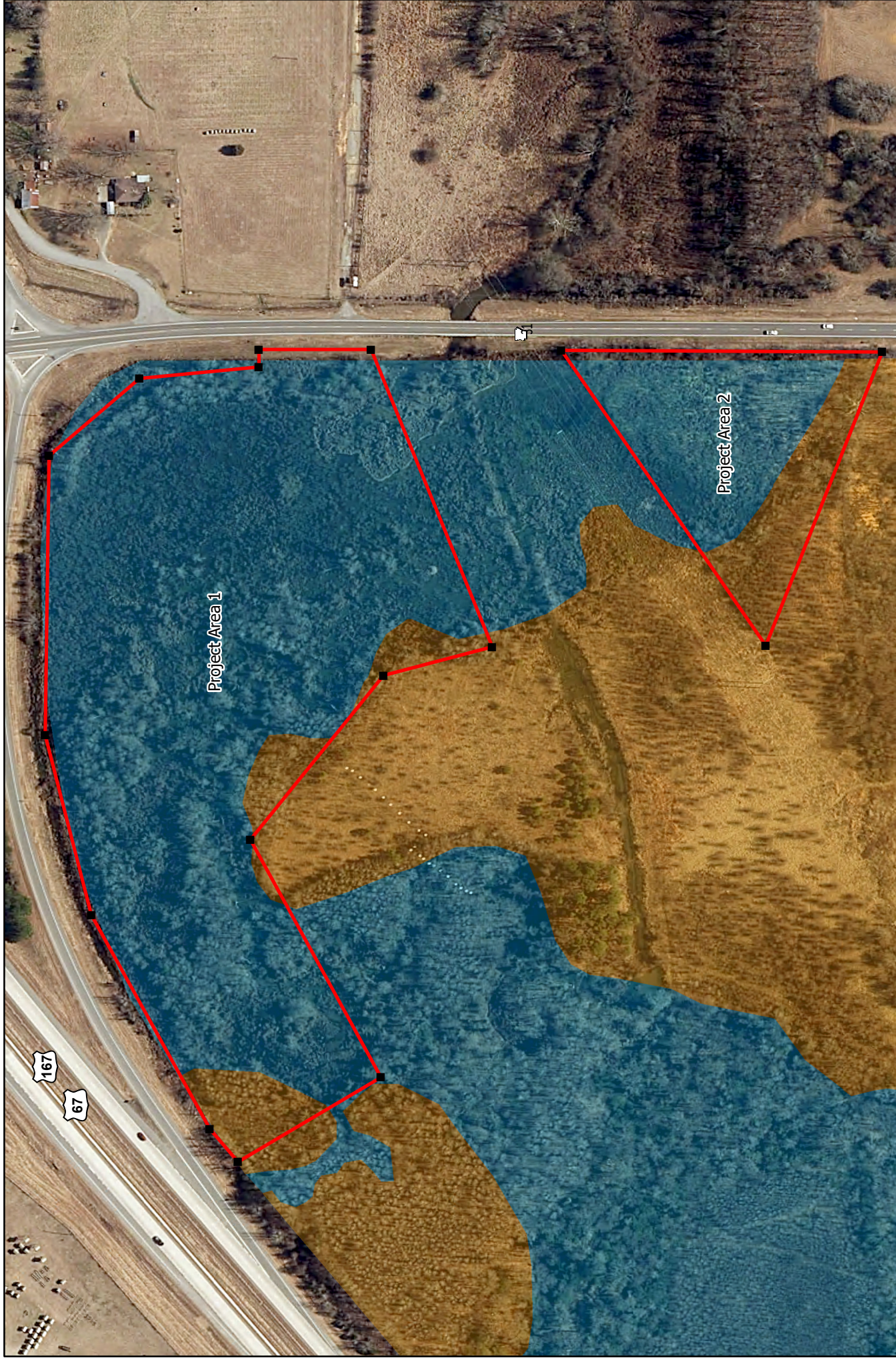
JAMES KEATHLEY
PROPOSED
IMPACTED AREA

FIGURE 1.



HIGHWAY
67 - 167
OFF RAMP TO
HIGHWAY #31





0 110 220 Feet

Wetland Consultants
Unlimited

February 23, 2022

PROJECT AREAS WITH WETLANDS
HWY. 31 PROPOSED DEVELOPMENT

Upland
Wetland

Figure 3.

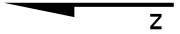
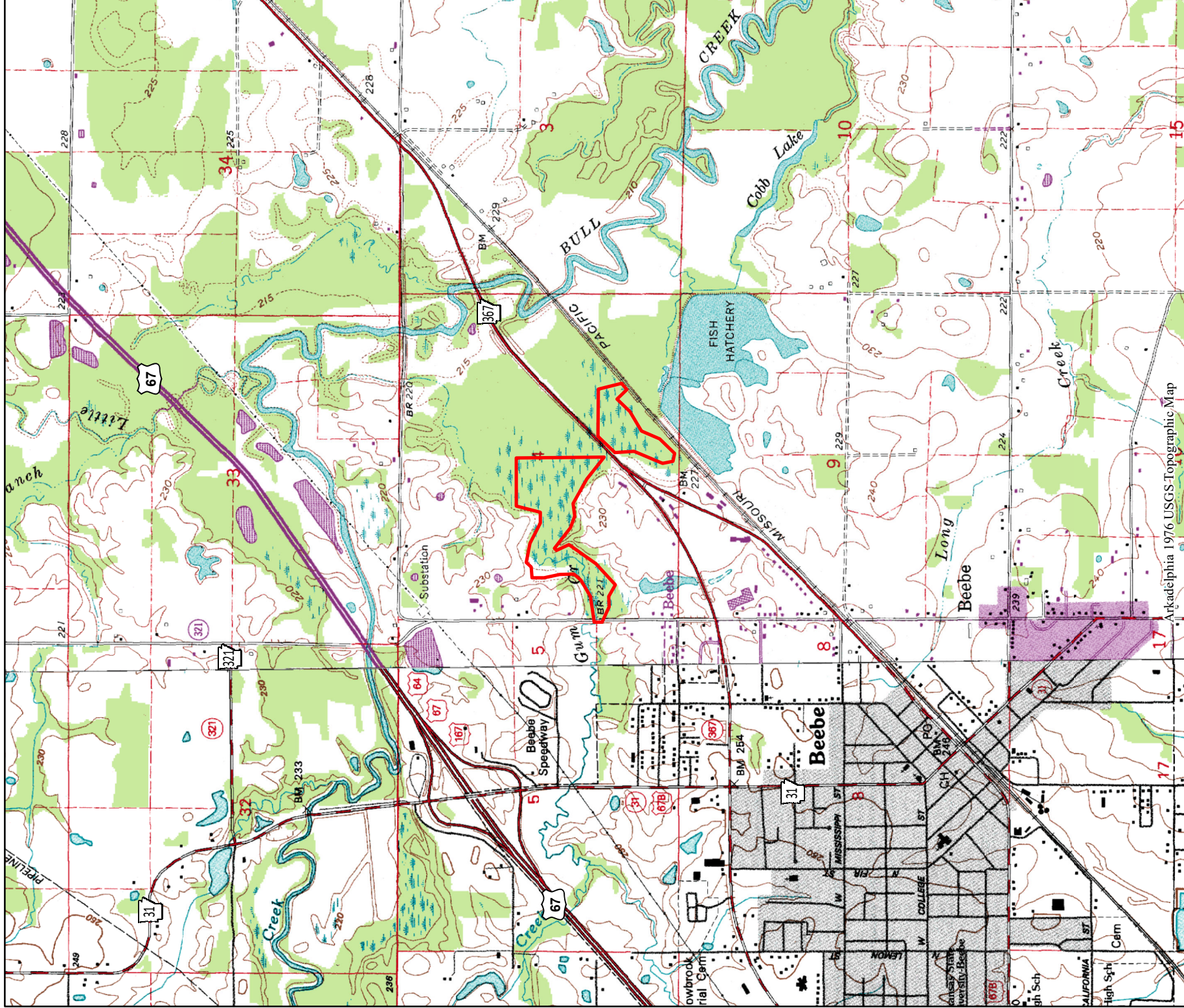


FIGURE 2
TOPOGRAPHIC MAP
HWY. 31 DEVELOPMENTS

Figure 4.

Scale - 1:24,000



T5N - R8W - S4