Clean Water Act, Section 404
Nationwide Permit No. 14

For

Summit Valley Section 4
Proposed Residential Development
East ½ of Section 3, Township 8 North, Range 2 West
Cleveland County, Oklahoma

Prepared For:
Summit Valley Development, LLC
Mr. Evan Nixon
1203 Brookhaven Boulevard
Norman, Oklahoma 73072

Prepared By:
Blackbird Environmental, LLC
Mr. Clint M. Porter
P.O. Box 720100
Norman, Oklahoma 73070
(405) 640-3011

Field Investigation Conducted By: Clint M. Porter
Field Investigation Performed: July 24, 2024

Report Completed: July 29, 2024

Clean Water Act, Section 404 Nationwide Permit No. 14

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1.0 Purpose and Need of the Proposed Action

Blackbird Environmental, LLC (Blackbird) performed an environmental evaluation on a study area within the East ½ of Section 3, Township 8 North, Range 2 West, Cleveland County, Oklahoma [estimated project center N 35.19704, W 97.39356, NAD83] (Figure 1). The study area was the proposed location of a residential development and included approximately 83 acres. Mr. Clint M. Porter completed the site reconnaissance July 24, 2024. The site was evaluated for the presence of waters potentially under the jurisdiction of the United States Army Corps of Engineers (USACE). The evaluation was performed in accordance with the USACE's 1987 Wetland Delineation Manual and regional supplement (USACE, 1987 and USACE, 2010). The study area was also evaluated for the potential presence of important species habitat protected by the Endangered Species Act [General Condition 18], and cultural resources protected by the National Historic Preservation Act [General Condition 20].

Summit Valley Development, LLC is the permittee for the proposed action.

Summit Valley Development, LLC
Mr. Evan Nixon
1203 Brookhaven Boulevard
Norman, Oklahoma 73072

The localized general vicinity of the study area included agricultural land and residential development with associated infrastructure. No individuals will be displaced by the proposed action. A description of available habitat is provided within Section 3.

The applicant proposes to develop approximately 18 acres as Section 4 of Summitt Valley. Access to Section 4 will require construction of a bridge over intermittent stream. Preliminary design documents are provided within Appendix 1.

The proposed action is authorized under Clean Water Act, Section 404 Nationwide Permit No. 14. Site photographs are provided in Appendix 2. A detailed description of the existing conditions and proposed discharges are presented within the following sections.

2.0 Preliminary Jurisdictional Determination

According to review of the United States Geological Survey (USGS) 7.5-Minute Topographic Map, elevations within the study area varied from approximately 1,130 to 1,180 feet. Three (3) intermittent tributaries to Dave Blue Creek and one (1) lentic waterbody were mapped within the study area (Figure 2).

Dave Blue Creek is a tributary to Little River and Little River is a tributary to Canadian River. Canadian River is a tributary to Arkansas River; therefore, part of the Arkansas River drainage basin.

According to review of the USFWS National Wetland Inventory (NWI) map, two (2) riverine, intermittent, stream bed, seasonally flooded (R4SBC) and one (1) palustrine, forested, broad-leaved deciduous, temporarily flooded (PFO1A) features were mapped within the study area (Figure 3).

Table 1: Natural Resource Conservation Service (NRCS) mapped soils within the study area (NRCS, 2024a) (Figure 4).

Map Unit Name	Percent Slope	Drainage Class	Hydric Rating		Description (NRCS, 2024b)
			YES	NO	
Grainola-Ashport, frequently flooded, complex (3)	0 to12	Well Drained		**X**	The Grainola series consists of moderately deep and well drained soils that formed in material weathered from shale of Permian age. The Ashport series consists of very deep and well drained soils that formed in loamy alluvium of Holocene age. The Ironmound series consists of shallow and well drained soils that formed in material weathered from sandstone, or sandstone interbedded with siltstone or shale, of Permian age. The Kingfisher series consists of moderately deep and well drained soils that formed in loamy material weathered from silty shale red beds of Permian age.
Grainola-Ironmound complex (6)	5 to 12	Well Drained		**X**	
Kingfisher-Ironmound complex (9)	1 to 5	Well Drained		**X**	

Norge-Ashport silt loams, frequently flooded (33)	0 to 8	Well Drained		**X**	The Norge series consists of very deep, well drained and moderately slowly permeable upland soils that formed in loamy alluvium of Pleistocene age. The Ashport series consists of very deep and well drained soils that formed in loamy alluvium of Holocene age.
Kirkland-Pawhuska complex (51)	0 to 3	Moderately Well Drained to Well Drained		**X**	The Kirkland series consists of very deep and well drained soils that formed in material weathered from clayey sediments over shale of Permian age. The Pawhuska series consists of very deep, moderately well drained and very slowly permeable soils that formed predominantly in clayey material weathered from interbedded sandstones and shales of Permian age.
Renfrow silty clay loam, eroded (64)	3 to 5	Well Drained		**X**	The Renfrow series consists of very deep and well drained soils that formed in material weathered from clayey shale of Permian age. The Huska series consists of deep and moderately well drained soils that formed in residuum from interbedded shale and sandstone of Permian age.
Renfrow-Huska complex, eroded (65)	3 to 5	Moderately Well Drained to Well Drained		**X**	
Norge silt loam (81)	1 to 3	Well Drained		**X**	The Norge series consists of very deep, well drained and moderately slowly permeable upland soils that formed in loamy alluvium of Pleistocene

Norge silt loam (82)	3 to 5	Well Drained		**X**	age.
Norge silt loam, eroded (83)	3 to 5	Well Drained		**X**	
Port silt loam, frequently flooded (94)	0 to 1	Well Drained		**X**	The Port series consist of very deep, well drained and moderately permeable flood plain soils that formed in calcareous loamy alluvium of Recent age.

The soils were characterized by the NRCS as silty clay loam and silt loam textures (NRCS, 2024a). No soil was mapped by the NRCS as hydric soil within the study area (NRCS, 2024a and NRCS, 2024c).

The Federal Emergency Management Agency (FEMA) Flood Insurance Map 40027C0285H dated September 26, 2008 was reviewed.

According to this map, the study area was mapped as Flood Zone X and Flood Zone AE.

Zone X is area outside the one percent annual chance floodplain, area of one percent annual chance sheet flow flooding where average depths are less than one foot, area of one percent annual chance stream flooding where the contributing drainage area is less than one square mile, or area protected from the one percent annual chance flood by levees. No base flood elevations or depths are shown within this area.

Flood Zone A and Flood Zone AE are special flood areas subject to inundation by the one percent annual chance flood. The one percent annual flood (100-year flood), also known as the base flood, is the flood that has one percent chance of being equaled or exceeded in any given year.

Blackbird characterized the lotic waterbodies delineated within the study area as riverine, ephemeral, stream bed (R6SB) and riverine, intermittent, stream bed (R4SB) (Cowardin *et al.*, 1979).

A non-mapped ephemeral drainage (R6SB-1) was delineated near the middle of the study area. R6SB-1 drains from north to south and exhibited segments of defined stream bed and stream banks. Silt, clay and gravel dominated the substrate with a

mature forested riparian corridor. R6SB-1 did not appear to support inundation and/or flowing water except during and/or immediately after storm events. The feature was dry during field reconnaissance.

Two (2) intermittent streams (R4SB-1 and R4SB-2) were delineated within the study area. Both stream were dominated by silt, sand, clay and gravel substrates with mature forested riparian corridors. R4SB-1 contained scattered and shallow pools within areas of denser canopy.

One (1) USGS StreamStats report was generated to evaluate any flow data associated with the calculated drainage. According to the USGS StreamStats report, the calculated drainage area is 1.27 square miles (Appendix 3).

Table 2: Descriptive information associated with lotic waterbodies delineated within the study area.

Field Sites	Waterbody Name[A]	Map Status[A]	Potential Jurisdictional Status	OHWM (Feet) & Acres within Study Area	Linear Feet within Study Area
R4SB-1	Unnamed Tributary to Dave Blue Creek	Intermittent Stream	Likely Jurisdictional	8 wide at 2 deep (1.081 Acre)	5,887 Linear Feet
R4SB-2	Unnamed Tributary to Dave Blue Creek	Intermittent Stream	Likely Jurisdictional	6 wide at 1 deep (0.214 Acre)	1,552 Linear Feet
R6SB-1	Unnamed Drainage Feature	Non-Mapped Drainage Feature	Potentially Non-Jurisdictional	5 wide at 1 deep (0.192 Acre)	1,671 Linear Feet

[A] Waterbody Name and Map Status refer to the USGS 7.5-Minute Topographic Map.

The USACE 1987 Wetland Delineation Manual (Manual) was designed to aid in the determination of wetland boundaries for Clean Water Act, Section 404 permitting. Wetlands are defined as “Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.” The Manual identifies three (3) key provisions in the definition of wetlands. According to the Manual, “Explicit in the definition is the consideration of three environmental parameters: hydrology, soil, and vegetation. Positive wetland indicators of all three parameters are normally present in wetlands.”

Two basic approaches to perform wetland delineations are detailed within the Manual. The Manual details routine and comprehensive approaches. The routine approach is utilized in the majority of projects to define the boundaries of wetlands. The routine approach typically relies on qualitative procedures and involves three (3) levels including, onsite inspection unnecessary, onsite inspection necessary and combination of both (USACE, 1987). Blackbird performed a combination of both to confirm, and document, the presence or absence of one or more wetland indicators. Furthermore, regional supplements to the Manual were issued to further assist in determining wetland boundaries. Blackbird evaluated the site in accordance with the Great Plains regional supplement (USACE, 2010).

No sites within the study area exhibited hydric soils, hydrophytic vegetation and indicators of hydrology. Therefore, no wetlands were delineated within the study area. Delineation data sheets are provided as Appendix 4.

One (1) lentic waterbody was delineated within the study area. Blackbird characterized the lentic waterbody delineated within the study area as palustrine, unconsolidated bottom (PUB) (Cowardin *et al.*, 1979).

PUB-1 was delineated as an excavation within the upland and was likely created as a water source for livestock. The small pond was not physically connected to any relatively permanent waterbody.

The location of the lentic waterbody is identified in Figure 5 and described within Table 3. Photographs of all delineated features are provided within Appendix 2.

Table 3: Descriptive information associated with lentic waterbodies delineated within the study area.

Field Sites	Waterbody Type	Cowardin Classification	Potential Jurisdictional Status	Acres within Study Area
PUB-1	Lentic Waterbody	Palustrine, Unconsolidated Bottom	Likely Non-Jurisdictional	0.193

Proposed discharges into waterbodies within the study area are discussed within Section 5.

3.0 Biological Evaluation

The Tulsa Ecological Field Service webpage was reviewed on July 26, 2024. However, the website linked the Information, Planning and Conservation System (IPaC)

(http://eco.fws.gov/ipac/) webpage. The IPaC webpage generated a species list provided as Appendix 5. In addition, the most recent, county specific, species list published by the Tulsa Ecological Field Service office was evaluated (USFWS, 2010).

The habitat evaluation began with a review of detailed habitat descriptions provided by the USFWS. The biotic and abiotic factors associated with the terrestrial and aquatic ecosystems within the study area were then compared with the existing detailed habitat descriptions. Effects determinations were provided for each species.

The study area was located within the Cross Timbers Transition of the Central Great Plains ecoregion of central Oklahoma. The Central Great Plains ecoregion includes scattered hills, low mountains, gypsum karst and sandy flats. Upland natural vegetation in this dry-subhumid area is predominately mixed grass prairie, but honey mesquite (*Prosopis glandulosa*) and buffalograss (*Bouteloua dactyloides*) are native to the south and to sandy areas. Mean annual rainfall increases to the east and varies from approximately 22 to 38 inches. Stream flow stops or nearly stops in the summer, but scattered pools persist and serve as summer refuges for aquatic fauna (Woods *et al*., 2005).

The Cross Timbers Transition includes rough plains covered by prairie grasses, eastern red cedar (*Juniperus virginiana*), scattered oaks and elms. Tree abundance and species richness has increased since the early 19th century primarily from fire suppression. Natural riparian forests and wetlands have been degraded by channelization and changes in land use during the same period. Land use is a mixture of rangeland and cropland. Incised streams are common within this ecoregion and substrates primarily consist of rock and loose silt. Rainfall varies from 29 to 38 inches and increases to the east (Woods *et al.*, 2005).

The localized general vicinity of the study area included agricultural land and residential development with associated infrastructure. The study area exhibited characteristics of the tall grass prairie game type. Tall grass prairie is an area of high cultivation originally dominated by big bluestem (*Andropogon gerardii*) and little bluestem (*Schizachyrium scoparium*) (Duck and Fletcher, 1945).

Table 4: Federally listed threatened, endangered and candidate species and designated critical habitat and their status within the study area.

Species Name	Status	Habitat Requirements	Species Status within the Action Area[A]	Effects Determination
Piping Plover (*Charadrius melodus*)	Threatened	Migratory stopover habitat includes sparsely vegetated sandy or gravelly shorelines and islands associated with the major river systems.	Cleveland County contains probable migratory habitats.	No Effect
Whooping Crane (*Grus americana*)	Endangered	Foraging habitat includes primarily croplands. Roosting habitat includes shallowly-submerged sandbars in large river channels and large palustrine wetlands close to feeding areas.	Cleveland County contains probable migratory habitats. However, the action area is not within an aquatic dependent species watershed of Oklahoma.	No Effect
Rufa Red Knot (*Calidris canutus rufa*)	Threatened	Migratory stopover habitat includes sparsely vegetated sandy or gravelly shorelines along reservoirs or large river systems.	Cleveland County contains probable migratory habitats.	No Effect
Arkansas River shiner (*Notropis girardi*)	Threatened	Habitat includes slow moving shallow water of sandy-bottomed main channel rivers.	The action area is not located within an aquatic species watershed of Oklahoma.	No Effect
Peppered Chub (*Macrhybopsis tetranema*)	Endangered	Habitat includes slow moving shallow water of sandy-bottomed main channel rivers.	The action area is not located within an aquatic species watershed of Oklahoma.	No Effect

Monarch Butterfly (*Danaus plexippus*)	Candidate	Breeding habitat includes grass lands with milkweed host plants (primarily *Asclepias* spp.)	Cleveland County contains suitable breeding habitat and host plants.	See Below Comments

[A] Data collected from the USFWS (USFWS, 2010)

The Piping Plover (*Charadrius melodus*) is one of only six species of North American Belted Plovers. Adults are generally characterized by a sand-colored upper body, white undersides and orange legs. However, adults acquire single black forehead and breast bands and orange bills during the breeding season. A white wing stripe and rump are visible during flight. Piping Plovers utilize open, sparsely vegetated shorelines of lakes and rivers as nesting and foraging habitat. These species inhabit breeding sites within the northern United States for approximately four months and migrate to the Texas Gulf Coast by late August (USFWS, 1988). No broad, open expanses along major rivers provide foraging and/or stopover habitat within action area. ***Blackbird has determined that this project, as proposed, will have no effect on the Piping Plover***.

The Whooping Crane (*Grus americana*) is the tallest North American bird. Males can reach five feet tall standing erect. Adult plumage is snowy white except for black primaries, black or grayish feathers attached to the upper end of the wing, black feathers on the side of the head from the bill to the angle of the jaw, and a dark gray-black wedge-shaped patch on the nape. The Whooping Crane breeds, migrates, winters, and forages in a variety of habitats, including coastal marshes and estuaries, inland marshes, lakes, ponds, wet meadows, rivers, and agricultural fields. The Whooping Crane begins the spring migration between March 25 and April 15. The fall migration begins mid-September and is completed by mid-November (CWS and USFWS, 2007).

Lotic and lentic habitats were identified within the study area; however, habitat within the study area would likely be avoided by migrating Whooping Cranes for more suitable stop-over habitat. No marshes and other shallow waterbodies provide preferred migrating stop-over habitat within action area. ***Blackbird has determined that this project, as proposed, will have no effect on the Whooping Crane***.

The Rufa Red Knot (*Calidris canutus rufa*) is a medium-sized shorebird with a proportionately small head, small eyes, short neck and short legs. Legs are typically dark gray to black, but sometimes greenish in juveniles or older birds in non-breeding plumage. Females are similar to males, though colors are typically less intense, with more buff or light gray on dorsal parts. Non-breeding plumage is dusky gray above and whitish below. Juveniles resemble non-breeding adults, but the feathers of the shoulders and wing coverts are edged with white and have narrow, dark sub terminal bands (USFWS, 2011).

Each year Rufa Red Knots travel approximately 18,600 miles annually between wintering grounds in southern South America and breeding areas within the Canadian

Arctic. In wintering and migration habitats, Red Knots commonly forage on bivalves, gastropods, and crustaceans. Along the Texas coast, Red Knots forage on beaches, oyster reefs, and exposed bay bottoms and roost on high sand flats, reefs, and other sites protected from high tides. During migration, Red Knots undertake long flights that may span thousands of miles without stopping (USFWS, 2011). No migration or stop-over habitat for the Red Knot was located within the proposed action area. ***Blackbird has determined that this project, as proposed, will have no effect on the Red Knot***.

The Arkansas River shiner (*Notropis girardi*) is a small, heavy-bodied minnow characterized as sandy above and silver laterally, grading to white on the belly. The shiner's dorsal scales are typically outlined with dark pigment. This minnow species primarily feeds on aquatic invertebrates. The shiner likely spawns within May, June and July. These months typically correspond with elevated flows following heavy rains. The shiner is native to the Arkansas River drainage and typically observed within wide, sandy-bottomed streams. The present distribution is almost entirely restricted to approximately 500 river miles within the Canadian/South Canadian River in Oklahoma, Texas, and New Mexico (USFWS, 2005a). Critical habitat for the shiner was designated in April of 2001 (USFWS, 2001) and was revised in October of 2005 (USFWS, 2005b). Critical habitat includes floodplain parallel to the Canadian/South Canadian River and Cimarron River with a width of 300 feet from the river's base-flow.

Critical habitat for the Arkansas River shiner is mapped along the Canadian River in Cleveland County, Oklahoma; therefore, no critical habitat for the Arkansas River shiner was located within the study area. The study area does not occur within a HUC 11 watershed known to harbor the Arkansas River shiner (Federally-Listed Aquatic Species Watersheds of Oklahoma, USFWS – Oklahoma Ecological Services Field Office – April 2010). No habitat associated with the Arkansas River shiner was located within the study area. ***Blackbird has determined that this project, as proposed, will have no effect on the Arkansas River shiner.***

The peppered chub (*Macrhybopsis tetranema*) is a small freshwater minnow with a slender and nearly transparent body with small dark spots scattered along the back. These minnows are generalist feeders that forage among sediment on river bottoms. Aquatic and terrestrial invertebrates and plant material support the peppered chubs' diet. The minnows broadcast semi-buoyant eggs that remain suspended in flowing water until hatching. The peppered chub was once widespread and common in the western portion of the Arkansas River basin in Kansas, New Mexico, Oklahoma and Texas. Currently, the peppered chub is found the Canadian River between Ute Reservoir in New Mexico and Lake Meredith in the Texas panhandle (USFWS, 2018).

Critical habitat for the peppered chub is mapped along the Canadian River in Cleveland County, Oklahoma; therefore, no critical habitat for the peppered chub was located within the study area (USFWS, 2022). ***Blackbird has determined that this project, as proposed, will have no effect on the peppered chub***.

The monarch butterfly (*Danaus plexippus*) is large and conspicuous, with bright orange wings surrounded by a black border cover with black veins. The black border has a double row of white spots visible on the upper side of the wings. Monarchs lay eggs on their obligate milkweed host plants. Larvae develop through five larval instars over a period of nine (9) to 18 days. Larva pupates into a chrysalis before emerging six (6) to 14 days later as an adult butterfly (USFWS, 2020).

Habitat for the monarch butterfly was observed within the study area. However, the species is not currently listed as threatened or endangered under the ESA and take is not prohibited.

4.0 Cultural Resources Evaluation

According to General Condition 20, no action will be authorized under a Nationwide Permit which will adversely affect properties listed, or eligible for listing, within the National Register of Historic Places (NRHP). The action will only be authorized if requirements of Section 106 of the National Historic Preservation Act are complete.

Blackbird reviewed the list of NRHP within Cleveland County, Oklahoma (SHPO *et al.*, 2024). No sites listed within the NRHP were located within the proposed action area. Furthermore, no structures were observed within the action area. The proposed action will not likely adversely affect any cultural and/or historically significant resources.

5.0 Avoidance, Minimization and Mitigation

According to General Condition 23, subsection A, an action must be designed and constructed to avoid and minimize any adverse effects to waters of the United States to the maximum extent practicable.

The study area included approximately 83 acres; however, Section 4 of the residential development only includes approximately 18 of the 83 acres.

Avoidance and minimization were considered in the early development of the proposed action. The single-family residential development and associated infrastructure was generally designed around the delineated aquatic resources; however, a single road crossing will be necessary to provide access to the residences associated with the next phase of development.

1. Proposed stream crossing [estimated center N 35.19297, W 97.39042, NAD83] will result in the placement of two (2) 10-foot by 10-foot reinforced concrete box (RCB) culverts within approximately 130 feet (0.024 acre) of R4SB-1 (Appendix 1). The 130 linear feet of stream includes the RCBs and associated aprons.

The proposed construction activity should be authorized under Nationwide Permit Number 14 (Appendix 6) without preconstruction notification (PCN) to the District Engineer.

The proposed construction will need to adhere to all General Conditions outlined within the Nationwide Permit (Appendix 6). Best management practices (BMPs) should be utilized during construction operations and prevent the discharge of sediment laden storm water from the construction site.

6.0 Direct and Indirect Effects

No action will be authorized under a Nationwide Permit if the perceived adverse affects will exceed minimal. The direct and indirect effects of the proposed action must be presented to the District Engineer and perceived as minimal.

The direct effects of the proposed action include the minimal disturbance of existing stream habitat. Therefore, the direct effects associated with the proposed action will be minimal.

The indirect effects of the proposed action include potential alteration to ecosystem functions associated with aquatic communities down-gradient from the action area. However, best management practices (BMPs) will be utilized during construction operations and prevent the discharge of sediment laden storm water from the construction site. Any potential indirect effects of the proposed action will be minimal.

7.0 Literature Cited

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Figures:

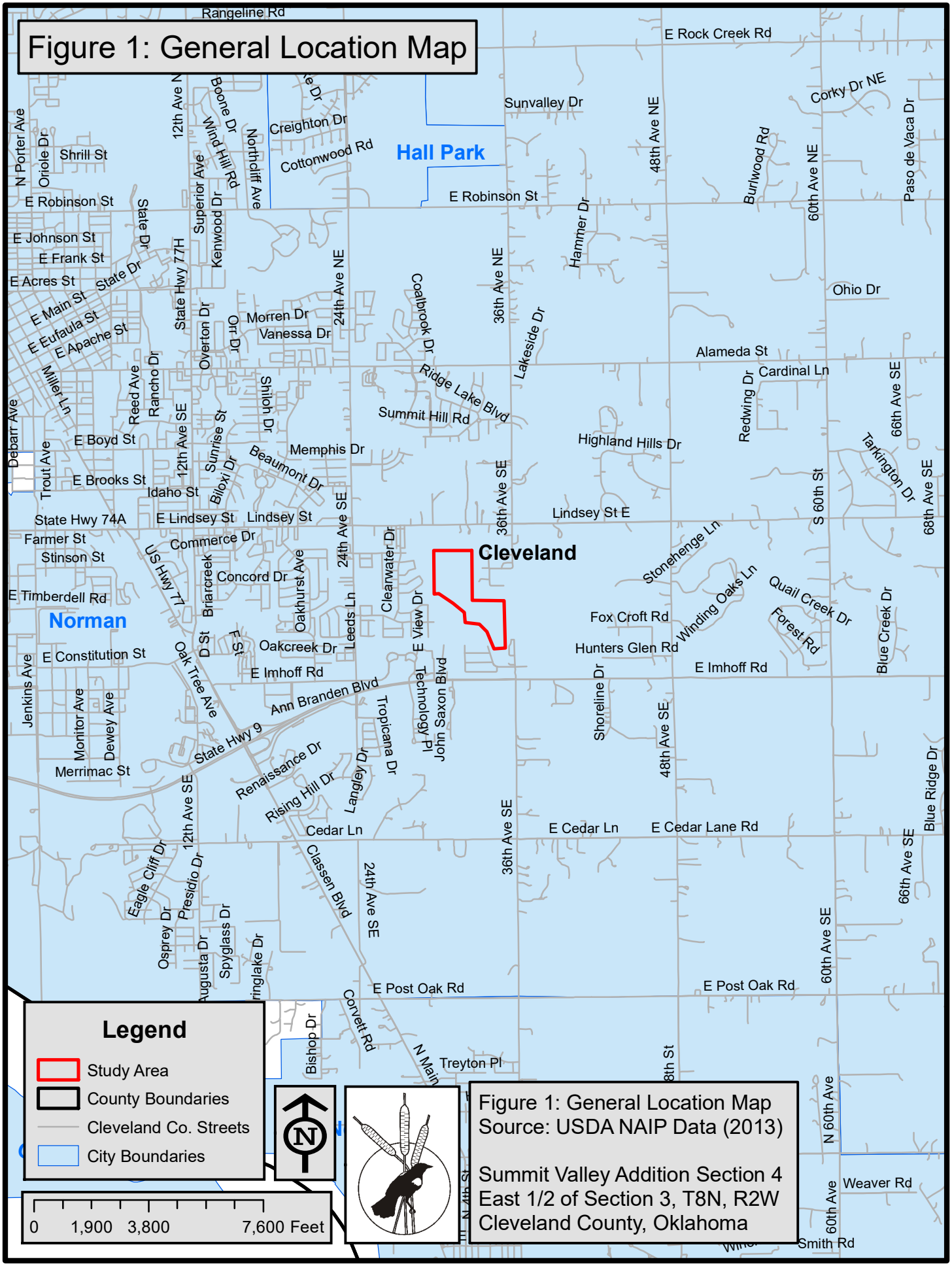


Figure 1: General Location Map
Rangeline Rd
E Rock Creek Rd
Sunvalley Dr
Corky Dr NE
Hall Park
Creighton Dr
Cottonwood Rd
Shrill St
E Robinson St
E Johnson St
E Frank St
E Acres St
E Main St
E Eufaula St
E Apache St
Ohio Dr
Alameda St
Cardinal Ln
Morren Dr
Vanessa Dr
Ridge Lake Blvd
Summit Hill Rd
Highland Hills Dr
Memphis Dr
E Boyd St
E Brooks St
Idaho St
State Hwy 74A
E Lindsey St
Lindsey St
Lindsey St E
Cleveland
Commerce Dr
Concord Dr
Farmer St
Stinson St
E Timberdell Rd
Norman
E Constitution St
Oakcreek Dr
E Imhoff Rd
Hunters Glen Rd
Fox Croft Rd
Ann Branden Blvd
State Hwy 9
Merrimac St
Cedar Ln
E Cedar Ln
E Cedar Lane Rd
E Post Oak Rd
Treyton Pl
Bishop Dr
Corvett Rd
Classen Blvd
Eagle Cliff Dr
Presidio Dr
Osprey Dr
Augusta Dr
Spyglass Dr
Renaissance Dr
Rising Hill Dr
Langley Dr
Tropicana Dr
John Saxon Blvd
E View Dr
Leeds Ln
Clearwater Dr
Oakhurst Ave
Briarcreek
Oak Tree Ave
D St
H St
US Hwy 77
Stonehenge Ln
Winding Oaks Ln
Quail Creek Dr
Forest Rd
Blue Creek Dr
Redwing Dr
Tarkington Dr
Shoreline Dr
Jenkins Ave
Monitor Ave
Dewey Ave
Debarr Ave
Trout Ave
Millet Ln
Reed Ave
Rancho Dr
Overton Dr
Shiloh Dr
Sunrise St
Biloxi Dr
Beaumont Dr
Coalbrook Dr
Lakeside Dr
Hammer Dr
Burlwood Rd
Paso de Vaca Dr
Blue Ridge Dr
Northcliff Ave
Superior Ave
Kenwood Dr
Windhill Rd
Boone Dr
N Porter Ave
Oriole Dr
State Dr
State Hwy 77H
Orr Dr
24th Ave NE
36th Ave NE
48th Ave NE
60th Ave NE
12th Ave SE
24th Ave SE
36th Ave SE
48th Ave SE
60th Ave SE
66th Ave SE
68th Ave SE
S 60th St
8th St
N 60th Ave
60th Ave
Weaver Rd
Smith Rd
Legend
Study Area
County Boundaries
Cleveland Co. Streets
City Boundaries
N
0
1,900
3,800
7,600 Feet
Figure 1: General Location Map
Source: USDA NAIP Data (2013)
Summit Valley Addition Section 4
East 1/2 of Section 3, T8N, R2W
Cleveland County, Oklahoma

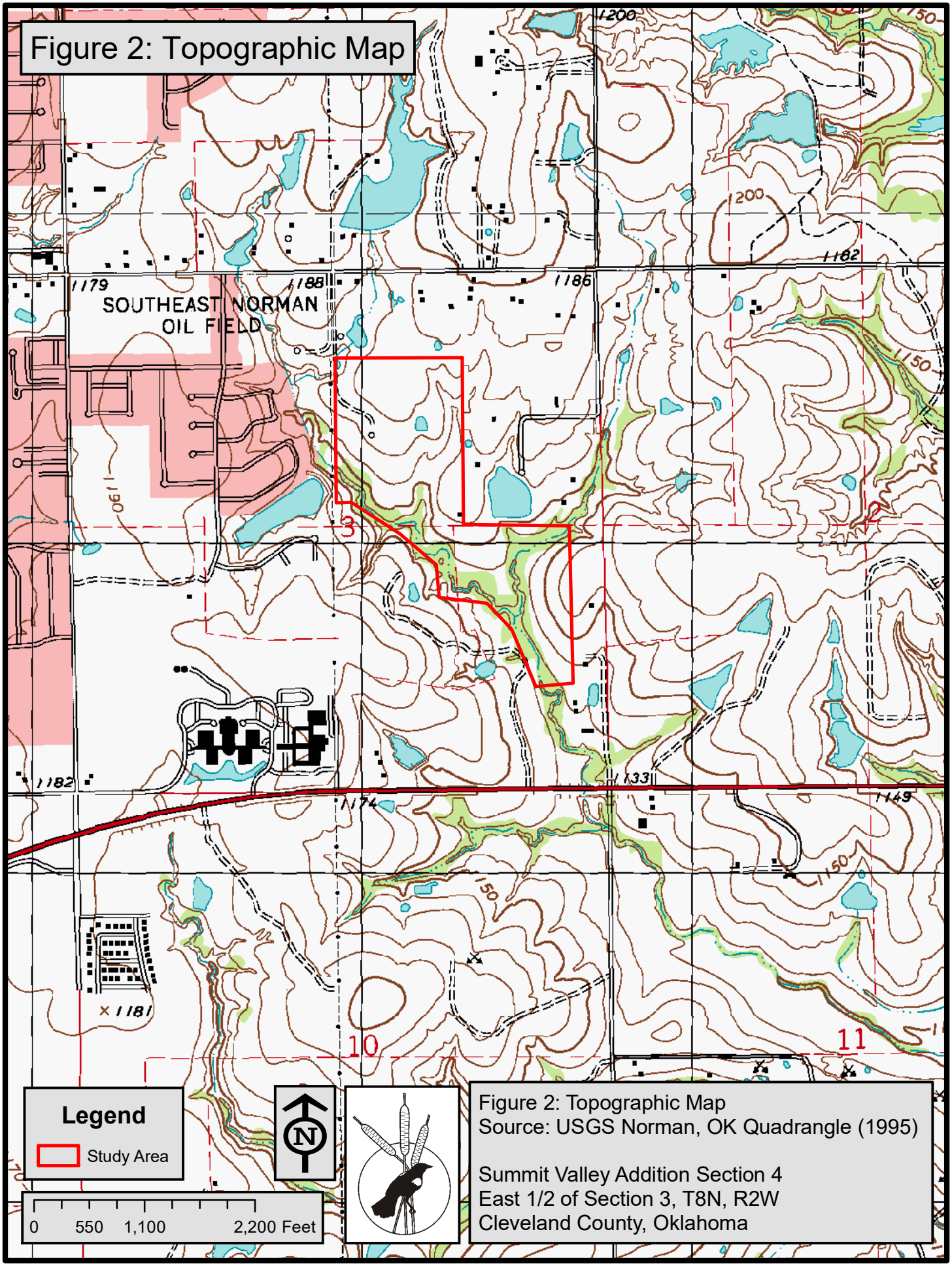


Figure 2: Topographic Map
SOUTHEAST NORMAN
OIL FIELD
1200
1182
1179
1188
1186
1150
1190
3
2
1182
1133
1174
1149
1150
150
1181
10
11
Legend
Study Area
N
0
550
1,100
2,200 Feet
Figure 2: Topographic Map
Source: USGS Norman, OK Quadrangle (1995)
Summit Valley Addition Section 4
East 1/2 of Section 3, T8N, R2W
Cleveland County, Oklahoma


Figure 3: National Wetland Inventory Map
R4SBC
PUBHh
R4SBC
PEM1Ch
R5UBF
PEM1Fh
PUBHh
R5UBF
PUBHh
R4SBC
PUBHh
PEM1Fh
PUBHh
PEM1Fh
R4SBC
PEM1Ch
PEM1Fh
PFO1A
PUBHh
PUBHh
PUBHh
Legend
Study Area
NWI Map Features
N
0
310
620
1,240 Feet
Figure 3: National Wetland Inventory Map
Source: USFWS Norman, OK Quad. (1981) and USFWS Onlined Data (2022)
Summit Valley Addition Section 4
East 1/2 of Section 3, T8N, R2W
Cleveland County, Oklahoma

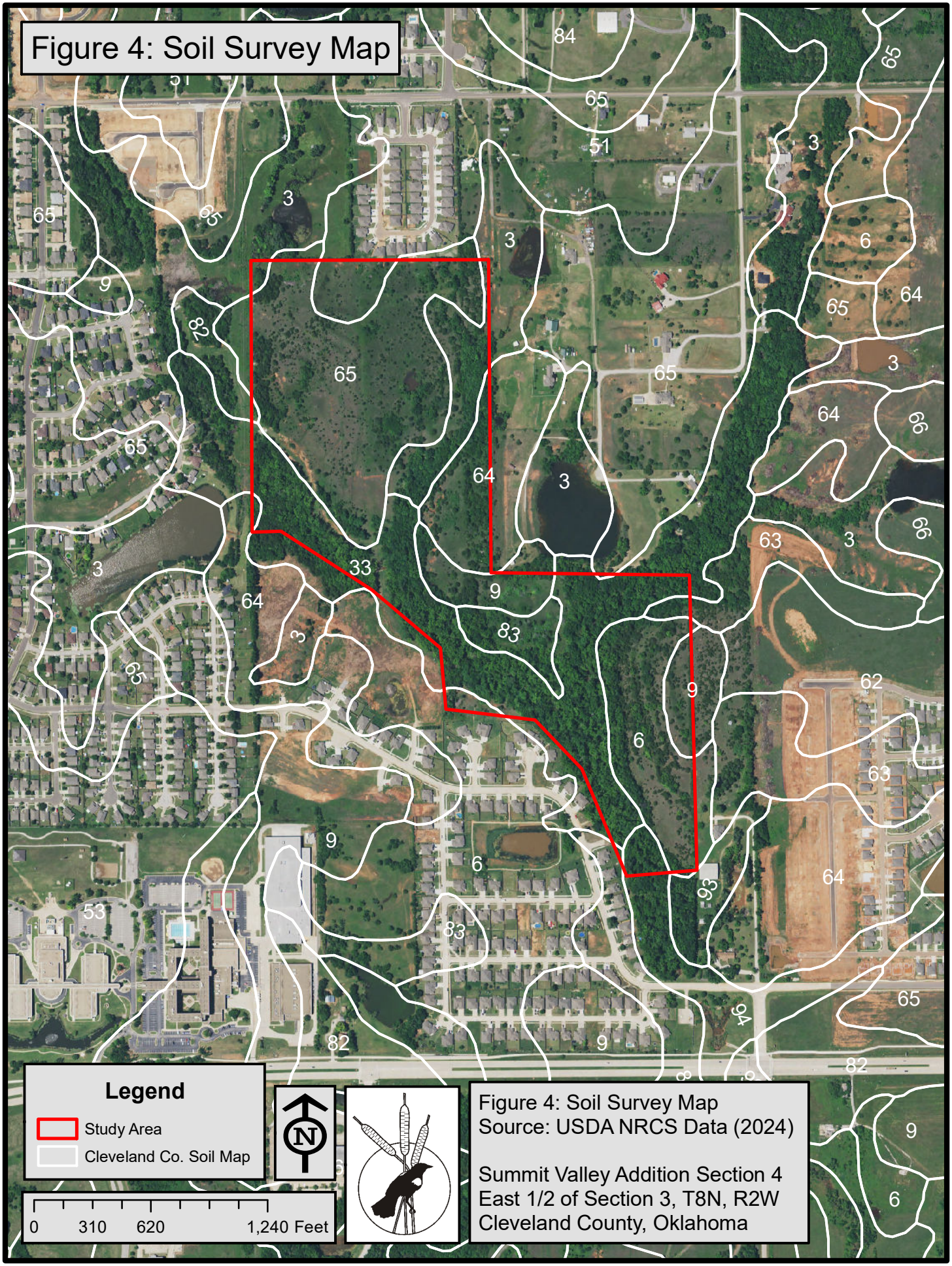


Figure 4: Soil Survey Map
Legend
Study Area
Cleveland Co. Soil Map
N
0
310
620
1,240 Feet
Figure 4: Soil Survey Map
Source: USDA NRCS Data (2024)
Summit Valley Addition Section 4
East 1/2 of Section 3, T8N, R2W
Cleveland County, Oklahoma

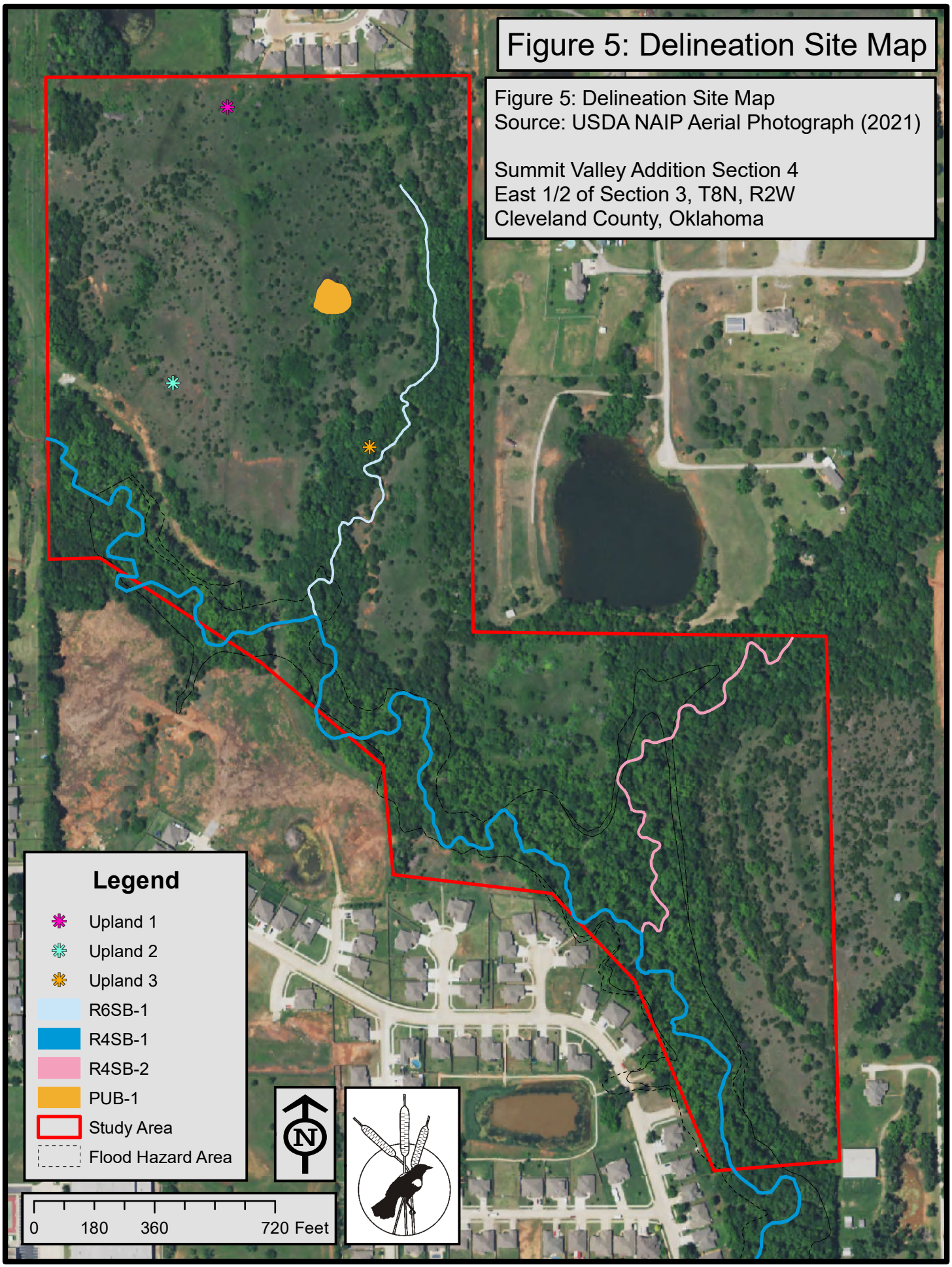


Figure 5: Delineation Site Map
Figure 5: Delineation Site Map
Source: USDA NAIP Aerial Photograph (2021)
Summit Valley Addition Section 4
East 1/2 of Section 3, T8N, R2W
Cleveland County, Oklahoma
Legend
Upland 1
Upland 2
Upland 3
R6SB-1
R4SB-1
R4SB-2
PUB-1
Study Area
Flood Hazard Area
N
0
180
360
720 Feet

Appendix 1:

Preliminary Design Documents

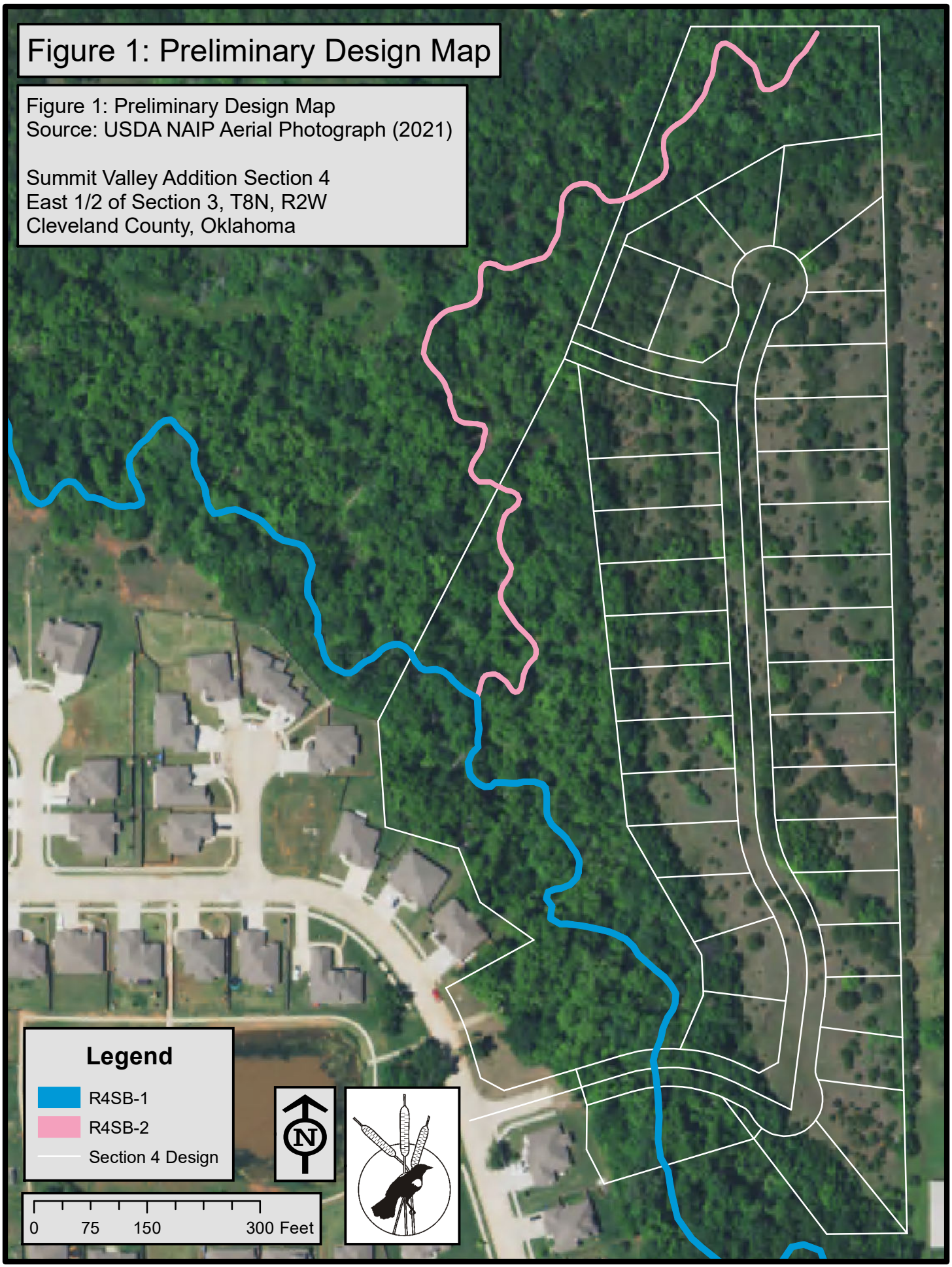


Figure 1: Preliminary Design Map
Figure 1: Preliminary Design Map
Source: USDA NAIP Aerial Photograph (2021)
Summit Valley Addition Section 4
East 1/2 of Section 3, T8N, R2W
Cleveland County, Oklahoma
Legend
R4SB-1
R4SB-2
Section 4 Design
N
0
75
150
300 Feet

Appendix 2:

Site Photographs

Photograph 1: Facing north across PUB-1.

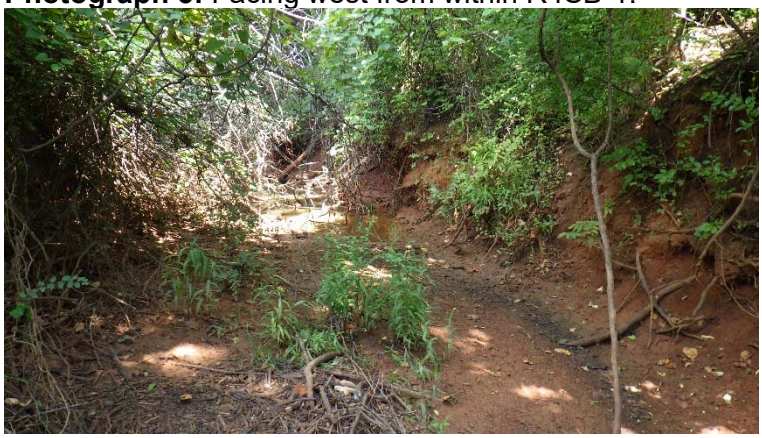
Photograph 2: Facing south from within R6SB-1.

Photograph 3: Facing north from within R4SB-2.

Photograph 4: Facing south from within R4SB-2.

Photograph 5: Facing west from within R4SB-1.

Photograph 6: Facing east from within R4SB-1.



Photograph 7: Facing west from within R4SB-1.

Photograph 8: Facing east from within R4SB-1.

Photograph 9: Facing north toward Upland 1 point.

Photograph 10: Facing east toward Upland 1 point.

Photograph 11: Facing south toward Upland 1 point.

Photograph 12: Facing west toward Upland 1 point.

Photograph 13: Facing north toward Upland 2 point.

Photograph 14: Facing east toward Upland 2 point.

Photograph 15: Facing south toward Upland 2 point.

Photograph 16: Facing west toward Upland 2 point.

Photograph 17: Facing north toward Upland 3 point.

Photograph 18: Facing east toward Upland 3 point.

Photograph 19: Facing south toward Upland 3 point.

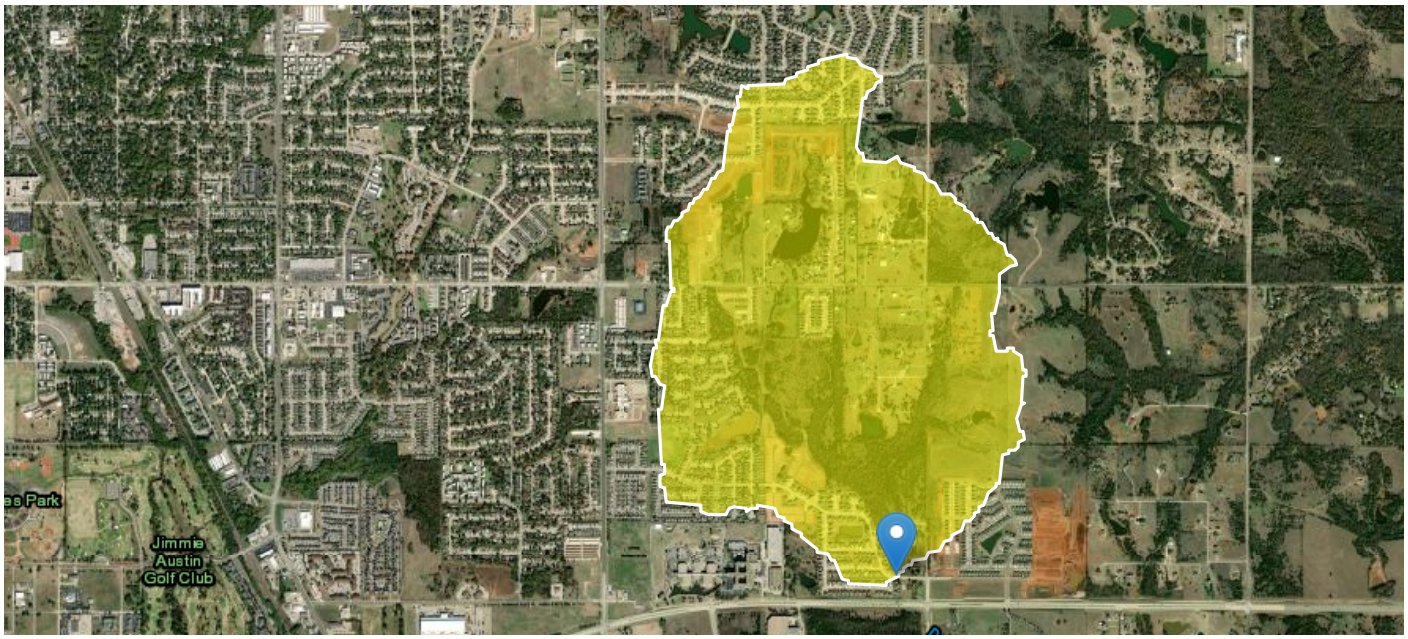
Photograph 20: Facing west toward Upland 3 point.

Appendix 3:

Regional Precipitation Data

Summit Valley StreamStats Report

Region ID: OK
Workspace ID: OK20240725135411933000
Clicked Point (Latitude, Longitude): 35.19086, -97.38985
Time: 2024-07-25 08:54:41 -0500



Collapse All

Basin Characteristics

Parameter Code	Parameter Description	Value	Unit
CANOPY_PCT	Percentage of drainage area covered by canopy as described in OK SIR 2009_5267	8.16	percent
CONTDA	Area that contributes flow to a point on a stream	1.27	square miles
CSL10_85fm	Change in elevation between points 10 and 85 percent of length along main channel to basin divide divided by length between points ft per mi	48.4	feet per mi
DAUNREG	Unregulated drainage area used in OK regulated equations	1.27	square miles
DRNAREA	Area that drains to a point on a stream		square miles
ELEV	Mean Basin Elevation	1180	feet
PRECIPOUT	Mean annual precip at the stream outlet (based on annual PRISM precip data in inches from 1971-2000)	37.88	inches
PREG_06_10	Mean precipitation at gaging station location for June to October summer period	17.5	inches

Peak-Flow Statistics

Peak-Flow Statistics Parameters [Peak Region 2 Unregulated 2019 5143]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
CONTDA	Contributing Drainage Area	1.27	square miles	0.1	2510
CSL10_85fm	Stream Slope 10 and 85 Method ft per mi	48.4	feet per mi	1.98	342

Peak-Flow Statistics Parameters [Peak Region 2 NRCS Regulated 2019 5143]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
DAUNREG	Unregulated Drainage Area	1.27	square miles	0.1	2510
CSL10_85fm	Stream Slope 10 and 85 Method ft per mi	48.4	feet per mi	1.98	342

Peak-Flow Statistics Flow Report [Peak Region 2 Unregulated 2019 5143]

PIL: Lower 90% Prediction Interval, PIU: Upper 90% Prediction Interval, ASEp: Average Standard Error of Prediction, SE: Standard Error, PC: Percent Correct (other -- see report)

Statistic	Value	Unit	ASEp	Equiv. Yrs.
50-percent AEP flood	348	ft^3/s	46.9	2
20-percent AEP flood	647	ft^3/s	36.2	5
10-percent AEP flood	904	ft^3/s	35	8
4-percent AEP flood	1300	ft^3/s	39.9	9
2-percent AEP flood	1710	ft^3/s	37.1	11
1-percent AEP flood	2020	ft^3/s	39.9	12
0.2-percent AEP flood	3180	ft^3/s	50.7	12

Peak-Flow Statistics Flow Report [Peak Region 2 NRCS Regulated 2019 5143]

PIL: Lower 90% Prediction Interval, PIU: Upper 90% Prediction Interval, ASEp: Average Standard Error of Prediction, SE: Standard Error, PC: Percent Correct (other -- see report)

Statistic	Value	Unit	ASEp	Equiv. Yrs.
Regulated 50-percent AEP flood	348	ft^3/s	46.9	2
Regulated 20-percent AEP flood	647	ft^3/s	36.2	5
Regulated 10-percent AEP flood	904	ft^3/s	35	8
Regulated 4-percent AEP flood	1300	ft^3/s	39.9	9
Regulated 2-percent AEP flood	1710	ft^3/s	37.1	11
Regulated 1-percent AEP flood	2020	ft^3/s	39.9	12
Regulated 0.2-percent AEP flood	3180	ft^3/s	50.7	12

Peak-Flow Statistics Flow Report [Area-Averaged]

PIL: Lower 90% Prediction Interval, PIU: Upper 90% Prediction Interval, ASEp: Average Standard Error of Prediction, SE: Standard Error, PC: Percent Correct (other -- see report)

Statistic	Value	Unit	ASEp	Equiv. Yrs.
50-percent AEP flood	348	ft^3/s	46.9	2

Statistic	Value	Unit	ASEp	Equiv. Yrs.
20-percent AEP flood	647	ft^3/s	36.2	5
10-percent AEP flood	904	ft^3/s	35	8
4-percent AEP flood	1300	ft^3/s	39.9	9
2-percent AEP flood	1710	ft^3/s	37.1	11
1-percent AEP flood	2020	ft^3/s	39.9	12
0.2-percent AEP flood	3180	ft^3/s	50.7	12
Regulated 50-percent AEP flood	348	ft^3/s	46.9	2
Regulated 20-percent AEP flood	647	ft^3/s	36.2	5
Regulated 10-percent AEP flood	904	ft^3/s	35	8
Regulated 4-percent AEP flood	1300	ft^3/s	39.9	9
Regulated 2-percent AEP flood	1710	ft^3/s	37.1	11
Regulated 1-percent AEP flood	2020	ft^3/s	39.9	12
Regulated 0.2-percent AEP flood	3180	ft^3/s	50.7	12

Peak-Flow Statistics Citations

Lewis, J.M., Hunter, S.L., and Labriola, L.G.,2019, Methods for estimating the magnitude and frequency of peak streamflows for unregulated streams in Oklahoma developed by using streamflow data through 2017: U.S. Geological Survey Scientific Investigations Report 2019–5143, 39 p. (https://doi.org/10.3133/sir20195143)

Flow-Duration Statistics

Flow-Duration Statistics Parameters [Duration Region 3 2009 5267]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
CONTDA	Contributing Drainage Area	1.27	square miles	8	2296
ELEV	Mean Basin Elevation	1180	feet	625	1527
CANOPY_PCT	Percent Area Under Canopy	8.16	percent	8.41	83.5
PRECIPOUT	Mean Annual Precip at Gage	37.88	inches	38	58

Flow-Duration Statistics Disclaimers [Duration Region 3 2009 5267]

One or more of the parameters is outside the suggested range. Estimates were extrapolated with unknown errors.

Flow-Duration Statistics Flow Report [Duration Region 3 2009 5267]

Statistic	Value	Unit
20 Percent Duration	0.244	ft^3/s
50 Percent Duration	0.094	ft^3/s
80 Percent Duration	0	ft^3/s
90 Percent Duration	0	ft^3/s
95 Percent Duration	0	ft^3/s

Flow-Duration Statistics Citations

Esralew, R.A., Smith, S.J.,2009, Methods for estimating flow-duration and annual mean-flow statistics for ungaged streams in Oklahoma: U.S. Geological Survey Scientific Investigations Report 2009-5267, 131 p. (http://pubs.usgs.gov/sir/2009/5267/)

Seasonal Flow Statistics

Seasonal Flow Statistics Parameters [Duration Region 3 2009 5267]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
CONTDA	Contributing Drainage Area	1.27	square miles	8	2296
PREG_06_10	Jun to Oct Gage Precipitation	17.5	inches	17.1	22.8
ELEV	Mean Basin Elevation	1180	feet	625	1527
CANOPY_PCT	Percent Area Under Canopy	8.16	percent	8.41	83.5
PRECIPOUT	Mean Annual Precip at Gage	37.88	inches	38	58

Seasonal Flow Statistics Disclaimers [Duration Region 3 2009 5267]

One or more of the parameters is outside the suggested range. Estimates were extrapolated with unknown errors.

Seasonal Flow Statistics Flow Report [Duration Region 3 2009 5267]

Statistic	Value	Unit
Jun to Oct 20 Percent Flow	0.152	ft^3/s
Jun to Oct 50 Percent Flow	0.06	ft^3/s
Jun to Oct 80 Percent Flow	0	ft^3/s
Jun to Oct 90 Percent Flow	0	ft^3/s
Jun to Oct 95 Percent Flow	0	ft^3/s
Nov to May 20 Percent Flow	0.283	ft^3/s
Nov to May 50 Percent Flow	0.122	ft^3/s
Nov to May 80 Percent Flow	0.033	ft^3/s
Nov to May 90 Percent Flow	0	ft^3/s
Nov to May 95 Percent Flow	0	ft^3/s

Seasonal Flow Statistics Citations

Esralew, R.A., Smith, S.J.,2009, Methods for estimating flow-duration and annual mean-flow statistics for ungaged streams in Oklahoma: U.S. Geological Survey Scientific Investigations Report 2009-5267, 131 p. (http://pubs.usgs.gov/sir/2009/5267/)

General Flow Statistics

General Flow Statistics Parameters [Duration Region 3 2009 5267]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
CONTDA	Contributing Drainage Area	1.27	square miles	8	2296

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
PRECIPOUT	Mean Annual Precip at Gage	37.88	inches	38	58

General Flow Statistics Disclaimers [Duration Region 3 2009 5267]

One or more of the parameters is outside the suggested range. Estimates were extrapolated with unknown errors.

General Flow Statistics Flow Report [Duration Region 3 2009 5267]

Statistic	Value	Unit
Average daily streamflow	0.402	ft^3/s

General Flow Statistics Citations

Esralew, R.A., Smith, S.J.,2009, Methods for estimating flow-duration and annual mean-flow statistics for ungaged streams in Oklahoma: U.S. Geological Survey Scientific Investigations Report 2009-5267, 131 p. (http://pubs.usgs.gov/sir/2009/5267/)

Bankfull Statistics

Bankfull Statistics Parameters [Interior Plains D Bieger 2015]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
DRNAREA	Drainage Area		square miles	0.19305	59927.7393

Bankfull Statistics Parameters [Central Lowland P Bieger 2015]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
DRNAREA	Drainage Area		square miles	0.200772	59927.66594

Bankfull Statistics Parameters [USA Bieger 2015]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
DRNAREA	Drainage Area		square miles	0.07722	59927.7393

Bankfull Statistics Flow Report [Interior Plains D Bieger 2015]

Statistic	Value	Unit

Bankfull Statistics Flow Report [Central Lowland P Bieger 2015]

Statistic	Value	Unit

Bankfull Statistics Flow Report [USA Bieger 2015]

Statistic	Value	Unit

Bankfull Statistics Citations

Maximum Probable Flood Statistics

Maximum Probable Flood Statistics Parameters [Crippen Bue Region 9]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
DRNAREA	Drainage Area		square miles	0.1	10000

Maximum Probable Flood Statistics Flow Report [Crippen Bue Region 9]

Statistic	Value	Unit

Maximum Probable Flood Statistics Citations

Application Version: 4.21.0
StreamStats Services Version: 1.2.22
NSS Services Version: 2.2.1

Appendix 4:

Wetland Delineation Data Sheets

WETLAND DETERMINATION DATA FORM – Great Plains Region

Project/Site: Undeveloped 83 Acres MOL; Single-Family Residential City/County: Cleveland County Sampling Date: 7-24-24

Applicant/Owner: _____ State: OK Sampling Point: Upland 1

Investigator(s): Clint M. Porter Section, Township, Range: Northeast 1/4 of Section 3, T8N, R2W

Landform (hillslope, terrace, etc.): mixed grass field Local relief (concave, convex, none): level Slope (%): 2 to 4

Subregion (LRR): LRR H Lat: 35.201182 Long: -97.395191 Datum: NAD 83

Soil Map Unit Name: Kirkland-Pawhuska complex, 0 to 3 percent slopes (51) NWI classification: Not Mapped

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation No, Soil No, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation No, Soil No, or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No X	**Is the Sampled Area within a Wetland?** Yes _____ No X
Hydric Soil Present?	Yes _____	No X	
Wetland Hydrology Present?	Yes _____	No X	

Remarks:

Data point collected within mixed grass pasture.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 30-foot radius)	Absolute % Cover	Dominant Species?	Indicator Status
1. eastern red cedar (Juniperus virginiana)	10	yes	UPL
2.			
3.			
4.			
	10 = Total Cover		
Sapling/Shrub Stratum (Plot size: 30-foot radius)			
1. eastern red cedar (Juniperus virginiana)	10	yes	UPL
2.			
3.			
4.			
5.			
	10 = Total Cover		
Herb Stratum (Plot size: three square feet)			
1. big bluestem (Andropogon gerardii)	30	yes	FACU
2. cheat grass (Bromus tectorum)	5	no	NA
3. switch grass (Panicum virgatum)	20	yes	FAC
4. annual ragweed (Ambrosia artemisiifolia)	10	no	FACU
5. weeping love grass (Eragrostis curvula)	5	no	NA
6. lespedeza (Lespedeza cuneata)	10	no	FACU
7.			
8.			
9.			
10.			
	80 = Total Cover		
Woody Vine Stratum (Plot size: _____)			
1. None			
2.			
	_____ = Total Cover		

% Bare Ground in Herb Stratum _____

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC (excluding FAC−): 1 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 25 (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species _____	x 1 = _____
FACW species _____	x 2 = _____
FAC species 20	x 3 = 60
FACU species 50	x 4 = 200
UPL species 20	x 5 = 100
Column Totals: 90 (A)	360 (B)

Prevalence Index = B/A = 4.00

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0[1]

___ 4 - Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes _____ No X

Remarks:

SOIL

Sampling Point: Upland 1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	Matrix %	Redox Features Color (moist)	Redox Features %	Type[1]	Loc[2]	Texture	Remarks
0 to 18	5 YR 3/3	100					silty loam	
	18" bottom of pit							

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) (**LRR F**)
- ___ 1 cm Muck (A9) (**LRR F, G, H**)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 2.5 cm Mucky Peat or Peat (S2) (**LRR G, H**)
- ___ 5 cm Mucky Peat or Peat (S3) (**LRR F**)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)
- ___ High Plains Depressions (F16) (**MLRA 72 & 73 of LRR H**)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) (**LRR I, J**)
- ___ Coast Prairie Redox (A16) (**LRR F, G, H**)
- ___ Dark Surface (S7) (**LRR G**)
- ___ High Plains Depressions (F16) (**LRR H outside of MLRA 72 & 73**)
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: _____

Depth (inches): _____

Hydric Soil Present? **Yes** _____ **No** X

Remarks:

No oxidized root channels or other redox features observed within the top 18 inches of the soil matrix.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Dry-Season Water Table (C2)
- ___ Oxidized Rhizospheres on Living Roots (C3) (**where not tilled**)
- ___ Presence of Reduced Iron (C4)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- Sparsely Vegetated Concave Surface (B8)
- ___ Drainage Patterns (B10)
- ___ Oxidized Rhizospheres on Living Roots (C3) (**where tilled**)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)
- ___ Frost-Heave Hummocks (D7) (**LRR F**)

Field Observations:

Surface Water Present? Yes _____ No X Depth (inches): _____

Water Table Present? Yes _____ No X Depth (inches): _____

Saturation Present? (includes capillary fringe) Yes _____ No X Depth (inches): _____

Wetland Hydrology Present? **Yes** _____ **No** X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Data point collected within mixed grass pasture.

WETLAND DETERMINATION DATA FORM – Great Plains Region

Project/Site: Undeveloped 83 Acres MOL; Single-Family Residential City/County: Cleveland County Sampling Date: 7-24-24

Applicant/Owner: State: OK Sampling Point: Upland 2

Investigator(s): Clint M. Porter Section, Township, Range: Northeast 1/4 of Section 3, T8N, R2W

Landform (hillslope, terrace, etc.): mixed grass field Local relief (concave, convex, none): level Slope (%): 2 to 4

Subregion (LRR): LRR H Lat: 35.198914 Long: -97.395776 Datum: NAD 83

Soil Map Unit Name: Renfrow-Huska complex, 3 to 5 percent slopes, eroded (65) NWI classification: Not Mapped

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation No, Soil No, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation No, Soil No, or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No X	**Is the Sampled Area within a Wetland?** Yes _____ No X
Hydric Soil Present?	Yes _____	No X	
Wetland Hydrology Present?	Yes _____	No X	

Remarks:

Data point collected within mixed grass pasture.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 30-foot radius)	Absolute % Cover	Dominant Species?	Indicator Status
1. eastern red cedar (Juniperus virginiana)	20	yes	UPL
2.			
3.			
4.			
	20 = Total Cover		
Sapling/Shrub Stratum (Plot size: 30-foot radius)			
1. eastern red cedar (Juniperus virginiana)	10	yes	UPL
2.			
3.			
4.			
5.			
	10 = Total Cover		
Herb Stratum (Plot size: three square feet)			
1. little bluestem (Schizachyrium scoparium)	50	yes	FACU
2. weeping love grass (Eragrostis curvula)	10	no	NA
3. switch grass (Panicum virgatum)	10	no	FAC
4. annual ragweed (Ambrosia artemisiifolia)	5	no	FACU
5.			
6.			
7.			
8.			
9.			
10.			
	75 = Total Cover		
Woody Vine Stratum (Plot size: _____)			
1. None			
2.			
	_____ = Total Cover		

% Bare Ground in Herb Stratum _____

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC (excluding FAC−): 0 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 0 (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:	
OBL species	x 1 =	
FACW species	x 2 =	
FAC species 10	x 3 =	30
FACU species 55	x 4 =	220
UPL species 30	x 5 =	150
Column Totals: 95 (A)		400 (B)

Prevalence Index = B/A = 4.21

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0[1]

___ 4 - Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes _____ No X

Remarks:

SOIL

Sampling Point: Upland 2

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	Matrix %	Redox Features Color (moist)	Redox Features %	Type[1]	Loc[2]	Texture	Remarks
0 to 18	2.5 YR 3/4	100					silty clay loam	
	18" bottom of pit							

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) (**LRR F**)
- ___ 1 cm Muck (A9) (**LRR F, G, H**)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 2.5 cm Mucky Peat or Peat (S2) (**LRR G, H**)
- ___ 5 cm Mucky Peat or Peat (S3) (**LRR F**)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)
- ___ High Plains Depressions (F16) (**MLRA 72 & 73 of LRR H**)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) (**LRR I, J**)
- ___ Coast Prairie Redox (A16) (**LRR F, G, H**)
- ___ Dark Surface (S7) (**LRR G**)
- ___ High Plains Depressions (F16) (**LRR H outside of MLRA 72 & 73**)
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes _____ No X

Remarks:

No oxidized root channels or other redox features observed within the top 18 inches of the soil matrix.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Dry-Season Water Table (C2)
- ___ Oxidized Rhizospheres on Living Roots (C3) (**where not tilled**)
- ___ Presence of Reduced Iron (C4)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- Sparsely Vegetated Concave Surface (B8)
- ___ Drainage Patterns (B10)
- ___ Oxidized Rhizospheres on Living Roots (C3) (**where tilled**)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)
- ___ Frost-Heave Hummocks (D7) (**LRR F**)

Field Observations:

Surface Water Present? Yes _____ No X Depth (inches): _____

Water Table Present? Yes _____ No X Depth (inches): _____

Saturation Present? (includes capillary fringe) Yes _____ No X Depth (inches): _____

Wetland Hydrology Present? Yes _____ No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Data point collected within mixed grass pasture.

WETLAND DETERMINATION DATA FORM – Great Plains Region

Project/Site: Undeveloped 83 Acres MOL; Single-Family Residential City/County: Cleveland County Sampling Date: 7-24-24

Applicant/Owner: State: OK Sampling Point: Upland 3

Investigator(s): Clint M. Porter Section, Township, Range: Northeast 1/4 of Section 3, T8N, R2W

Landform (hillslope, terrace, etc.): mature forest Local relief (concave, convex, none): level Slope (%): 2 to 4

Subregion (LRR): LRR H Lat: 35.198358 Long: -97.393826 Datum: NAD 83

Soil Map Unit Name: Grainola-Ashport, frequently flooded, complex, 0 to 12 percent slopes (3) NWI classification: Not Mapped

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation No, Soil No, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation No, Soil No, or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No X	**Is the Sampled Area within a Wetland?** Yes _____ No X
Hydric Soil Present?	Yes _____	No X	
Wetland Hydrology Present?	Yes _____	No X	

Remarks:

Data point collected within mature forest.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 30-foot radius)	Absolute % Cover	Dominant Species?	Indicator Status
1. eastern red cedar (Juniperus virginiana)	20	yes	UPL
2. green ash (Fraxinus pennsylvanica)	45	yes	FAC
3. common hackberry (Celtis occidentalis)	10	no	FACU
4.			
	75	= Total Cover	
Sapling/Shrub Stratum (Plot size: 30-foot radius)			
1. coral berry (Symphoricarpos orbiculatus)	40	yes	FACU
2.			
3.			
4.			
5.			
	40	= Total Cover	
Herb Stratum (Plot size: three square feet)			
1. Virginia creeper (Parthenocissus quinquefolia)	10	yes	FACU
2. saw green brier (Smilax bona-nox)	10	yes	FACU
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
	20	= Total Cover	
Woody Vine Stratum (Plot size: _____)			
1. None			
2.			
	_____	= Total Cover	

% Bare Ground in Herb Stratum _____

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC (excluding FAC−): 1 (A)

Total Number of Dominant Species Across All Strata: 5 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 20 (A/B)

Prevalence Index worksheet:

Total % Cover of:		Multiply by:	
OBL species		x 1 =	
FACW species		x 2 =	
FAC species	45	x 3 =	135
FACU species	70	x 4 =	280
UPL species	20	x 5 =	100
Column Totals:	135 (A)		515 (B)

Prevalence Index = B/A = 3.82

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0[1]

___ 4 - Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes _____ No X

Remarks:

SOIL

Sampling Point: Upland 3

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	Matrix %	Redox Features Color (moist)	Redox Features %	Redox Features Type[1]	Redox Features Loc[2]	Texture	Remarks
0 to 6	5 YR 3/4	100					silty clay loam	
6 to 18	5 YR 4/6	100					silty clay loam	
	18" bottom of pit							

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) (**LRR F**)
- ___ 1 cm Muck (A9) (**LRR F, G, H**)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 2.5 cm Mucky Peat or Peat (S2) (**LRR G, H**)
- ___ 5 cm Mucky Peat or Peat (S3) (**LRR F**)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)
- ___ High Plains Depressions (F16) (**MLRA 72 & 73 of LRR H**)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) (**LRR I, J**)
- ___ Coast Prairie Redox (A16) (**LRR F, G, H**)
- ___ Dark Surface (S7) (**LRR G**)
- ___ High Plains Depressions (F16) (**LRR H outside of MLRA 72 & 73**)
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: _____

Depth (inches): _____

Hydric Soil Present? **Yes** _____ **No** X

Remarks:

No oxidized root channels or other redox features observed within the top 18 inches of the soil matrix.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Dry-Season Water Table (C2)
- ___ Oxidized Rhizospheres on Living Roots (C3) (**where not tilled**)
- ___ Presence of Reduced Iron (C4)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- Sparsely Vegetated Concave Surface (B8)
- ___ Drainage Patterns (B10)
- ___ Oxidized Rhizospheres on Living Roots (C3) (**where tilled**)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)
- ___ Frost-Heave Hummocks (D7) (**LRR F**)

Field Observations:

Surface Water Present? Yes _____ No X Depth (inches): _____

Water Table Present? Yes _____ No X Depth (inches): _____

Saturation Present? (includes capillary fringe) Yes _____ No X Depth (inches): _____

Wetland Hydrology Present? **Yes** _____ **No** X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Data point collected within mature forest.

Appendix 5:

IPaC Threatened, Endangered and Candidate Species List

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, OK 74129-1428
Phone: (918) 581-7458 Fax: (918) 581-7467

In Reply Refer To: 07/26/2024 18:39:27 UTC
Project Code: 2024-0122196
Project Name: Proposed Residential Development

Subject: List of threatened and endangered species that may occur in your proposed project location 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 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 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:

https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see https://www.fws.gov/program/migratory-bird-permit/what-we-do.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see https://www.fws.gov/library/collections/threats-birds.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit https://www.fws.gov/partner/council-conservation-migratory-birds.

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 Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Bald & Golden Eagles
- 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:

Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, OK 74129-1428
(918) 581-7458

PROJECT SUMMARY

Project Code: 2024-0122196
Project Name: Proposed Residential Development
Project Type: Residential Construction
Project Description: Proposed single-family residential development and associated infrastructure.

Project Location:

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@35.1936432,-97.39136856089466,14z

Counties: Cleveland County, Oklahoma

ENDANGERED SPECIES ACT SPECIES

There is a total of 6 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 Fisheries[1], 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.

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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.

BIRDS

NAME	STATUS
Piping Plover *Charadrius melodus*	Threatened
Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered.	
There is **final** critical habitat for this species. Your location does not overlap the critical habitat.	
Species profile: https://ecos.fws.gov/ecp/species/6039	
Rufa Red Knot *Calidris canutus rufa*	Threatened
There is **proposed** critical habitat for this species.	
Species profile: https://ecos.fws.gov/ecp/species/1864	
Whooping Crane *Grus americana*	Endangered
Population: Wherever found, except where listed as an experimental population	
There is **final** critical habitat for this species. Your location does not overlap the critical habitat.	
Species profile: https://ecos.fws.gov/ecp/species/758	

FISHES

NAME	STATUS
Arkansas River Shiner *Notropis girardi*	Threatened
Population: Arkansas River Basin (AR, KS, NM, OK, TX)	
There is **final** critical habitat for this species. Your location does not overlap the critical habitat.	
Species profile: https://ecos.fws.gov/ecp/species/4364	
Peppered Chub *Macrhybopsis tetranema*	Endangered
There is **final** critical habitat for this species. Your location does not overlap the critical habitat.	
Species profile: https://ecos.fws.gov/ecp/species/532	

INSECTS

NAME	STATUS
Monarch Butterfly *Danaus plexippus*	Candidate
No critical habitat has been designated for this species.	
Species profile: https://ecos.fws.gov/ecp/species/9743	

CRITICAL HABITATS

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

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.

BALD & GOLDEN EAGLES

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act[1] and the Migratory Bird Treaty Act[2].

Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats[3], should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the "Supplemental Information on Migratory Birds and Eagles".

---

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

There are likely bald eagles present in your project area. For additional information on bald eagles, refer to Bald Eagle Nesting and Sensitivity to Human Activity

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the PROBABILITY OF PRESENCE SUMMARY below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle *Haliaeetus leucocephalus* This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Sep 1 to Jul 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "Supplemental Information on Migratory Birds and Eagles", specifically the FAQ section titled "Proper

Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

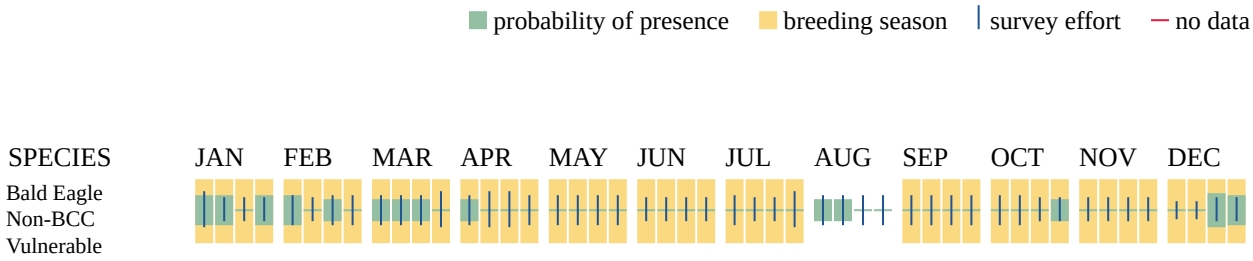
Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)
Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (–)
A week is marked as having no data if there were no survey events for that week.



Additional information can be found using the following links:

- Eagle Management https://www.fws.gov/program/eagle-management
- Measures for avoiding and minimizing impacts to birds https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds
- Nationwide conservation measures for birds https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf
- Supplemental Information for Migratory Birds and Eagles in IPaC https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action

MIGRATORY BIRDS

Certain birds are protected under the Migratory Bird Treaty Act[1] and the Bald and Golden Eagle Protection Act[2].

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats[3] should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the "Supplemental Information on Migratory Birds and Eagles".

---

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)

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the PROBABILITY OF PRESENCE SUMMARY below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
American Golden-plover *Pluvialis dominica* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/10561	Breeds elsewhere
Bald Eagle *Haliaeetus leucocephalus* This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Sep 1 to Jul 31
Chimney Swift *Chaetura pelagica* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9406	Breeds Mar 15 to Aug 25
Kentucky Warbler *Geothlypis formosa* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9443	Breeds Apr 20 to Aug 20
Least Tern *Sternula antillarum antillarum* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/11919	Breeds Apr 25 to Sep 5
Lesser Yellowlegs *Tringa flavipes* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9679	Breeds elsewhere

NAME	BREEDING SEASON
Little Blue Heron *Egretta caerulea* This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/9477	Breeds Mar 10 to Oct 15
Pectoral Sandpiper *Calidris melanotos* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9561	Breeds elsewhere
Prairie Loggerhead Shrike *Lanius ludovicianus excubitorides* This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/8833	Breeds Feb 1 to Jul 31
Prothonotary Warbler *Protonotaria citrea* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9439	Breeds Apr 1 to Jul 31
Red-headed Woodpecker *Melanerpes erythrocephalus* This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9398	Breeds May 10 to Sep 10

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "Supplemental Information on Migratory Birds and Eagles", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

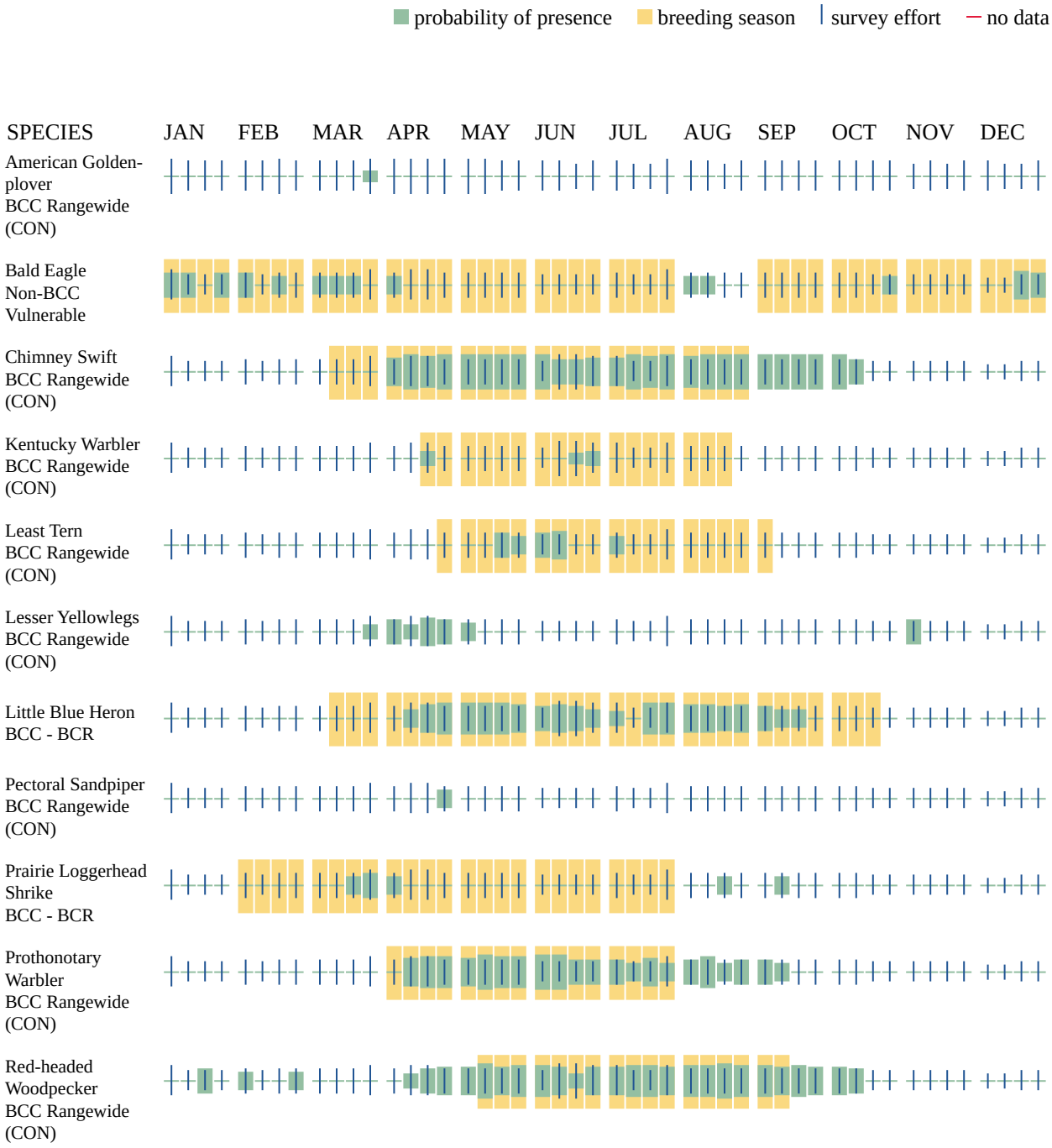
Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)
Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (–)
A week is marked as having no data if there were no survey events for that week.



Additional information can be found using the following links:

- Eagle Management https://www.fws.gov/program/eagle-management
- Measures for avoiding and minimizing impacts to birds https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds
- Nationwide conservation measures for birds https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf

- Supplemental Information for Migratory Birds and Eagles in IPaC https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action

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.

FRESHWATER FORESTED/SHRUB WETLAND

- PFO1A

FRESHWATER EMERGENT WETLAND

- PEM1Fh

RIVERINE

- R4SBC

FRESHWATER POND

- PUBHh

IPAC USER CONTACT INFORMATION

Agency: Blackbird Environmental, LLC
Name: Clint Porter
Address: PO Box 720100
City: Norman
State: OK
Zip: 73070
Email cmporter@pldi.net
Phone: 4056403011

Appendix 6:

Clean Water Act, Section 404
Nationwide Permit No. 14

Nationwide Permit 14 - Linear Transportation Projects
Effective Date: February 25, 2022; Expiration Date: March 14, 2026
(NWP Final Notice, 86 FR 73522)

Nationwide Permit 14 - Linear Transportation Projects. Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, driveways, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge of dredged or fill material in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

Note 2: Some discharges of dredged or fill material for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

2021 Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. **Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain

low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. **Removal of Temporary Structures and Fills.** Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. **Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. **Wild and Scenic Rivers.** (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. **Endangered Species.** (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal

applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. **Migratory Birds and Bald and Golden Eagles.** The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and

available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. **Historic Properties.** (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. **Discovery of Previously Unknown Remains and Artifacts.** Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. **Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. **Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream

rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan

may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may

be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. **Safety of Impoundment Structures.** To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. **Water Quality.** (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. **Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. **Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state,

Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. **Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. **Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

_____
(Transferee)

_____
(Date)

30. **Compliance Certification.** Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. **Activities Affecting Structures or Works Built by the United States.** If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. **Pre-Construction Notification.** (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no

more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile

transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

2021 District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

2021 Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

2021 Nationwide Permit Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which

remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This

term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic

characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term "single and complete project" is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or

improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

ADDITIONAL INFORMATION

Information about the U.S. Army Corps of Engineers Regulatory Program, including nationwide permits, may also be accessed at

http://www.swt.usace.army.mil/Missions/Regulatory.aspx or
http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx