



Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
2488 East 81st Street
Tulsa, Oklahoma 74137-4290

SWT-2019-404
Public Notice No.

May 15, 2020
Public Notice Date

June 14, 2020
Expiration Date

PURPOSE

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

SECTION 10

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 U.S.C. 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

NOTICE TO PUBLISHERS

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DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, TULSA DISTRICT
2488 EAST 81ST STREET
TULSA, OKLAHOMA 74137-4290

Application No. SWT-2019-00404

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army (DA) permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act (CWA). The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

Applicant: Mr. Mark Ruffin
ABC 4 LLC
825 North Broadway, Suite 310
Oklahoma City, OK 73102

Agent: Mr. Clint Porter
Blackbird Environmental, LLC

Location: The proposed project is located in the Northwest $\frac{1}{4}$ of Section 15, Township 11 North, Range 4 West, Oklahoma County, Oklahoma. The project site can be found on the Oklahoma City, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 35.431 and West Longitude -97.617.

Project Description: The project proposes to relocate the stream channel to the back of the property to increase the developable area for industrial use. This proposal would result in the placement of on-site excavated soil within 1,011 LF of the unnamed tributary to the North Canadian River and its adjacent 0.042 acre emergent wetland. In order to relocate the stream to the back of the property, on-site soil would be excavated and used as fill material. A wetland area would be removed due to this excavation and stream relocation work.

Purpose: The overall purpose is to construct an industrial development. The project is not a water dependent activity.

The basic purpose and need of the proposed action is to utilize industrial-zoned property to construct a 230,000 square foot industrial structure. The applicant's preference is to promote the continued management with the south adjoining industrial park.

Summary Table of Impacts:

Original Proposal					
Number or Location	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cys below OHWM	Footprint (ac and/or lf)
Unnamed tributary	Placement of fill material	Stream	On-site soil/loam/silt /clay	4,365	1,011 lf
Emergent Wetland 1	Placement of fill material	Emergent Wetland	On-site soil/loam/silt /clay	280	0.018 lf
Emergent Wetland 2	Excavation	Emergent Wetland			0.024 ac
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), LF (lf)					

Description of Work: The applicant proposes to place on-site excavated soil within 1,011 lf of unnamed tributary that bisects the permit area, as well as 2 associated emergent wetlands (0.042 ac). The placement of on-site soil would serve to create a contiguous area of developable property for the industrial construction site. The excavated material would be used to grade and connect the developable property. The fill material would be excavated from the relocated stream channel and floodplain area at the back of the property, which may consist of gravel, sand, silt, loam, and clay. The project would require the use of various conventional earth moving equipment for construction and excavation.

Avoidance and Minimization Information: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

The applicant did not provide a statement regarding avoidance and minimization of impacts to aquatic resources for the proposed project.

Mitigation: The applicant proposes the following as compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

The applicant is proposing creation mitigation to offset proposed impacts. The mitigation plan includes approximately 1,020 lf of stream channel creation as part of the projects plan to relocate the stream channel. The proposed stream creation would include a 15-foot wide meandering stream immediately east of the existing stream alignment. The stream would be constructed within the relocated floodplain area to connect within the existing alignment immediately up-stream.

The applicant proposes to plant 38 native trees along the east and west banks for mitigation along the constructed stream channel. The trees would very likely support ecosystem functions within the creation mitigation area. The trees would improve

physical water quality by eventually providing canopy and a diversity of water quality improvements. The trees would also provide for multiple species of birds, mammals and insects requiring a diversity of habitat.

The trees would be approximately one (1) inch in diameter and would be native trees from the following varieties: black willow (*Salix nigra*), pecan (*Carya illinoensis*), bur oak (*Quercus macrocarpa*), shumard oak (*Quercus shumardii*), green ash (*Fraxinus pennsylvanica*), American sycamore (*Plantanus occidentalis*), eastern cottonwood (*Populus deltoides*) and/or hackberry (*Celtis occidentalis* or *C. laevigata*).

This mitigation plan is the applicant's proposal. The Corps has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. Compensatory Mitigation for unavoidable impacts may be required to ensure that this activity requiring a Section 404 permit, if issued, complies with the Section 404 (b)(1) Guidelines. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Project Setting: The project is located within Oklahoma City, within an area of industrial developments, as well as commercial and residential development. The project area is 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.

Existing Condition: The site is located within the floodplain of the unnamed tributary of the North Canadian River, where portions of the existing channel have been straightened and moved in the past for similar development purposes. The site is mostly level aside from the stream channel that bisects the property, also likely from previous grading.

Cultural Resources: The DE is responsible to ensure compliance with the National Historic Preservation Act of 1966 (NHPA) (Public Law 89-665), as amended, and other cultural resources laws and Executive Orders. A preliminary review of the state's records has been completed for the presence of sites included in, or eligible for, inclusion in the National Register of Historic Places, as well as the Oklahoma Landmark Inventory Database. There are no known historic properties, as defined by the NHPA, in or within the vicinity of the proposed permit area. Based on early maps and aerials there were multiple historic buildings in the project area that were demolished around 2016/2017 with the adjacent road and an adjacent structure on an 1893 topo map suggests there is potential for some pretty early pre-statehood historic resources. Based on the aerials, there is a low potential for subsurface cultural deposits/features and the remnants of at least the driveways of the farmsteads.

Threatened and Endangered Species: The following federally listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: Interior least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*) red

knot (*Calidris canutus rufa*), and whooping crane (*Grus americana*). A field review has been conducted by a qualified biologist to determine potential impacts to listed species and designated critical habitats and a final Biological Report and Effect Determination would be provided to the USFWS for concurrence.

We are currently assessing the potential effects of the proposed action on these species and would comply with the Endangered Species Act with regard to any effect of our decision on this permit application.

Evaluation Factors: The decision whether to issue a permit would be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. That decision would reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal would be considered, including the cumulative effects thereof: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit would be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) Guidelines. Subject to the 404(b)(1) Guidelines and any other applicable guidelines or criteria, a permit would be granted unless the DE determines that it would be contrary to the public interest.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 4). If additional information is desired, it may be obtained from Mr. Bryan Noblitt, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 918-669-7400.

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

Any comments on this proposal must be submitted to be received by the Corps by the expiration date of this public notice comment period. Comments received after this date

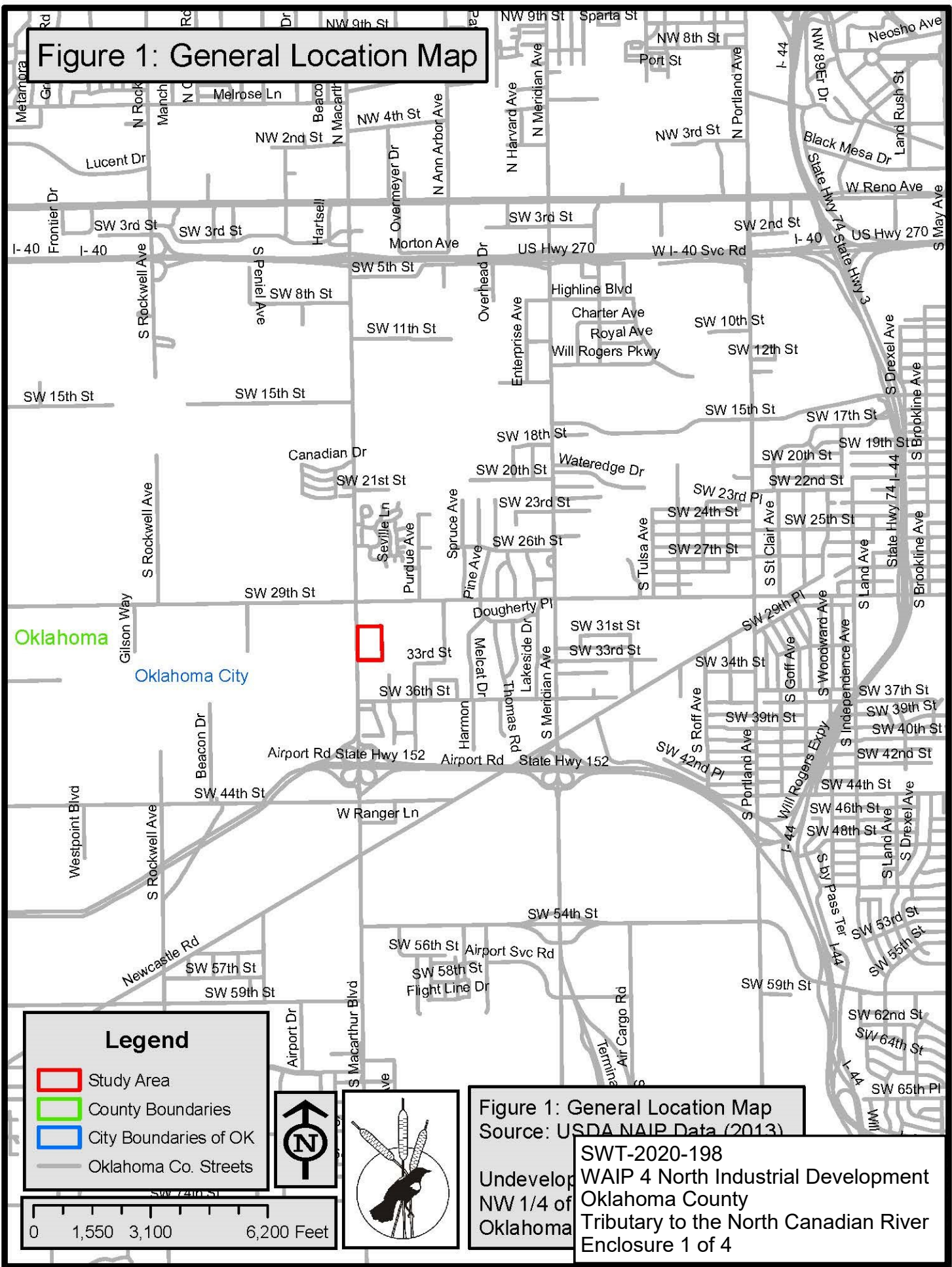
would not be considered in our decision. You may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137 or email CESWT-RO@usace.army.mil. Please include the public notice number SWT-2019-404 in the subject line of your email message.

Comments concerning water quality impacts would be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality Certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

Andrew R. Commer
Chief, Regulatory Office

Enclosures

Figure 1: General Location Map



Legend

- Study Area
- County Boundaries
- City Boundaries of OK
- Oklahoma Co. Streets

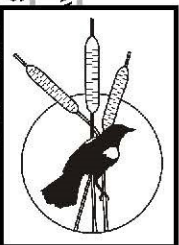
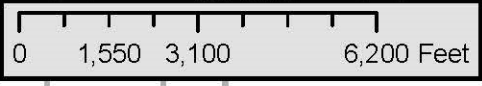
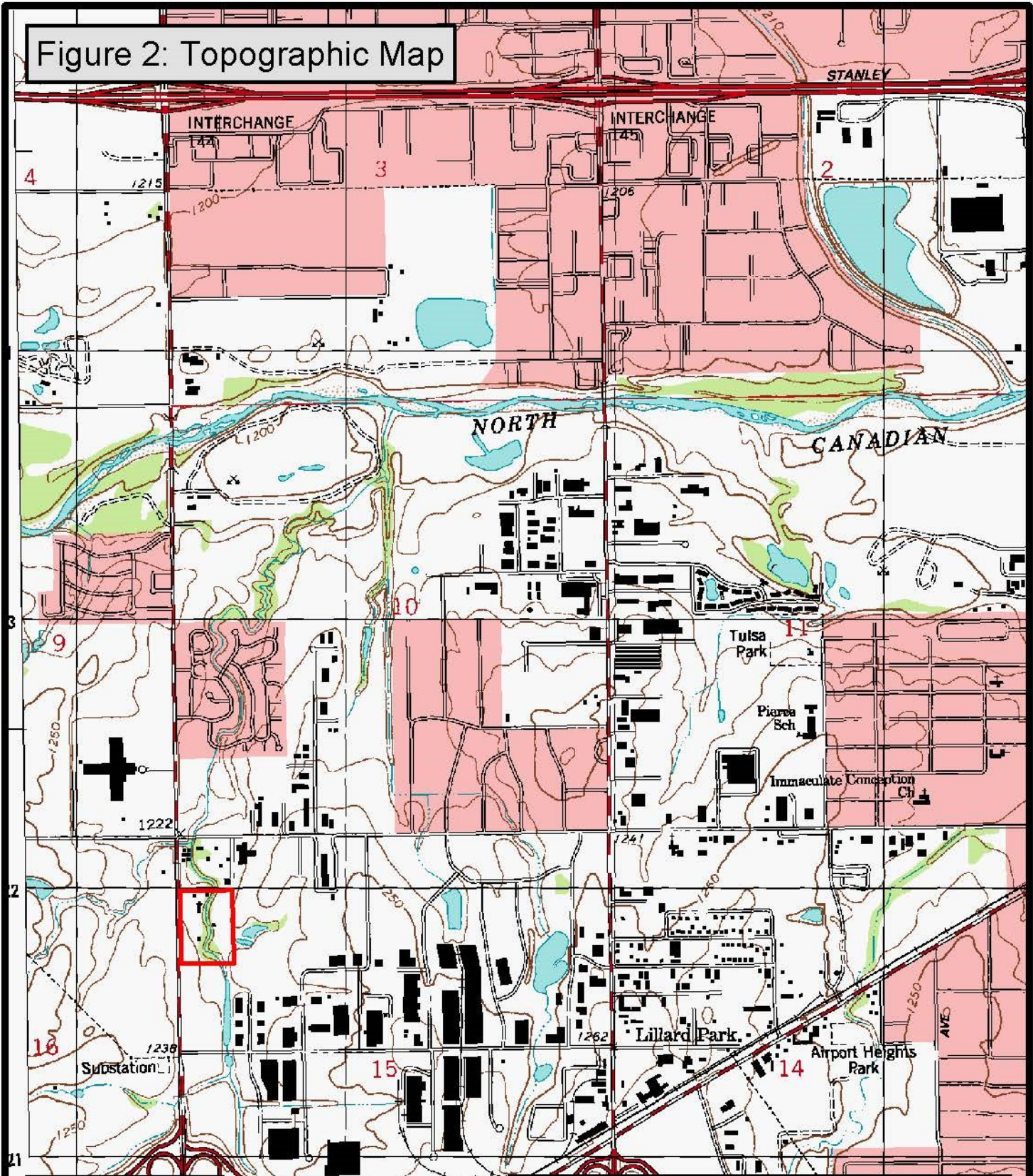


Figure 1: General Location Map
Source: USDA NAIP Data (2013)



SWT-2020-198
Undeveloped
NW 1/4 of
Oklahoma
WAIP 4 North Industrial Development
Tributary to the North Canadian River
Enclosure 1 of 4

Figure 2: Topographic Map



Legend

 Study Area

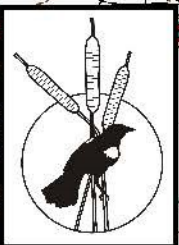


Figure 2: Topographic Map
Source: USGS Oklahoma City, OK Quad (1995)
SWT-2020-198
Undeveloped
NW 1/4 of
Oklahoma
Tributary to the North Canadian River
Enclosure 2 of 4

WAIP 4 North

Oklahoma City, OK

SW 29th St

S Ann Arbor Ave

**WAIP 4 North
Project Location**

SW 33rd St

S MacArthur Blvd

S Purdue Ave

Moulton Dr

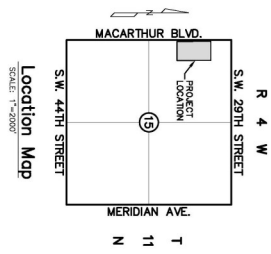
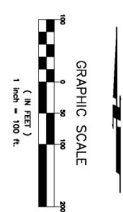
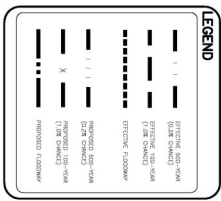
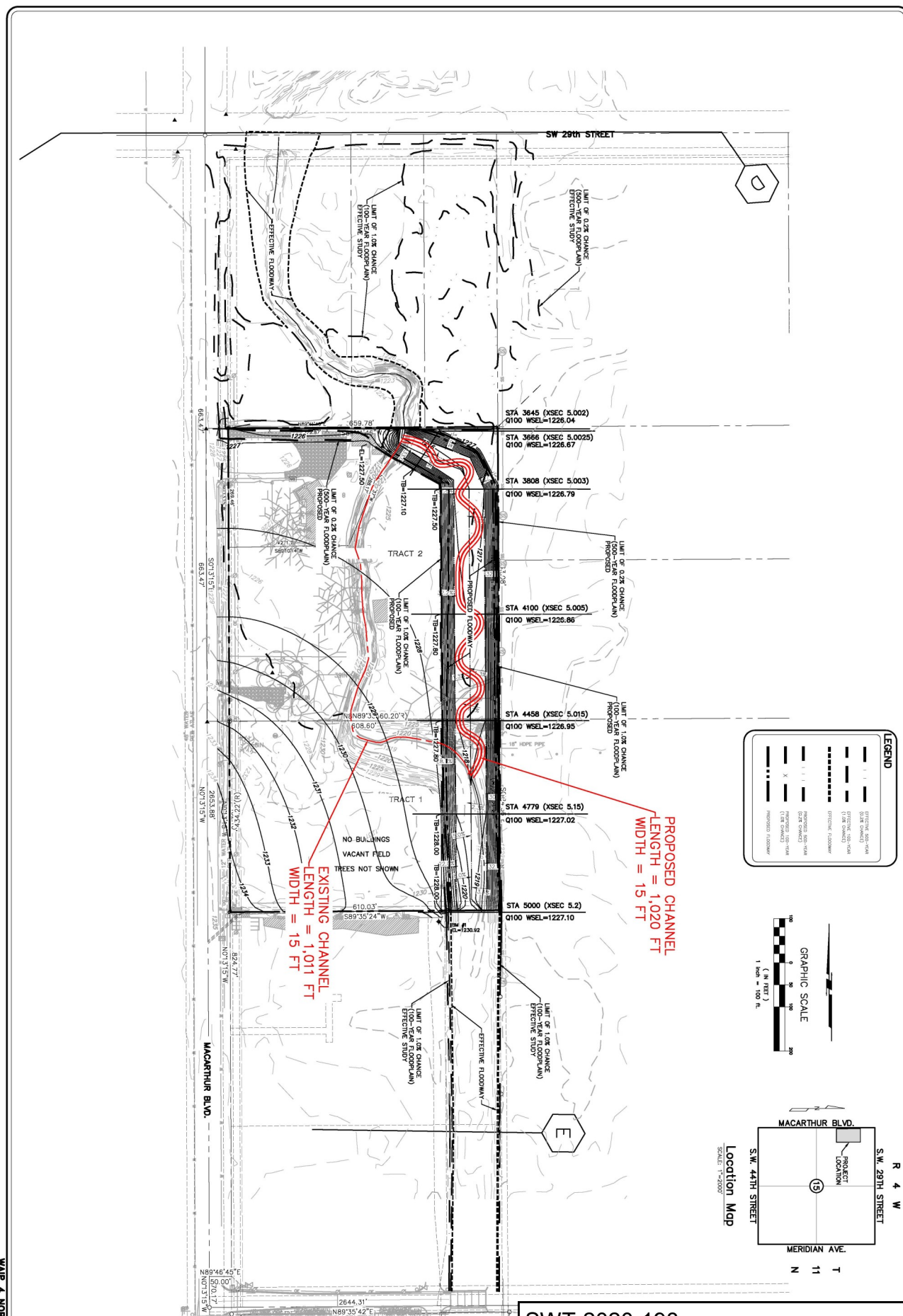
SWT-2020-198
WAIP 4 North Industrial Development
Oklahoma County
Tributary to the North Canadian River
Enclosure 3 of 4



Google Earth

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1000 ft



WAIP 4 NORTH

SHEET NUMBER
EXH
FS-4848

NO.	REVISIONS DESCRIPTION	DATE

Proj No: 11-044
 Date: 10-01-19
 Scale: (Horizontal) 1"=100'
 (Vertical) N/A
 Drawn By: JMB
 Checked By: KSC
 Approved By: MCO

WAIP 4 NORTH
CONDITIONAL LETTER OF MAP REVISION
 3400 S. MACARTHUR BLVD.
 OKLAHOMA CITY, OK
PROPOSED CONDITIONS
FLOODPLAIN MAP

SWT-2020-198
 WAIP 4 North Industrial Development
 Oklahoma County
 Tributary to the North Canadian River
 Enclosure 4 of 4