



Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
2488 E 81st Street
Tulsa, OK 74137

SWT-2018-657
Public Notice No.

September 20, 2019
Public Notice Date

October 19, 2019
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 USC 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 USC 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-2018-657

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. Richard DeQuasie
DeQuasie Development, LLC
1298 Scenic Trail
Choctaw, OK 73020

Agent: Dr. Ron Jarman
Apex Companies, LLC
4608 South Garnett Road, Suite 100
Tulsa, OK 74146

Location: This project is located near Southeast 44th and South Harrah Road, and North Latitude 35.423027, West Longitude -97.155447 in Harrah, Oklahoma County, Oklahoma. The project site can be found on the Harrah, Oklahoma 7.5 Minute USGS Quadrangle map.

Project Description: This Department of the Army (DA) after-the-fact permit application is for a storm water detention reservoir (SDR) that was constructed in unnamed tributary of North Deer Creek. The applicant also proposes to construct a residential development and commercial development with a road crossing.

Purpose: The overall purpose of this work is to construct a residential and commercial development named "the River Mist Development" and to obtain proper federal permitting for both the action conducted without a permit and the requested permitted action (road crossing). The proposed project would include approximately 180 residential lots and six commercial lots. The project is not a water dependent activity.

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)
1	Road Crossing	Stream	Compacted Clay and Concrete	Estimate 500 cys	0.03 ac or 60 lf
2	Constructed Dam - Completed	Stream	Compacted Clay	5,000 cys	0.62 ac or 90 lf
3	Inundation	Wetlands	Conversion		3.23 ac
4	Inundation	Stream	Conversion		1,350 lf
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)					

Description of Work: The applicant proposes to construct a reinforced concrete box (RCB) road crossing (0.30 ac or 60 lf) across the thalweg (approximately 25 feet) of the unnamed tributary of North Deer Creek utilizing concrete and clay compacted fill materials with rip-rap for erosion control. The RCB would be sufficient to allow normal and high water flow volumes.

The constructed dam for the SDR was constructed with compacted native clays with the approximated dimensions of 300 lf by 90 lf. The constructed dam is approximately 0.62 total ac. The SDR was constructed within a waters of the U.S., impacting approximately 1,350 lf of the unnamed tributary of North Deer Creek. Additionally, approximately 3.23 ac of adjacent jurisdictional emergent wetlands have been permanently inundated by the construction of this SDR. The impacts to waters of the U.S. for these projects are estimated at 3.26 ac. The total size of the SDR is approximately 5.75 ac.

Vegetative clearing has been accomplished for areas outside of waters of U.S. Utilities are being completed for the southwest portion of the project site with no additional activities being conducted in jurisdictional wetlands or in streams below the OHWM.

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 design and sizing of the SDR was developed based on flow related data from literature sources and actual measurements. The SDR was completed under the guidance and observations of ODEQ personnel. The road crossing was sited to assure minimum impacts to waters of the U.S. The original, City of Harrah approved plat, was modified and reduced in scope based on field delineation of wetlands and waters of the U.S. The number of lots was reduced as a result.

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

The applicant is in the preliminary stages of research to compensate for the loss of potential wetlands through mitigation banking or in-lieu fees in accordance with the Tulsa District guidelines.

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.

Government Authorizations obtained or received:

- a. City of Harrah – Plat Approval – September 18, 2018
- b. ODEQ (Water Quality Division) – OK10 Coverage Approval – August 27, 2018,
- c. ODEQ (Water Quality Division) – Expedited Consent Order (ECO) closed – January 28, 2019

Note: An ECO No.18-200 was issued on December 10, 2018, for violation of state statutes for permit and maintenance violations within the named development. The ECO also required Best Management Plan to address litter, construction debris, and construction chemicals. The ECO also required a SDR and stabilization measures.

A penalty was assessed by ODEQ as part of an ECO. The applicant complied with the ECO by constructing a 5.75 SDR which encompassed a portion of the unnamed tributary and adjacent wetlands within the project boundaries. This after-the-fact permit application is necessary to cover this previous action required by the ODEQ.

Project Setting: The tract of land is approximately 135 ac. The site is located within Level VI Ecoregion 29a, known as “Northern Cross Timbers”. According to the general physiography described for the area, Ecoregion 29a contains rolling hills, cuernas and ledges. Stream flow varies from year to year and season to season. Streams typically have sandy substrates, but some stream reaches have deep pools, riffles and bedrock, boulder, cobble or gravel substrates. Soils are described as highly erodible when disturbed.

In general, the Northern Cross Timbers are naturally covered by a mosaic of oak savanna, scrubby oak forest, eastern red cedar, and tall grass prairie.

The surficial and bedrock description of this ecoregion indicates that uplands are mantled by Quaternary clayey silt to silty clay decomposition residuum, clay loam

decomposition residuum, and sandy decomposition residuum. The valleys are veneered with Quaternary alluvium, underlain by Pennsylvanian- and Permian-age sandstone, shale, and limestone. Rock outcrops occur; sandstone blocks and boulders often litter hilltops and hillslopes.

Existing Condition: This tract of has been cleared of all vegetation. The unnamed tributary of North Deer Creek, an intermittent stream, is indicated on the USGS 7.5 minute quad. The watershed of the tributary can be noticed at the eastern side of the property, slightly running from north-northeast to south-southwest.

A 5.75 ac SDR has been constructed at the site, a portion of which is located within waters of the U.S. The estimated impacts to waters of the U.S. varies from 1.08 to 5.38 ac. The SDR was constructed before an approved jurisdictional determination was completed. Apex estimates the most likely area of impacts as 3.23 acres of flooding and/fill materials as a result of the SDR construction.

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 has been completed of the state's records 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. Based on the preliminary information, there may be historic properties, as defined by the NHPA, in or within the vicinity of the proposed permit area. The Corps will comply with the NHPA to resolve any potential effects.

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: least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), and whooping crane (*Grus americana*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. The IPAC consultation number is 02EKOK00-2019-SLI-2833.

Our preliminary determination is that the proposed activity will not affect listed threatened or endangered species or their critical habitat.

Evaluation Factors: The decision whether to issue a permit will 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 will 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 will 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 will 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 will 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. If additional information is desired, it may be obtained from Mr. Michael A. Ware, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 918-669-7400.

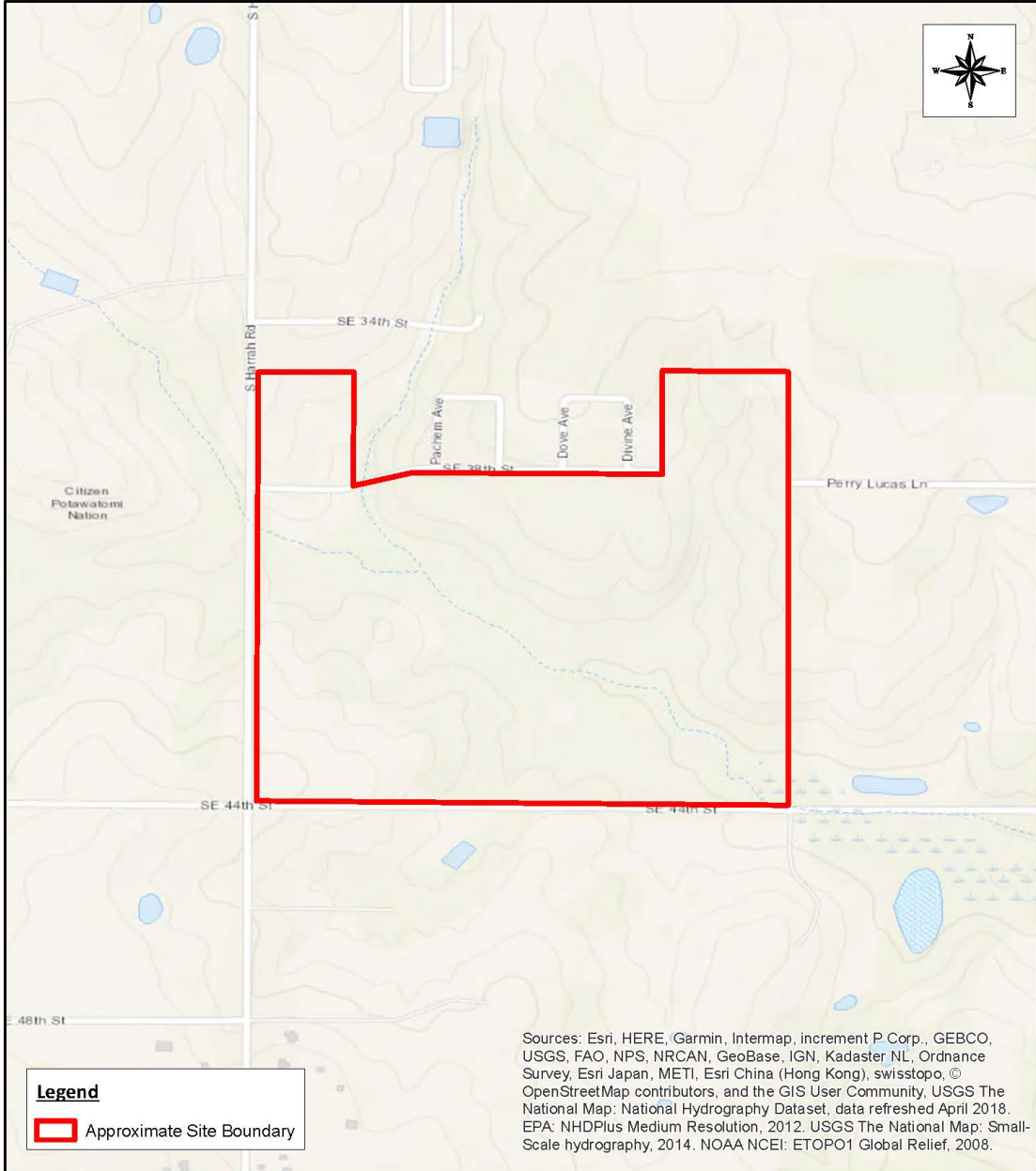
Comments: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine 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 will 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-2018-657 in the subject line of your email message.

Comments concerning water quality impacts will 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



Legend
 Approximate Site Boundary

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community, USGS The National Map: National Hydrography Dataset, data refreshed April 2018. EPA: NHDPlus Medium Resolution, 2012. USGS The National Map: Small-Scale hydrography, 2014. NOAA NCEI: ETOPO1 Global Relief, 2008.

River Mist Development
 SE 44th and S Harrah Rd
 Harrah, Oklahoma County, Oklahoma
 35°25'27.16" N, 97°09'18.24" W
 Unnamed tributaries to Wes Watkins Lake
 Sheet 1 of 9
 Apex Project No. 453548

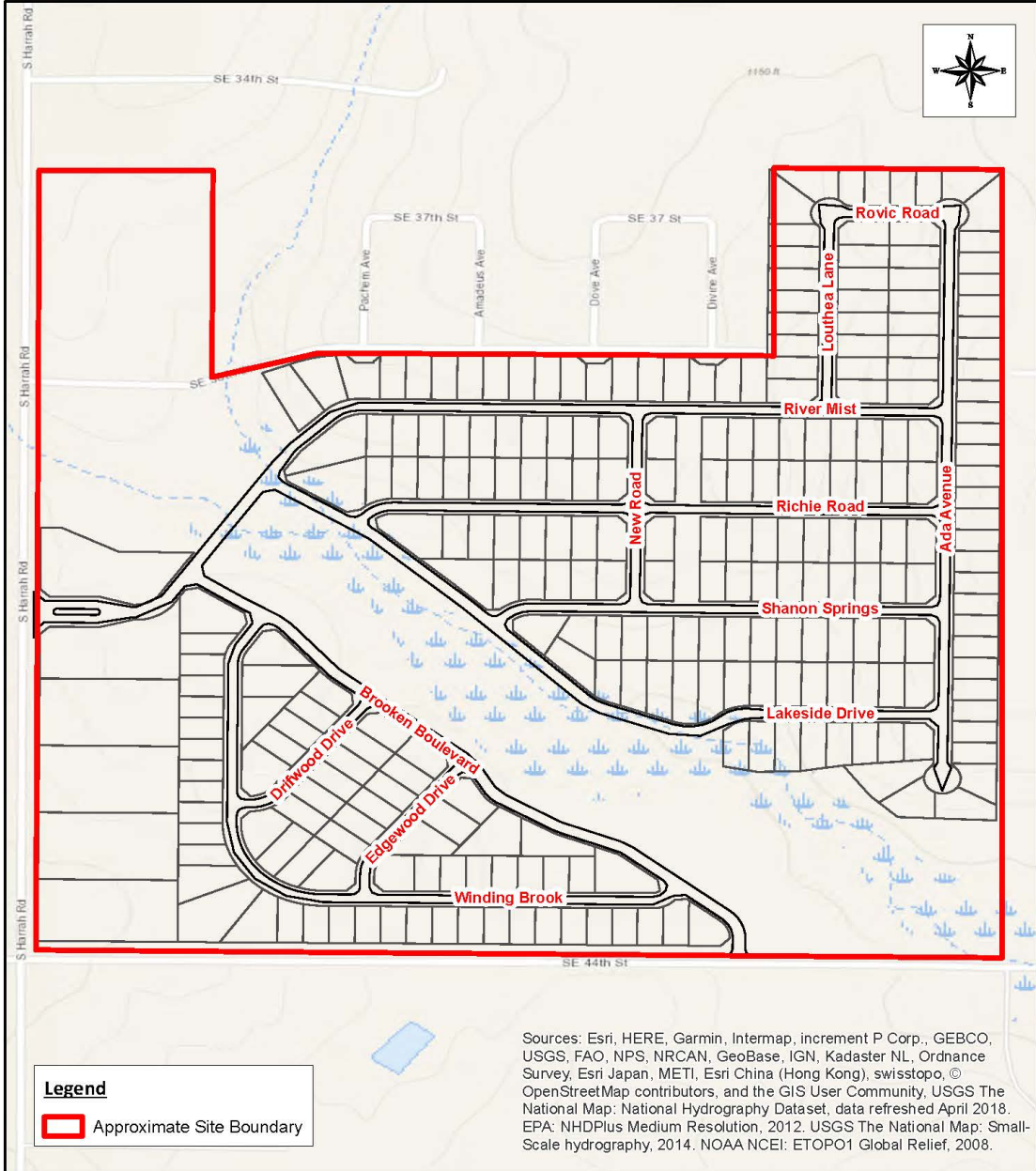


Apex Companies, LLC
 4608 South Garnett Road, Suite 100
 Tulsa, Oklahoma 74146
 Phone: (918) 610-3543
 www.apexcos.com

0 275 550 1,100 1,650
 Feet

Figure 1
Vicinity Map
 Harrah Quadrangle, Oklahoma
 January 2019

SWT-2018-657
 DeQuasie Development LLC
 Unnamed tributary of North Deer Creek
 Oklahoma County, Oklahoma
 Enclosure 1 of 8



River Mist Development
 SE 44th and S Harrah Rd
 Harrah, Oklahoma County, Oklahoma
 35°25'27.16" N, 97°09'18.24" W
 Unnamed tributaries to Wes Watkins Lake
 Sheet 2 of 9
 Apex Project No. 453548



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0 150 300 600 900
 Feet

Figure 2
Site Plan
 January 2019

SWT-2018-657
 DeQuasie Development LLC
 Unnamed tributary of North Deer Creek
 Oklahoma County, Oklahoma
 Enclosure 2 of 8



Legend
 Approximate Site Boundary

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

River Mist Development
 SE 44th and S Harrah Rd
 Harrah, Oklahoma County, Oklahoma
 35°25'27.16" N, 97°09'18.24" W
 Unnamed tributaries to Wes Watkins Lake
 Sheet 3 of 9
 Apex Project No. 453548



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0 205 410 820 1,230
 Feet

Figure 3
Site Location (Aerial Imagery)
 January 2019

SWT-2018-657
 DeQuasie Development LLC
 Unnamed tributary of North Deer Creek
 Oklahoma County, Oklahoma
 Enclosure 3 of 8



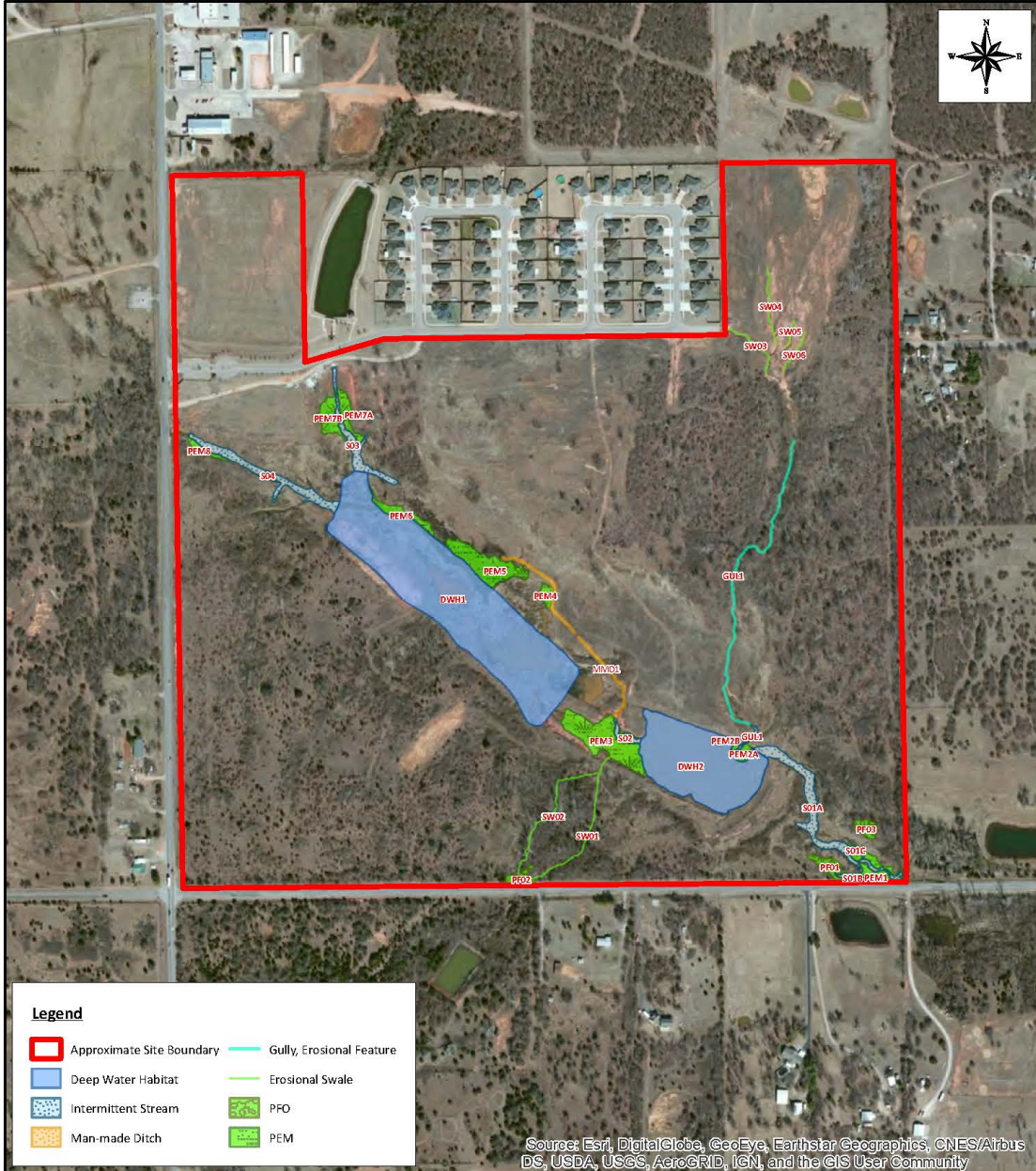
River Mist Development
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 Sheet 4 of 9
 Apex Project No. 453548


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0 205 410 820 1,230
 Feet

Figure 4
National Wetland Inventory Map
 January 2019

SWT-2018-657
 DeQuasie Development LLC
 Unnamed tributary of North Deer Creek
 Oklahoma County, Oklahoma
 Enclosure 4 of 8



Legend

Approximate Site Boundary	Gully, Erosional Feature
Deep Water Habitat	Erosional Swale
Intermittent Stream	PFO
Man-made Ditch	PEM

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

River Mist Development
 SE 44th and S Harrah Rd
 Harrah, Oklahoma County, Oklahoma
 35°25'27.16" N, 97°09'18.24" W
 Unnamed tributaries to Wes Watkins Lake
 Sheet 7 of 9
 Apex Project No. 453548

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0 165 330 660 990
 Feet

Figure 7
WOTUS and Wetland Delineation
 January 2019

SWT-2018-657
 DeQuasie Development LLC
 Unnamed tributary of North Deer Creek
 Oklahoma County, Oklahoma
 Enclosure 5 of 8



River Mist Development
 SE 44th and S Harrah Rd
 Harrah, Oklahoma County, Oklahoma
 35°25'27.16" N, 97°09'18.24" W
 Unnamed tributaries to Wes Watkins Lake
 Sheet 8 of 9
 Apex Project No. 453548

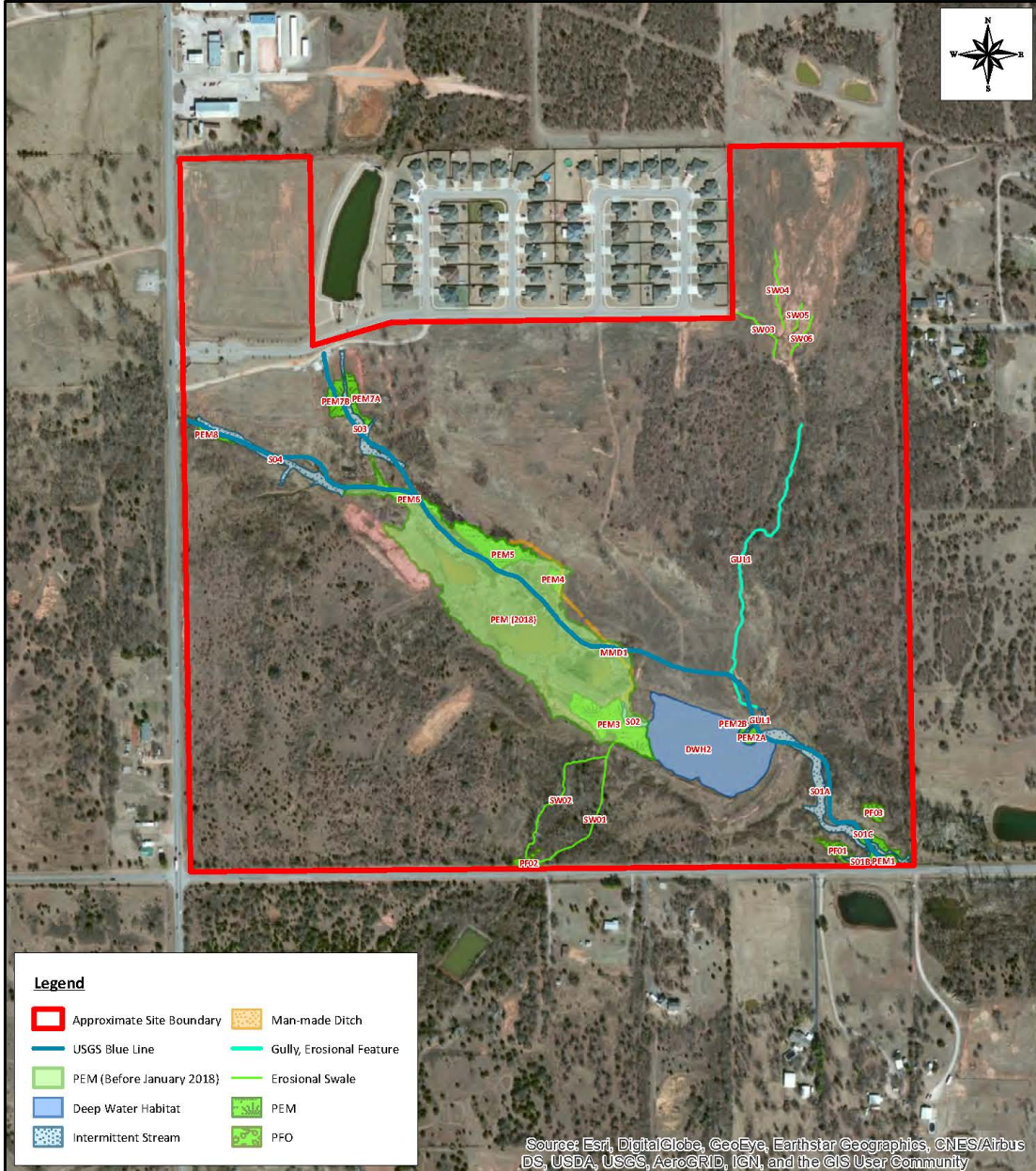


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0 165 330 660 990
 Feet

Figure 8
Location of Data and Photo Points
 January 2019

SWT-2018-657
 DeQuasie Development LLC
 Unnamed tributary of North Deer Creek
 Oklahoma County, Oklahoma
 Enclosure 6 of 8



Legend

Approximate Site Boundary	Man-made Ditch
USGS Blue Line	Gully, Erosional Feature
PEM (Before January 2018)	Erosional Swale
Deep Water Habitat	PEM
Intermittent Stream	PFD

River Mist Development
 SE 44th and S Harrah Rd
 Harrah, Oklahoma County, Oklahoma
 35°25'27.16" N, 97°09'18.24" W
 Unnamed tributaries to Wes Watkins Lake
 Sheet 9 of 9
 Apex Project No. 453548

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0 165 330 660 990 Feet

Figure 9
Approximate Delineation of PEM
Before January 2018
 January 2019

SWT-2018-657
 DeQuasie Development LLC
 Unnamed tributary of North Deer Creek
 Oklahoma County, Oklahoma
 Enclosure 7 of 8



River Mist Development
 SE 44th and S Harrah Rd
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 Sheet 6 of 6
 Apex Project No. 453548



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Not to Scale

Appendix C-6
Historic Aerial Imagery
 January 2018

SWT-2018-657
 DeQuasie Development LLC
 Unnamed tributary of North Deer Creek
 Oklahoma County, Oklahoma
 Enclosure 8 of 8