



Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
1645 South 101st East Avenue
Tulsa, OK 74128-4609

SWT-2015-291
Public Notice No.

July 15, 2015
Public Notice Date

August 14, 2015
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
1645 SOUTH 101ST EAST AVENUE
TULSA, OKLAHOMA 74128-4609

Application No. SWT-2015-291

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)
(30-DAY COMMENT PERIOD)

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

The application is to construct an inland lake, including associated water control devices, and a sanitary sewer outfall pipe for a future wastewater pumpout facility on an undeveloped 49.5-acre site.

Name of Applicant: Ms. Kelly Cannell
Preston Harbor, L.P.
5900 South Lake Forest Drive, Suite 295
McKinney, Texas 75070

Location: The proposed project is north of FM 406 and west of FM 84, near Denison, Grayson County, Texas. The project site can be found on the Pottsboro, Texas 7.5 Minute USGS Quadrangle map at North Latitude 33.825006 and West Longitude 96.647336.

Purpose: The applicant proposes to construct a dam in waters of the United States to facilitate the creation of a lake, which will serve as a storm water basin and an emergency discharge for wastewater, for a planned mixed-use residential/commercial development.

A water dependency statement determination is unnecessary, since no special aquatic sites are located at the project site.

The overall primary purpose of this work is to collect/treat stormwater runoff prior to release into the Little Mineral Arm of Lake Texoma and development irrigation. Secondly, and only in the event of a pump station failure, the lake would be used to collect untreated wastewater to avoid discharge into Lake Texoma.

Description of Work: The applicant proposes to place 1,750 cubic yards of fill material in 1,522.7 linear feet of stream to impound water over 2,208.34 linear feet of stream to form a 16.5-surface acre lake. The proposed project includes construction of an

earthen dam approximately 1,300 feet in length, a culvert within the dam leading to a baffled chute drop spillway, energy dissipater at the outfall of the spillway, 18-inch reinforced concrete pipe with a drop inlet structure, and a dike. Additionally, an 18-inch emergency sanitary sewer overflow pipe, new roadways at the existing dams (Lake Gray and Lake Lightbourn) would be constructed and installed outside of waters of the United States.

Table of Impact:

Current Proposal				
Impact Activity	Type of Impact	Type of Fill Material	Qty of Material cys below OHWM	Footprint (ac and/or lf)
Dam Construction	Placement of Fill Material	Unconsolidated Material from On- and Off-site	1,750 cys	1,522.70 lf
Inundation	Change in Function (stream to open water)	N/A	N/A	2,208.34 lf
Total Impacts				3731.04 lf
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), liner feet (lf)				

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 was able to re-design and re-plan the proposed development on the approximately 49.5 acre tract to avoid and minimize impacts in as many areas as possible. In particular, the several tributaries of Little Mineral Arm were avoided by redesign of the emergency outflow pipe being above the OHWM of the tributary, and the inland lake footprint was reduced considerably by avoiding impacts below the 645 ft. AMSL elevation contour (limits of USACE ownership).”

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

Compensatory mitigation would be conducted through on- and off-site permittee responsible mitigation, including one lake shoreline and one stream mitigation site. The proposed lake shoreline mitigation site consists of enhancing 1,200 linear feet of disturbed shoreline through the planting of riparian vegetation within a 50-foot wide area along its length. The stream mitigation site consists of enhancing 1,000 linear feet of stream, which abutts Little Mineral Arm Creek south of Little Mineral Arm and

north of the FM 406, and includes planting native riparian vegetation after grading the mitigation area. Both the lakeshore mitigation site and the stream mitigation site would be placed into perpetual conservation easement to prevent disturbance or destruction. Finally, performance standards for both mitigation sites would include 80% survivability of all tree species over a 5-year period, 20% coverage of natural recruitment of desirable understory species, and less than 10% cover by exotic and invasive species. Quarterly monitoring reports would be required during the first year, semi-annual monitoring reports for the second year, and annual reports during years 3 through 5.

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. The Corps is accepting comments on the need for and nature of the proposed mitigation in addition to comments on the applicant's primary proposal. 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 proposed project site consists of approximately 49.5 acres of undeveloped land within the East Central Texas Plains ecoregion. The project location is within the 100-year floodplain of Lake Texoma, including portions of several unnamed tributaries to Little Mineral Arm of Lake Texoma and adjacent wetlands. The unnamed tributaries to Little Mineral Arm are natural streams, which carry surface runoff and are influenced by groundwater in some locations and have been historically altered due to mining activity. In 2013, the USACE conveyed the 660 acres of land, including the proposed 49.5-acre site, bordering Lake Texoma in Little Mineral Bay to the City of Denison, pursuant to a mandate in the Water Resources Development Act of 2007.

Existing Condition: The proposed site would be located in an area of undeveloped land, which was previously disturbed due to rock and mineral mining activity.

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 Ms. Eva Zaki-Dellitt, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

Cultural Resources: The DE has consulted the National Register of Historic Places, and it has been determined that there are no properties currently listed in the National Register which would be directly affected by the proposed work. The DE has also consulted the listing of Eligibility Determinations for Texas and determined that the proposed project is not in the vicinity of properties eligible for listing. This public notice is also being sent to the State Historic Preservation Office.

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: Eskimo curlew (*Numenius borealis*), interior least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus*), whooping crane (*Grus americana*), and red wolf (*Canis rufus*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

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

Environmental Considerations: The decision whether to issue a permit would be based on an evaluation of the probable impact 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; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property 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.

Authorization from other Agencies: Tier II projects: This project would result in a direct impact of greater than 3 acres of waters of the state or greater than 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, TCEQ CWA Section 401 Water Quality Certification is required. Concurrent with processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with 30 TAC § 279, to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the TCEQ, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of the publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ Austin office. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: name; mailing address; application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of

persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and officials, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than 30 days from the date of this public notice. 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 person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

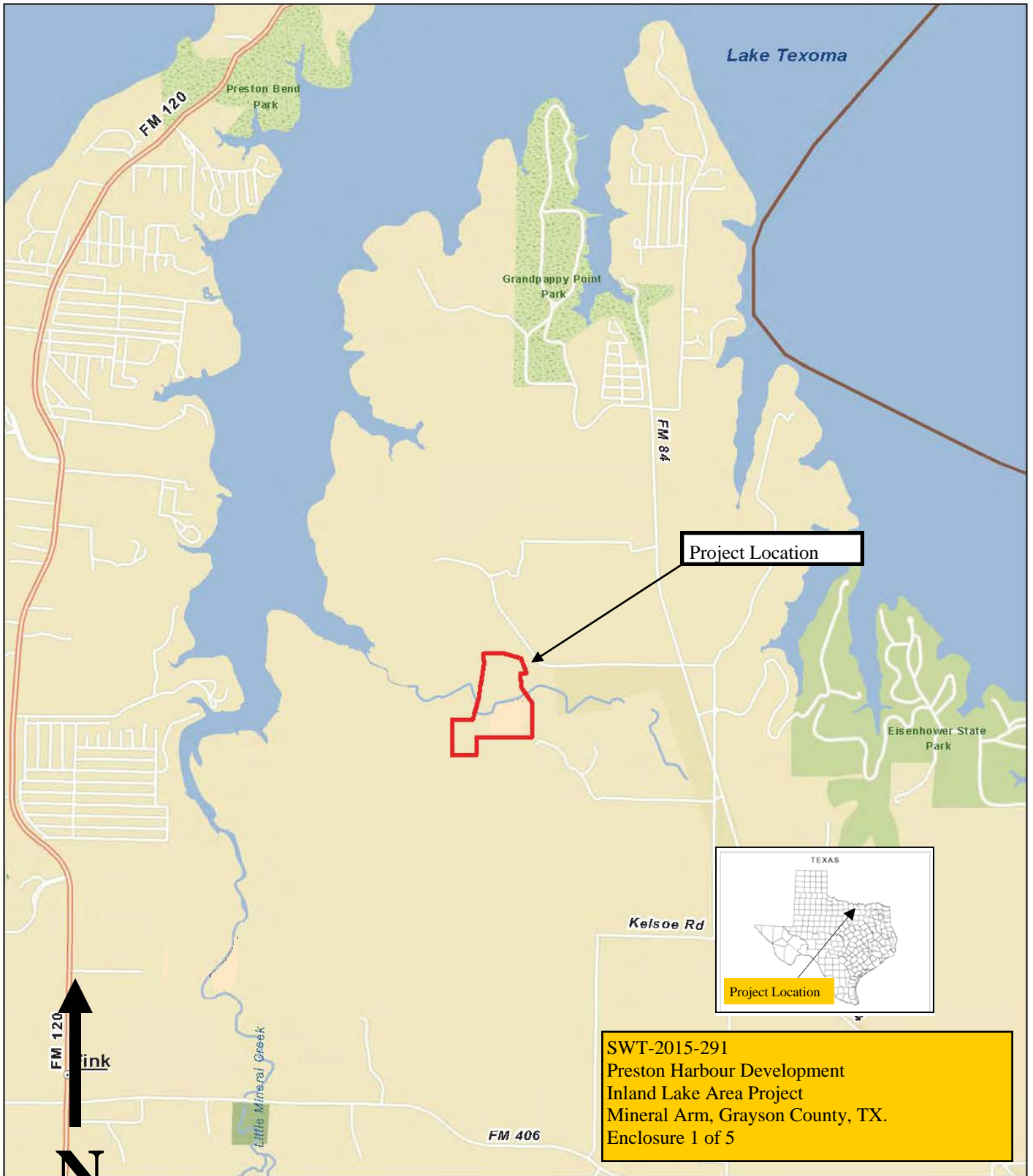
We are sending a copy of this notice to the local floodplain administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. The local floodplain administrator is required to perform this review for all proposed development and maintain records of such review.

Comments concerning water quality impacts would be forwarded to TCEQ 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

Aerial Map:



Legend

 Project Location



Preston Harbour Development
Project Vicinity Map

Department of the Army Permit Application
USACE Application No.:
Sheet 1 of
Grayson County, Texas

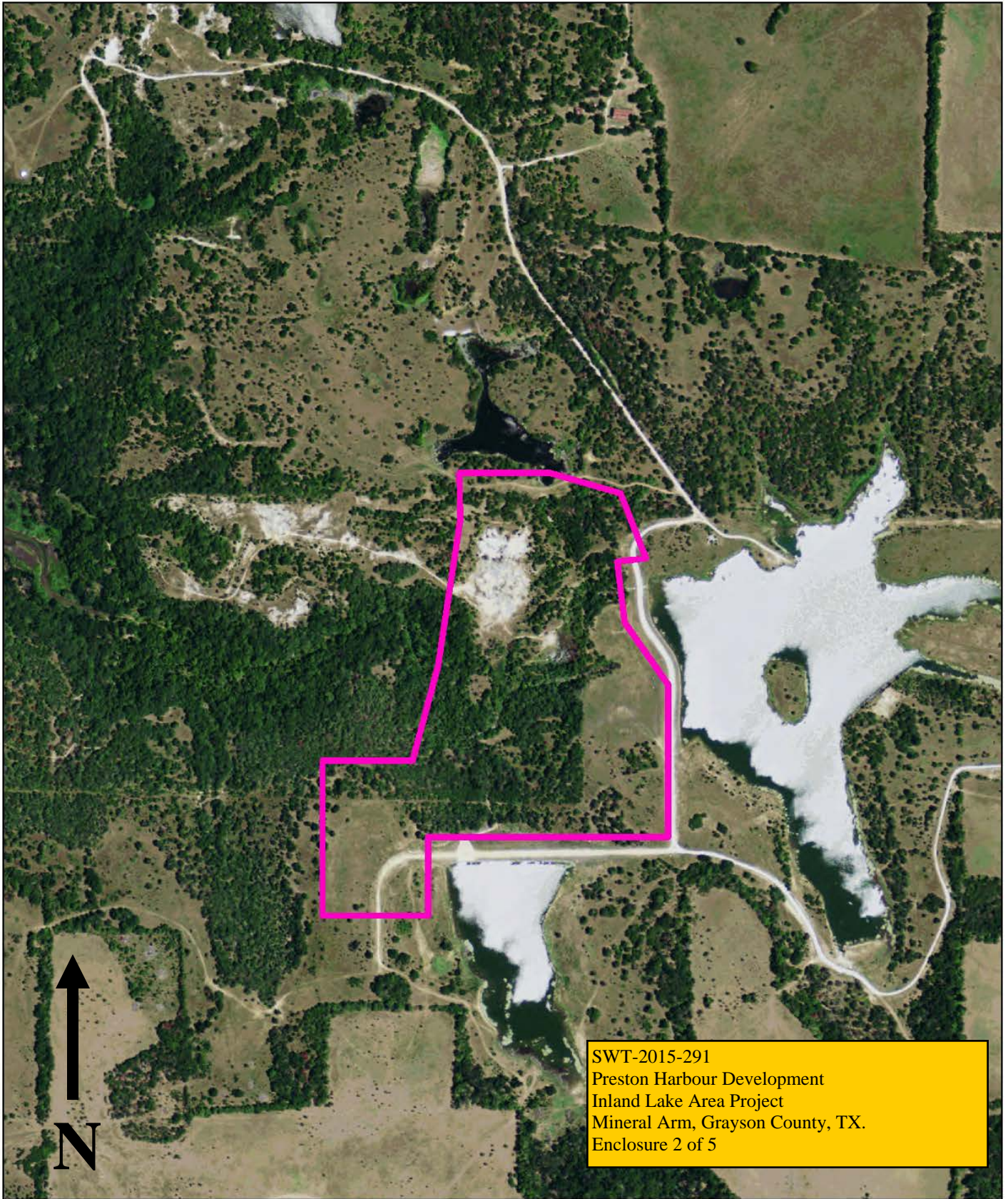


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Map Base: ESRI World Topo Map
Map Datum: NAD 1983 State Plane Texas North Central, US Foot
Map Date: March 5, 2015

Aerial Map:



Legend

 Project Outline (49.5 Acres)

0 75 150 300 450 600
Feet



1:7,200

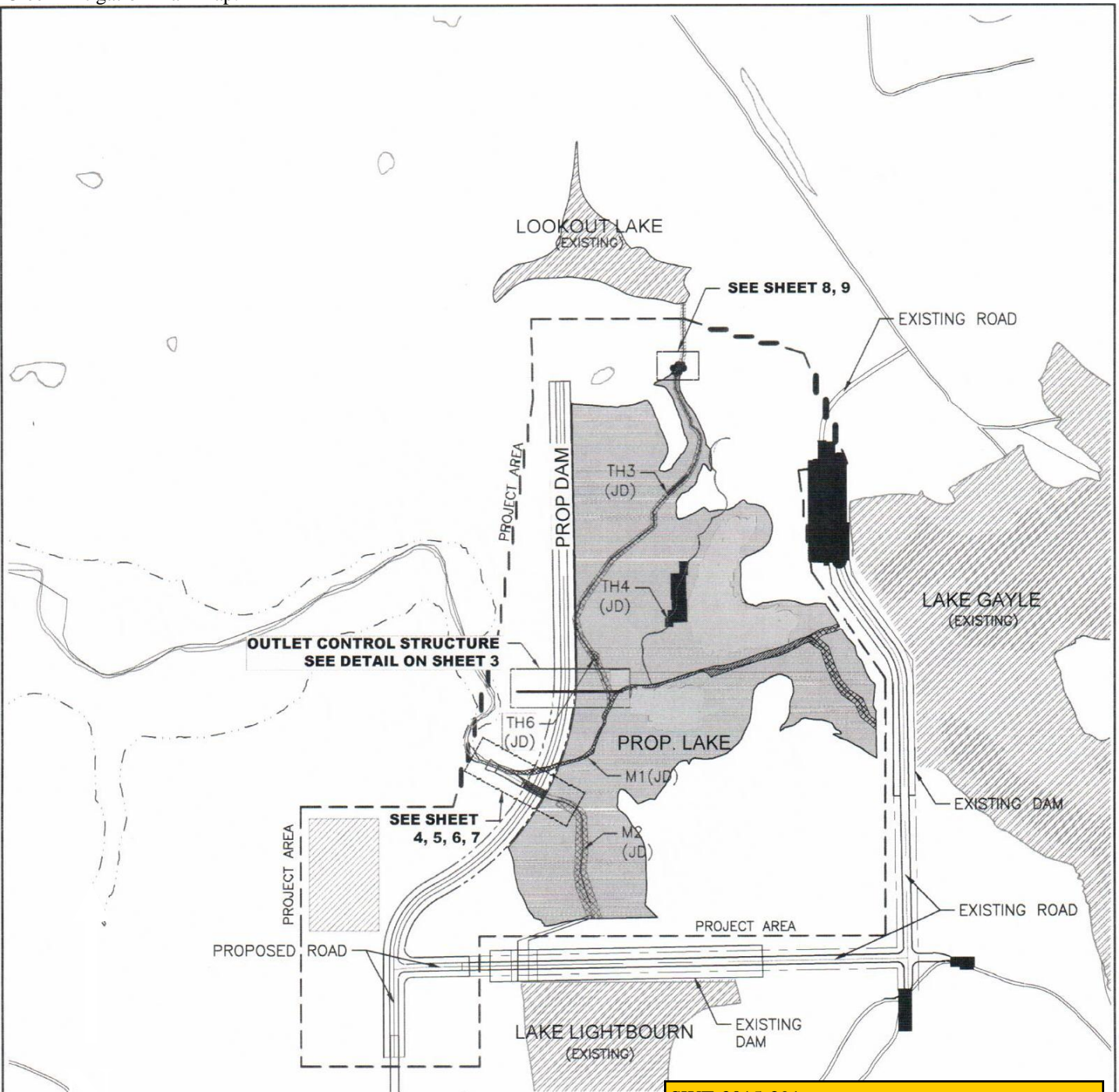
Preston Harbour Development
Proposed Project Location

Department of the Army Permit Application
USACE Application No.:
Sheet
Grayson County, Texas



Map Base: 2012 Natural Color Aerial Imagery from <http://www.turiso.org> (Pottsboro Quad)
Map Datum: NAD 1983 State Plane Texas North Central US Foot
Map Date: October 3, 2014

Creek Mitigation Plan Map:

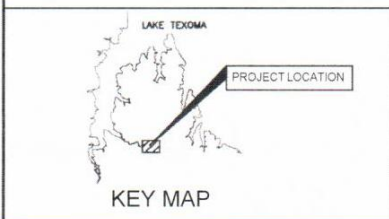


LEGEND

- PROPOSED STAGING AREA
- PROPOSED IMPACT AREAS
- EXISTING LAKE
- AVOIDED AREA
- PROPOSED LAKE
- PROJECT AREA
- 645 FT. USACE BOUNDARY ELEV.

SWT-2015-291
 Preston Harbour Development
 Inland Lake Area Project
 Mineral Arm, Grayson County, TX.
 Enclosure 3 of 5

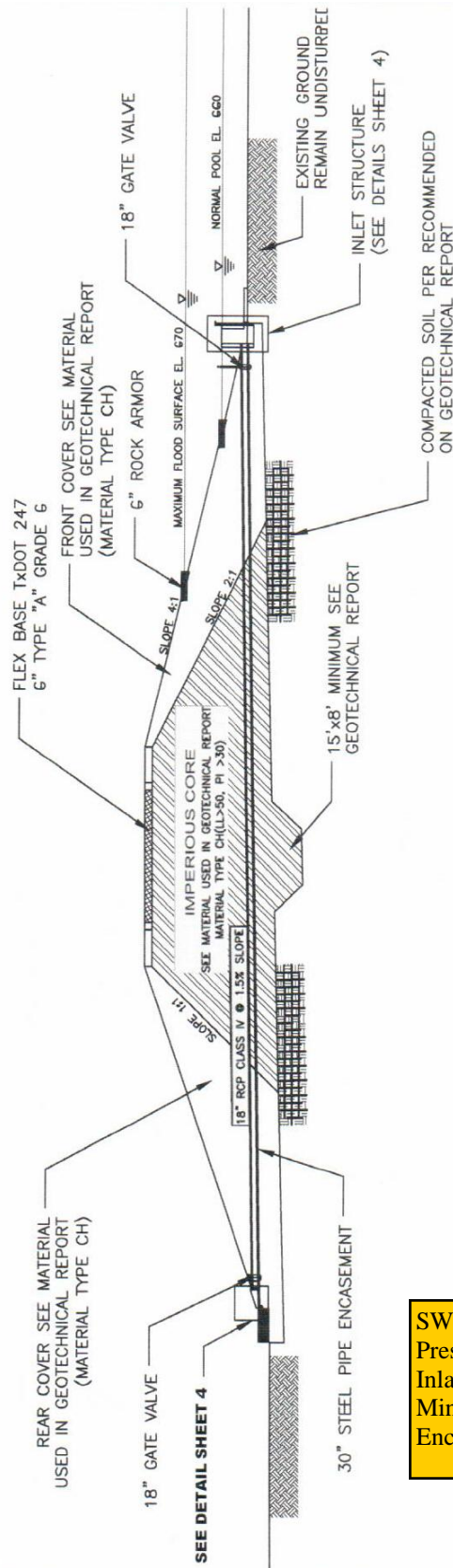
DRAWING TO BE USED FOR PERMITTING PURPOSES ONLY



PSA ENGINEERING
 17819 DAVENPORT ROAD, SUITE 210
 DALLAS, TEXAS 75252
 (972) 248-9651 FAX: (972) 248-9681
 T.B.P.L.S. FIRM LICENSED NO. F-4874
 T.B.P.L.S. FIRM REGISTERED NO. 100433

PROPOSED PLAN		
USACE Application No.		 SCALE 1:400
DATE	NOVEMBER 10, 2014	
DRAW BY	PSA	SHEET 2
CHECK BY	PSA	

Dam Cross Section Map:

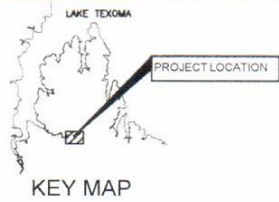


PROPOSED DAM AND OUTLET CONTROL STRUCTURE
CROSS SECTION
SCALE NTS

PROPOSED DAM DIMENSION	
LENGTH (FT.)	MAX. DEPTH (FT.)
DAM 1,300	25

SWT-2015-291
Preston Harbour Development
Inland Lake Area Project
Mineral Arm, Grayson County, TX.
Enclosure 4 of 5

DRAWING TO BE USED FOR PERMITTING PURPOSES ONLY

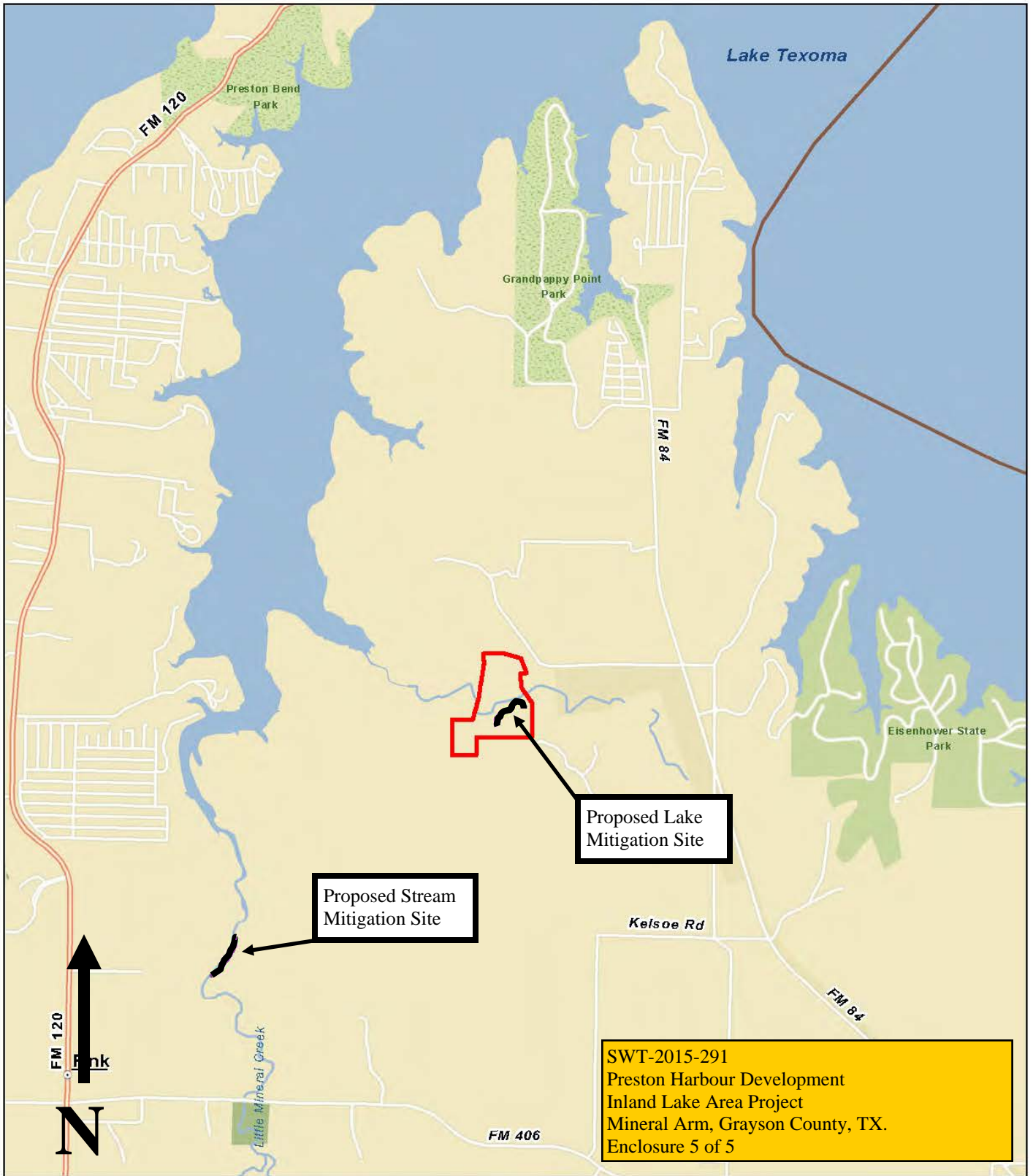


17819 DAVENPORT ROAD, SUITE 215
DALLAS, TEXAS 75252
(972) 248-9651 FAX: (972) 248-9681
T.B.P.E. FIRM LICENSED NO. F-6974
T.B.P.L.S. FIRM REGISTERED NO. 100433

PROPOSED TYPICAL DAM CROSS SECTION

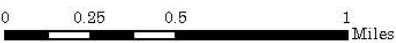
USACE Application No.	
DATE	NOVEMBER 10, 2014
DRAW BY	PSA
CHECK BY	PSA
SHEET	3

Project Vicinity Mitigation Plan Map:



Legend

- Proposed Mitigation Sites
- Project Location



Preston Harbour Development: Mitigation Sites
Project Vicinity Map

Department of the Army Permit Application
USACE Application No.:
Sheet 1 of
Grayson County, Texas

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1:31,948



Map Base: ESRI World Topo Map
Map Datum: NAD 1983 State Plane Texas North Central, US Foot
Map Date: March 5, 2015