



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, Oklahoma 74128-4609

SWT-2015-573
Public Notice No.

December 13, 2016
Public Notice Date

January 13, 2017
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
1645 SOUTH 101ST EAST AVENUE
TULSA, OKLAHOMA 74128-4609

Application No. SWT-2015-573

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 permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

The application is for the placement of 1.19 acres of fill into waters of the United States associated with the construction of a commercial and residential development, including access drives, parking areas, and public recreation areas.

Name of Applicant: Mr. George Tomlin
Bartlesville Investment Partners, L.L.C.
9010 Overlook Boulevard
Brentwood, TN. 37027

Mr. David Wood
Bartlesville Development Authority
201 West Keeler Avenue
Bartlesville, OK 74003

Name of Agent: Mr. David Winter
Lord and Winter, L.L.C.
1720 Nottingham Place
Nashville, TN 37221

Location: The proposed project is in Section 17, Township 26 North, Range 13 East, in Bartlesville, Washington County, Oklahoma. The project site can be found on the Bartlesville South, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 36.739940 and West Longitude 95.947303.

Purpose: The basic purpose of this work is to construct a commercial development, which is not a water dependent activity.

The overall purpose of this work is to construct Phases 2, 3, and 4 of the Silver Lake Village shopping center, within a 111-acre tract of land, to serve the Bartlesville area.

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)
Wetland D	Placement of fill material	Forested wetland	Native silty clay fill	24,800 cys	1.18 ac (432 lf)
Stream S1	Placement of fill material	Stream	Native silty clay fill	200 cys	644 lf (0.01 ac)
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)					

Description of Work: The applicant proposes to place fill material into 1.18 ac of wetlands and 644 lf of stream for a commercial and residential development, including access drives, parking areas, and public recreation areas. This project will require bulldozers, scrapers, front-end loaders, and trucks.

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:

Avoidance and minimization of impacting natural resources has been maximized through communications with Tulsa District and changes in the original design. Key avoidance includes (1) avoiding impacts to 0.39 ac Wetland B by reducing the Phase 2 retail footprint, (2) avoiding impact to the 12.4 ac Wetland F and 0.26 ac Wetland E by shifting the retail area northward, (3) avoiding impact to the American Burying Beetle (ABB) by confirming no ABB individuals are present, and (4) avoiding direct impact to northern long-eared bat by banning cutting from April 1 to August 15.

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

Compensation for the loss of a total of 1.18 ac of wetland resources and 0.01 ac of stream resources, include replacement of S1 near its original location and to continue to discharge into Wetland B, restoration of a 1,325 lf segment of S3, preservation of a 20 ac deed restricted riparian area, including 3.7 ac riparian habitat and 16.3 ac forested wetland habitat, and purchase of wetland mitigation credit.

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.

Other: The applicant surveyed for the ABB, from May 27, 2016 to June 1, 2016. On June 22, 2016, the U.S. Fish and Wildlife Service was notified of the negative results and was supplied a copy of the ABB survey report.

Project Setting: This project is located within the Osage Cuestas ecoregion of Oklahoma, which is part of the Central Irregular Plains ecoregion. The Osage Cuestas is characterized by a belt of prairies and streams, consisting of irregular to undulating plains that are broken by low hills and cuestas. This ecoregion serves as a separation between the Cross Timbers ecoregion and the forests of the Boston Mountains and Ozark Highlands.

Existing Condition: The 111-acre parcel of land is comprised of forested areas, wetlands and non-wetlands, three ephemeral streams, one intermittent stream, and riparian zones. Additionally, the proposed project is located within an area of commercial and residential development, based on 2015 aerial imagery.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 5). 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 Oklahoma 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 Officer and to Native American Tribal governments to reveal if other known historic or archeological resources may be eligible for listing in the National Register exist in the project area and which could be directly affected by the proposed work. This coordination is being done to fulfill our requirements under the National Historic Preservation Act of 1966 (Public Law 89-665) and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which may be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966, as amended, and 36 CFR Part 800, in accordance with implementing regulations 33 CFR 325, Appendix C.

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*), whooping crane (*Grus americana*), Neosho mucket (*Lampsilis refinesqueana*), American burying beetle (*Nicrophorus americanus*), and northern long-eared bat (*Myotis septentrionalis*). 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.

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

Environmental Considerations: 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.

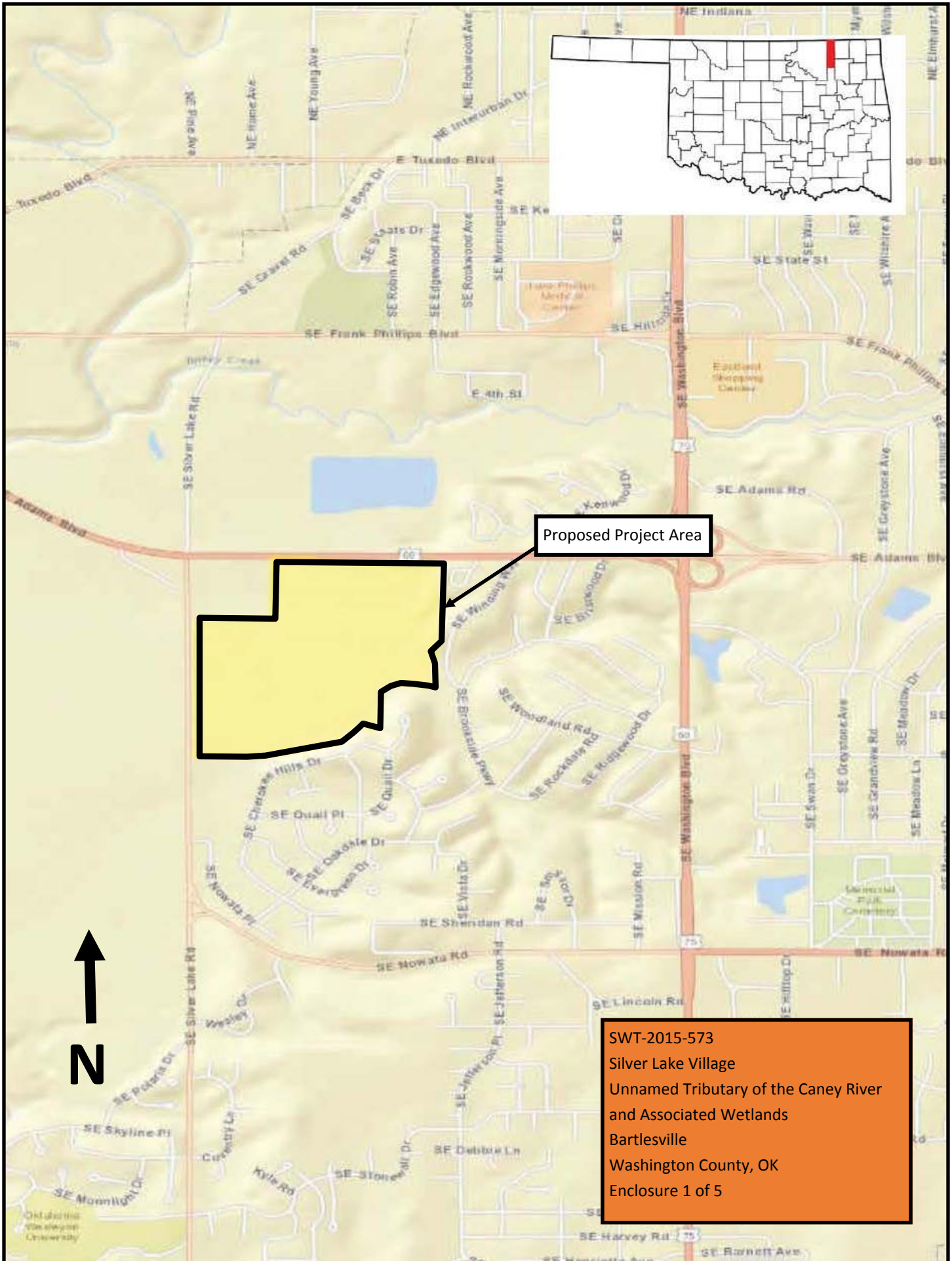
Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and officials, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than 30 days from the date of this public notice. Any comments received 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 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.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program State Coordinator, 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 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

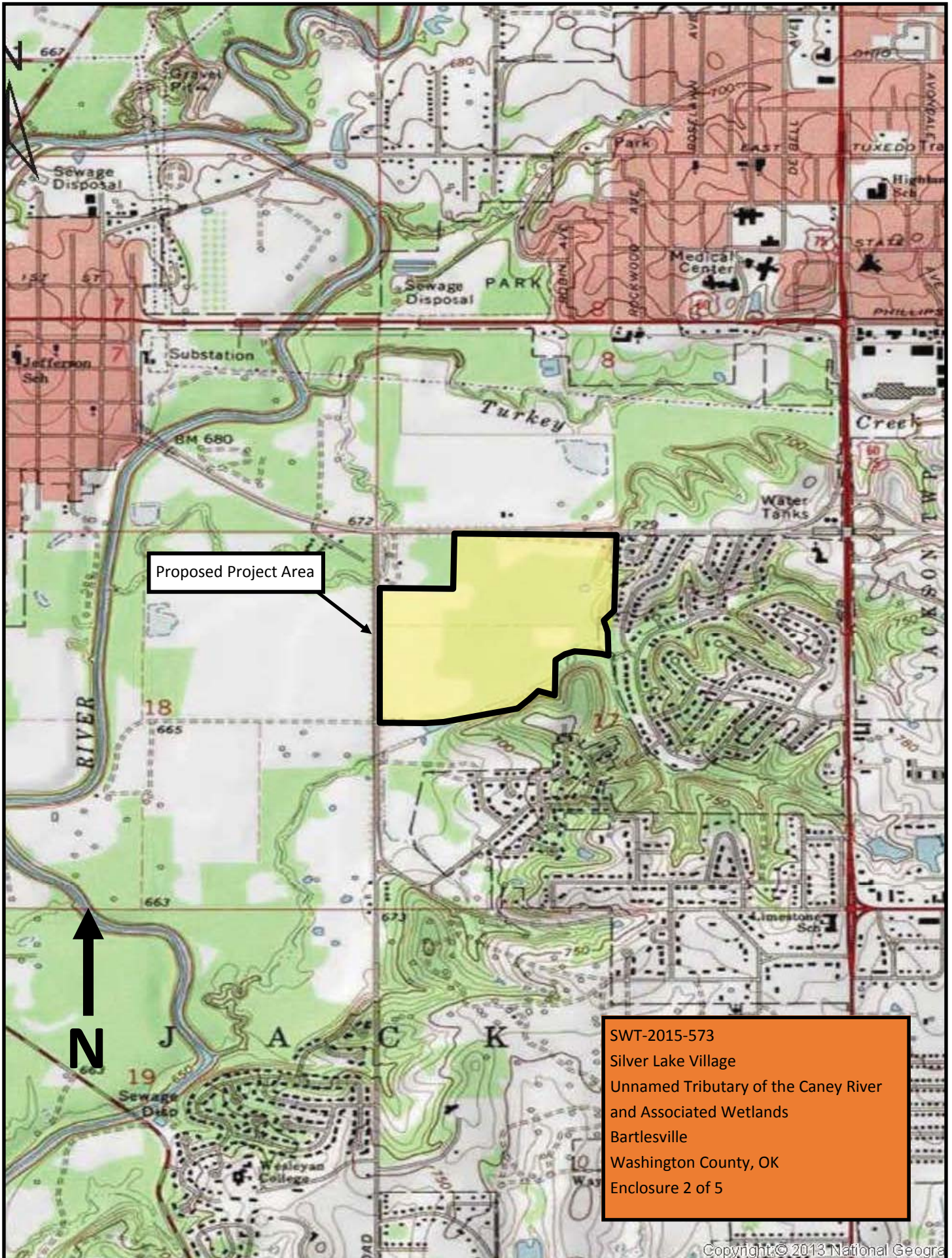
Enclosures



Proposed Project Area



SWT-2015-573
Silver Lake Village
Unnamed Tributary of the Caney River
and Associated Wetlands
Bartlesville
Washington County, OK
Enclosure 1 of 5



Proposed Project Area

SWT-2015-573
Silver Lake Village
Unnamed Tributary of the Caney River
and Associated Wetlands
Bartlesville
Washington County, OK
Enclosure 2 of 5

Proposed Project Boundary

Wetland D (1.18 acres)

Stream (S1)

Wetland B (0.39 acres)

Stream (S4)

Stream (S2)

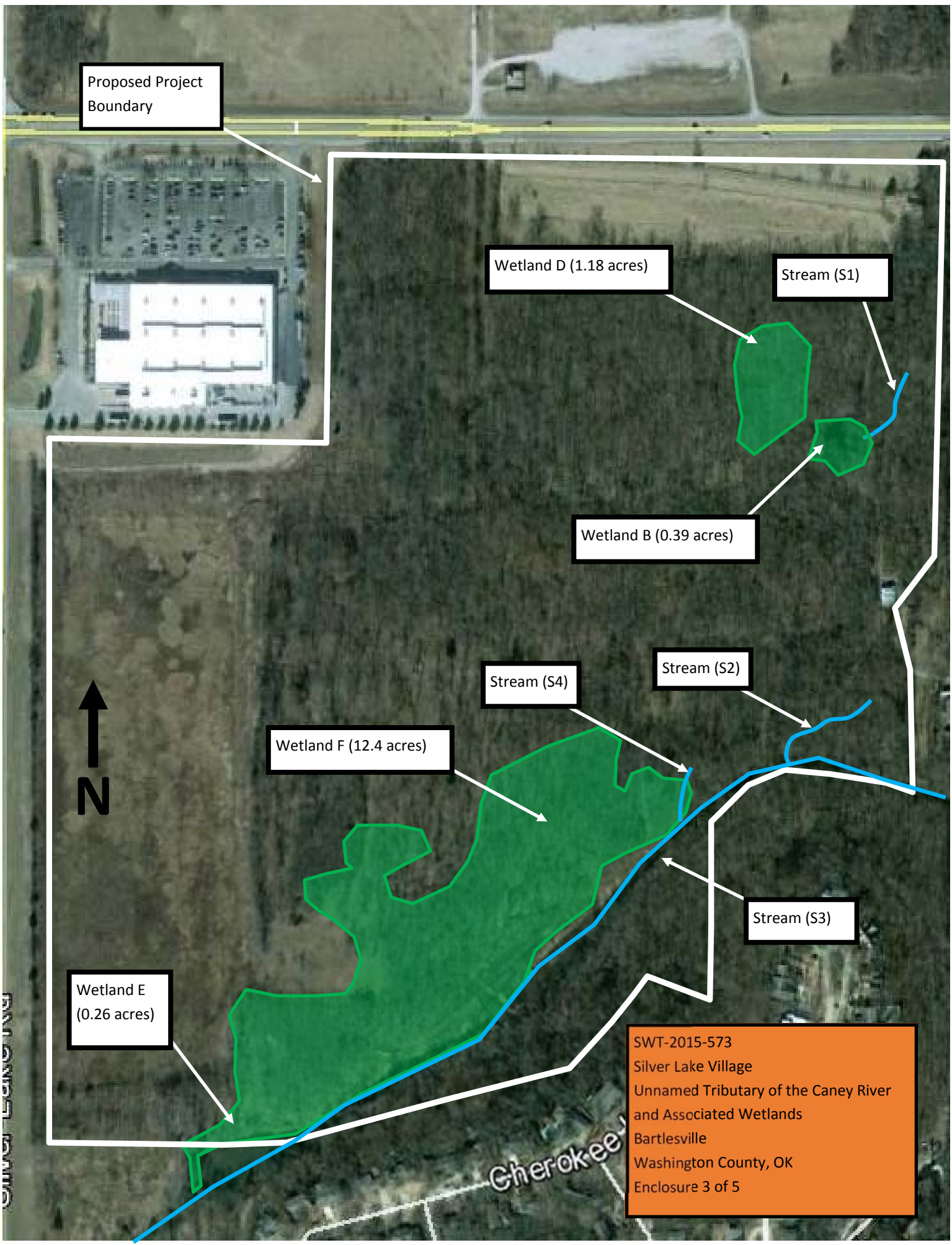
Wetland F (12.4 acres)

Stream (S3)

Wetland E (0.26 acres)



SWT-2015-573
Silver Lake Village
Unnamed Tributary of the Caney River
and Associated Wetlands
Bartlesville
Washington County, OK
Enclosure 3 of 5



Proposed Project Boundary

S1 Restoration
(0.01 acres)

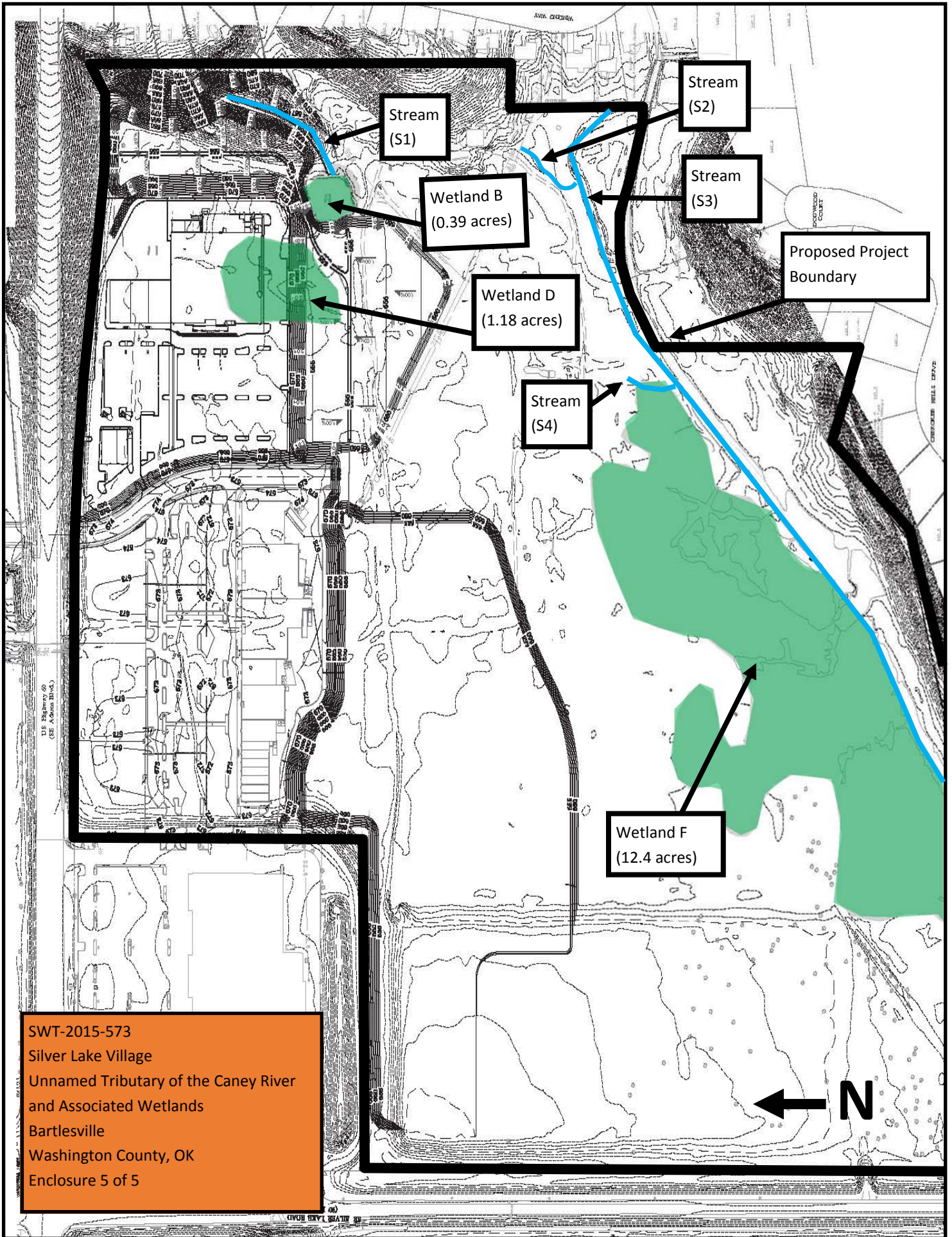
Deed Restricted
Preservation
(20 acres)



S3 Restoration
(0.85 acres)

SWT-2015-573
Silver Lake Village
Unnamed Tributary of the Caney River
and Associated Wetlands
Bartlesville
Washington County, OK
Enclosure 4 of 5

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Stream (S1)

Wetland B (0.39 acres)

Wetland D (1.18 acres)

Stream (S4)

Stream (S2)

Stream (S3)

Proposed Project Boundary

Wetland F (12.4 acres)



SWT-2015-573
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Enclosure 5 of 5