



# Public Notice

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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-2016-459  
Public Notice No.

August 1, 2018  
Public Notice Date

August 31, 2018  
Expiration Date

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## 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

This public notice has been provided as a public service and may be reprinted at your discretion. However, any cost incurred as a result of reprinting or further distribution shall not be a basis for claim against the Government.



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

Application No. SWT-2016-459

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 under Section 404 of the Clean Water Act.

Applicant: Joe Hart, Manager  
Hart Farms & Cattle Company, L.P.  
175 Hart Drive  
Hooks, TX 75561

Agent: Raymond Jordan  
Jordan Law Firm, L.L.P.  
4 Woodmont Crossing  
Texarkana, TX 75503

Location: The proposed project is near Hooks, Bowie County, Texas. The project site consists of three distinct segments of bank stabilization. Latitude and longitude coordinates are as follows: Site 1 begins at 33.57957, -94.28671 and ends at 33.58093, -94.27683. Site 2 begins at 33.56306, -94.29423 and ends at 33.55806, -94.29392. Site 3 begins at 33.55641, -94.29268 and ends at 33.55464, -94.29071.

Project Description: The application is for an after-the-fact (ATF) permit for the placement of fill material along the right descending bank of the Red River at three different sites for the purpose of bank stabilization.

Purpose: The basic purpose of this work is to conduct bank stabilization associated with the applicant's land along the Red River. A water dependency determination is not necessary due to no special aquatic sites located within the project site.

The overall purpose of this work is to stabilize the bank line within the applicant's property along the Red River using recycled (demolition) concrete.

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)
Site 1	Bank stabilization	Perennial River	Recycled concrete	5,092	6,238 lf
Site 2	Bank stabilization	Perennial River	Recycled concrete	1,722	2,064 lf
Site 3	Bank stabilization	Perennial River	Recycled concrete	800	988 lf
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)					

Description of Work: The applicant has already conducted bank stabilization along the right descending bank of the Red River at three different sites along their agricultural land. The bank stabilization was completed using recycled concrete and similar bricks, rocks, and gravel. The project impacts for Site 1 is approximately 6,238 lf, Site 2 is approximately 2,064 lf, and Site 3 is approximately 988 lf. Broken concrete ranges in size from 1x1 feet to 3x4 feet blocks.

Note: This ATF application was determined to be acceptable following the applicant receiving a cease and desist letter dated October 16, 2016. This letter included initial corrective measures that were required to be completed prior to moving forward with a permit evaluation. Those measures included removing exposed rebar from the recycled concrete and removing several debris islands of recycled concrete which formed due to high flow events that exposed the material along the bank and remained within the river channel.

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:

“No substantial impacts to the river waters will be produced as the fill concrete will be upon the banks and downslopes. No mitigation or compensation is required as the purpose of the activity is to prevent erosion and loss of valuable crop and ranch land without affecting the river.”

Mitigation: 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.

Cultural Resources: The DE has consulted the National Register of Historic Places regarding the potential effects in the permit area. The DE will comply with the requirements of the National Historic Preservation Act of 1966 for any known or

presently unknown historic or archeological resources that may exist in the project vicinity and which could be directly affected in the permit area. This public notice is being sent to the Texas 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 activity under review. 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 in the permit area, 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: least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), and the red knot (*Calidris canutus rufa*). 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 02ETAR00-2018-SLI-1303. 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.

Authorization from other Agencies: This project would result in a direct impact of greater than 3 acres of waters of the state or 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, Attn: 401 Coordinator (MC 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.

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. Bryan Noblitt, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 918-669-7400.

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, floodplain administrators, SHPO, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than the expiration date of this public notice. 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-2016-459 in the subject line of the message.

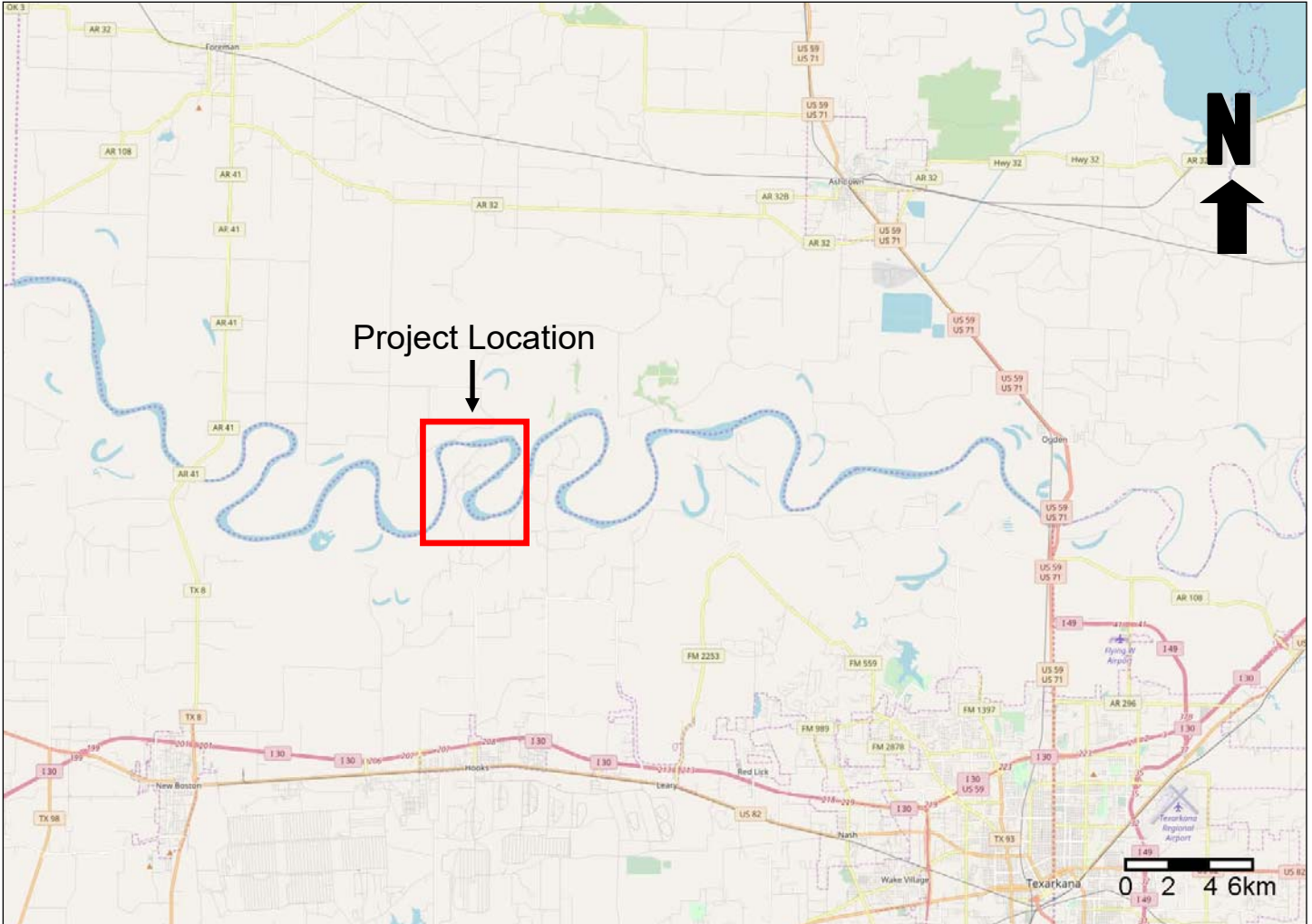
Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Comments concerning water quality impacts will 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

Vicinity



SWT-2016-459  
Hart Ranch Bank Stabilization  
Bowie County, Texas  
Red River  
Enclosure 1 of 5



SWT-2016-459  
Hart Ranch Bank Stabilization  
Bowie County, Texas  
Red River  
Enclosure 2 of 5



SWT-2016-459  
Hart Ranch Bank Stabilization  
Bowie County, Texas  
Red River  
Enclosure 3 of 5

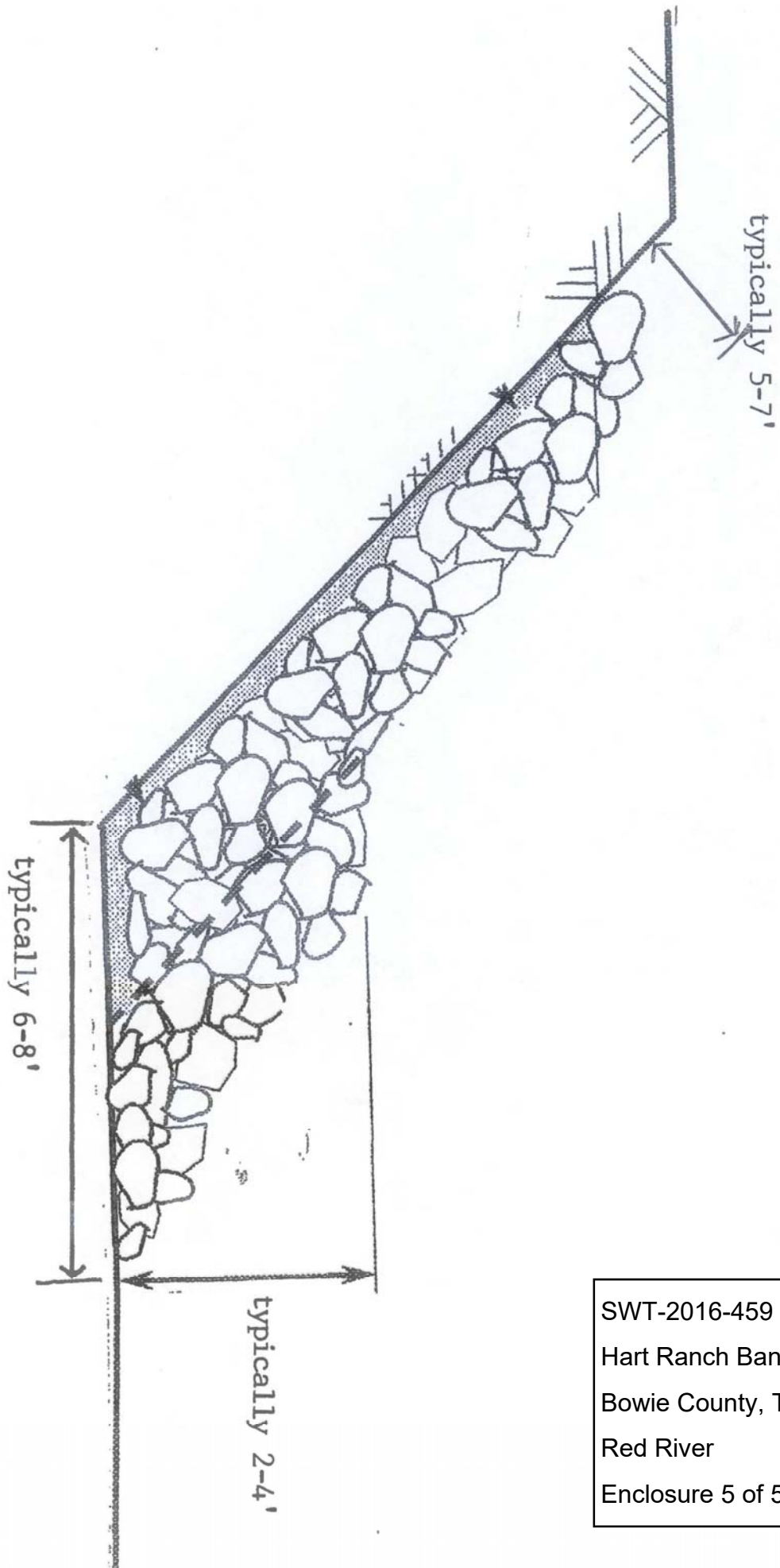




Site 2

Site 3

SWT-2016-459  
Hart Ranch Bank Stabilization  
Bowie County, Texas  
Red River  
Enclosure 4 of 5



SWT-2016-459  
Hart Ranch Bank Stabilization  
Bowie County, Texas  
Red River  
Enclosure 5 of 5