



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-2020-00344
Public Notice No.

November 2, 2022
Public Notice Date

December 2, 2022
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
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT
2488 EAST 81ST STREET
TULSA, OKLAHOMA 74137-4290**

Application No. SWT-2020-00344

**PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
(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).

Applicant: Mr. David Bahrenburg
N.E. Land Fill, LLC
1001 South Rockwell
Oklahoma City, OK 73128

Agent: Mr. Clayton Collier
Hydrex Environmental, LLC
1120 NW Stallings Drive
Nacogdoches, TX 75964

Location: The proposed project is in Section 22, Township 12 North, Range 2 West, near Spencer, Oklahoma County, Oklahoma. The project site can be found on the Midwest City, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 35.496825 and West Longitude 97.388838.

Project Description: The application proposes a 73.2 acre lateral expansion of the existing landfill to the north. The proposed project also includes the construction of landfill waste disposal cells and a stormwater pond within scrub-shrub wetlands, open water, an intermittent stream, and an ephemeral stream.

Purpose: The overall purpose of this work is to provide additional waste disposal capacity for the Oklahoma City Metro area. 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)
Proposed Phase 12	Waste Disposal Cell	Wetland A – Scrub Shrub	Onsite Sandy Loam/Loamy native soil	1,291 cys	0.40 ac
Proposed Phase 13	Waste Disposal Cell	Wetland B – Scrub Shrub	Onsite Sandy Loam/Loamy native soil	516 cys	0.16 ac
Proposed Phase 17	Waste Disposal Cell	Open Water 1	Onsite Sandy Loam/Loamy native soil	239 cys	0.04 ac
Proposed Phase 12/13	Waste Disposal Cells	Open Water 5	Onsite Sandy Loam/Loamy native soil	4,388 cys	0.68 ac
Proposed Phase 12, 13, 14, 15, 16, 17	Waste Disposal Cells	Ephemeral Stream 1 – Unnamed tributary of Crutch Creek	Onsite Sandy Loam/Loamy native soil	203 cys	0.14 ac; 1,359 lf
Proposed Phase 13	Waste Disposal Cell	Intermittent Stream 2 – Unnamed tributary of Crutch Creek	Onsite Sandy Loam/Loamy native soil	48 cys	0.03 ac; 383 lf
Proposed North Stormwater Pond	Proposed North Stormwater Pond	Open Water 1	Onsite Sandy Loam/Loamy native soil	277 cys	0.04 ac
Proposed Northwest Stormwater Pond	Proposed Northwest Stormwater Pond	Intermittent Stream 2 – Unnamed tributary of Crutch Creek	Onsite Sandy Loam/Loamy native soil	45 cys	0.02 ac; 363 lf
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)					

Description of Work: The applicant proposes the placement of dredge or fill material consisting of a total of 7,007 cys of onsite sourced sandy loam/loamy native soils for the preparation of a clay liner, 6 future waste disposal cells, and two stormwater ponds within waters of the United States. Specifically, the placement of dredged or fill material would be within scrub-shrub wetland "A" (0.40 ac) within the proposed location of Phase 12 of the lateral expansion area. Scrub-shrub wetland "B" (0.16 ac) would be placed during Phase 13 of the lateral expansion area. The proposed activities within the open water "1" (0.04 ac) would occur at location Phase 17 and the proposed north stormwater pond (0.04 ac). Open water "5" (0.68 ac) would occur within the proposed locations of Phase 12 and 13 of the lateral expansion area. Ephemeral stream "1" (1,359 lf, 0.14 ac) flows through proposed Phases 12, 13, 14, 15, 16, and 17 within the proposed lateral expansion area. Intermittent stream "2" (0.03 ac, 383 lf) would flow through the proposed Phase 13 as well as the proposed north stormwater pond (0.02 ac; 363 lf) in the lateral expansion area. This work would be conducted in a total of 7 phases, only phase 11 would not require DA authorization.

The landfill expansion components includes 6 proposed waste disposal cells, 1 stormwater pond in the northwestern portion of the expansion area, 1 stormwater pond in the eastern portion of the expansion area, 1 run-on control channel spanning the northern property boundary, 1-15 ft screening berm along the eastern property boundary, 3 perimeter drainage channels spanning the northern, eastern, and western property boundaries, 1 relocated natural gas pipeline extending north along the western perimeter of the expansion area, then east near the northern property boundary, then south near the eastern property boundary.

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:

Due to the location of the existing landfill, the only available area for expansion of the Northeast Landfill is north of the currently permitted landfill. Existing developments, both residential and commercial, is located to the east, south, and west. Therefore, impacts to aquatic resources could not be avoided. In order to determine if reasonably practicable alternatives that avoided or minimized impacts were available, an alternatives analysis was conducted for the Northeast Landfill Expansion by the applicant.

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

Northeast Landfill, LLC proposes to purchase stream and wetland credits from the Deep Fork Mitigation Bank (DFMB) in order to offset unavoidable, permanent impacts from the proposed landfill expansion.

In conclusion, the total required credits will be 3.92 wetland credits and 7,637 stream credits for the proposed landfill expansion.

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:

Project Setting: The proposed project is located in Oklahoma County within the Oklahoma Eco-Region of the Central Great Plains. The Central Great Plains are largely underlain by red, Permian-age sedimentary rocks and include scattered hills, breaks, salt plains, low mountains, gypsum karst, sandy flats, and sand dunes. Riparian corridors can be wooded. Typically, after heavy rains, streams flow strongly and are laden with suspended sediment. Flow stops or nearly stops in the summer, but scattered pools endure and serve as summer refuges for aquatic fauna.

Existing Condition: The waters of the U.S. within the proposed expansion areas flow to the Northwest corner of the site to eventually flow to the confluence of Crutch of Creek outside of the proposed expansion area. The proposed expansion area contains waters of the U.S. consisting of 0.56 ac of scrub-shrub wetlands, 0.76 ac of open waters, 1,359 linear feet (0.14 ac) of an ephemeral stream, and 746 linear feet (0.05 ac) of an intermittent stream. All waters flow into the unnamed tributary of Crutch Creek. Riparian area of differing widths surrounds the waters of the U.S. Previous oil & gas and sand mining activities are indicated within the area according to USGS Topographic Maps. Existing development, both residential and commercial, is located to the east, south, and west, with a cemetery located to the North.

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.

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: Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Whooping Crane (*Grus americana*), and Monarch Butterfly (*Danaus plexippus*). There are no critical habitats listed within the proposed project area. 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 2022-0012841.

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. Rob Hoffmann, 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.

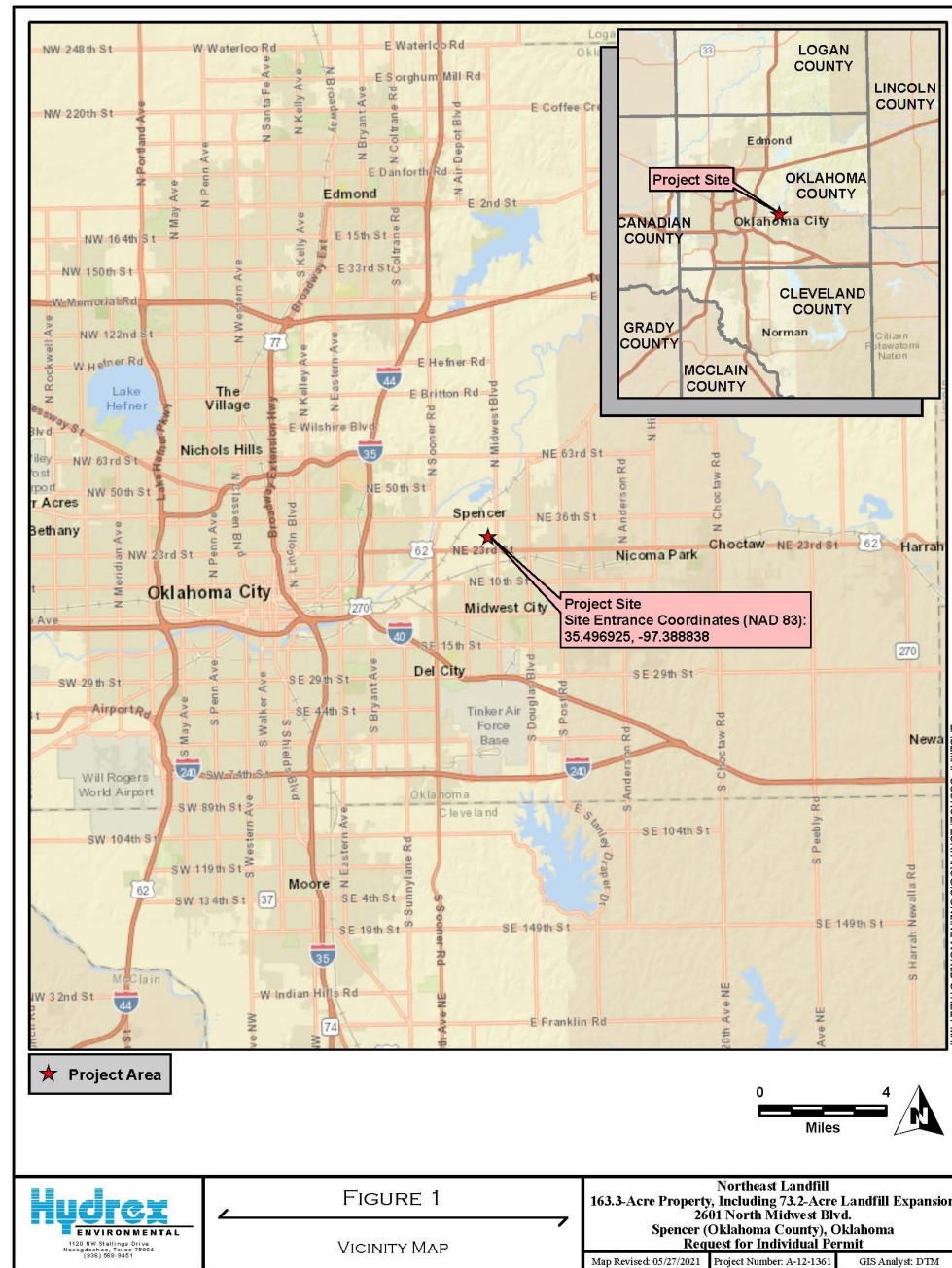
Any comments on this proposal must be submitted to be received by the Corps by the expiration date of this public notice comment period. Comments received after this date will not be considered in our decision. You may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137 or email CESWT-RO@usace.army.mil. Please include the public notice number SWT-2020-00344 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

Northeast Landfill Expansion Project
Oklahoma County, OK
Enclosure 1 of 5

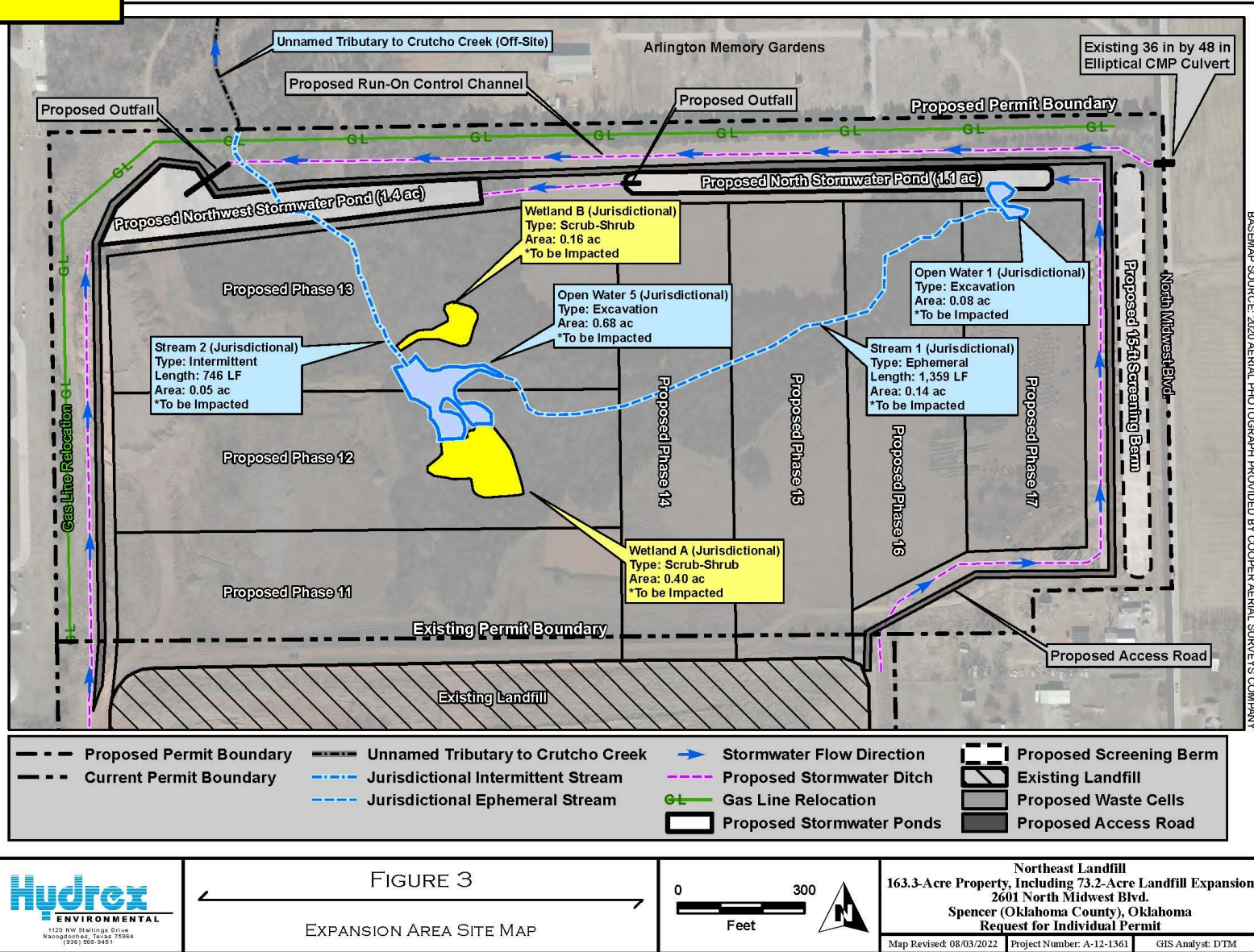


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Northeast Landfill Expansion Project

Oklahoma County, OK

Enclosure 2 of 5



Northeast Landfill Expansion Project
Oklahoma County, OK
Enclosure 3 of 5



EXHIBIT 1
NORTHEAST LANDFILL
CROSS SECTION LOCATIONS

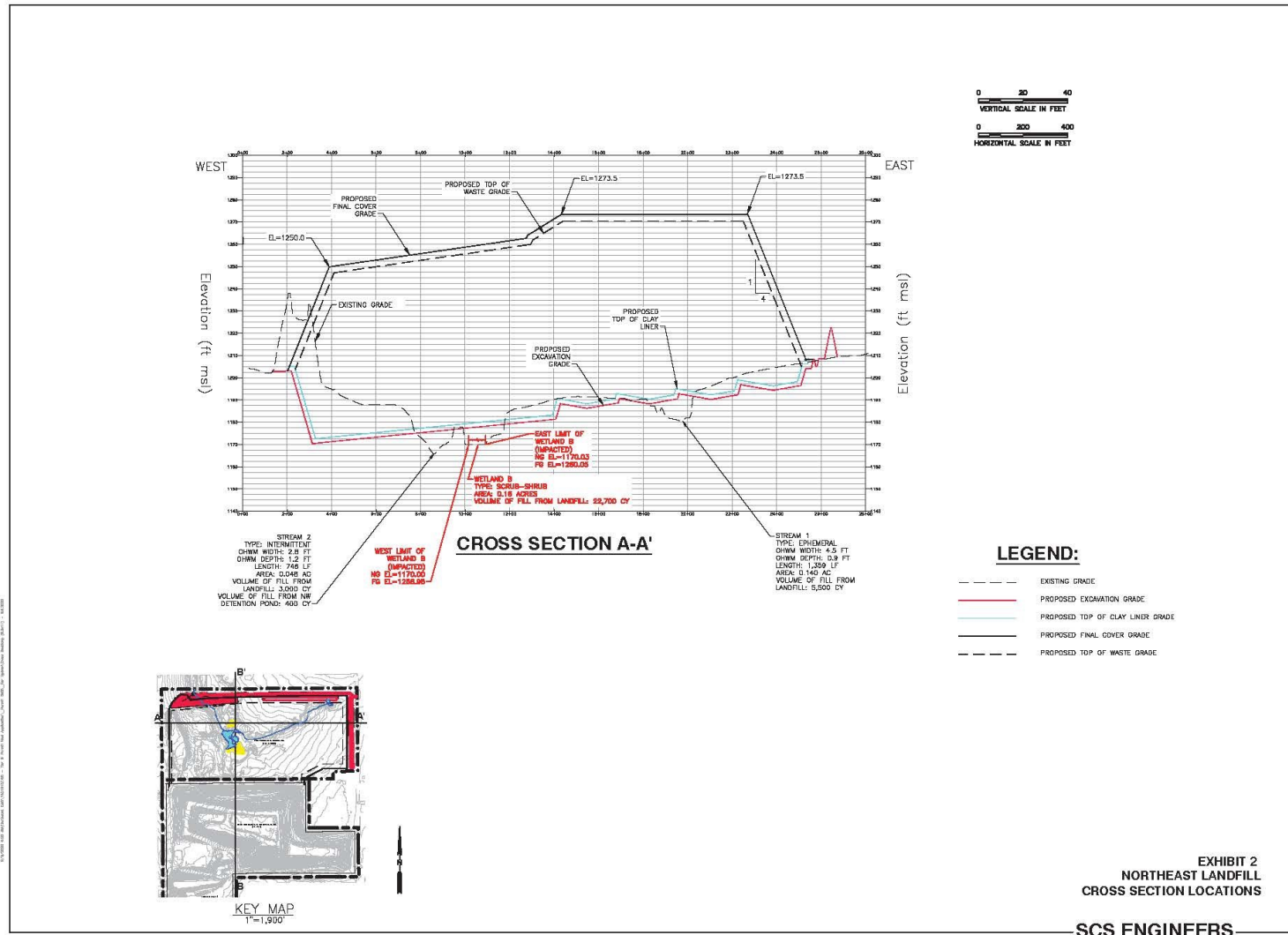
—SCS ENGINEERS—

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Northeast Landfill Expansion Project

Oklahoma County, OK

Enclosure 4 of 5



Northeast Landfill Expansion Project
Oklahoma County, OK
Enclosure 5 of 5

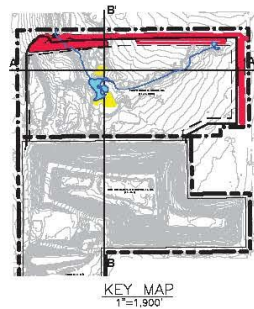


EXHIBIT 3
NORTHEAST LANDFILL
CROSS SECTION LOCATIONS
—SCS ENGINEERS—