



# 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 E 81<sup>st</sup> Street  
Tulsa, OK 74137

SWT-2023-00283  
Public Notice No.

October 4, 2023  
Public Notice Date

November 3, 2023  
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 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  
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT  
2488 EAST 81ST STREET  
TULSA, OKLAHOMA 74137-4290

Application No. SWT-2023-00283

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. Gene Bicknell  
Mansion Entertainment Group  
189 Expressway Lane  
Branson, MO 65612

Agent: Mr. Larry Wilhite  
Mansion Entertainment Group  
189 Expressway Lane  
Branson, MO 65612

Location: The proposed project is located in Section 21, Township 25 North, Range 21 East, near Vinita, Craig County, Oklahoma. The project site can be found on the Vinita NE 7.5 Minute USGS Quadrangle map at North Latitude 36.63213 and West Longitude 95.06825.

Project Description: The application is to construct a commercial, recreational development to include site grading, roadways, buildings, parking, attractions, and utilities that would result in a placement and/or redistribution of dredge/fill material into Waters of the U.S.

Purpose: The basic purpose of the proposed project is development of a large scale commercial recreational facility with all associated infrastructure, including roads, utilities, and stormwater BMPs. There are special aquatic sites (wetlands) on the project site. This project is not a water dependent activity.

The overall project purpose is to construct a theme park in the central United States known as the American Heartland Theme Park.

Summary Table of Impacts:

Number or Location	Impact Activity	Type of Water	Type of Fill Material	Qty of Material (cys) below OHWM	Footprint (ac)
WW-1	Discharge of fill material	Intermittent stream	Native earthen material/aggregate base	7,493	1.85 acres
WW-3	Discharge of fill material	Intermittent stream	Native earthen material/aggregate base	2,283	0.56 acre
Wetland 2	Discharge of fill material	Emergent wetland	Native earthen material/aggregate base	32	0.02 acre
Wetland 4	Discharge of fill material	Emergent wetland	Native earthen material/aggregate base	81	0.05 acre
<b>TOTAL:</b>				<b>9,889 cys</b>	<b>2.48 acres</b>

Description of Work: The applicant proposes to discharge approximately 9,889 cys of fill material into 2.41 acres of intermittent stream channel and 0.07 acre of emergent wetland for the construction of a theme park and associated infrastructure. The placement of fill material into waters of the U.S. is necessary in order to facilitate the applicant's proposal to construct the essential infrastructure needed to support the overall construction of the American Heartland Theme Park. The applicant proposes to use native earthen material and conventional earthwork methods and equipment to complete the construction.

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 project consolidates development in the proposed high density layout restricted to the applicant's southeastern parcel with road frontage along US Highway 60. The project avoids the tributaries, wetlands, and 1% annual floodplain within the parcels owned by the applicant to the north and west, as shown in Figure 4. Additionally, the project minimizes impacts to water quality by reconfiguring WW-1 as a series of extended wetland detention basins, open channel conveyances and bioswales with native vegetation plantings as well as maintaining WW-3 as an open channel conveyance to maintain stream function.

The project alternatives below were considered.

No-Action Alternative - The no action alternative avoids all impacts to potential jurisdictional wetlands and streams. This proposed alternative would not fulfill the need for the proposed action as adequate site grading, detention, and roadways cannot be constructed without the proposed action.

Alternative 1 - This alternative action considered was to locate the project in the northern parcel as shown in the Alternatives exhibit. This alternative was rejected as it requires impacts significantly more wetlands and streams, as well as grading and fill within the 100-year floodplain. Site engineering would require piping the entire stream channel that traverses the center of the site with a box culvert in order to convey the 100 year recurrence interval.

Alternative 1 would result in approximately 20.3 acres of wetland impacts as well as approximately 10,713 linear feet of intermittent stream impacts.

Alternative 2 - This alternative action considered was to locate the project to the west as shown in the Alternatives exhibit. This alternative was rejected as it requires impacts to significantly more wetlands and streams as well and also grading/fill within the 100-year floodplain. In addition, it would require significant excavation and blasting of the rock formation in the north-central portion of the alternate parcel, which would result in a significantly higher excavation costs than the proposed site.

Alternative 2 would result in approximately 2.06 acres of wetland impacts as well as approximately 11,583 linear feet of intermittent stream impacts.

Table of impacts associated with Alternative 1 and Alternative 2:

<b>Alternative 1</b>				
Feature	Feature Type	Type of Material	CY of Fill	Surface Area
Wetlands	PEM & PFO	General Soil Fill	32,750	20.3 ac
Alt 1 Stream A	Intermittent Stream	General Soil Fill	1,919	1,727 lf
Alt 1 Stream B	Intermittent Stream	General Soil Fill	9,984	8,986

<b>Alternative 2</b>				
Feature	Feature Type	Type of Material	CY of Fill	Surface Area
Wetlands	PEM & PFO	General Soil Fill	3,323	2.06 acres
Alt 2 Stream A	Intermittent Stream	General Soil Fill	6,136	5,522 lf
Alt 2 Stream B	Intermittent Stream	General Soil Fill	319	430 lf
Alt 2 Stream C	Intermittent Stream	General Soil Fill	1,248	2,247 lf

Alt 2 Stream D	Intermittent Stream	General Soil Fill	1,114	2,006 lf
Alt 2 Stream E	Intermittent Stream	General Soil Fill	612	1,378 lf

Preferred Alternative – The preferred alternative for the project would reflect the construction of the theme park into a high density layout restricted to the southeastern parcel of land with road frontage along US Highway 60. This would result in the least amount of disturbance to water of the U.S. of the alternatives evaluated for the proposed activity. The preferred alternative allows WW-3 to maintain stream function by remaining an open channel conveyance.

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

The objectives for the American Heartland Theme Park Permittee Responsible Mitigation Site (Site) are further described below and would address some of the primary water quality and habitat needs in the watershed by:

- Restoring, enhancing, and preserving important aquatic resources that improve local and regional water quality
- Improving wildlife habitat
- Restoring ecologically impaired riparian corridors

The Site will meet the above objectives by successfully achieving the following specific mitigation:

- 39.13 acres of Riparian Buffer Restoration
- 5.45 acres of Riparian Buffer Enhancement
- 0.24 acre of Emergent Wetland Enhancement
- 1.48 acres of Wetland Buffer
- Bank Stabilization with floodplain benching, coir log toe, and riffle construction along WW-1
- Culvert removal and riffle construction on WW-2
- Livestock fencing on WW-1, WW-2, and WW-3

To ensure that the Sites remain in natural habitat in perpetuity, the areas will be legally protected by means of a conservation easement which will preserve the site lands as undeveloped wildlife habitat.

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:

Oklahoma Department of Environmental Quality, Water Quality, Approval Pending

Project Setting: This project is located within the Osage Questas, consisting of a plain that contains sandstone, shale, and limestone. Natural vegetation is mostly tall grass prairie. Land use and land cover in this ecoregion consists mostly of rangeland, grassland, cropland and woodland in rugged areas.

Existing Condition: The proposed project site is comprised of undeveloped, agricultural lands, that have remained relatively undisturbed by development. The proposed project area is comprised predominantly of previously grazed pasture with native grasses and few trees scattered throughout.

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: 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.

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

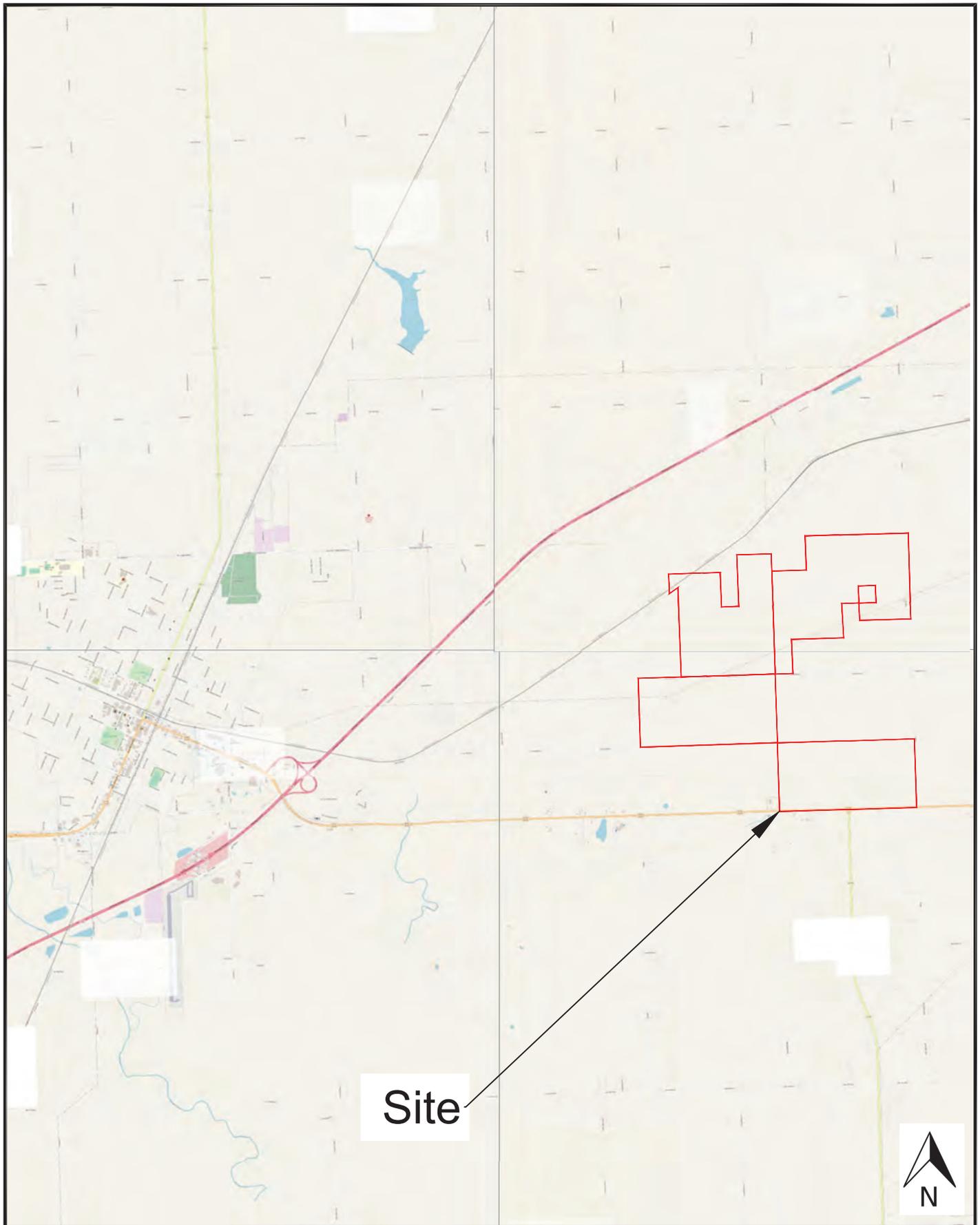
Comments: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine 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-2023-00283 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

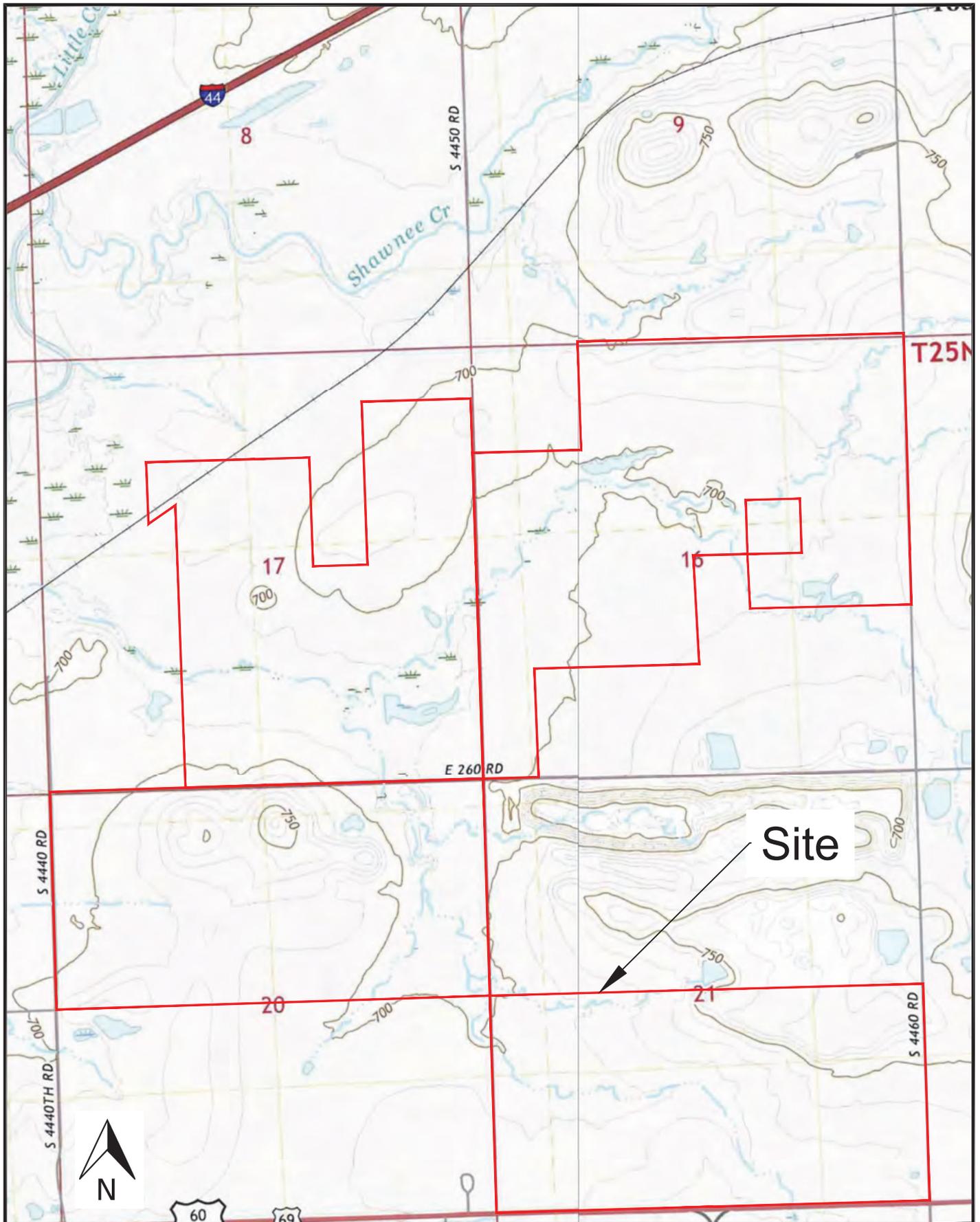
Enclosures



SWT-2023-00283  
AMERICAN HEARTLAND THEME PARK  
UNNAMED TRIBUTARIES OF LITTLE CABIN CREEK  
CRAIG COUNTY, OKLAHOMA  
ENCLOSURE 1 OF 7

American Heartland Theme Park  
Craig County, Oklahoma

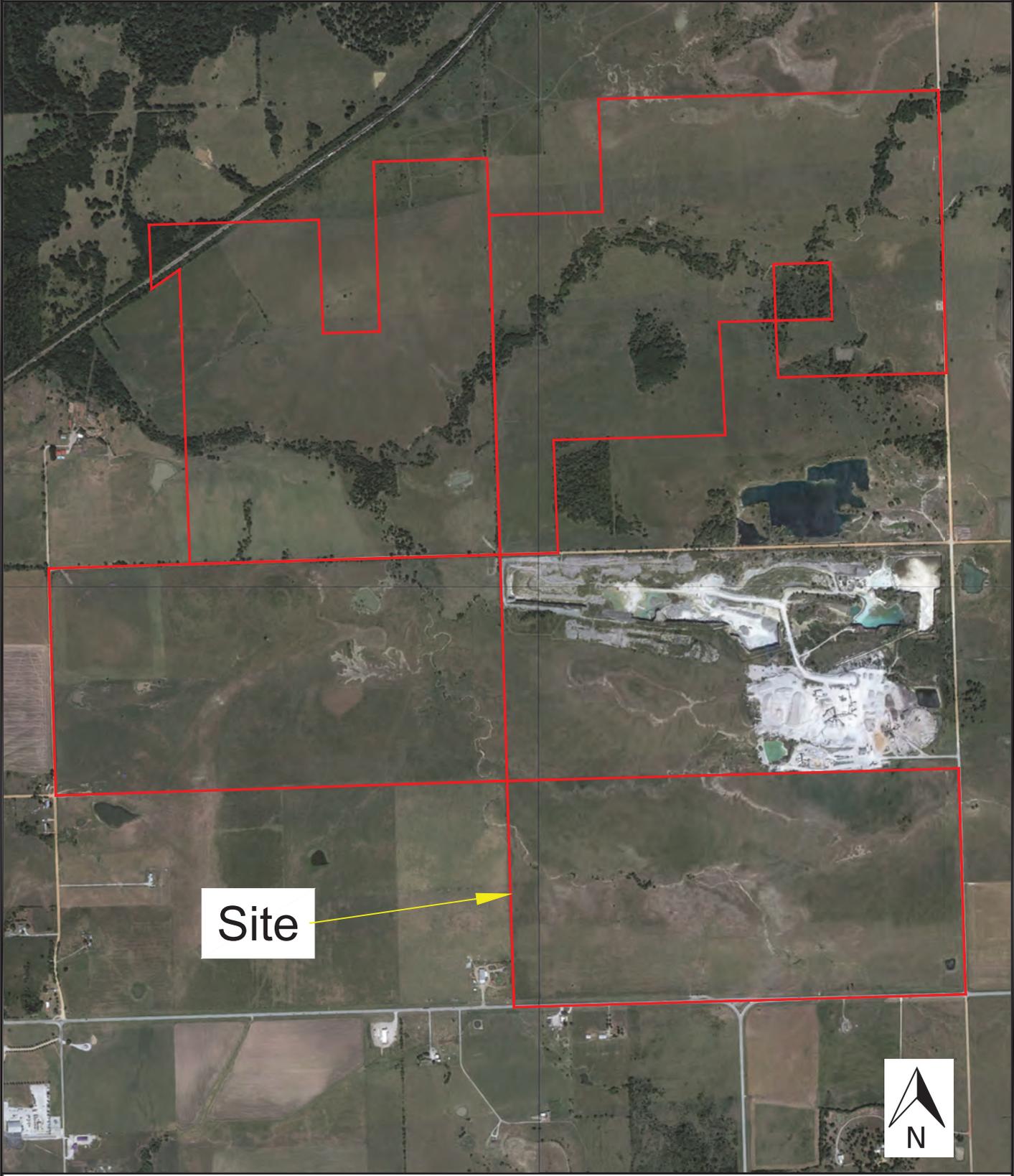
Site  
Location Map  
DRAWING DATE  
FIG 1 SEPT 2023



SWT-2023-00283  
 AMERICAN HEARTLAND THEME PARK  
 UNNAMED TRIBUTARIES OF LITTLE CABIN CREEK  
 CRAIG COUNTY, OKLAHOMA  
 ENCLOSURE 2 OF 7

American Heartland Theme Park  
 Craig County, Oklahoma

USGS Topography  
 DRAWING DATE  
 FIG 2 SEPT 2023



SWT-2023-00283  
AMERICAN HEARTLAND THEME PARK  
UNNAMED TRIBUTARIES OF LITTLE CABIN CREEK  
CRAIG COUNTY, OKLAHOMA  
ENCLOSURE 3 OF 7

American Heartland Theme Park  
Craig County, Oklahoma

Aerial Photograph  
DRAWING DATE  
FIG 4 SEPT 2023







## Aerial Photograph with Mitigation Site Boundaries

