



Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
2488 E 81st Street
Tulsa, OK 74137

SWT-2024-00199

Public Notice No.

February 13, 2025

Public Notice Date

March 14, 2025

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
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT
2488 EAST 81ST STREET
TULSA, OKLAHOMA 74137-4609

Application No.: SWT-2024-00199

**THIS NOTICE ANNOUNCES A PROPOSED PROSPECTUS FOR THE
ESTABLISHMENT OF A MITIGATION BANK IN OKLAHOMA**

AUTHORITY: Pursuant to the Final Rule for the Compensatory Mitigation for Losses of Aquatic Resources, referred to as the Mitigation Rule (33 CFR Parts 325 and 332, and 40 CFR Part 230), dated April 10, 2008; this notice announces a prospectus submitted for the establishment of a Mitigation Bank (MB) within the State of Oklahoma.

MITIGATION BANK (SPONSOR): Conservation Equity Investment Two, LLC
c/o Conservation Equity Partners, LLC
1215 Wright Drive, Nacogdoches, Texas 75964
Tamara Wood 936-404-3818
tamara@conservationep.com

PROJECT LOCATION: The proposed Washita Mitigation Bank (WMB) site consists of approximately 69.1 acres of land located near the town of Sulphur, Murray County, Oklahoma. The site can be accessed via Koller Road extending north from East State Highway 7, east of Sulphur. The coordinates for the approximate center point of the property are North Latitude 34.5292963 and West Longitude 96.9267175 (Attachment A, Exhibit 1).

PURPOSE AND PROPOSED DESCRIPTION: The prospectus outlines the proposal for developing and operating the MB, which is known as the banking instrument. After public comments are received and any issues are resolved on the prospectus, the Sponsor will submit a draft banking instrument to the District Engineer of the U.S. Army Corps of Engineers, Tulsa District. The District Engineer will then distribute the draft banking instrument to the Interagency Review Team (IRT), which is made up of the Corps and the pertinent state and federal resource agencies. The IRT will review the banking instrument and coordinate with the Sponsor on any issues until a final banking instrument is completed. Finally, the District Engineer will review the final instrument and make a decision to approve or not approve. Below is an excerpt from the MB Sponsor's WMB prospectus:

The primary purpose of developing the WMB is to conduct ecological restoration to reestablish and retain biodiversity, health, ecological function, and resilience to historically disturbed and impacted private lands, using the compensatory driven mitigation banking program.

The ecological and nature-based goals of the project are to successfully establish and restore stream functions associated with wetlands and non-wetland Waters of the United States (WOTUS) and to perpetually protect rare and difficult-to-replace habitats.

A compatible societal and capitalistic goal for creating the WMB is to create a means of providing compensatory mitigation for unavoidable impacts to WOTUS that result from Corps permitted impacts requiring compensatory mitigation within the approved WMB service area in accordance with Section 404 of the Clean Water Act (Federal Water Pollution Control Act) and/or Section 10 of the Rivers and Harbors Act (Rivers and Harbors Appropriation Act of 1899) provided such use has met all applicable requirements and is authorized by the Corps.

Development of the WMB will result in the re-establishment of approximately 2,350 linear feet (LF) of degraded intermittent streams (UT-2), as well as restoration and/or enhancement of 1,439 LF of perennial stream (UT-1a), and intermittent stream (UT-1b). Approximately 40.5 acres (ac) of riparian buffer impacted by previous agriculture and gravel mining will be enhanced to native riparian buffer habitat during the course of the project (Table 1). Planned activities will result in stable, high functioning stream channels through Priority 1 stream restoration, other stream restoration and/or enhancement activities, and restoration/re-establishment of adjacent riparian buffer habitat including wetlands.

These stated goals will be quantified and achieved through an interactive process with the IRT, culminating with the development and approval of a Mitigation Banking Instrument (MBI), which will outline specific details for the stream re-establishment, stream enhancement, and riparian buffer enhancement, including long-term management and financing mechanisms.

A key component of the MBI (forthcoming) is detailed in the Mitigation Work Plan that has been prepared to optimize uplift and successfully attain desired ecological conditions, while also meeting or exceeding ecological performance standards. The Mitigation Work Plan will be constructed to accomplish the following site-specific objectives, which are also shown in Attachment A, Exhibit 2.

Objectives:

- 1) Protect the 40.5 ac streambank (150 ft. buffer on both sides of restored/enhanced streams) in perpetuity with a conservation easement held by an approved land trust.
- 2) Protect an additional 28.6 ac of the watershed (additional 150 ft. buffer – 300 ft. total) by placing a deed restriction on portions of the property that will restrict future development, habitat loss, etc.
- 3) Eliminate and cease non-compatible land uses within the MB area.
- 4) Re-establish stable stream characteristics (pattern, profile, and dimension) utilizing Natural Channel Design to 2,350 LF of the intermittent channel UT-2 that is currently channelized due to aggregate mining.

5) Restoration and/or enhancement of UT-1a (perennial – 1,439 LF) and UT-1b (intermittent – 2,685 LF) that currently exhibits multiple culverts and vehicular crossings, loss of floodplain connectivity in areas, eroding and sloughing banks, and other impairments. Restoration plans are still being developed, but potential restoration strategies can include:

- Channel reconstruction at the elevation of the historic floodplain (Priority 1 restoration).
- Establishing a new floodplain at the existing channel elevation (Priority 2 restoration).
- Removing culverts and vehicular crossings.
- Streambank stabilization and plantings.
- Removing portions of an abandoned elevated railroad to reestablish natural hydrology regimes.

6) Buffer Restoration/Establishment (including wetlands within the buffer) to 40.5 ac within the MB (150 ft. buffer on both sides of restored / enhanced streams) to reduce erosion

INTERAGENCY REVIEW TEAM: Pursuant to 33 CFR 332.8(b)(1)-(3), an interagency group of federal, state, and/or local regulatory and resource agency representatives will review the prospectus, instrument, and other appropriate documents and provide comments to the District Engineer. The IRT consists of representatives of the Corps (chair), U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), Natural Resources Conservation Service (NRCS), Oklahoma Department of Environmental Quality (ODEQ), Oklahoma Department of Wildlife Conservation (ODWC), and the Oklahoma Conservation Commission (OCC).

The Sponsor is responsible for preparing all documentation associated with establishment of the MB, including the prospectus, instrument, and other appropriate documents, such as mitigation plans for a MB. The prospectus provides an overview of the proposed MB and serves as the basis for public and initial IRT comment. For a MB, the mitigation plan, as described in 33 CFR 332.4(c), provides detailed plans and specifications for the MB site. The instrument provides the authorization for the MB to provide credits to be used as compensatory mitigation for future Corps permits.

The proposed prospectus is complete in accordance with the Mitigation Rule and includes geographic service areas, accounting procedures, and legal responsibilities (proposed ownership and long-term management).

WATER QUALITY CERTIFICATION: By copy of this public notice, the Sponsor is requesting Water Quality Certification from the ODEQ in accordance with Section 401 of the Clean Water Act. Upon completion of the comment period and a public hearing, if held, a determination relative to Water Quality Certification will be made. Evidence of this Water Quality Certification or waiver of the right to certify must be submitted prior to the issuance of a Corps authorization.

CULTURAL RESOURCES: The District Engineer 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 has been completed of the State's records 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. Based on the preliminary information, there is no historic properties, as defined by the NHPA, in or within the vicinity of the proposed authorization area. The Corps will comply with the NHPA to resolve any potential effects.

ENDANGERED SPECIES: The following federally listed species (or proposed to be listed) are known to occur in the vicinity or are listed for the county in which the proposed MB is located: tricolored bat (*Perimyotis subflavus*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), whooping crane (*Grus americana*), alligator snapping turtle (*Macrochelys temminckii*), monarch butterfly (*Danaus plexippus*), and American burying beetle (*Nicrophorus americanus*). A copy of this notice is being furnished to the USFWS and appropriate state agencies. 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 MB application.

FLOODPLAIN: This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this public notice, comments are requested from individuals and agencies that believe the described work would adversely impact the floodplain.

EVALUATION FACTORS: The decision whether to issue an authorization for a MB 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. An authorization 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, an authorization 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. Ed Parisotto, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 918-669-7400.

COMMENTS: The Corps 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 an authorization 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 specificity, the reasons for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision. Copies of all comments, including names and addresses of commenter's will be provided to the sponsor. All comments should be mailed to Mr. Ed Parisotto at U.S. Army Corps of Engineers, 2488 East 81 St. Street, Tulsa, OK 74137; telephone 918-669-7400; or email to CESWT-RO@usace.army.mil. This public notice and MB prospectus is posted for review on the Tulsa District's Regulatory web page: <http://www.swt.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>.

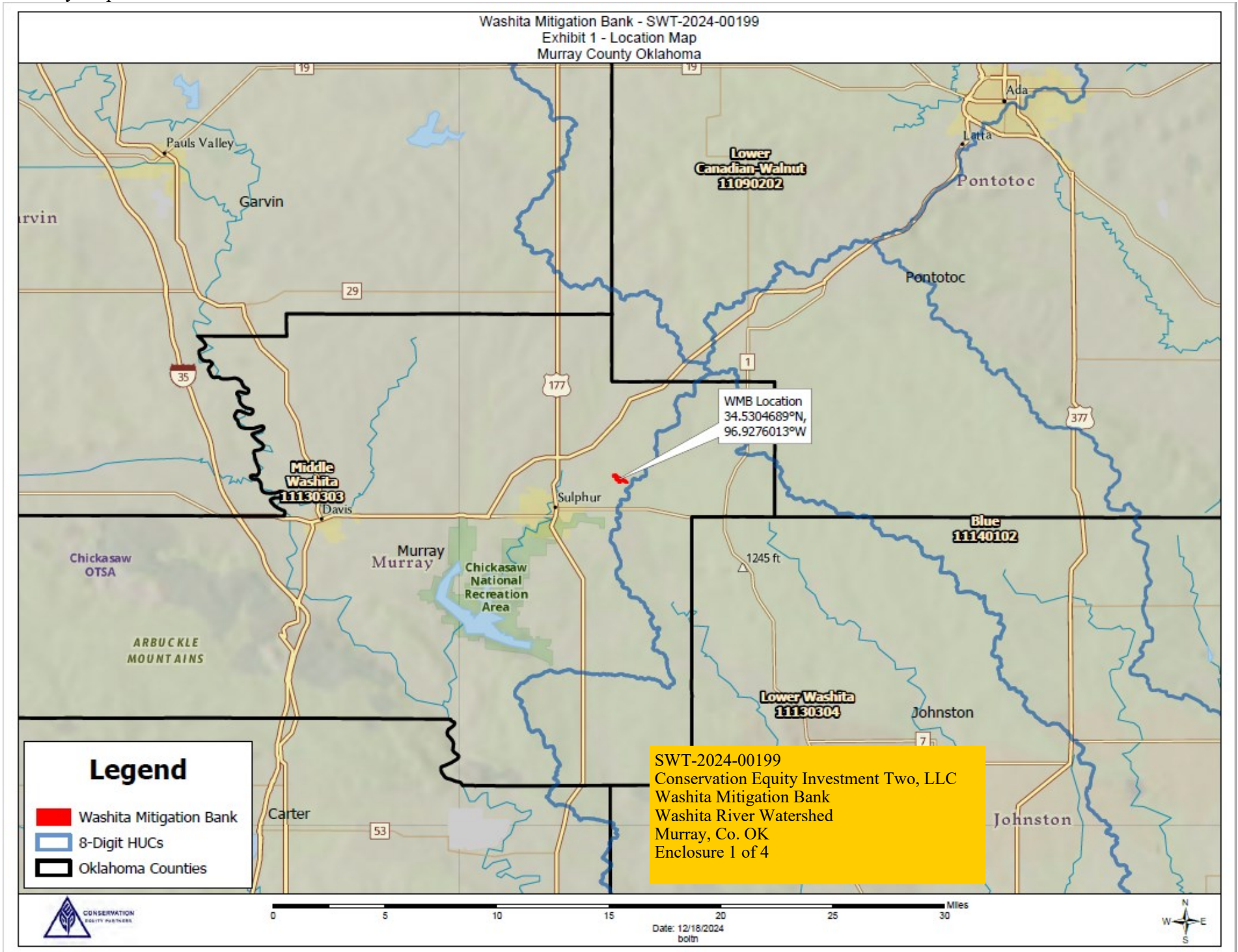
Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality Certification for the proposed WMB. Work may **not** commence until decisions have been made on both Sections 401 and 404.

NOTE: The Corps has not endorsed this MB proposal. This MB is not authorized until the MB Instrument has been established and approved. The MB Instrument is a legal document for the establishment, operation, and use of an MB.

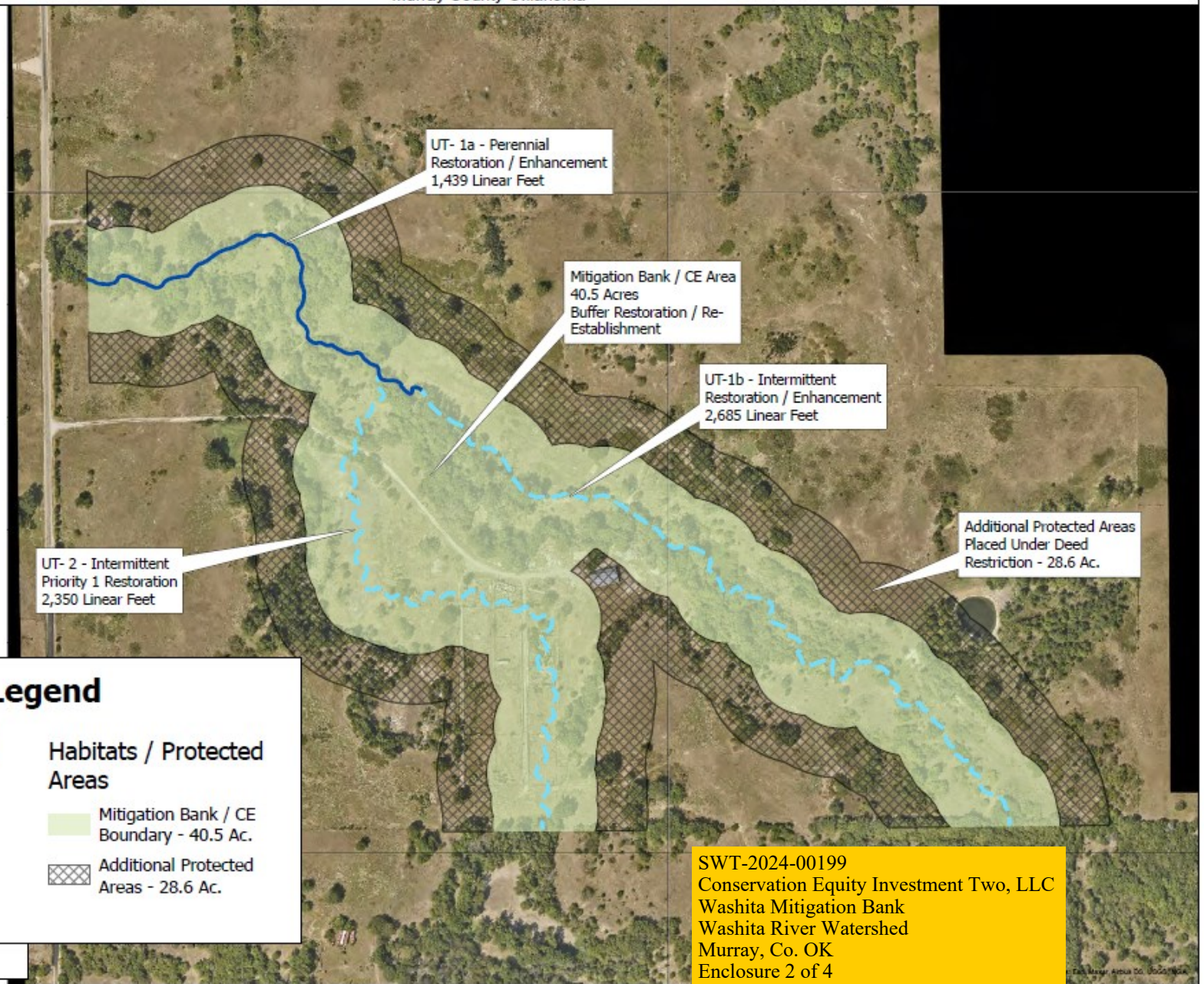
Andrew R. Commer
Chief, Regulatory Office

Enclosures

Vicinity map:



Washita Mitigation Bank - SWT-2024-00199
Exhibit 2 - Conceptual Mitigation Plan
Murray County Oklahoma



Legend

Stream Mitigation Plan

- Restoration / Enhancement - Intermittent
- Restoration / Enhancement - Perennial

Habitats / Protected Areas

- Mitigation Bank / CE Boundary - 40.5 Ac.
- Additional Protected Areas - 28.6 Ac.

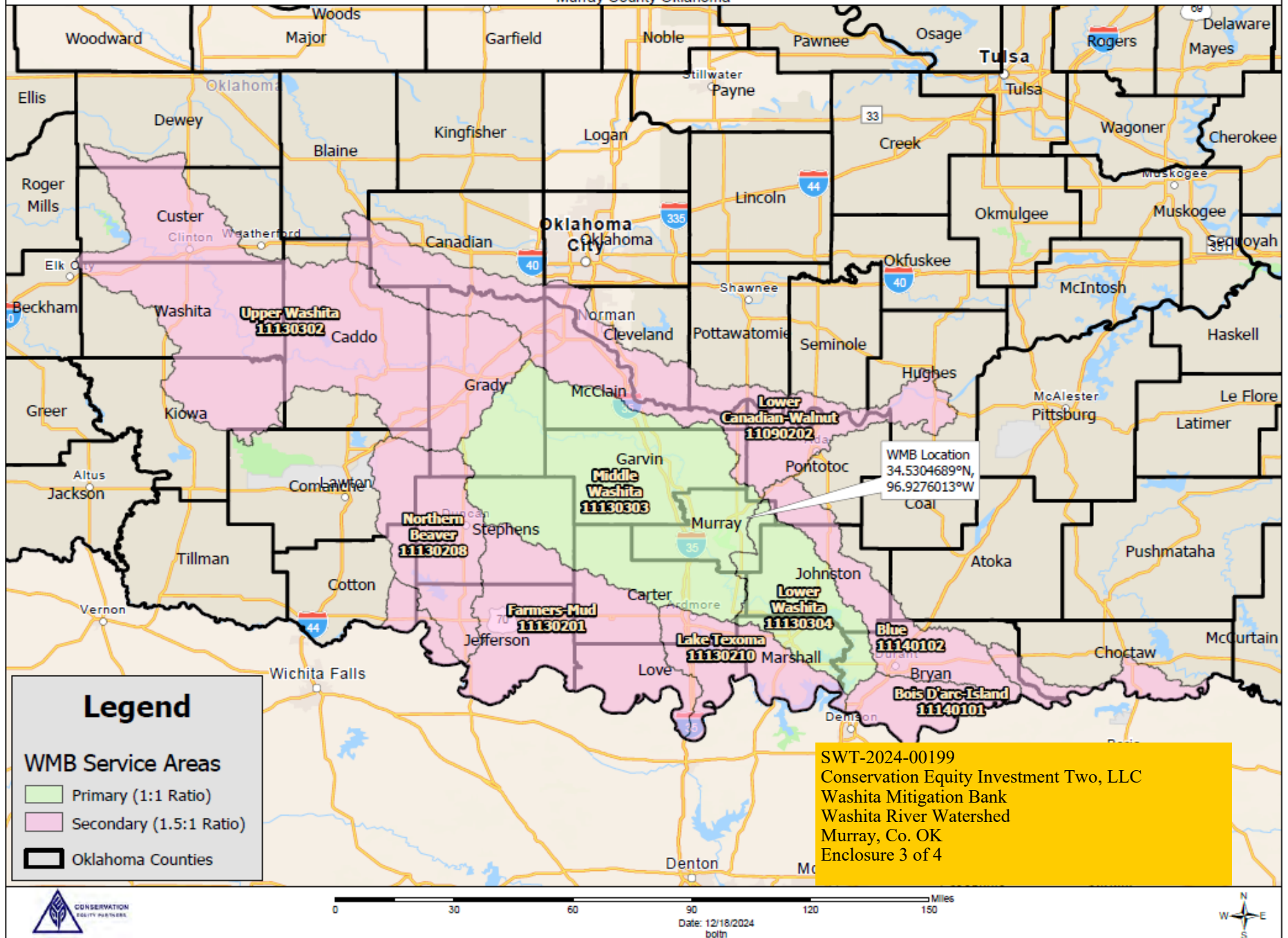


0 400 800 1,200 1,600 2,000 2,400 Feet

Date: 12/18/2024
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Washita Mitigation Bank - SWT-2024-00199
Exhibit 3 - Service Area Map
Murray County Oklahoma



Washita Mitigation Bank - SWT-2024-00199
Exhibit 8 - Baseline WOUS Map
Murray County Oklahoma

