



US Army Corps
of Engineers®
Little Rock District

PUBLIC NOTICE

CORPS OF ENGINEERS – STATE OF ARKANSAS

Application Number: MVK 2017-00612

Date: February 28, 2019

Comments Due: April 1, 2019

TO WHOM IT MAY CONCERN: Comments are invited on the work described below. Please see the Public Involvement section for details on submitting comments.

Point of Contact. If additional information is desired, please contact the regulator, Johnny McLean, telephone number: (501) 340-1382, mailing address: Little Rock District Corps of Engineers, Regulatory Division, PO Box 867, Little Rock, Arkansas 72203-0867, email address: Johnny.L.McLean@usace.army.mil. An electronic copy of the Ink Bayou Mitigation Bank prospectus can be viewed on the Little Rock District, Regulatory Division webpage at <http://www.swl.usace.army.mil/Missions/Regulatory/PublicNotices.aspx> or a hard copy can be obtained from the Corps of Engineers through the contact information listed above.

Project Information. Pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344), notice is hereby given that

**Arkansas Department of Transportation
PO Box 2261
Little Rock, Arkansas 72203-2261**

has submitted their Ink Bayou Mitigation Bank prospectus. The prospectus outlines the proposal for developing and operating the bank, which is known as the banking instrument. After public comments are received and any issues are resolved on the prospectus, Arkansas Department of Transportation will submit a draft banking instrument to the District Engineer of the Little Rock 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 Arkansas Department of Transportation 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.

The primary purpose of this bank is to mitigate for unavoidable impacts to streams and wetlands from highway construction and maintenance activities authorized under Section 404 of the Clean Water Act. The management goal for the mitigation bank is the restoration, enhancement, and preservation of wetlands and associated uplands.

The Ink Bayou project site is located in the Vicksburg Corps District and would service ArDOT projects in both the Vicksburg and Little Rock Districts, within the Mississippi Alluvial Plain and Arkansas River Valley Ecoregions. The bank site consists of approximately 437 acres located immediately north and east of the City of North Little Rock and immediately south of the Communities of McAlmont and Rixey in sections 14, 15, and 16, Township 2 North, Range 11 West, Pulaski County, Arkansas. Ink Bayou is located within the Bayou Meto watershed. From

Pulaski County, Bayou Meto flows southeastward through Lonoke, Prairie and Arkansas Counties and enters the Arkansas River just southwest of the City of Gillett.

The primary considerations for site selection were watershed needs, baseline conditions and habitat connectivity. The proposed mitigation bank is located in an oxbow lake/meander scar of the Arkansas River and is 0.7 miles south of ArDOT's Rixey Bayou Mitigation Area. The Rixey Bayou Mitigation Area is approximately 235 acres in size and ArDOT would like to connect the mitigation area to the Ink Bayou Mitigation Bank site in the future if possible. Historic records of the federally endangered interior least tern (*Sterna antillarum*) are located both north and south of the proposed bank site. Arkansas Natural Heritage Commission has historic records for several rare species from other oxbow lakes/meander scars near the proposed mitigation bank including: the bald eagle (*Haliaeetus leucocephalus*), the Gulf crayfish snake (*Regina rigida sinicola*), the glossy swampsnake (*Liodytes rigida*), the yellow water crowfoot (*Ranunculus falbellaris*), the bottle brush sedge (*Carex comosa*), the common gallinule (*Gallinule galeata*), the purple gallinule (*Porphyrio martinicus*), the king rail (*Rallus elegans*) and the common moorhen (*Gallinula chloropus*).

The proposed bank site is in the Arkansas/Ouachita River Holocene Meander Belts Ecoregion (EPA Level III) within the Mississippi Alluvial Plain Ecoregion (EPA Level IV). Much of the property lies within the 100 year floodplain of the Arkansas River. A 1961 aerial image illustrates that the areas identified for wetland restoration and enhancement were forested. These areas were cleared to expand agricultural production purposes. Upland areas of the property will function as a buffer and wildlife sanctuary for terrestrial wildlife and migratory birds in times of flooding. Soils on the site are mapped into three soil units by the USDA (*Soil Survey of Pulaski County, Arkansas 1975*). Keo silt loam, 0 to 1 percent slopes, is described as a well-drained soil on undulating topography consisting of swales and low ridges in the floodplains of the Arkansas River in the Mississippi Valley. Perry clay, 0 to 1 percent slopes, is described as poorly drained, very slowly permeable soils that formed in clayey alluvium. The soils are on level to gently undulating slopes in backswamps and alluvial plains of the Arkansas River and associated tributaries. Perry clay is considered a hydric soil and, unless protected by levees, is flooded for short periods nearly every year. The Rilla-Perry complex is in areas of alternating long and narrow ridges and swales of bottomlands of the Arkansas River. Slopes range from 0 to 5 percent. Rilla soils are located on the top and sides of the ridges, while Perry soils comprise the swales. Native vegetation in meander scars/oxbow lakes such as Ink Bayou is mainly bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*) and swamp loosestrife (*Decodon verticillatus*). Where trees have been cleared, facultative and obligate herbaceous vegetation such as primrose-willows (*Ludwigia spp.*), smartweeds (*Persicaria spp.*), sedges (*Carex spp.*) and rushes (*Juncus spp.*) occurs. Native vegetation on the floodplains and natural levees; e.g., those higher areas with soils mapped as Keo and Rilla, is fall panic grass (*Panicum dichotomiflorum*), crab grass (*Digitaria sanguinalis*) and barnyard grass (*Echinochloa crus-galli*).

Objectives include the preservation of existing forested wetlands, the restoration of wetland hydrology, and enhancement of existing wetlands through reforestation of agricultural land with bottomland hardwood tree species. Wetland hydrology will be restored by the removal of several levees that have been placed in wetlands to hold water back. The past associated agricultural practices will be removed from the property. There are 137.01 acres of wetland preservation, and 132.38 acres of wetland restoration and enhancement that will be reforested with bottomland hardwood trees. Nonnative pasture grasses will be removed from the potential wetland bank site to

promote the growth of bottomland hardwood trees. Wetland credits will be calculated using the 2002 Charleston Method.

The primary service area for the bank would include Bayou Meto (08020402) and the Lower Arkansas Maumelle (11110207) sub-basins (8 digit HUCs). The secondary service area would include portions of the following sub-basins: Dardanelle Reservoir (11110202), Lake Conway-Point Remove (11110203), Petit Jean (11110204), Cadron (1110205) and Fourche La Fave (11110206).

ArDOT is the owner of the property and has recorded a restriction on the Warranty Deed to the property. The restriction requires that any activity on the property complies with the terms of a mitigation plan or banking instrument. ArDOT will manage the property for the operational life of the bank. The operational life of the bank terminates when compensatory mitigation credits have been exhausted and the bank site is self-sustaining. Subsequently, ArDOT may deed the property to or enter into a management agreement with an appropriate state or Federal agency provided the agency manages the property in accordance with the provisions of the MBI. The location, general plan for the site and photographs of the site are shown on the enclosed Sheets 1 through 11.

ArDOT is responsible for securing adequate funding to monitor and maintain the mitigation bank throughout its operational life, as well as beyond the operational life if not self-sustaining. ArDOT would be responsible for securing sufficient funds to cover contingency actions in the event of default or failure. Additionally, ARDOT would be responsible for providing alternative compensatory mitigation if it is determined necessary by the US Army Corps of Engineers.

Cultural Resources. ArDOT staff archeologists will review topographic maps, the National Register of Historic Places and other data on reported sites in the area, and coordinate with the State Historic Preservation Officer. The Federal Highway Administration will be responsible for any coordination with the Native American Nations. The District Engineer invites responses to this public notice from Native American Nations or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns with historic properties in the area.

Endangered Species. Our preliminary determination is that the proposed activity will not affect listed Endangered Species or their critical habitat. A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies and constitutes a request to those agencies for information on whether any listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Floodplain. We are providing copies of this notice to appropriate floodplain officials in accordance with 44 Code of Federal Regulations (CFR) Part 60 (Floodplain Management Regulations Criteria for Land Management and Use) and Executive Order 11988 on Floodplain Management.

Regulatory Authority. Implementation of the proposed mitigation bank would require Department of the Army Authorization under Section 404 of the Clean Water Act. Based on preliminary evaluation by the USACE, it appears the proposed bank may be authorized by Nationwide Permit 27 for Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

Public Involvement. Any interested party is invited to submit to the above-listed POC written comments or objections relative to the proposed work on or before **April 1, 2019**. Substantive comments, both favorable and unfavorable, will be accepted and made a part of the record and will receive full consideration in determining whether this work would be in the public interest. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity 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; among those are 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 ownership and, in general, the needs and welfare of the people.

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 of Engineers 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. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision.

NOTE: The mailing list for this Public Notice is arranged by state and county(s) where the project is located, and includes any addressees who have asked to receive copies of all public notices. Please discard notices that are not of interest to you. If you have no need for any of these notices, please advise us so that your name can be removed from the mailing list.

Enclosures

Approximate Coordinates of Project Center

Latitude: **34.800816** Longitude: **-92.169365**

UTM Zone: **15N** North: **3851268** East: **575981**

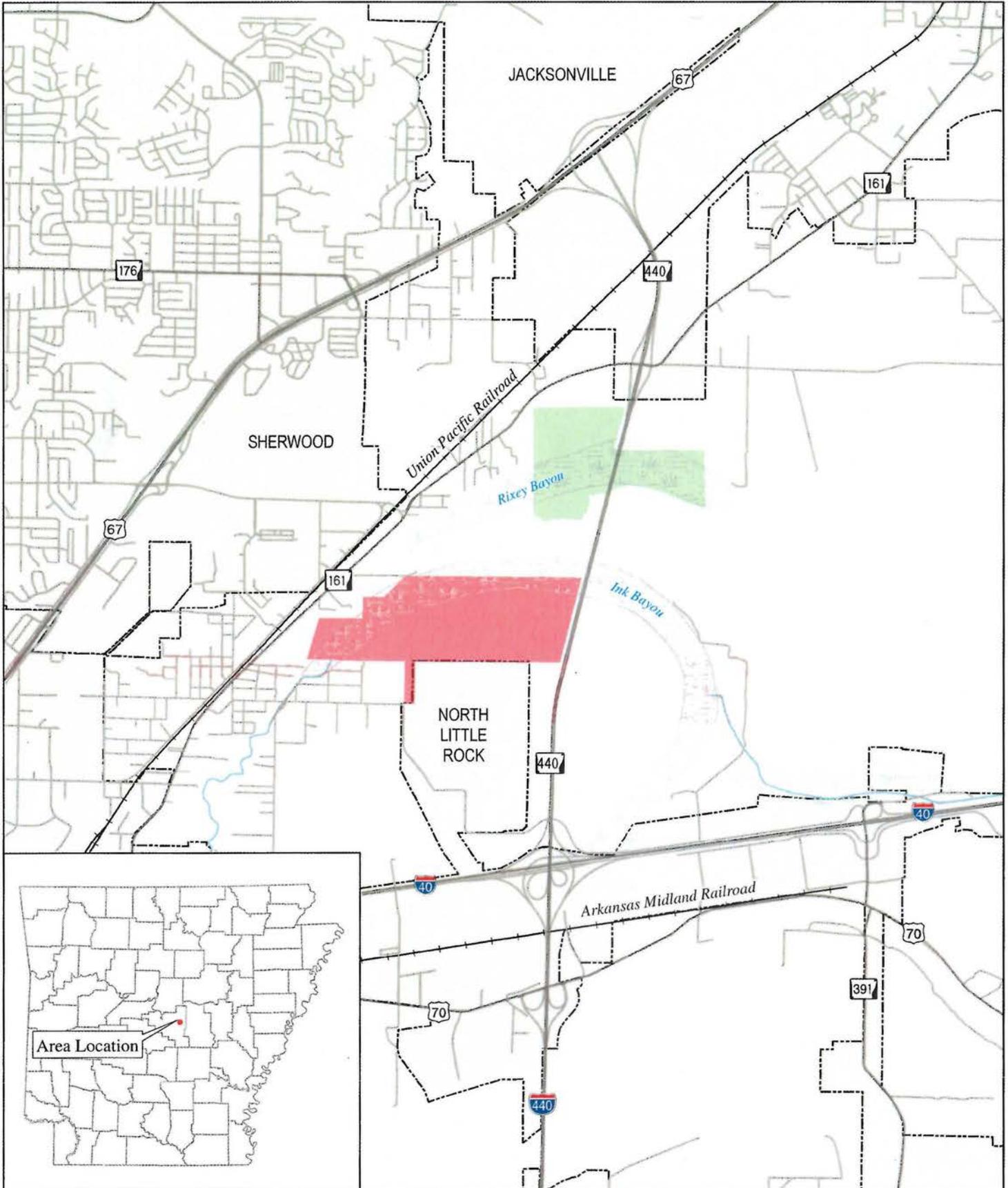


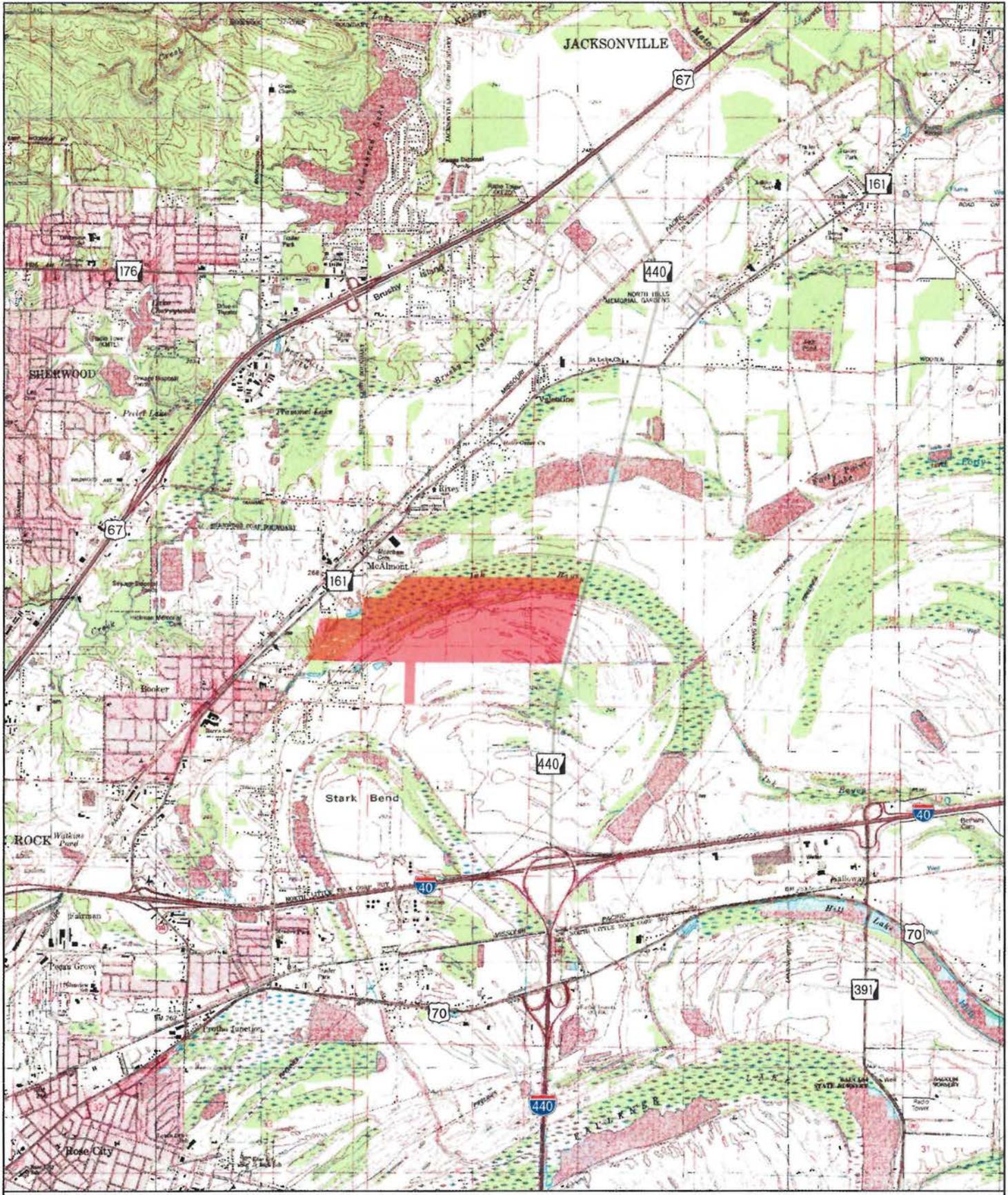
Figure 1
Proposed Ink Bayou
Mitigation Bank

| | |
|---|-----------------------------|
|  | Project Location |
|  | Rixey Bayou Mitigation Area |

N

 0 2,000 4,000

 Feet
 AHTD Environmental GIS - Dudley
 November 4, 2016



N
 0 2,000 4,000
 Feet
 AHTD Environmental GIS - Dudley
 November 4, 2016

Figure 2
 Proposed Ink Bayou
 Mitigation Bank

 Project Location

USGS Topographic Map:
 McAlmont 1986

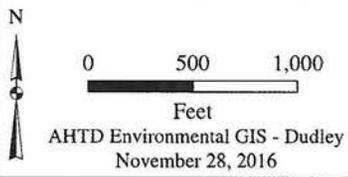
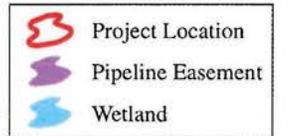
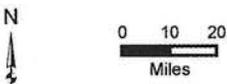
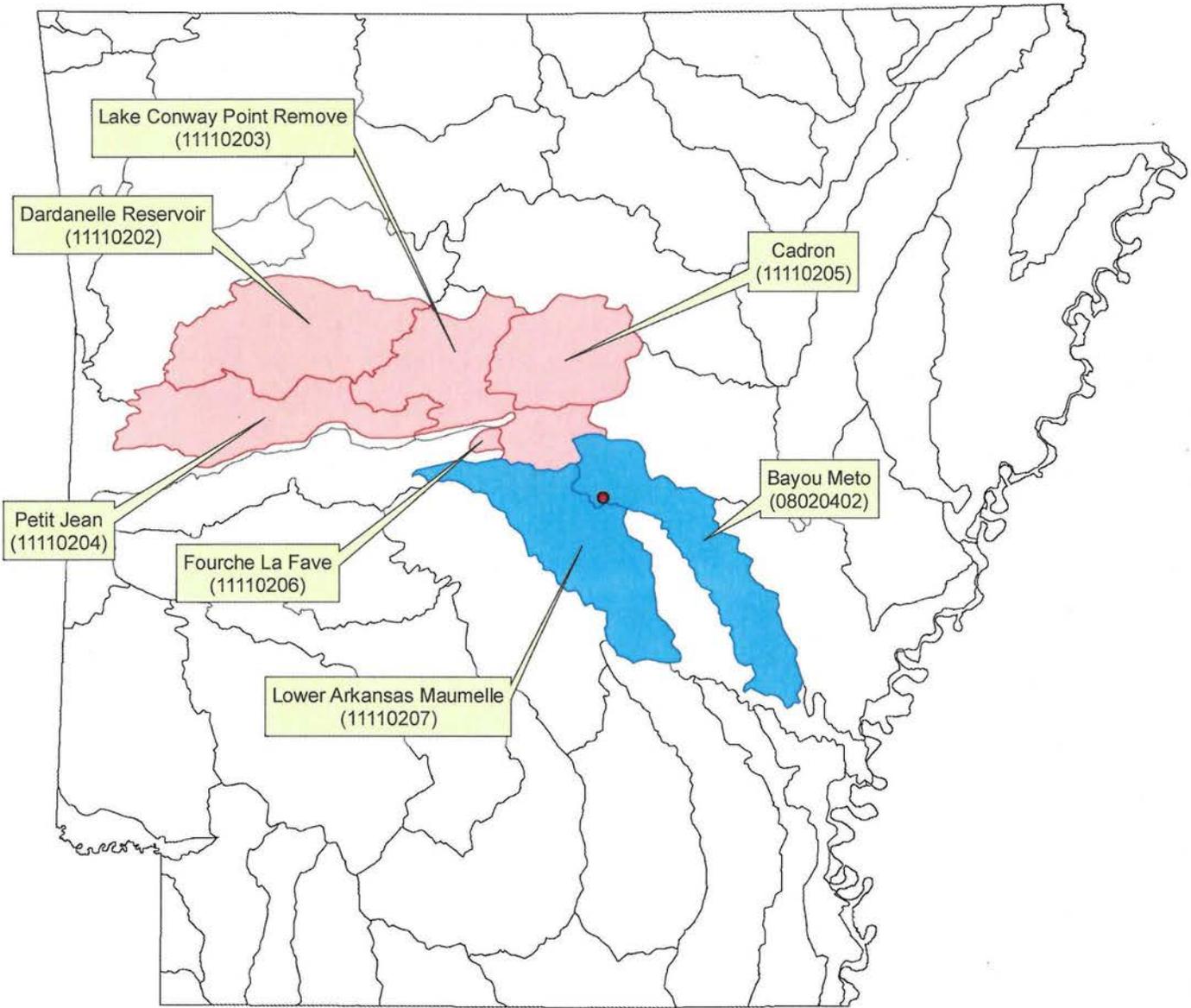


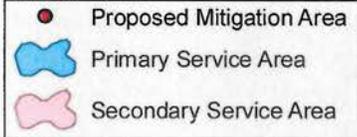
Figure 3
Wetland Locations





ARDOT - Environmental GIS - Reed
January 23, 2019

Figure 4
Proposed Service Area Watersheds





0 750 1,500
Feet

Figure 5
1960 Historical Imagery

 Proposed Ink Bayou
Mitigation Bank

ARDOT - Environmental GIS - Reed
November 19, 2018

Photography Date: April 3, 1960

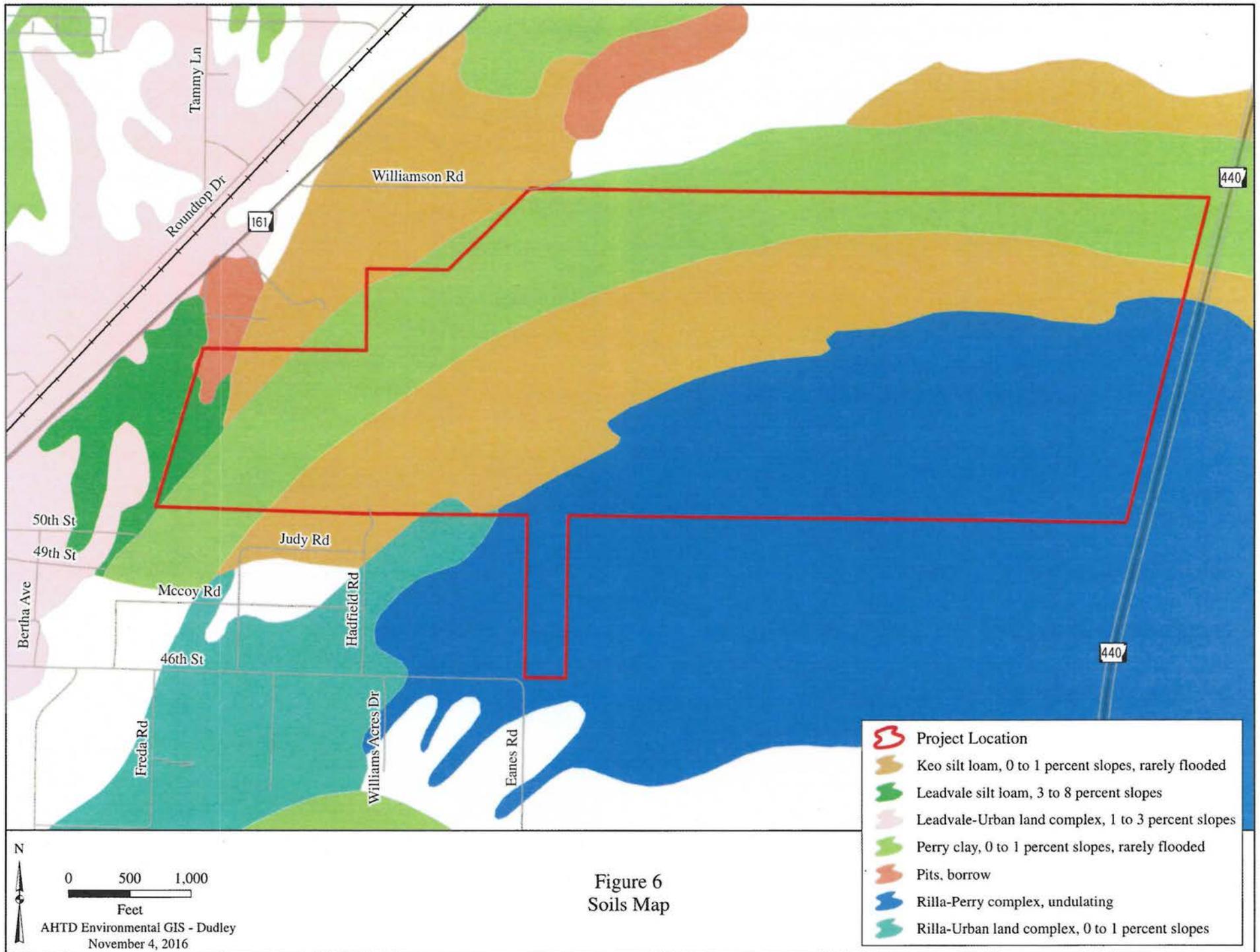




Figure 7. Typical view of the ridge and swale wetland complex at the proposed Ink Bayou Mitigation Bank.



Figure 8. Ridge and swale wetland complex. The ridges are dominated by pasture grasses, while the swales are dominated by *Ludwigia glandulosa*.



Figure 9. Typical view of swale within ridge and swale wetland complex.



Figure 10. Large wetland swale at eastern edge of the proposed Ink Bayou Mitigation Bank.



Figure 11. Typical view of forested wetland preservation (Ink Bayou itself).