



US ARMY Corps  
Of Engineers®  
Little Rock District

# JOINT PUBLIC NOTICE

CORPS OF ENGINEERS – STATE OF ARKANSAS

Application Number: 2013-00041

Date: June 17, 2013

Comments Due: July 17, 2013

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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 project manager, Mr. Marc Fossett, telephone number: (501) 324-5295, mailing address: Little Rock District Corps of Engineers, Regulatory Division, PO Box 867, Little Rock, Arkansas 72203-0867, email address: [marc.r.fossett@usace.army.mil](mailto:marc.r.fossett@usace.army.mil). An electronic copy of the Caney Creek Mitigation Bank can be viewed on the Little Rock District homepage at <http://www.swl.usace.army.mil/regulatory/Publicnotices.html> 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

**Southwestern Energy Company  
1000 Southwestern Energy Drive  
Conway, Arkansas 72032**

has submitted their Caney Creek Mitigation Bank (CCMB) prospectus. The prospectus outlines Streamworks Mitigation Service's (SMS) proposal for developing and operating a single-user mitigation bank for Southwestern Energy Company (SWN) which is known as the banking instrument. After public comments are received and any issues are resolved on the prospectus, SMS 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 comprised of the Corps, and pertinent state and Federal resource agencies. The IRT will review the banking instrument and coordinate with SMS on any issues until the banking instrument is completed. Finally, the District Engineer will review the final instrument and make a decision to approve or not approve. The entire process usually takes a minimum of seven months.

The SMS proposes to establish a single-user mitigation bank in the Cadron Creek watershed located in Faulkner County, Arkansas, to be known as the Caney Creek Mitigation Bank (CCMB). The CCMB will offset unavoidable adverse impacts to streams and other aquatic resources authorized by the Clean Water Act, Section 404 permits that are issued in the proposed service areas. Compensatory mitigation will be carried out on streams, wetlands, and riparian areas through restoration, enhancement and preservation. The proposed mitigation bank will focus on the restoration of the stream channel and the enhancement of riparian areas to generate stream mitigation credits. This mitigation bank will be developed in accordance with the Compensatory Mitigation for Losses of Aquatic Resources – Final Rule (DOD and EPA, 2008)

under the guidance of the IRT. The mitigation bank will be operated and managed by SMS. Properties associated with the bank will be held in conservation easement. The CCMB was visited by members of the IRT on April 23, 2013.

The CCMB site is located within the Arkansas River Valley Ecoregion (37); subsection 37c Arkansas Valley Hills. Within this ecoregion, there are two major ecosystems at the CCMB, Ozark-Ouachita Riparian and Interior Highlands Unglaciaded Forest. The Valley within the project area is relatively flat, with elevations ranging from 318 feet along Caney Creek to 345 feet within the uplands.

The proposed project site is located on Caney Creek and other unnamed tributaries to Caney Creek in section 33, T. 7 N., R. 11 W., east of Enola, in Faulkner County, Arkansas. Caney Creek is a third order stream running east to west along the southern boundary of the property. The property site is owned by a private third party and the mitigation bank was placed in a conservation easement at the Faulkner County courthouse. The mitigation site is located on a 100-acre tract of land that encompasses 3,098 linear feet of Caney Creek, Stream Reach A has 955 linear feet of perennial stream, and Stream Reach B and C has 3,990 linear feet of intermittent stream for a total of 8,043 linear feet of stream restoration, enhancement and preservation. Reach A is incised with eroding banks; enhancement activities will include bank stabilization and grade control. Reach B will be preserved and the left descending bank will be re-vegetated to ensure a minimum 100-foot-wide buffer. The Reach C upper portion was filled years ago for agriculture activities. The lower portion was altered by extensive surface soil removal and ditching. Activities for Reach C will include installation of structures and bioengineering materials where needed to stabilize the channel and to restore aquatic habitat. The proposed site includes wetlands on the site that will include a combination of restoration, buffer enhancement, and creation on 28 acres of the site. There are two separate wetland areas totaling approximately 9.09 acres. The three-acre shale pit will be converted into a shallow wetland in conjunction with the restoration of Reach C. Soils will be replaced and planted with appropriate vegetation within SMS greenhouse operation. The 1.37-acre Pin Oak flat located along the western boundary is only slightly impaired and will be used for preservation. The entire site will be re-vegetated with native hardwood and herbaceous species with a density of 302 stems per acre. A minimum 100-foot-wide buffer will be maintained where property boundaries allow.

The CCMB would be located in the Cadron Creek watershed or 8-digit hydrologic unit code (HUC) 11110205; therefore, this would be the bank's primary service area. Caney Creek is a tributary to Muddy Bayou, a primary contributing waterbody to East Fork Cadron Creek.

The basic project purpose is to provide compensatory mitigation for impacts to waters of the United States. The overall project purpose is to develop and operate the Caney Creek Mitigation Bank which would provide credits for SWN that adversely impact wetlands and/or streams associated with Department of the Army, Section 404 permits. This project is water dependent. The location and general plan for the proposed work are shown on the enclosed sheets.

Water Quality Certification: By copy of this public notice, the applicant is requesting water quality certification from the Arkansas Department of Environmental Quality (ADEQ) in

accordance with Section 401(a)(1) 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 of Engineers permit.

Cultural Resources: A Corps staff archeologist will review topographic maps, the National Register of Historic Places, and other data on reported sites in the area. 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. This public notice initiates consultation under Section 106 of the National Historic Preservation Act with any Tribe that has information or concerns with historic properties in the proposed permit 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.

Flood Plain: We are providing copies of this notice to appropriate flood plain officials in accordance with 44 CFR Part 60 (Flood Plain Management Regulations Criteria for Land Management and Use) and Executive Order 11988 on Flood Plain Management.

Section 404(b)(1) Guidelines. The evaluation of activities to be authorized under this permit which involves the discharge of dredged or fill material will include application of guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. These guidelines are contained in 40 Code of Federal Regulations (CFR) 230.

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 **July 17, 2013**. 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, flood plain 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 also 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

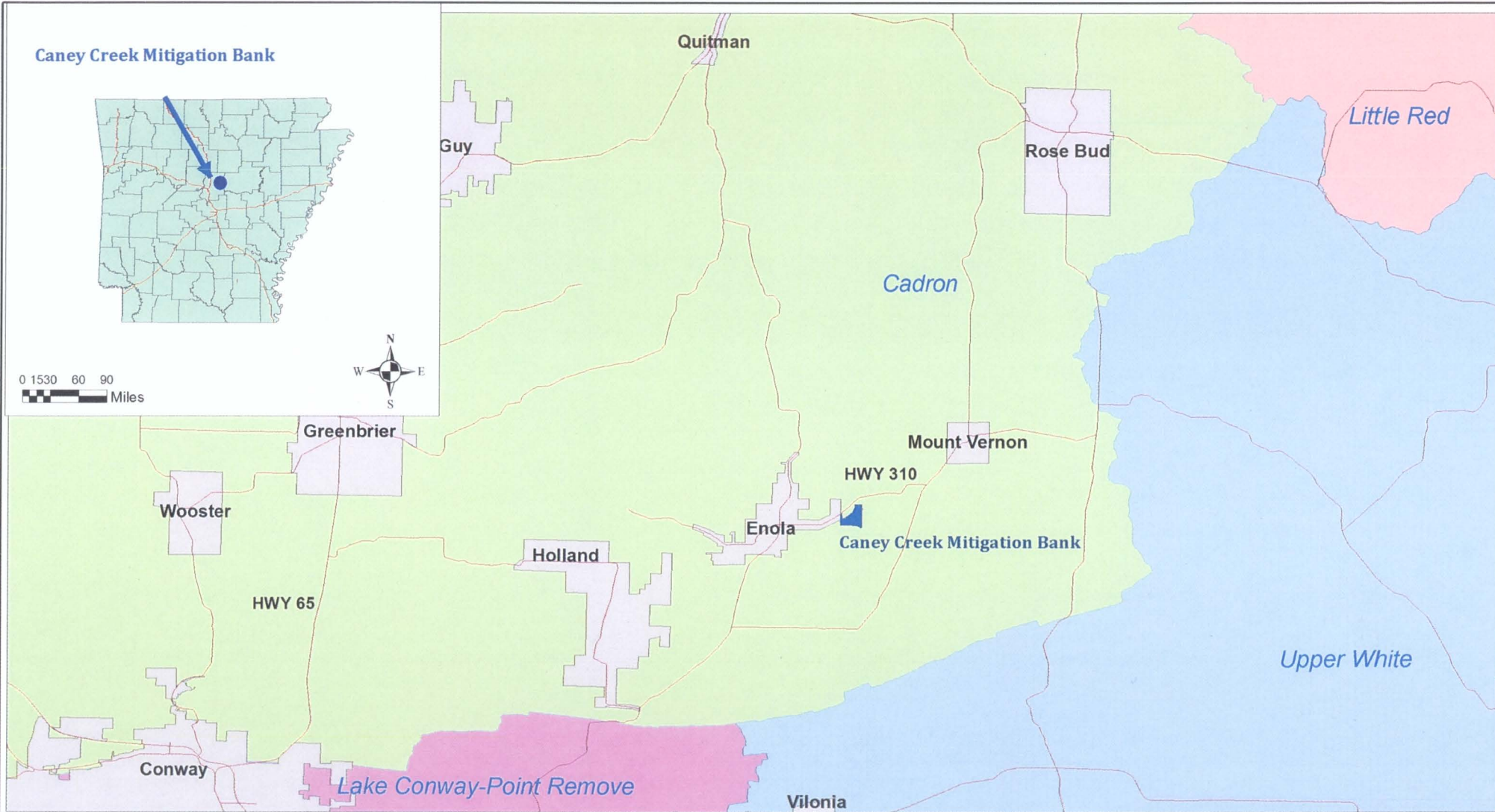
Latitude: **35.19880** Longitude: **-92.12271**

UTM Zone: **15** North: **3895404** East: **575349**

**Caney Creek Mitigation Bank**



0 15 30 60 90  
Miles



**Caney Creek Mitigation Bank  
Vicinity Map**

0 0.5 1 2 3 4 5 6 7 8 9 10  
Miles

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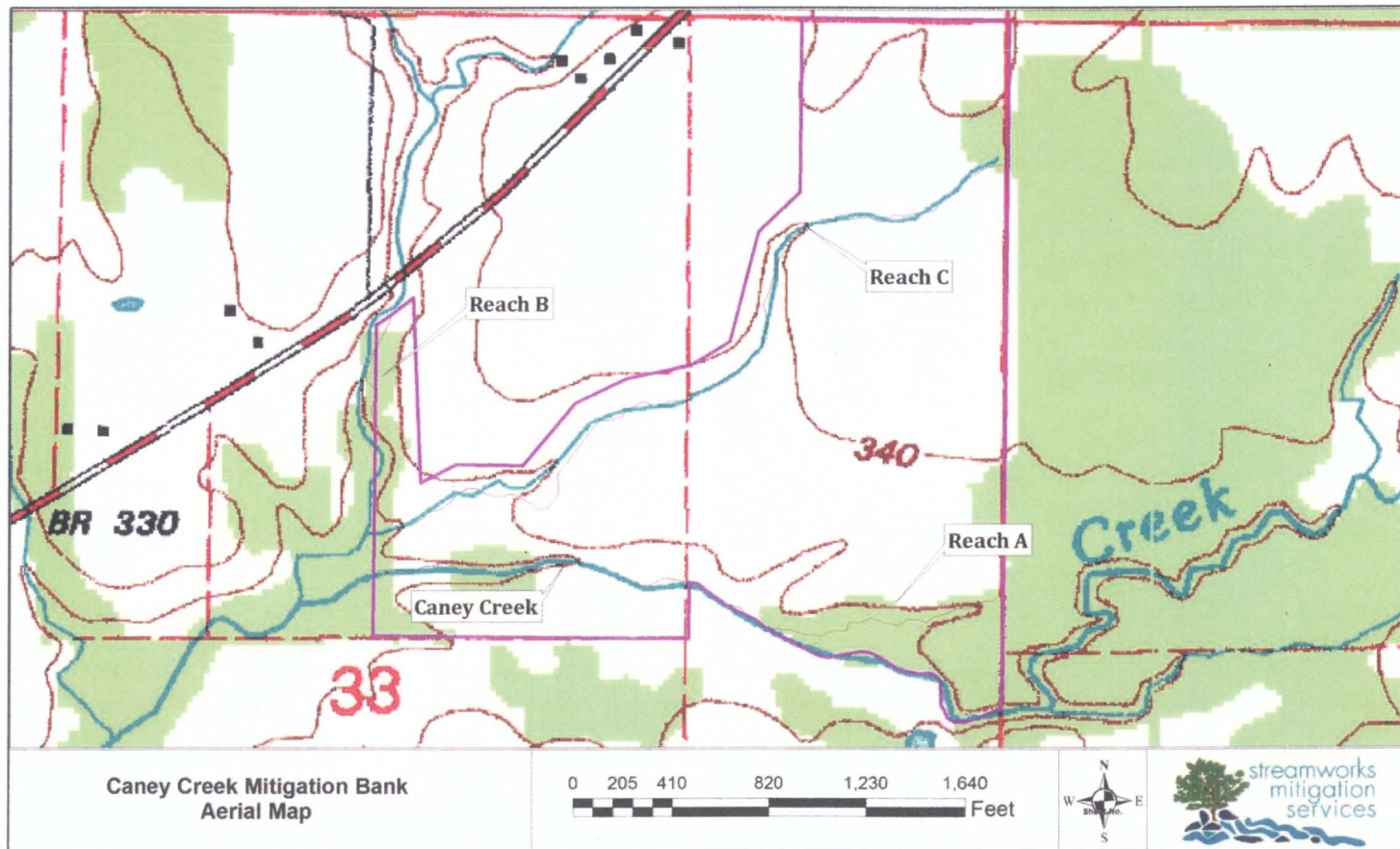


Figure 2: Topographic map of the Caney Creek Mitigation Bank (USGS)

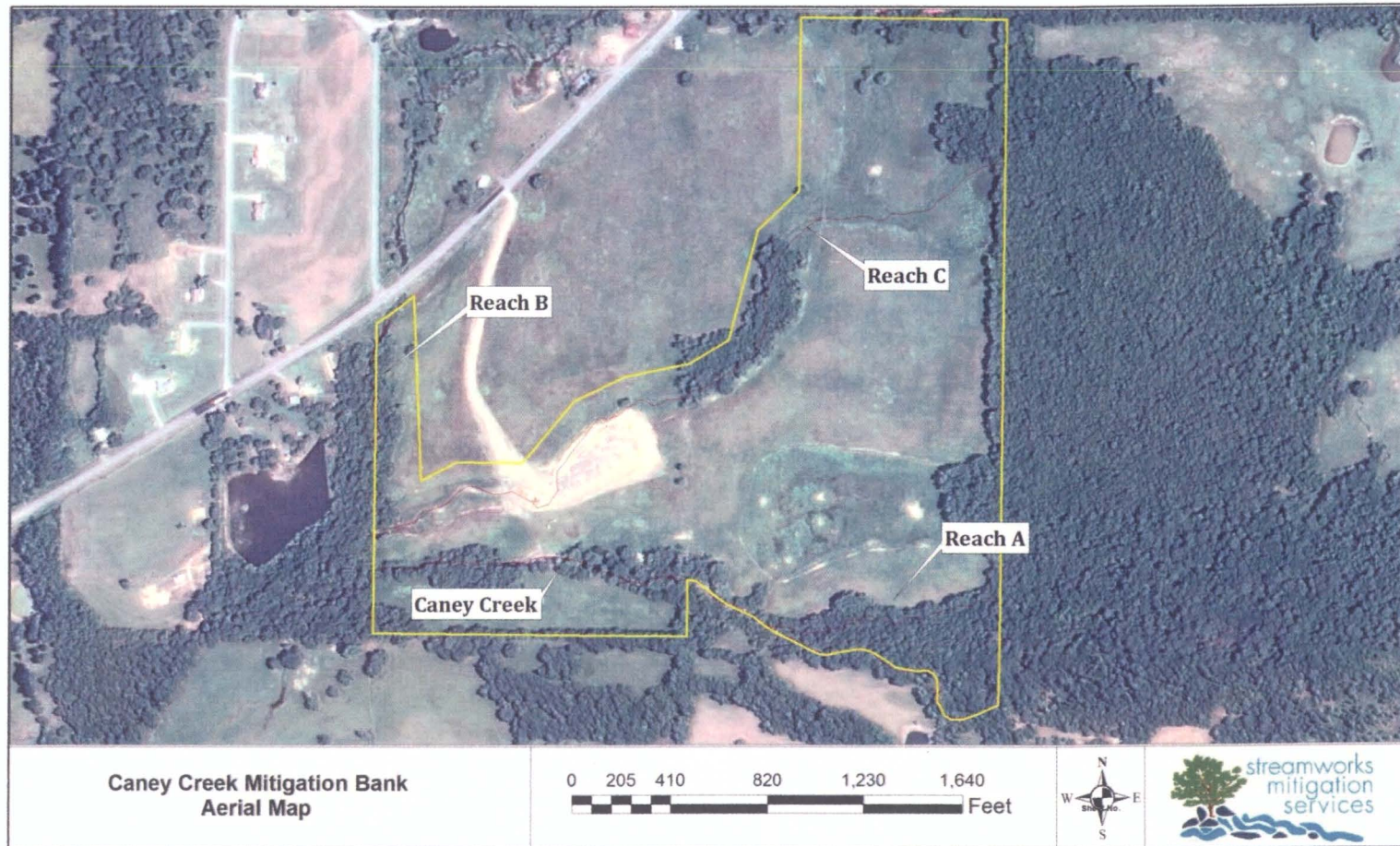


Figure 3: Aerial map of the Caney Creek Mitigation Bank





**Figure 4:** Aerial map of the Caney Creek Mitigation Bank wetland areas





**Figure 5:** Wetland delineation sampling points for the Caney Creek Mitigation Bank

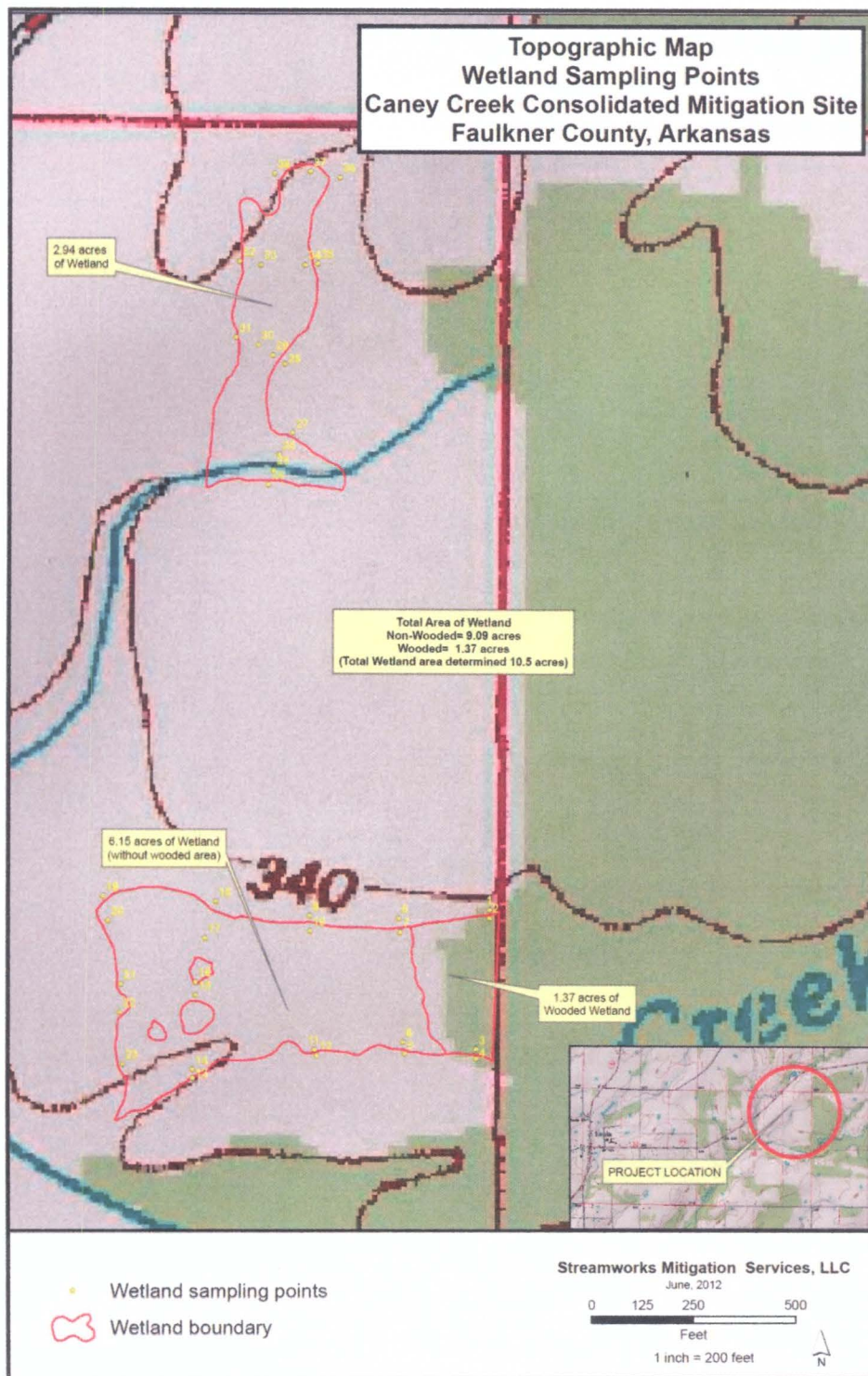


Figure 6: Topographic map of the wetland areas of the Caney Creek Mitigation Bank





Figure 7: Wetland area soils map of the Caney Creek Mitigation Bank



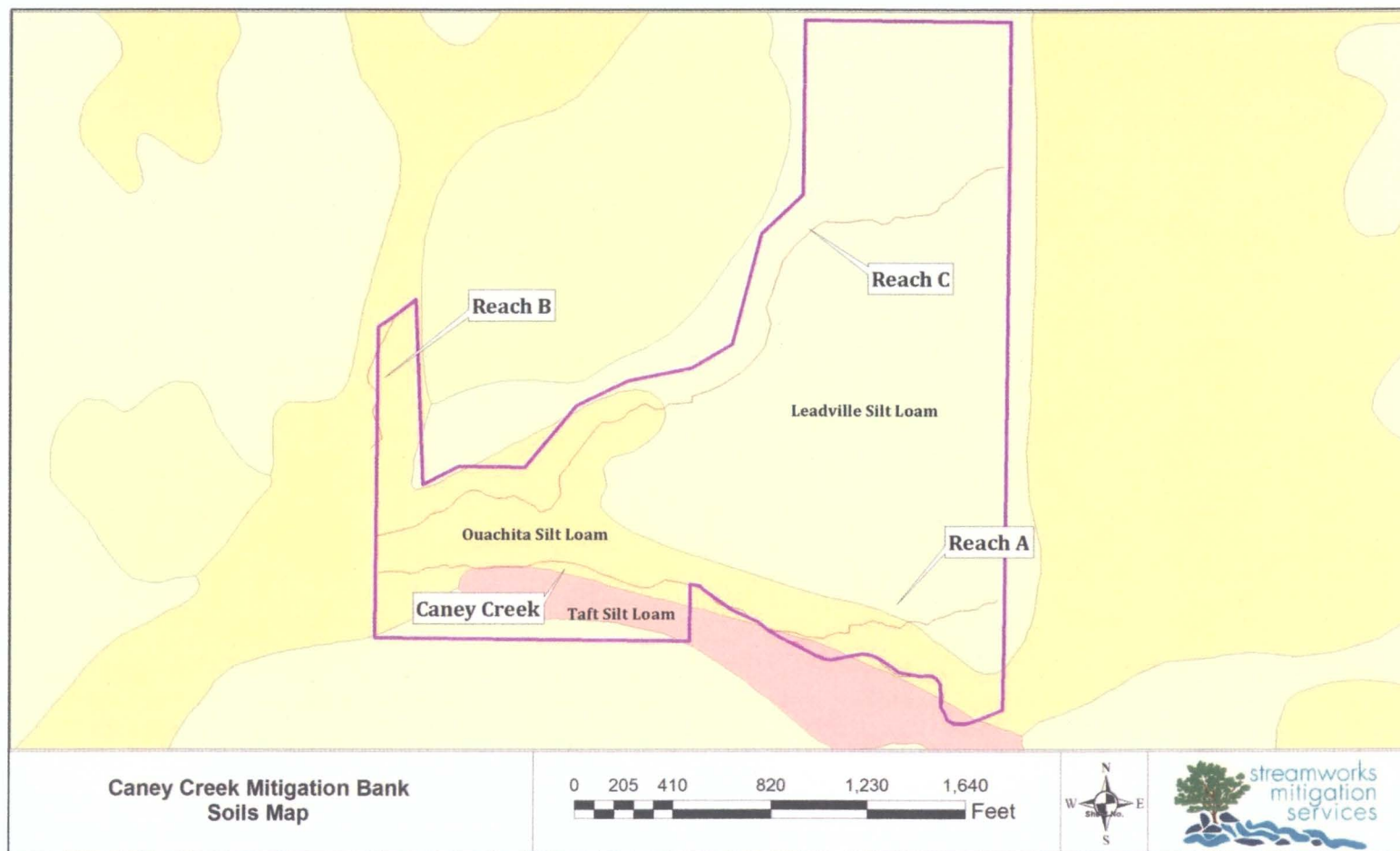
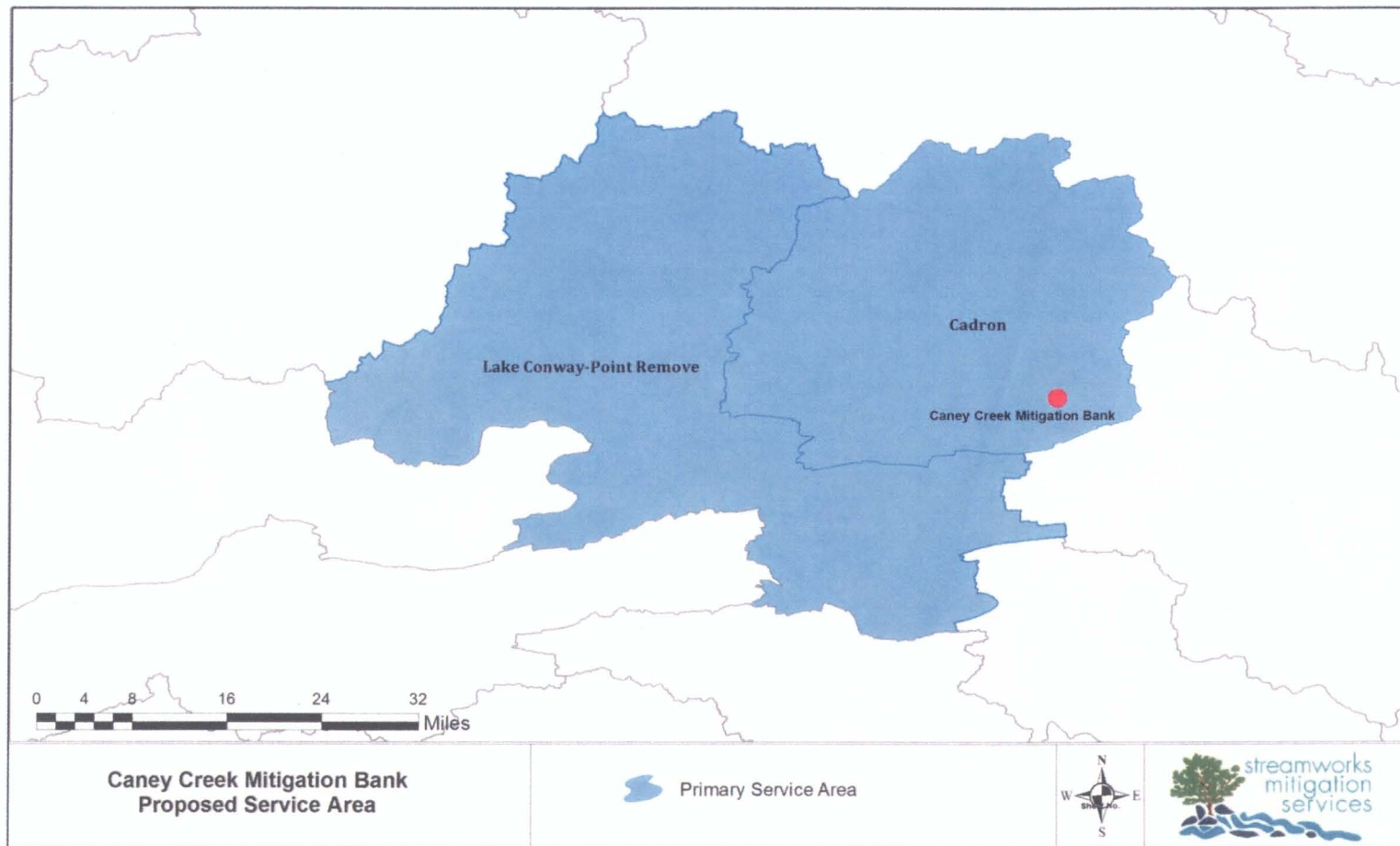


Figure 8: Soils map of the Caney Creek Mitigation Bank (NRCS 2011)

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**Figure 10:** Proposed primary service areas for the Caney Creek Mitigation Bank

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