



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
Mr. Stan Snodgrass
City of Fort Smith

Published: May 12, 2025
Expires: June 6, 2025

**Little Rock District
Permit Application No. SWL-2024-00144**

TO WHOM IT MAY CONCERN: The Little Rock District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403) and Section 404 of the Clean Water Act (33 U.S. Code 1344). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Mr. Stan Snodgrass
City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72901

AGENT: Mr. Caleb Pharris
Olsson, Inc.
1880 Fall River Drive
Loveland, CO 80538

WATERWAY AND LOCATION: The project would affect waters of the United States associated with bank stabilization along Mill Creek to protect adjacent infrastructure and properties from ongoing and future erosion. The proposed project is located in Mill Creek, in sections 3 and 20, T. 10 N and 8 N., R. 23 W. and 32 W., Fort Smith, Sebastian County, Arkansas.

EXISTING CONDITIONS: Mill Creek is bordered to the north and south by industrial land use, to the east by a railroad, and to the west by the Poteau River. Mill Creek flows west through the central portion of the project area and into the Poteau River. The riparian area is an upland shrub community common to roadsides and ditches.

PROJECT PURPOSE:

Basic: The primary purpose is bank stabilization

Overall: The overall project purpose is bank stabilization in Mill Creek to protect adjacent infrastructure and properties from ongoing and future erosion.

PROPOSED WORK: The applicant requests authorization to regrade Mill Creek to a 2:1 slope along approximately 3,295 linear feet. Approximately 0.67 cubic yards per

linear feet of riprap will be placed along the bank. Heavy equipment such as excavator and backhoes will be used in uplands adjacent to Mill Creek to complete this project. Dewatering is not proposed.

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The project avoids additional fill within Mill Creek by excavating the existing stream bank to create a stable slope rather than adding new material, and ensuring most work occurs above the ordinary high-water mark. Best Management Practices (BMPs) will be used during and after construction. A Stormwater Pollution Prevention Plan (SWPPP) will also be developed detailing the location and type of BMPs used. Unavoidable impacts totaling 0.68 acres due to placement of riprap will be compensated for by the purchase of mitigation credits.

COMPENSATORY MITIGATION: The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant will purchase 9.1 mitigation credits from an approved mitigation bank, following the Little Rock Stream Method.

CULTURAL RESOURCES: The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project will not affect any listed species or critical habitat.

Indiana Bat (*Myotis sodalist*), Eastern Black Rail (*Laterallus jamaicensis ssp. Jamaicensis*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), American Burying Beetle (*Nicrophorus americanus*), and Monarch Butterfly (*Danaus plexippus*) are the potentially affected threatened and endangered species in this location.

Pursuant to Section 7 of the Endangered Species Act (ESA), any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402. The Corps is the lead Federal agency for ESA consultation for the proposed action. Any required consultation will be completed by the Corps.

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 Code of Federal Regulations (CFR) Part 121), effective November 27, 2023, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is solely responsible for requesting certification and providing required information to the certifying agency. The applicant submitted a certification request to the Water Quality Planning Branch of the Arkansas Department of Energy and Environment, Division of Environmental Quality (certifying authority) with copy to the Corps on January 28, 2025. In accordance with Certification Rule Part 121.6, the Corps and Arkansas Department of Energy and Environment, Division of Environmental Quality have determined the reasonable period of time for the certifying agency to act upon the certification request is 120 days. In accordance with Certification Rule Part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received the subject certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel.

EVALUATION: 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

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 a permit for this proposal. To make this determination, comments are used to assess impacts to 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 (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Little Rock District will receive written comments on the proposed work, as outlined above, until **June 6, 2025**. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Emily Edwards at Emily.L.Edwards@usace.army.mil. Alternatively, you may submit comments in writing to Little Rock District Corps of Engineers, Regulatory Division, PO Box 867, Little Rock, Arkansas 72203-0867. Please refer to the permit application number in your comments.

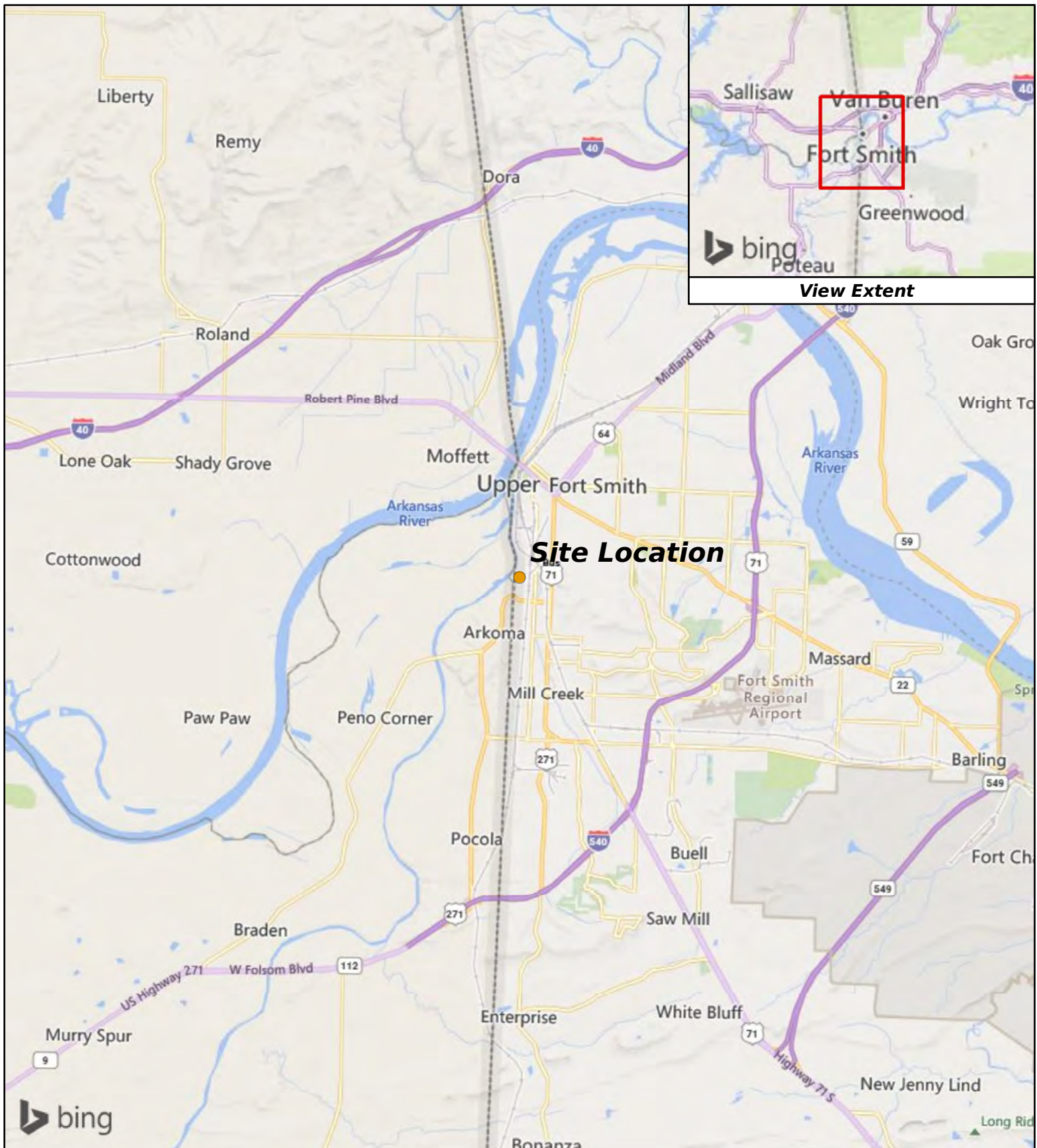
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Enclosures

Approximate Coordinates of Project Center

Latitude: **35.366°** Longitude: **-94.430°**

UTM Zone: **15S** North: **3914570.74** East: **370089.34**



Mill Creek

2

Miles

● Site Location



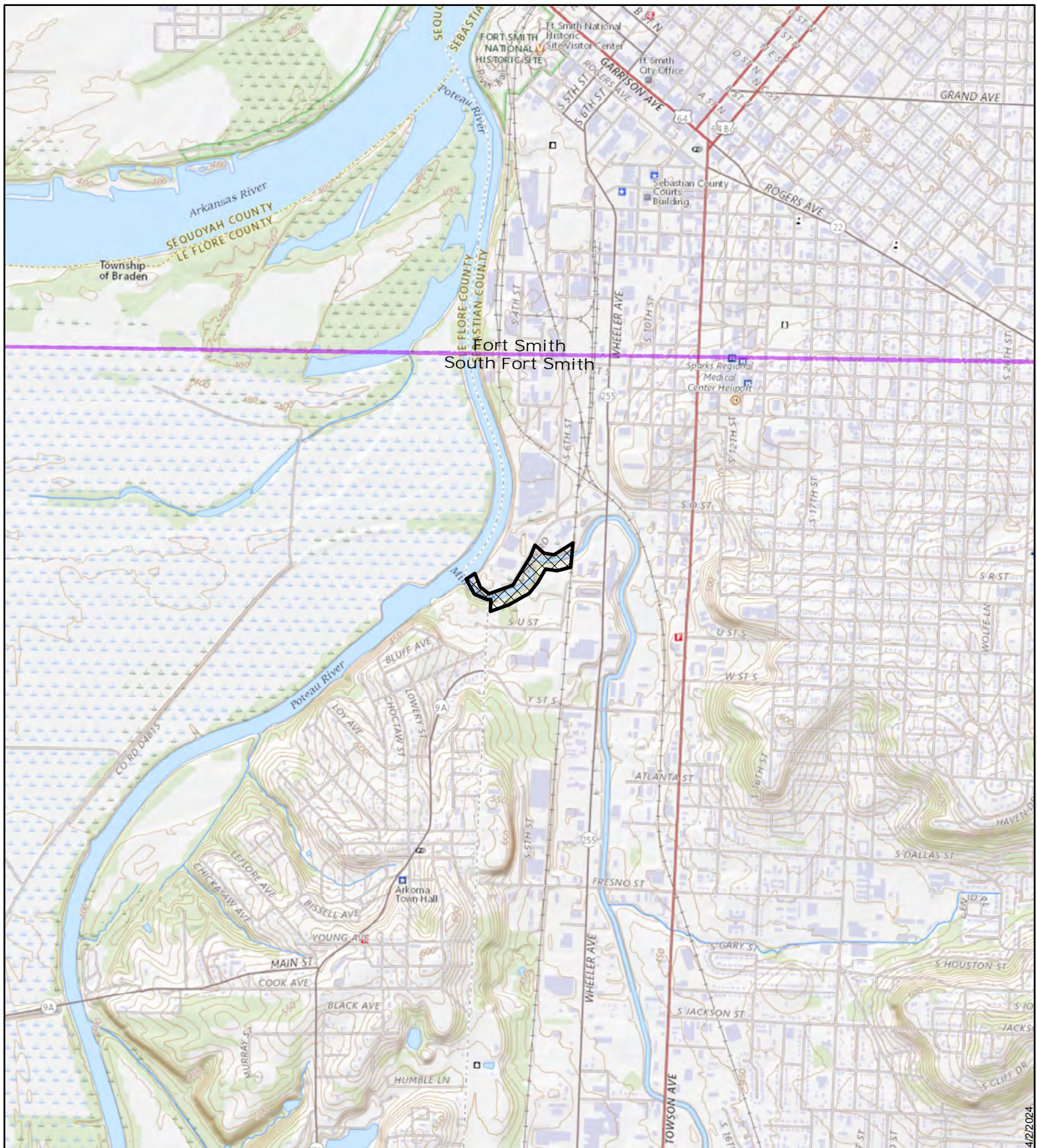
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Background: Microsoft Corporation and its data suppliers

Figure 1. Vicinity Map.

Project No. SWL-2024-00144
City of Fort Smith
Fort Smith, AR
May 2025

Sheet 1 of 5



Mill Creek

2,000

Feet



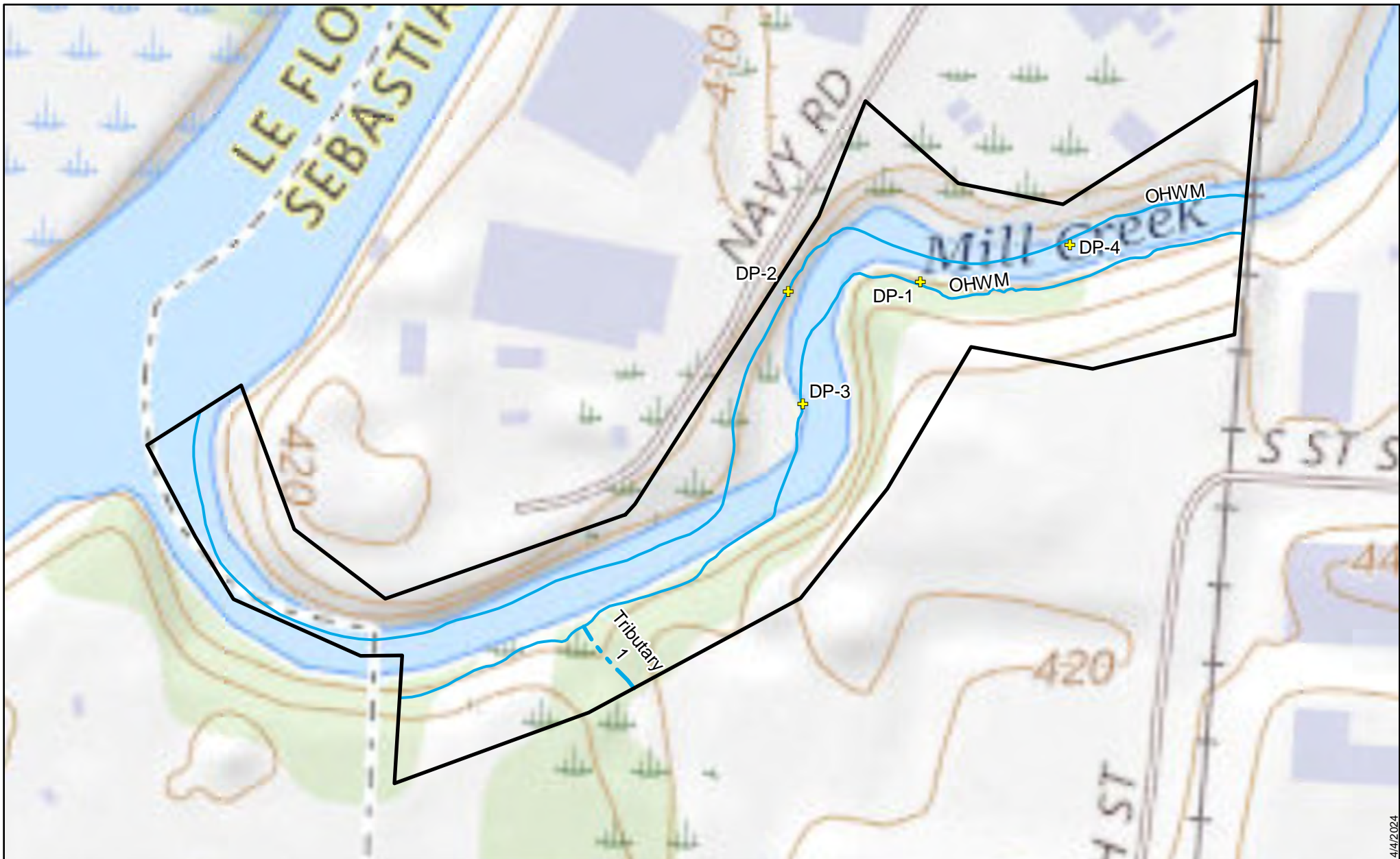
Project Area



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Background: USGS TNM Topo basemap

Figure 2. Map showing overview of project area overlaid on the USGS *The National Map* Topo basemap for quadrangles Fort Smith and South Fort Smith, AR (7.5-minute series).



Mill Creek

200

Feet

Project Area

Ordinary High Water Mark
Tributary

Sample Points

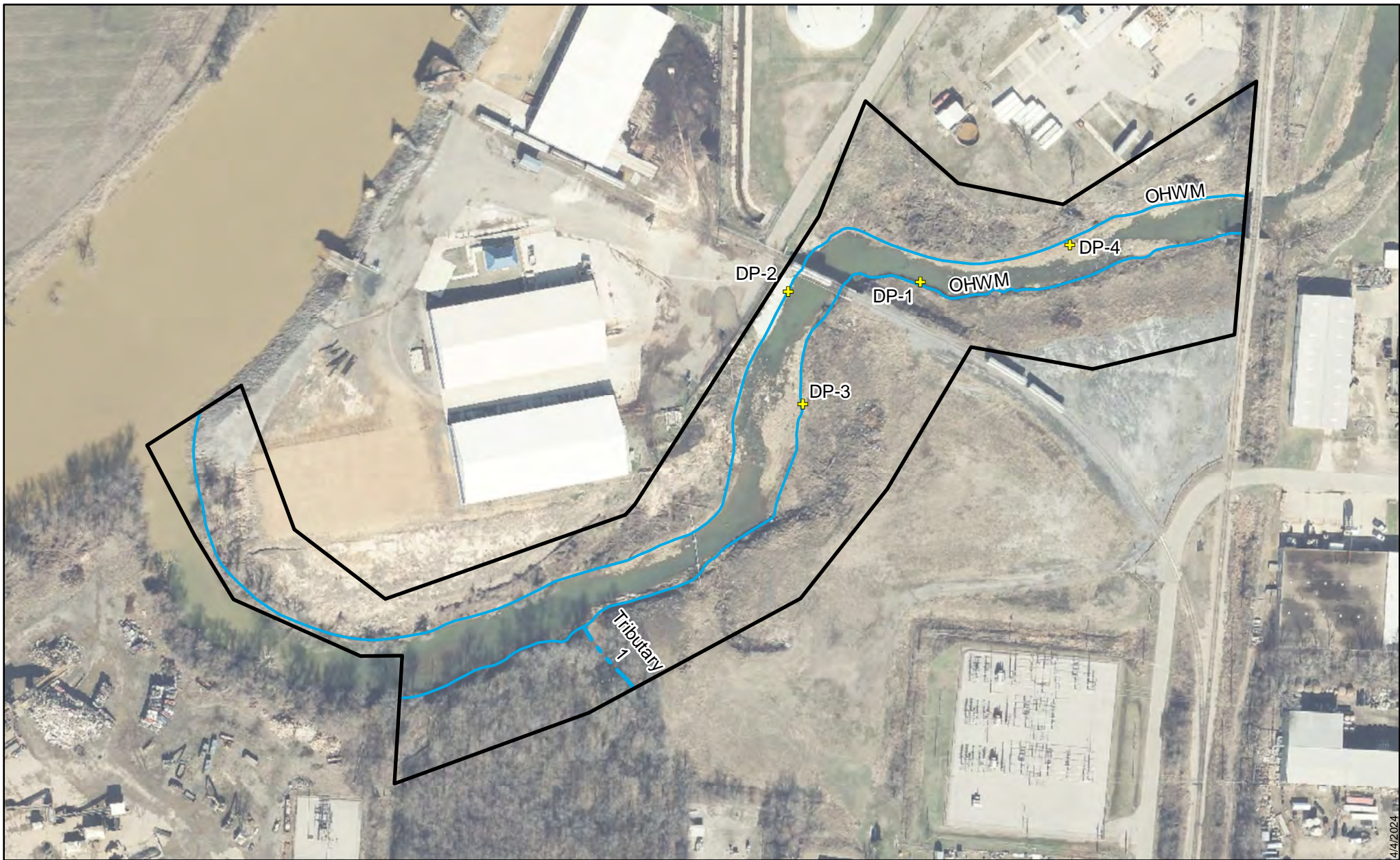


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Background: USGS TNM Topo basemap

4/4/2024

Figure 3. Map showing project area details overlaid on the USGS *The National Map* Topo basemap for quadrangle South Fort Smith, AR (7.5-minute series).






Mill Creek

200

Feet

 Project Area

 Ordinary High Water Mark
 Tributary

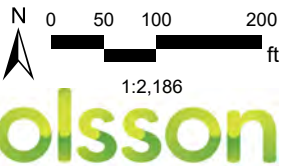
 Sample Points



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Background: Arkansas GIS Office

Figure 4. Map showing project area details overlaid on 2023 Arkansas Digital Orthophotography Program imagery.



- Channel
- Riprap
- Channel Impact Length
- Channel Fill

Mill Creek Bank Stabilization
Section 404 Individual Permit
2024-00144
Sebastian County, Arkansas
Impacts Map
Exhibit A