

# JOINT PUBLIC NOTICE

October 11, 2016

United States Army  
Corps of Engineers  
New Orleans District  
Regulatory Branch-OD-S  
7400 Leake Avenue  
New Orleans, La. 70118

State of Louisiana  
Department of Environmental Quality  
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Attn: Water Quality Certifications

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MVN-2015-00461-MR

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Elizabeth Hill  
WQC Application Number  
WQC # 160623-02

Interested parties are hereby notified that a permit application has been received by the New Orleans District of the U.S. Army Corps of Engineers pursuant to: [ ] Section 10 of the Rivers and Harbors Act of March 3, 1899 (30 Stat. 1151; 33 USC 403); and/or [ X ] Section 404 of the Clean Water Act (86 Stat. 816; 33 USC 1344).

Application has also been made to the Louisiana Department of Environmental Quality, for a Water Quality Certification (WQC) in accordance with statutory authority contained in Louisiana Revised Statutes of 1950, Title 30, Chapter 11, Part IV, Section 2074 A(3) and provisions of Section 401 of the Clean Water Act (P.L.95-17).

## **CINCLARE MITIGATION BANK IN WEST BATON ROUGE PARISH**

**NAME OF APPLICANT:** Harry L. Laws & Co., Inc. c/o Coastal Environments, Inc.; Attn: Ed Fike; 1260 Main ST., Baton Rouge, LA 70802.

**LOCATION OF WORK:** The composite tracts totaling 218.52 acres are located on the west side of LA Hwy 1, approximately 3.75 miles south-southwest of Exit 153 on Interstate 10 in West Baton Rouge Parish, Louisiana, as shown on enclosed drawings (Latitude: 30.411790° N, Longitude: -91.262529° W). The Project is located within the Terrebonne Basin, Hydrologic Unit 08070300.

**CHARACTER OF WORK:** Removal of existing culverts, plugging/backfilling and leveling interior ditches and rows, and distributing material on-site to restore the surface topography to the site for the construction of a mitigation bank.

The comment period for the Department of the Army Permit and the Louisiana Department of Environmental Quality WQC will close **30 days** from the date of this joint public notice. Written comments, including suggestions for modifications or objections to the proposed work, stating reasons thereof, are being solicited from anyone having interest in this permit and/or this WQC request and must be mailed so as to be received before or by the last day of the comment period. Letters concerning the Corps of Engineers permit application must reference the applicant's name and the Permit Application Number, and be mailed to the Corps of Engineers at the address above, **ATTENTION: REGULATORY BRANCH**. Similar letters concerning the

Water Quality Certification must reference the applicant's name and the WQC Application number and be mailed to the Louisiana Department of Environmental Quality at the address above.

The application for this proposed project is on file with the Louisiana Department of Environmental Quality and may be examined during weekdays between 8:00 a.m. and 4:30 p.m. Copies may be obtained upon payment of costs of reproduction.

### **Corps of Engineers Permit Criteria**

The decision whether to issue a permit will be based on an evaluation of the probable impacts, 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 U.S. Army 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 U.S. Army Corps of Engineers to determine whether to make, 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 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.

The New Orleans District is unaware of properties listed on the National Register of Historic Places near the proposed work. The possibility exists that the proposed work may damage or destroy presently unknown archeological, scientific, prehistorical, historical sites, or data. Issuance of this public notice solicits input from the State Archeologist and State Historic Preservation Officer regarding potential impacts to cultural resources. After receipt of comments from this public notice the Corps will evaluate potential impacts and consult with the State Historic Preservation Officer and Native American Tribes in accordance with Section 106 of the national Historic Preservation Act, as appropriate.

Our initial finding is that the proposed work would neither affect any species listed as endangered, nor affect any habitat designated as critical to the survival and recovery of any endangered species listed by the U.S. Department of Commerce,

Utilizing Standard Local Operating Procedure for Endangered Species in Louisiana (SLOPES), dated October 22, 2014, between the U.S. Army Corps of Engineers, New Orleans and U.S. Fish and Wildlife Service, Ecological Services Office, the Corps has determined that the proposed activity would have no effect on any species listed as endangered by the U.S. Department of the Interior.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The applicant's proposal would result in the destruction or alteration of N/A acre(s) of EFH utilized by various life stages of red drum and penaeid shrimp. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

If the proposed work involves deposits of dredged or fill material into navigable waters, the evaluation of the probable impacts will include the application of guidelines established by the Administrator of the Environmental Protection Agency. Also, a certification that the proposed activity will not violate applicable water quality standards will be required from the Department of Environmental Quality, before a permit is issued.

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.

You are requested to communicate the information contained in this notice to any other parties whom you deem likely to have interest in the matter.

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for  
Martin S. Mayer  
Chief, Regulatory Branch

Enclosure

Prospectus for the Proposed Cinclare Mitigation Bank

West Baton Rouge Parish, Louisiana

Revised September 22, 2016

Sponsor:

Harry L. Laws & Company, Inc.  
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Agent:

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## 1.0 INTRODUCTION

Harry L. Laws & Company, Inc. (HLL) proposes to re-establish six tracts, totaling approximately 238.7 acres of agricultural land into bottomland hardwood forest. The proposed Cinclare Mitigation Bank property is located in the Lower Mississippi River Alluvial Plain, upper Terrebonne Basin, West Baton Rouge Parish, LA. It is not located in Louisiana's Coastal Zone nor within the boundaries of the Coastal Wetlands Conservation Plan. The purpose of the afforestation project is to create a mitigation bank that will provide available compensatory wetland mitigation credits for projects which impact wetlands.

### 1.1 Site Location

HLL's proposed mitigation bank, consisting of six tracts, is located on the west side of LA HWY 1, approximately 3.75 miles south-southwest of Exit 153 on Interstate 10 in West Baton Rouge Parish, LA (Figure 1). Tracts 1A, 1B and 1C, collectively contain +/- 218.5 ac or 91.5 percent of the land within the proposed bank, are located on the west side of LA HWY 1 across from Terrill Drive and the Cinclare Sugar Mill which is closed. These three tracts are currently designated as a single agricultural unit (Farm No. 392) by the U. S. Department of Agriculture (USDA) and farmed as such. A large drainage ditch separates Tracts 1A and 1B and an aggregate private road separates Tracts 1B and 1C. As the mitigation plan is currently proposed, the ditch and road and adjacent perimeter farming roads are to remain.

Tract 1A is located in Sec. 109, T-7-S, R-12-E and Sec. 51, T-8-S, R-12-E. The approximate center of Tract 1A, consisting of +/- 22.7 ac, is located at latitude 30.411790 and longitude -91.262529 Decimal Degrees. Surrounding land use of Tract 1A includes agricultural land currently in sugarcane, forested wetlands and a narrow strip of forested land flanked by a linear, one-street residential subdivision.

Tract 1B is located in Sec. 109, T-7-S, R-12-E and Sec. 51, T-8-S, R-12-E. The approximate centroid of Tract 1B, consisting of +/- 40.3 ac, is located at latitude 30.410854 and longitude -91.266897 Decimal Degrees. The northernmost boundary of Tract 1B abuts a pipeline ROW. Surrounding land use also includes agricultural land currently in sugarcane and forested wetlands.

Located in Sees. 52, 53 and 54, T-8-S, R-12-E, the approximate center of Tract 1C, comprised of +/- 155.5 ac, is located at latitude 30.407805 and longitude -91.266897 Decimal Degrees. Surrounding land uses include cultivated sugarcane; a forested strip of land that separates the tract from a parallel road and residential subdivision; forested/shrub wetlands and crawfish ponds.

The remaining portion of the proposed bank, initially referred to as Tract 2 and located in Sec. 78, T-8-S, R-12-E, is currently designated by the USDA as Farm No. 718. This land is being proposed for use as a mitigation bank because it has been difficult to farm through the years due to its relatively low elevation. Because of the existence of two pipeline ROW that traverse Tract 2, it has been divided into three units – Tracts 2A, 2B and 2C - which contain a total of 20.2 ac

and represent 8.5 percent of the proposed bank's project area. Acreage and approximate centroid locations of the three tracts are as follows: Tract 2A - 1.9 ac, latitude 30.402536 and longitude -91.279943 Decimal Degrees; Tract 2B - 16.7 ac, latitude 30.399407 and longitude -91.279961 Decimal Degrees and Tract 2C - 1.6 ac, latitude 30.399031 and longitude -91.278869 Decimal Degrees. The three tracts are accessible by a dirt road, located at the end of West St. Francis Street that intersects with LA HWY 1. Adjacent land use includes agricultural land currently in sugarcane, wetland and possibly non-wetland forests. The southern portion of Tract 2B abuts an aerial electrical transmission line ROW.

Tracts 2A, 2B and 2C are on relatively low agricultural land that, if leveled and afforested, would add 20.2 ac of bottomland hardwood habitat to the adjacent forested wetland base. The tract would provide habitat for local species of flora and fauna. A wide array of animals including, but not limited to herpetofauna, avian species, deer, rabbits, raccoons, opossums, bobcats, foxes and squirrels and other rodents would utilize the site. While the two cleared pipeline right of ways are not enhancement features, they certainly would not bar access for most species of animals that would utilize the forested areas. Harry L. Laws & Co., Inc. owns the land that is traversed by the two pipelines as well as the easternmost portion of the larger forested tract, located west of Tracts 2A, 2B and 2C. It is reasonable to assume that sometime in the future, the two pipeline corridors would be eventually decommissioned/abandoned by the pipeline companies' with their servitude rights reverting back to the landowner. At this time, the relatively small tracts could be reforested to create a larger net acreage of bottomland hardwood forest.

While the three tracts may be disjunct to Tracts 1A, 1B and 1C, none of the tracts are disjunct to the easternmost expanse of adjacent wetland forest which is owned by Harry L. Laws & Co., Inc. The 20.2 ac of bottomland woody plants would produce detritus and humus to the natural system, contributing nutrients to the soil and organisms with their associated food webs. The tracts also would provide increased storm (wind and flood surge) buffer, helping to attenuate storm strength, act as catchment areas to increase capacity for flood waters. In addition these areas would improve water quality by filtering out particulates and converting nutrients from agricultural runoff into more biologically-available forms while serving as a buffer between an existing wetland forest and agricultural fields.

## **2.0 PROJECT GOALS AND OBJECTIVES**

The goals of the proposed mitigation bank are to re-establish and provide long-term protection for approximately 238.7 ac of bottomland hardwood habitat in the upper Terrebonne Basin of the Lower Mississippi Alluvial Plain. Land that is currently in sugarcane production will be restored into functioning forested wetlands by slight topographic and hydrologic modifications and the planting of species of tree seedlings that are commonly associated with this habitat type and the adjacent wetlands. The afforestation of these six tracts will enhance the wetland value of the re-established and adjacent bottomland hardwood communities by increasing the contiguous acreage. The potential for an increase of biodiversity is also an objective with the additional wildlife habitat that will be re-established. Hard mast plants will produce food for small and large mammals as well as a wide variety of avian species including Neotropical migrating birds.

Currently, the proposed mitigation areas drain through a series of ditches and culverts that were installed for the purpose of facilitating drainage to enhance agricultural productivity. These drainage improvements collect and direct water into a larger canal that leads through the adjacent forested area into the Intracoastal Waterway (IWW). By filling ditches, removing culverts and restoring natural topography within the proposed mitigation area, natural hydrology will largely be restored. The proposed action will essentially convert an efficient drainage regime into an ineffective one. With the planting of desirable bottomland hardwood tree seedlings, it is anticipated that functioning wetlands will be created in a relatively short period of time.

### **3.0 ECOLOGICAL SUITABILITY OF THE SITE**

#### ***3.1 Historical Ecological Characteristics of the Site***

Historically, the location of the proposed mitigation bank was an overflow area or floodplain of the Mississippi River prior to the creation of guide levees that were constructed after the flood of 1927. The flood waters of the Mississippi River would have deposited sediment in these areas during high water events. The project area has been in agricultural usage (e.g., row crops, cattle or hay production) for at least the past 75 years (Maciasz per. comm. 2015). Prior to being converted to agricultural land, the project area was likely comprised of tree species similar to the surrounding area which remained forested and was likely used for market and recreational hunting and the harvest of forest products.

#### ***3.2 Current Ecological Characteristics of the Site***

The proposed mitigation bank is adjacent to, and east of, 35,000+ ac of a bottomland hardwood forest that is somewhat remote and is comprised of jurisdictional wetlands that are regulated by the U. S. Army Corps of Engineers, New Orleans District. While some energy related activities may be permitted, the tract is located in the floodplain, outside of the accepted development corridor, and would be considered mostly undevelopable for residential, commercial and most industrial purposes. It is likely that the forested tract is used recreationally for hunting and fishing and the extraction of forest products and minerals.

The existing bottomland hardwood acreage has very similar soil types to the proposed mitigation bank. With the elevational and hydrological modifications to the existing agricultural land put into effect, the proposed mitigation bank should exhibit the same wetland characteristics of the surrounding bottomland hardwood forest after a short period of time.

Sugarcane has been the predominant crop and vegetative cover on the six tracts, but soybeans have also been produced as well as hay and cattle (Maciasz per. comm. 2015). Current hydrology consists of a series of drainage ditches and culverts that direct drainage into a larger canal leading off of the property. The soils within the six tracts consist of Sharkey clay and Sharkey silty clay loam which are both listed as hydric soils in West Baton Rouge Parish (USDA, NRCS 2014). The Wetland Conservation Documentation, obtained from the USDA

Natural Resources Conservation Service, depicts all of the lands in Tracts 1A, 1B and 1C as Prior Converted Wetlands (Appendix B).

Surface water quickly flows off the agricultural property in a northwest direction into drainage ditches and canals that empty into the IWW. Backwater flooding of the IWW and the same connecting drainage canals and low areas accommodate rising water levels during extreme high water events. The average annual precipitation for the area is 60.6 inches. The Mississippi River Alluvial Aquifer, a source of groundwater for West Baton Rouge Parish, underlies the proposed mitigation bank.

According to the landowner, the soils in the adjacent forested area are generally saturated with periodic episodes of surface inundation between the middle of November to April (Maciasz per. comm. 2015). Ground conditions in the adjacent woods are generally dry between May to the end of October or mid-November (Maciasz per. comm. 2015). In support of the landowner's observations, the two soils (Sharkey silty clay loam and Sharkey clay) that comprise the agricultural land in this proposal are saturated from the surface to 2 ft from December to April. The Sharkey silty clay loam's water table lowers to greater than 6 ft in depth the remainder of the year and the Sharkey clay's lower limits are 0 to 2 ft in depth during the same time of the year (USDA, NRCS 2015).

The U. S. Army Corps of Engineers, New Orleans District issued a Jurisdictional Determination (JD) on February 16, 2016, on a larger land holding, owned by HLL, but it contains all of Tracts 1A through 2C. While the drainage ditch that bifurcates Tracts 1A and 1B has been designated as other waters, all of Tracts 1A through 2C have been designated as non-wetlands (Appendix A).

### ***3.3 General Need for the Project in this Area***

The greatest systematic loss of bottomland hardwood habitat in the entire United States has occurred in the Lower Mississippi Alluvial Plain (MacDonald et al. 1979, Stanturf et al. 2000). The leveeing of the Mississippi River separated it from its natural tributaries and associated floodplains brought about drastic changes in regional and local hydrological cycles which resulted in reductions in floodwater retention, significant land use change from forests to agriculture and significant loss of critical wildlife and fish habitat (Stanturf and Gardiner 2000). The importance of restoring these Lower Mississippi Alluvial Plain bottomland hardwood forests cannot be overstated. Bottomland hardwood forests are also recognized as providing: (1) highly productive habitat resulting from aquatic deposition of particulates, nutrients and dissolved organic material; (2) habitat and forage for a wide range of wildlife and fisheries species and (3) maintenance of water quality, reduced flooding and stream recharge (LDWF 2005). Afforestation objectives that translate into benefits also include, but are not limited to, increasing: (1) biological diversity, (2) habitat for game and non-game mammals and birds, (3) protection of aquatic resources and water quality, (4) carbon sequestration and (5) aesthetics (Stanturf and Gardiner 2000). In summary, the conversion of agricultural land to bottomland hardwood forests produces positive environmental, financial and recreational results (Stanturf and Gardiner 2000).

Local benefits derived from the bank establishment include the aesthetic backdrop for adjacent landowners in the residential neighborhoods. (To some degree at this location), the "existence" of wetlands would be valued by people who may not have knowledge of specific wetland values and/or functions (Industrial Economics, Inc. 1996). Along with the visual benefits, the proposed mitigation bank would act as a buffer for noise and would ensure a certain degree of privacy. The bank would also prevent a future undesirable adjacent land use that could cause reason for emotional distress/distraught and depreciate residential home values. With the establishment of the bank, HLL will increase the wetland acreage, enhance the wetland value and potential for biological diversity of the adjacent 35,000-plus acres of bottomland hardwood forest by increasing its contiguous acreage.

The *Town of Brusly Resource Conservation and Development Measure*, implemented by the U.S. Department of Agriculture, Soil Conservation Service (SCS) in the 1980s, was designed to improve drainage in the Brusly area (Boudreaux per. comm. 2015). The proposed mitigation bank would improve the overall effectiveness of the SCS drainage enhancement measure because it would remove the drainage contribution of approximately 238.7 ac of the lowest croplands that currently drain into three drainage features – two drainage mains (M1 and M2) and one lateral (L-2A) – which traverse the proposed bank. It is assumed that a reduction of water in the lower part of water in the lower part of the system would reduce the total volume of water in the system that would improve drainage/capacity and benefits the Town of Brusly (Boudreaux per comm. 2015). Perpetual servitudes granted by HLL for the three drainage features included only top of bank to top of bank of the three drainage features (Boudreaux per. comm. 2015).

### ***3.4 Technical Feasibility***

The technical feasibility of this proposed bank is greatly enhanced by the existence of hydric soils and relatively lower elevations throughout the project area. The six mitigation parcels, particularly Tracts 2A, 2B and 2C, have at times been difficult to farm effectively because of their slightly lower elevations which have resulted in their susceptibility to a higher frequency of flooding from the adjacent forest (Maciasz per. comm. 2015). The preparatory earthwork needed to restore elevations to pre-farming conditions is facilitated because there is no existing undesirable woody vegetation that needs to be removed. Once the project area has had some time to settle after primary site preparation measures have been completed, an experienced planting contractor would be selected to prepare/rip the planting rows and deliver and sow the tree seedlings.

## **4.0 ESTABLISHMENT OF THE MITIGATION BANK**

### ***4.1 Site Restoration Plan***

Some of the adjacent offsite ditches, improved with the *Town of Brusly Resource Conservation and Development Measure* and implemented by the U.S. Department of Agriculture, Soil Conservation Service (SCS) in the 1980s, are dedicated drainage servitudes designed to prevent flooding in the Town of Brusly located east of the project site. Our hydrologic restoration is designed to isolate the proposed bank site from drainage into the offsite ditches by backfilling

and leveling the interior ditches and rows and restoring the surface topography so as to restore slow, overland runoff to the northwest. Restoration of the pre-existing topography within the bank site will allow for longer periods of time for the retention of water from periodic rainfall and/or inundation.

In order to successfully restore the agricultural fields to bottomland hardwood forest, land leveling of agricultural rows will be required to accommodate hydrologic and vegetative restoration. During this process, existing and non-jurisdictional culverts will be removed and ditches and drains that prevent flooding will be plugged and filled in order to increase retention of water. Prior to the re-vegetation of the proposed mitigation bank, v-shaped shallow trenches will be ripped in the soil to ensure each sapling is planted at the appropriate depth. Ripping will also ensure the correct distances between each row of plants. A combination of native species commonly associated with bottomland hardwood forests and approved by the IRT will be planted on 9-ft. centers, for an initial stand density of at least 537 seedlings per acre and the trenches backfilled. No temporary or long-term structural management requirements are needed to assure hydrologic and/or vegetative restoration.

All of the land that comprises the proposed mitigation bank is zoned Agriculture. The parish's zoning ordinance does not include a wooded/forested zoning designation and no zoning request is required to legally convert agricultural lands into woodlands (Daigle per. comm. 2015).

#### ***4.2 Current Site Risks***

Recreational uses by adjacent residential neighborhoods and locals could be a cause of concern. Trespassers may want to use the mitigation bank for the hunting of various mammals. All-terrain vehicles used by trespassers could cause ruts, impact hydrology and/or damage the tree seedlings that have been planted. Although Louisiana trespassing laws prohibit any person from entering property owned by another without express, legal, or implied authorization, signs will be posted to notify any potential trespassers of the intent of the property in hopes of deterring any damage to the land.

The road, located between Tracts 1B and 1C, provides access to pipeline assets owned by private companies, but is not a dedicated/recorded servitude. As previously discussed, servitudes of the two drainage mains (M-1 and M-2) and one lateral (L-2A) do not include any agricultural lands adjacent to the drains. Tracts 2A and 2B are separated by a 150-ft pipeline ROW that contains four pipelines owned and operated by Cypress Gas Pipeline Company (2), DOW Pipeline Company and Air Products & Chemicals, Inc. Tracts 2B and 2C are separated by a 100-ft pipeline ROW that is owned/operated by ExxonMobil. With exception to the noted items, there are no other servitudes, liens, leases, encumbrances and/or agreements that affect Tracts 1A through 2C.

Tracts 1A and 1C are bordered on the outer sides by linear residential neighborhoods which consist of a single street lined on both sides by single family dwellings. Agricultural land, located between the proposed mitigation bank and LA HWY I, will continue to be utilized by HLL for the production of sugarcane and/or other crops (Maciasz per. comm. 2015). HLL

owns the adjacent bottomland hardwood forests which comprise the easternmost portion of the 35,000+ ac of contiguous forested wetlands.

### ***4.3 Long-Term Sustainability of the Site***

HLL owns the adjacent lands on: all but the northwest side of Tract 1A; all four sides of Tract 1B; all but the southwest side of Tract 1C and all but the southern property, south of the electrical transmission line ROW, surrounding Tracts 2A, 2B and 2C. HLL's ownership of the adjacent forested land ensures the control of same.

The property is located a significant distance away from Louisiana's coastal waters, ensuring that salt water intrusion will not likely eliminate the inland plant species of the proposed mitigation bank.

## **5.0 PROPOSED SERVICE AREA**

The proposed mitigation area would provide mitigation credits for projects located in Hydrologic Units 8070300 and 8090302 (Figure 4). The proposed bank lies within Hydrologic Unit 8070300 and would be considered a secondary service area for Hydrologic Unit 8090302.

## **6.0 OPERATION OF THE MITIGATION BANK**

### ***6.1 Project Representatives***

Sponsor: Harry L. Laws & Company, Inc.  
ATTN: Mr. Drew Maciasz, President  
P.O. Box 158  
Brusly, LA 70719  
drew@hllaws.com  
225-749-2861

Agent: Coastal Environments, Inc.  
1260 Main Street  
Baton Rouge, LA 70802  
efike@coastalenv.com  
225-383-7455 ext. 128

Landowner: Harry L. Laws & Company, Inc.  
ATTN: Mr. Drew Maciasz, President  
P.O. Box 158  
Brusly, LA 70719  
drew@hllaws.com  
225-749-2861

## ***6.2 Qualifications of the Sponsor***

HLL is an agriculturally based, land management company operating in Louisiana for nearly 140 years. Established in 1878, and domiciled in West Baton Rouge Parish, HLL has been part of Louisiana's agriculture and conservation landscape for decades, having operated the Cinclare Central Factory Sugar Mill for 125 years in Brusly, LA and managing nearly 16,000 acres of agricultural and timber holdings. Most recently, HLL established the successful Sunnyside Mitigation Bank in Maringouin, LA, a 200-acre bottomland hardwood mitigation project. HLL successfully established the Sunnyside Plantation Mitigation Bank in Iberville Parish in 2014.

As is the objective of the currently proposed bank, the Sunnyside Plantation Mitigation Bank was effectively transformed from agricultural land to a functioning forested wetland habitat containing vegetation commonly associated with bottomland hardwood forests. The same general methodologies/practices that were used to re-establish the bottomland hardwood community at Sunnyside Plantation will be utilized on the proposed Cinclare Mitigation Bank.

## ***6.3 Proposed Long-Term Ownership and Management Representatives***

HLL is both the proposed long-term owner and the party responsible for long-term management.

## ***6.4 Site Protection***

The owner will encumber the property with a perpetual conservation servitude. The holder of the conservation servitude will be the Land Trust of Louisiana, P. O. Box 1636, Hammond, LA 70404.

## ***6.5 Long-Term Strategy***

The long-term strategy for the proposed mitigation bank is to fulfill the bank's operational and maintenance requirements by utilizing cost-effective practices/measures that maximize the bank's benefits including wetland productivity. Long-term, structural management requirements are not currently seen as being necessary to assure hydrologic and vegetative restoration. The hydrology will be evaluated annually to identify any problem areas where soil moisture is inadequate or excessive and corrective actions will be taken, as required. The vegetation will be assessed to isolate areas which may exhibit stress or impacts. HLL will re-plant portions of the site when necessary, to ensure the required survivability of the forest is maintained. Exotic and invasive species will be controlled to ensure the success of the natural and planted vegetation at the bank. This includes mowing, herbicide application, and the removal of undesirable or invasive species. Responsibilities of the owner/sponsor such as paperwork, maintenance, and monitoring will be handled quickly and efficiently. An adaptive management plan, describing how HLL will address potential and possibly unforeseen future problems, will be developed as part of the formal mitigation work plan.

## 7.0 REFERENCES

Boudreaux, Darren

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*Code of Federal Regulations*

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Daigle, Kasie

2015. Assistant Building Coordinator and Contractor Administrator, West Baton Rouge Parish Council, Port Allen, LA. Personal communication with Ed Fike on October 28, 2015.

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Maciasz, Drew

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Stanturf, J. A., E. S. Gardiner, P. B. Hamel, M. S. Devall, T. D. Leininger and M. L. Warren, Jr. 2000. *Restoring Bottomland Hardwood Ecosystems in the Lower Mississippi River Alluvial Valley*. *Journal of Forestry*. 98 (8): 10-16.

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2014. <http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. Accessed by Dustin Johnson on September 19, 2014.

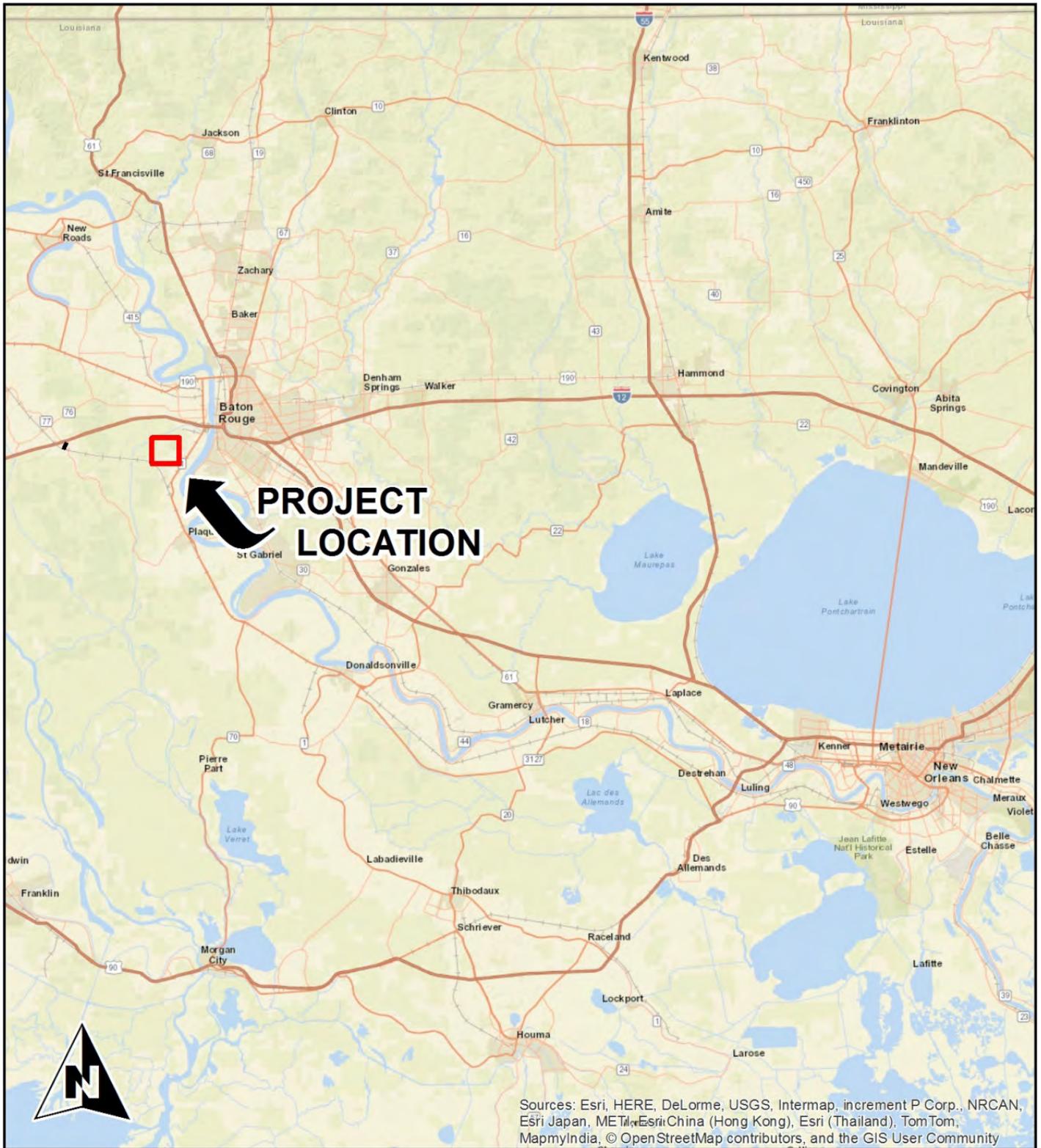
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<http://pa.totaland.com/WestBatonRouge>. Accessed by Ed Fike on November 16, 2015.

# FIGURES



**Figure 1**

PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: ESRI World Street Map  
 DATUM: NAD83



## VICINITY MAP

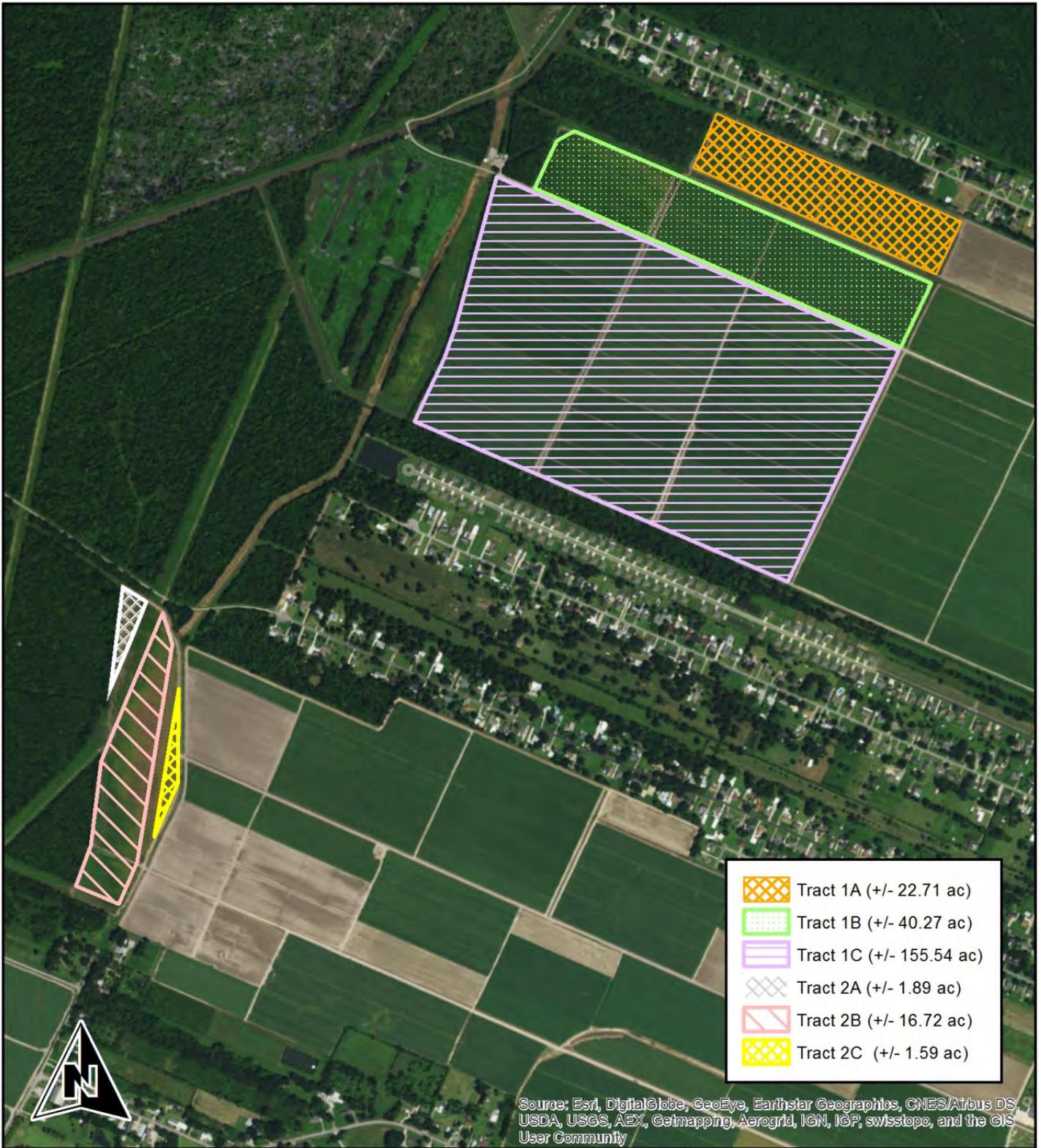
**Coastal Environments, Inc.**  
 Biloxi, MS.....228-385-5547

## Cinclare Mitigation Bank

Report Map for  
 +/- 238.7 acre site

LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E

PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc  
 DATE: April 2016



-  Tract 1A (+/- 22.71 ac)
-  Tract 1B (+/- 40.27 ac)
-  Tract 1C (+/- 155.54 ac)
-  Tract 2A (+/- 1.89 ac)
-  Tract 2B (+/- 16.72 ac)
-  Tract 2C (+/- 1.59 ac)

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

**Figure 2**

PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: ESRI World Imagery  
 (USDA NAIP 2013)  
 DATUM: NAD83



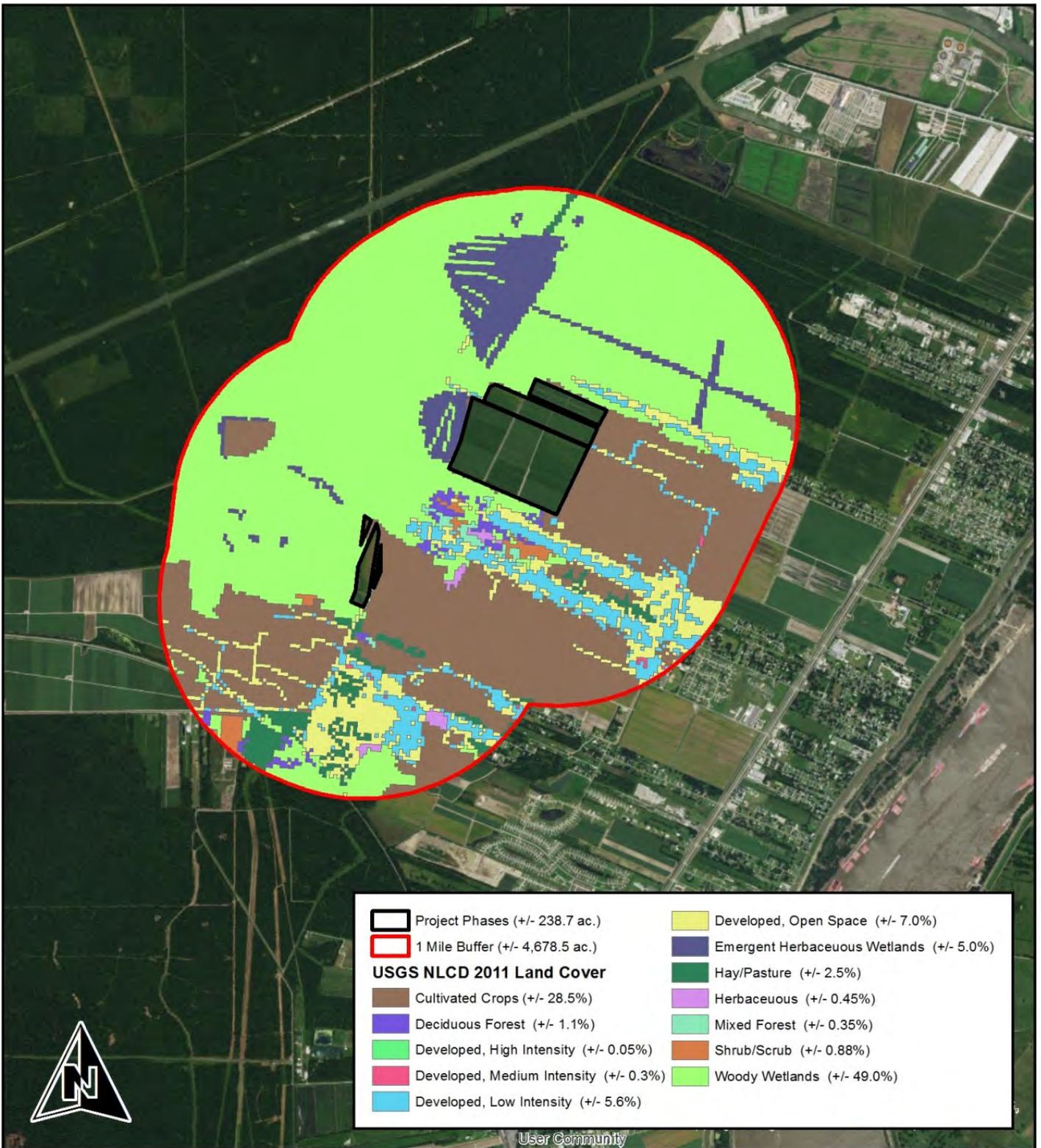
## SITE PLAN MAP

 **Coastal Environments, Inc.**  
 Biloxi, MS.....228-385-5547

### Cinclare Mitigation Bank

Report Map for  
 +/- 238.7 acre site

LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E  
 PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc.  
 DATE: June 2016



**Figure 3**

PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: ESRI World Imagery (USDA NAIP 2013)  
 DATUM: NAD83

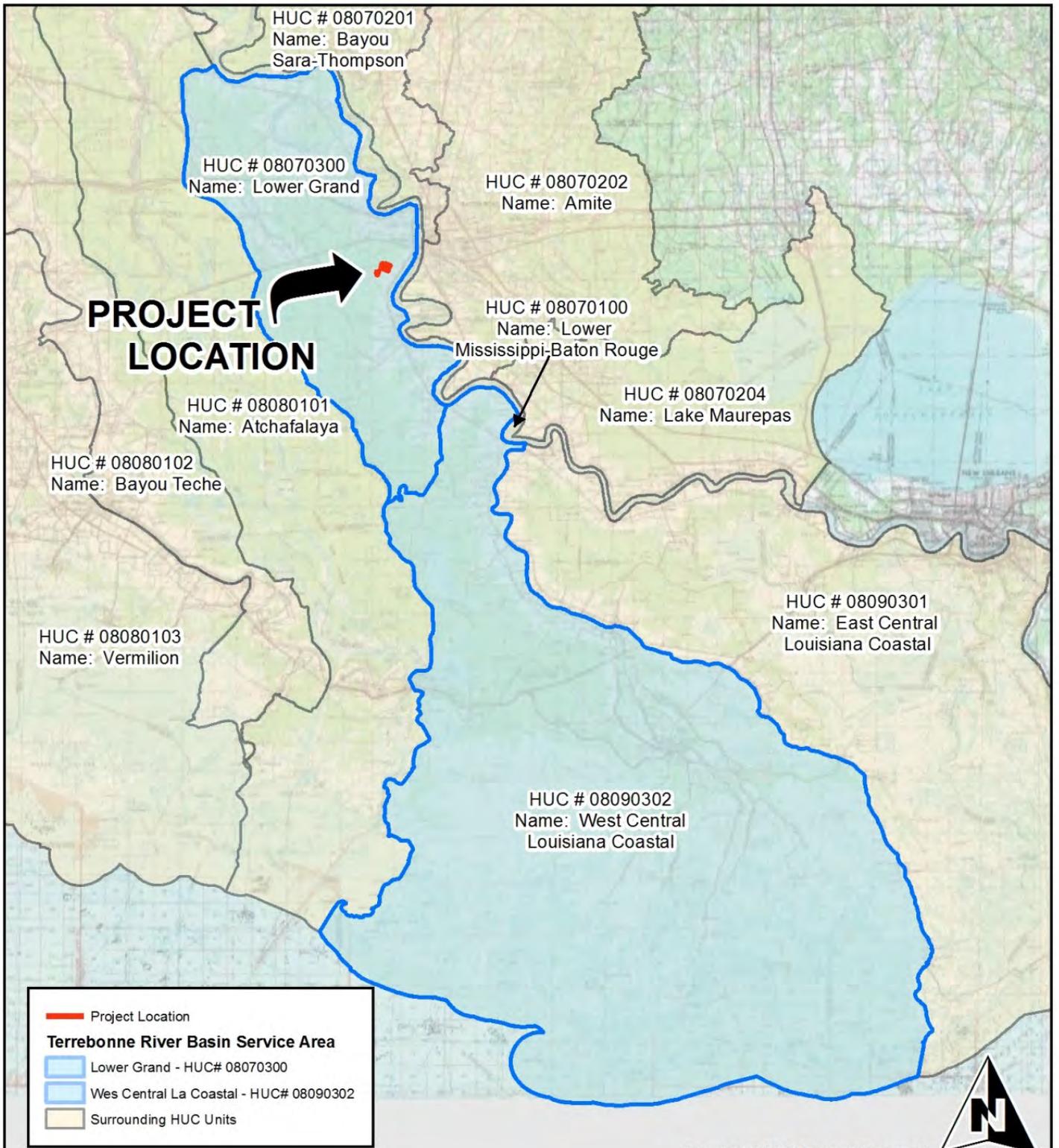
**LAND USE/LAND COVER  
 WITHIN 1 MILE BUFFER**

**Coastal Environments, Inc.**  
 Biloxi, MS.....228-385-5547

**Cinclare Mitigation Bank**

Report for  
 +/- 238.7 acre site

LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E  
 PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc.  
 DATE: June 2016



Copyright:© 2013 National Geographic Society, i-cubed

**Figure 4**  
 PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: USDA/NRCS Watershed Boundary (2013) & ESRI USA Topo Map  
 DATUM: NAD83

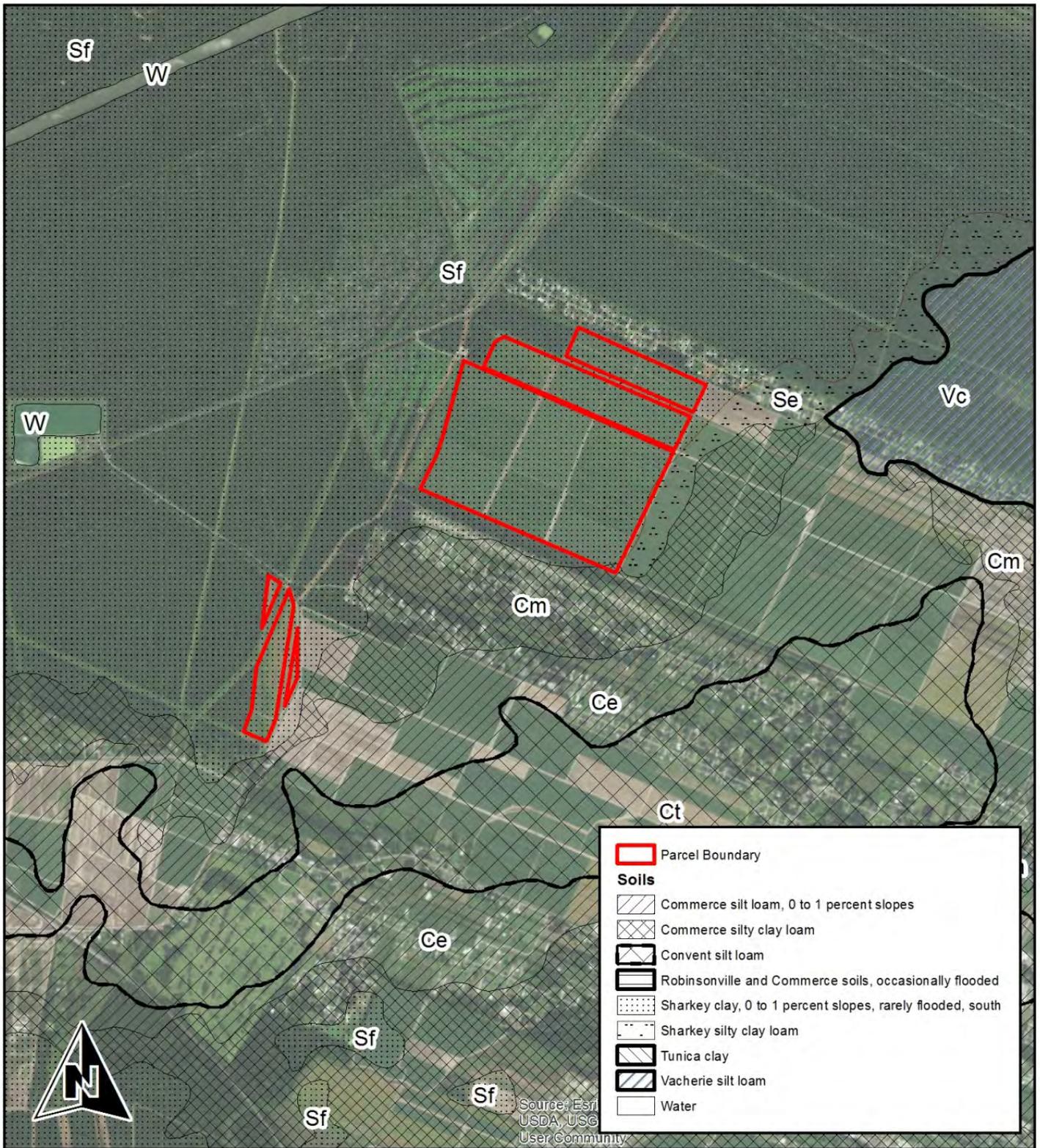
0 8.5 17 25.5 34  
 Miles

**SERVICE AREA MAP**

**Coastal Environments, Inc.**  
 Biloxi, MS.....228-385-5547

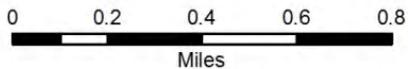
**Cinclare Mitigation Bank**  
 Report for  
 +/- 238.7 acre site

LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E  
 PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc  
 DATE: June 2016



**Figure 5**

PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: USDA NRCS SSURGO Data  
 DATUM: NAD83



## SOIL SURVEY MAP

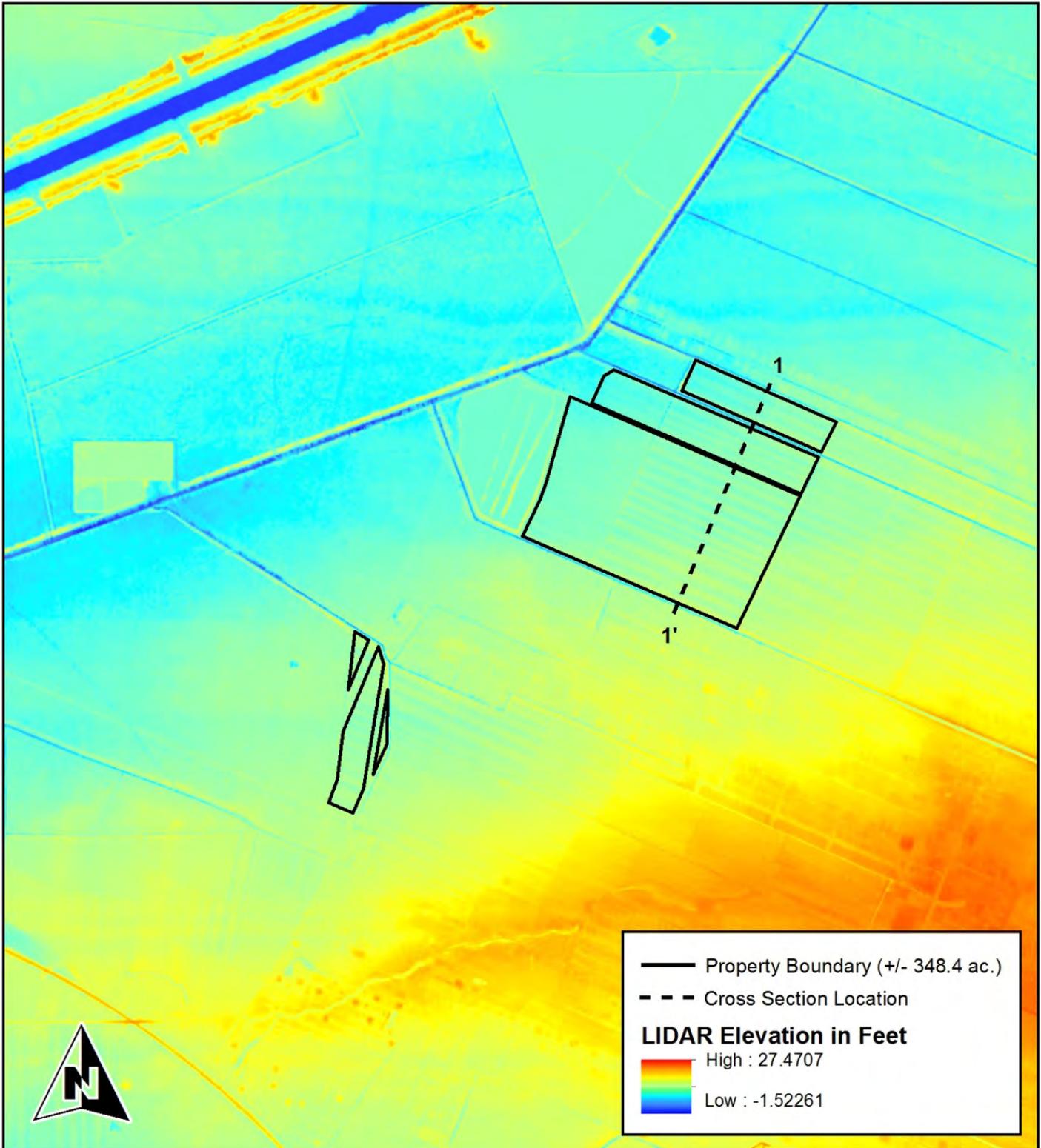
Coastal Environments, Inc.  
 Biloxi, MS.....228-385-5547

### Cinclare Mitigation Bank

Report Map for  
 +/- 238.7 acre site

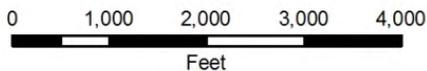
LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E

PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc  
 DATE: June 2016



**Figure 6**

PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: 2001 USACE LIDAR DEM  
 LA FEMA Project Phase 1  
 DATUM: NAD83



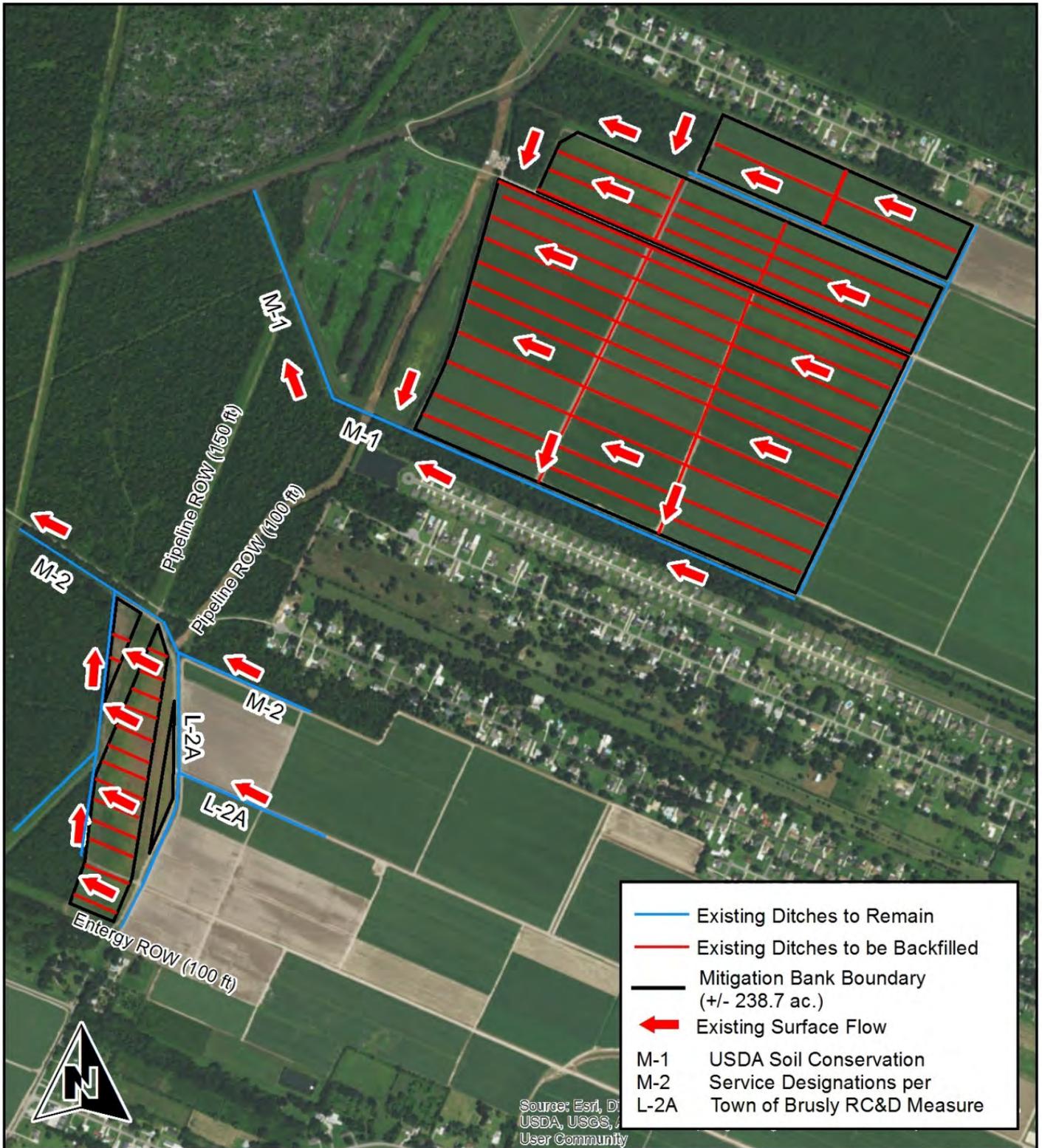
## LIDAR MAP

**Coastal Environments, Inc.**  
 Biloxi, MS.....228-385-5547

### Cinclare Mitigation Bank

Report Map for  
 +/- 238.7 acre site

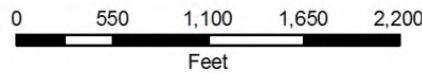
LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E  
 PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc  
 DATE: April 2016



Source: Esri, D  
USDA, USGS,  
User Community

**Figure 7**

PURPOSE: Mitigation Bank Prospectus  
SOURCE: Client Provided Survey  
MAP BASE: ESRI World Imagery  
(USDA FSA 2013)  
DATUM: NAD83



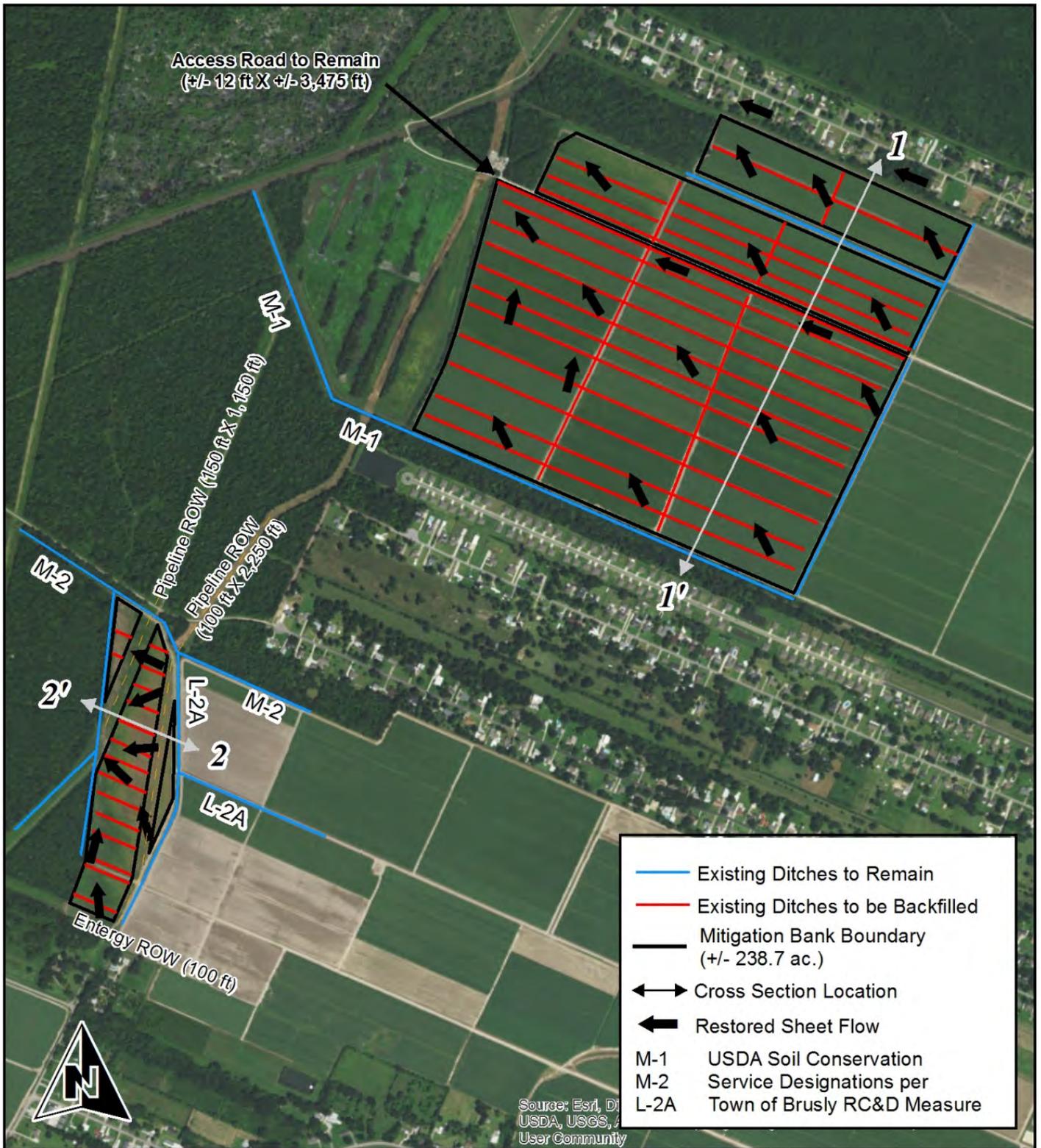
## EXISTING SURFACE FLOW

**Coastal Environments, Inc.**  
Biloxi, MS.....228-385-5547

### Cinclare Mitigation Bank

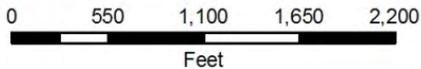
Report Map for  
+/- 238.7 acre site

LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
Sections 51, 52, 53, 54, 59 & 78,  
T-8-S, R-12-E  
PARISH: West Baton Rouge, LA  
APPLICATION BY: Harry L. Laws & Co., Inc.  
DATE: June 22, 2016



**Figure 8**

PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: ESRI World Imagery (USDA FSA 2013)  
 DATUM: NAD83



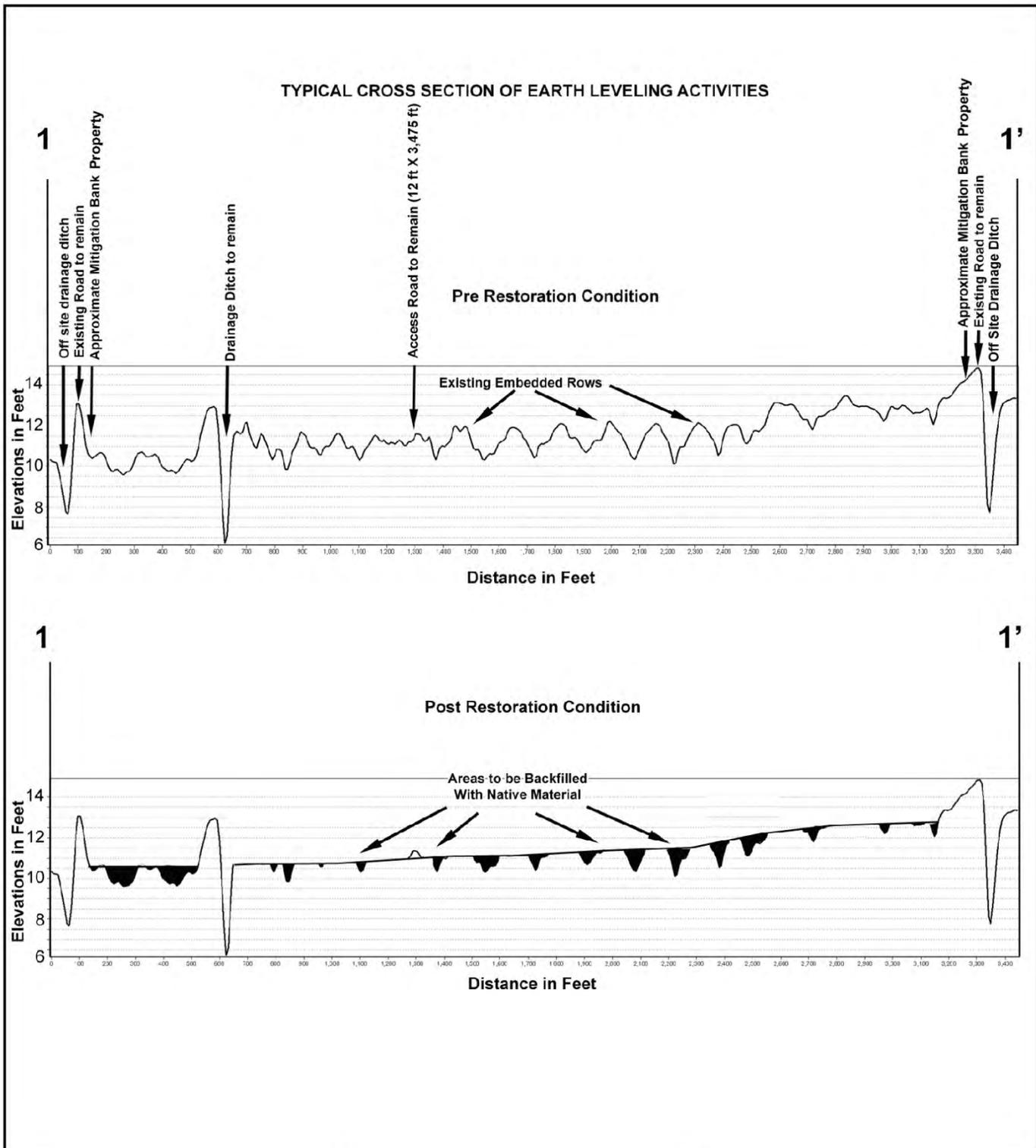
## RESTORATION PLAN (DRAINAGE)

**Coastal Environments, Inc.**  
 Biloxi, MS ..... 228-385-5547

### Cinclare Mitigation Bank

Report Map for  
 +/- 238.7 acre site

LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E  
 PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc.  
 DATE: September 2016



**Figure 9**

PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: USDA NRCS SSURGO Data  
 DATUM: NAD83

**CROSS SECTION 1**

**Coastal Environments, Inc.**  
 Biloxi, MS.....228-385-5547

**Cinclare Mitigation Bank**

Report Map for  
 +/- 238.7 acre site

LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E  
 PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc  
 DATE: September 2016

TYPICAL CROSS SECTION OF EARTH LEVELING ACTIVITIES

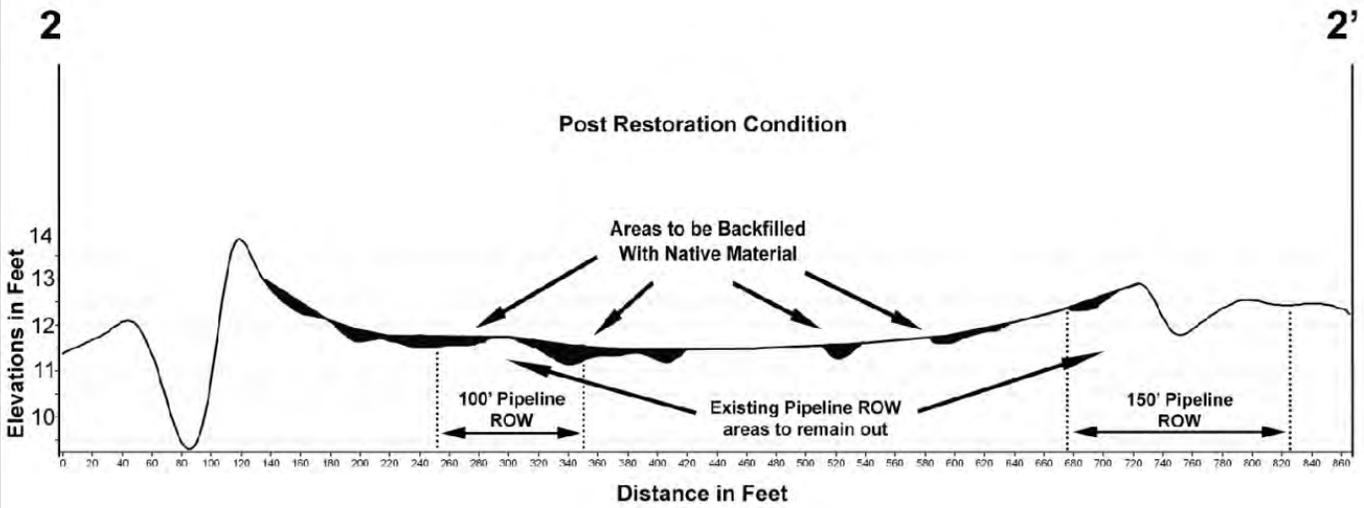
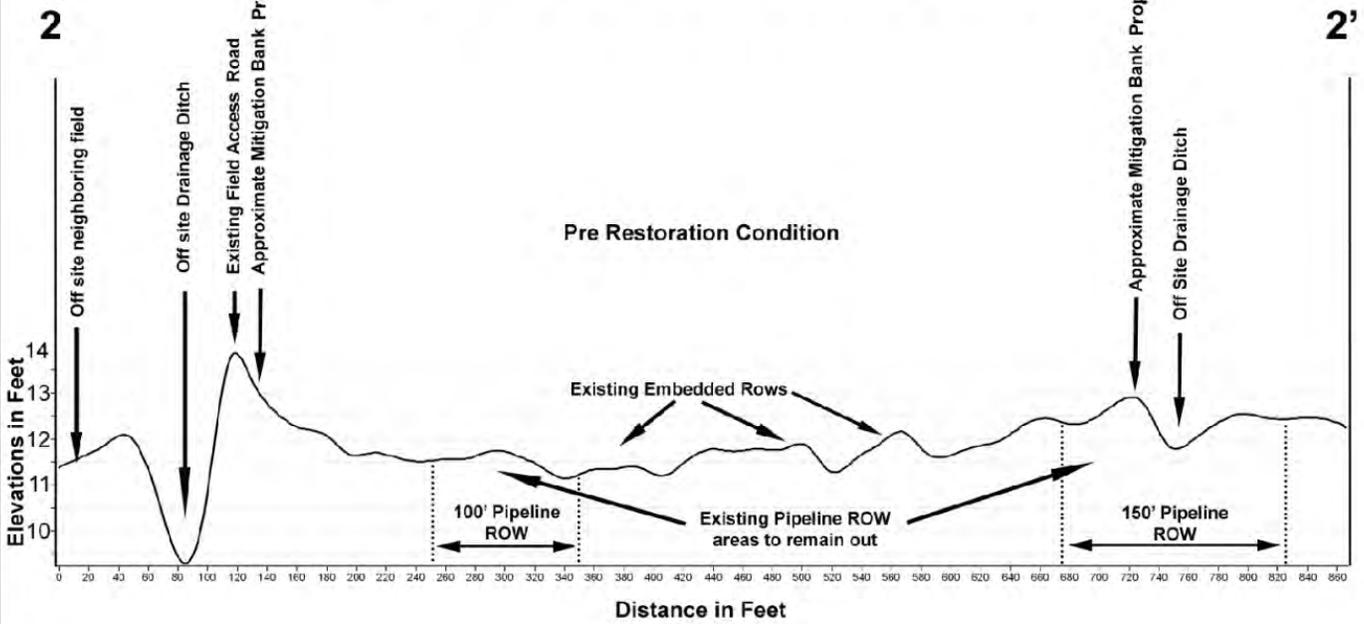


Figure 10

CROSS SECTION 2

Cinclare Mitigation Bank

Report Map for +/- 238.7 acre site

PURPOSE: Mitigation Bank Prospectus  
 SOURCE: Client Provided Survey  
 MAP BASE: USDA NRCS SSURGO Data  
 DATUM: NAD83

**Coastal Environments, Inc.**  
 Biloxi, MS.....228-385-5547

LOCATION: Sections 109 & 110, T-7-S, R-12-E;  
 Sections 51, 52, 53, 54, 59 & 78,  
 T-8-S, R-12-E  
 PARISH: West Baton Rouge, LA  
 APPLICATION BY: Harry L. Laws & Co., Inc  
 DATE: September 2016

# **APPENDIX A: JURISDICTIONAL DETERMINATION**



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT  
P.O. BOX 60267  
NEW ORLEANS, LOUISIANA 70160-0267

FEB 16 2016

REPLY TO  
ATTENTION OF

Operations Division  
Surveillance and Enforcement Section

Mr. Dustin Johnson  
Coastal Environments, Inc.  
1260 Main St.  
Baton Rouge, Louisiana 70802

Dear Mr. Johnson:

Reference is made to your request, on behalf of Harry L. Laws and Co., for a U.S. Army Corps of Engineers' jurisdictional determination on property in West Baton Rouge Parish, Louisiana (enclosed map). Specifically, this property is identified as the proposed Cinclare Mitigation Bank west of LA-1.

A field inspection of the property was conducted on June 1, 2015. Based on the results of this investigation and the information provided with your request, we have determined that part of the property is wetland and may be subject to Corps' jurisdiction. The approximate limits of the wetland are designated in red on the map. A Department of the Army (DA) permit under Section 404 of the Clean Water Act will be required prior to the deposition or redistribution of dredged or fill material into wetlands that are waters of the United States. Additionally, a DA permit will be required if you propose to deposit dredged or fill material into other waters subject to Corps' jurisdiction. Other waters that may be subject to Corps' jurisdiction are indicated in blue on the map.

This delineation/determination has been conducted to identify the limits of the Corps' Clean Water Act jurisdiction for the particular site identified in your request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If the property owner or tenant is a USDA farm participant, or anticipates participation in USDA programs, a certified wetland determination should be requested from the local office of the Natural Resources Conservation Service prior to starting work.

You and your client are advised that this preliminary jurisdictional determination is valid for a period of 5 years from the date of this letter unless new information warrants revision prior to the expiration date or the District Commander has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.

Should there be any questions concerning these matters, please contact Mr. Brian Oberlies at (504) 862-2275 and reference our Account No. MVN-2015-00461-SY. If you have specific questions regarding the permit process or permit applications, please contact our Special Projects Section at (504) 862-1280.

Sincerely,

  
for Martin S. Mayer  
Chief, Regulatory Branch

Enclosures

USACE Page 1 of 1  
 FSV-1 IH Date: 6-1-15  
 Botanist: *Bo*  
 Requestor: JOHNSON  
 # MVN-2015-00461-SY

- NON-WETLAND  
 - WETLAND  
 - WATERS OF THE US 1404

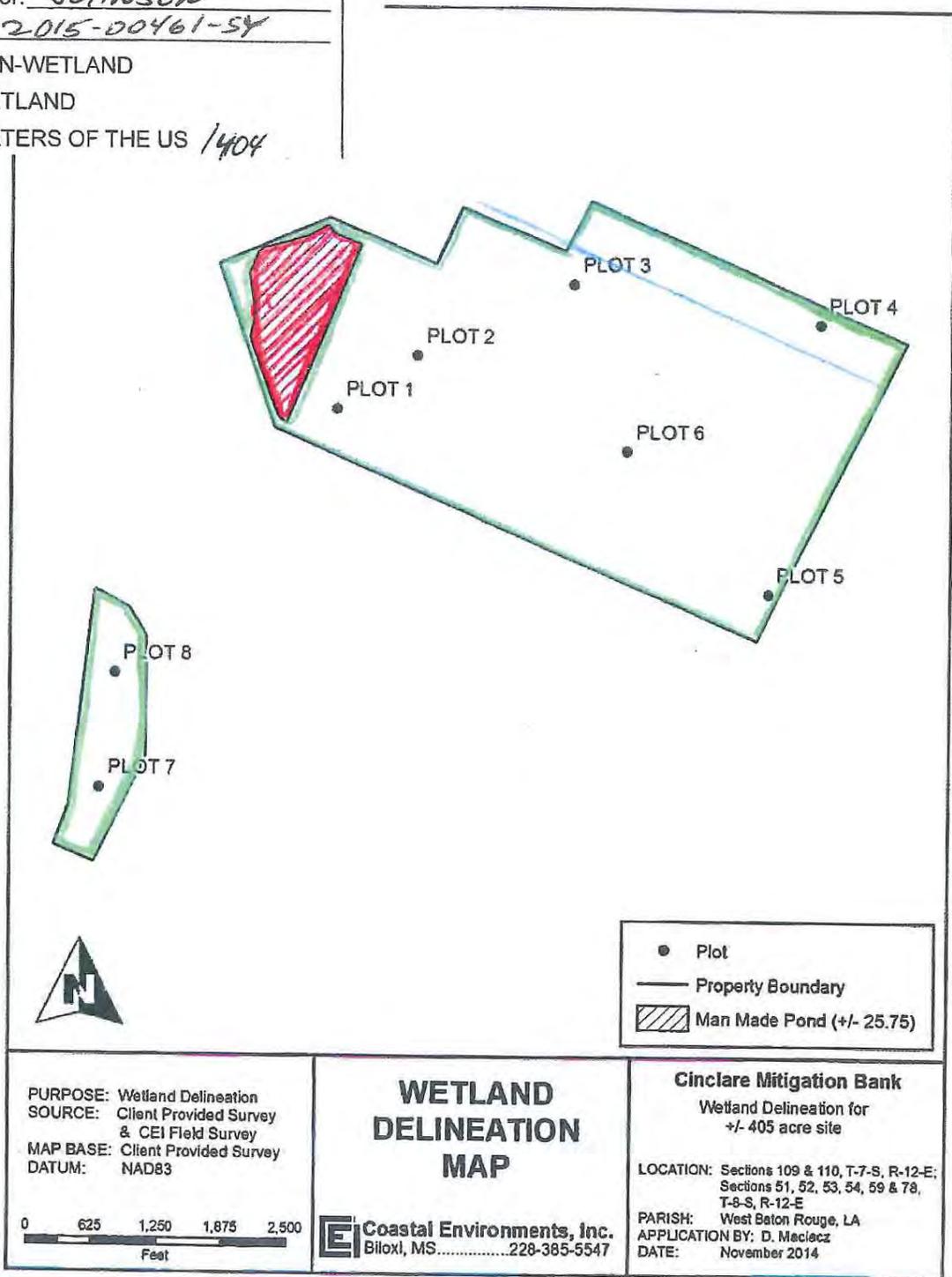


Figure 2. Location of sample sites on the Cinclare Mitigation Bank WD project site, West Baton Rouge Parish, LA.

## PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

District Office	New Orleans District	File/ORM #	MVN-2015-00461-SY	PJD Date:	Feb 10, 2016
State	LA	City/County	West Baton Rouge Parish	Name/Address of Person Requesting PJD	Mr. Dustin Johnson Coastal Environments, Inc. 1260 Main St. Baton Rouge, Louisiana 70802
Nearest Waterbody:	GIWW				
Location: TRS, Lat/Long or UTM:	Multiple Sections, Townships, and Ranges 30.408531 N -91.266751 W				
Identify (Estimate) Amount of Waters in the Review Area:			Name of Any Water Bodies on the Site Identified as Section 10 Waters:		
Non-Wetland Waters:		Stream Flow:		Tidal:	
3350 linear ft x 10 width acres		Perennial		Non-Tidal:	
Wetlands: 25 acre(s)		Cowardin Class: Palustrine, emergent		<input type="checkbox"/> Office (Desk) Determination <input checked="" type="checkbox"/> Field Determination: Date of Field Trip: Jun 1, 2015	

**SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: \_\_\_\_\_
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps
- Corps navigable waters' study: \_\_\_\_\_
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite quad name: 1:24k Lobdell
- USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS web soil survey
- National wetlands inventory map(s). Cite name: \_\_\_\_\_
- State/Local wetland inventory map(s): \_\_\_\_\_
- FEMA/FIRM maps: \_\_\_\_\_
- 100-year Floodplain Elevation is: \_\_\_\_\_
- Photographs:
  - Aerial (Name & Date): 08, 04, 05, 08, 10
  - Other (Name & Date): \_\_\_\_\_
- Previous determination(s). File no. and date of response letter: \_\_\_\_\_
- Other information (please specify): LIDAR

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

*B. Opel* 2-10-16  
 Signature and Date of Regulatory Project Manager  
 (REQUIRED)

*Requested by agent*  
 Signature and Date of Person Requesting Preliminary JD  
 (REQUIRED, unless obtaining the signature is impracticable)

**EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:**

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Mr. Rob Heffner  
Chief, Surveillance and Enforcement Section  
U.S. Army Corps of Engineers, New Orleans District  
P.O. Box 60267  
New Orleans, LA 70160-0267  
504-862-1288

If you only have questions regarding the appeal process you may also contact the Division Engineer through:

Mr. Thomas McCabe  
Administrative Appeals Review Officer  
Mississippi Valley Division  
P.O. Box 80 (1400 Walnut Street)  
Vicksburg, MS 39181-0080  
601-634-5820 FAX: 601-634-5816

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date: \_\_\_\_\_

Telephone number: \_\_\_\_\_

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

<b>Applicant:</b> Harry L. Laws & Co., Inc.	<b>File No.:</b> MVN-2015-00461-SY	<b>Date:</b> FEB 16 2010
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**APPENDIX B:  
USDA NRCS WETLAND CONSERVATION  
DETERMINATION**

United States Department of Agriculture



Natural Resources Conservation Service  
646 Cajundome Blvd. Suite 180  
Lafayette, La. 70506-4290  
Phone - 337-291-3053

Daniel P. Didier  
Area Resource Conservationist  
H.E.L. / W.C. Team Leader

Date: March 15, 2016

✓ Harry L. Laws & Co. Inc.  
P.O. Box 158  
Brusly, La. 70719-0158

Subject: NRCS-CPA-026e -Wetland Conservation Determination - FN-392 / T-433 (partial)

Dear Sir,

Please find enclosed a copy of the Preliminary Technical Determination on Form NRCS-CPA-026e, the HIGHLY ERODIBLE AND WETLAND CONSERVATION DETERMINATION, which was completed at the request of Mr. Drew Maciasz. The request was for a portion of the west side of Tract 433. The request was made through an NRCS-CPA-38 with the Natural Resources Conservation Service (N.R.C.S.) in Addis. I have also enclosed a copy of the 'H.E.L. - W.C. DETERMINATION' and the 'H.E.L. - W.C. DETERMINATION with SOILS' maps. Please refer to these maps for field identification, acres and Wetland and H.E.L. labels.

The Code of Federal Regulations states that a person shall be ineligible for all or a portion of most USDA program benefits if after November 28, 1990, the person converts a wetland by draining, dredging, filling, leveling, removing woody vegetation, or other means for the purpose, or to have the effect, of making the production of an agricultural commodity possible [*CFR Title 7 § 12.4 (a)(3)*].

Historical aerial photograph from 1982 show that all fields in this Tract were being cropped. All Fields listed on the attached 'H.E.L. - W.C. DETERMINATION' map, with the exception of Fields 272, 275 & 279, were converted and an agricultural commodity produced prior to December 23, 1985. The Wetland Conservation (WC) label of Prior Converted (PC) has been assigned to these fields. [*CFR Title 7 § 12.2 Definitions-Wetland determination-(8)*]

Normal agricultural activities can be performed on those fields with a WC Label of "PC". Definitions of Wetland Labels can be found on page three (3) of the NRCS-CPA-026e. Do not change or alter the vegetation or hydrology of this tract without first contacting the U.S. Army Corps of Engineers (U.S.A.C.E.) for a Jurisdictional Determination.

Fields 272, 275 & 279 are identified by F.S.A. with field numbers, but are used for field roads and not for the production of an agricultural commodity, and so have not been assigned an H.E.L.-W.C. label; or, these are areas identified by F.S.A. with field numbers and are used for drainage/ditches and are considered 'other waters' and as such, have not been assigned a wetland label.

This preliminary H.E.L.-Wetland Conservation determination/delineation has been conducted for the purpose of implementing the H.E.L. and Wetland Conservation provisions of the Food Security Act of 1985. This determination/delineation may not be valid for identifying the extent of the U.S. Army Corps of Engineers (U.S.A.C.E.) Clean Water Act jurisdiction for this site. If you intend to conduct any activity that constitutes a discharge of dredged or fill material into wetlands or other waters, you should request a Jurisdictional Determination from the local office of the U.S.A.C.E. prior to starting the work.

This Technical Determination may affect U.S.D.A. program benefits. In order to maintain your U.S.D.A. program eligibility and comply with the Clean Water Act, contact the U.S.A.C.E. prior to performing the following activities on this tract: (1) Land clearing; (2) Drainage (open ditching); (3) Drainage maintenance; (4) Filling, leveling, dredging; (5) Land use changes.

This wetland certification does not include "other waters of the United States" as defined by the U.S. Army Corps of Engineers, which include but are not limited to tidal waters, lakes, rivers, streams, mud flats, and intermittent and perennial streams which are regulated under the Clean Water Act. Contact the U.S.A.C.E. regarding needs for permits. We strongly encourage you to contact the U.S.A.C.E. in order to avoid violating any of their rules and regulations as associated with the Clean Water Act. The Corps of Engineers can be reached at 1-504-862-2270.

All fields on this tract have been labeled Non-H.E.L. [*Title 180, Part 511.11, D. (ii)*].

The 2014 Farm Bill connected producer eligibility for Federal crop insurance premium subsidy to compliance with the highly erodible land (H.E.L.) provisions. Previous U.S.D.A. participants who are currently not in compliance with the H.E.L. provisions have two (2) reinsurance years to develop and comply with an N.R.C.S.-approved conservation plan to remain eligible for Federal crop insurance premium subsidy. Producers who are subject to H.E.L. compliance for the first time due to the 2014 Farm Bill have five (5) reinsurance years to develop and comply with an N.R.C.S.-approved conservation plan when producing an agricultural commodity on H.E.L. If you are unsure about your status as a previous U.S.D.A. participant, please inquire at your local Farm Service Agency (F.S.A.) office.

The 2014 Farm Bill connected producer eligibility for Federal crop insurance premium subsidy to compliance with the wetland conservation provisions. Eligibility for most U.S.D.A. programs is lost for any wetland conversions that have occurred after December 23, 1985. However, only wetland conversions that occur after February 7, 2014 result in ineligibility for Federal crop insurance premium subsidy.

Copies of this Determination are being sent to the F.S.A. Service Center and the N.R.C.S. Field Office in Addis. If you feel you have any information that would affect this Determination, please write to me to let me know. My address is given below.

This Preliminary Technical Determination will become certified & final thirty (30) days after receipt, unless the determination is appealed in a timely manner. [7CFR § 614.7(a)] Once all of the appeal procedures are exhausted, or the Preliminary Technical Determination is not appealed within the allotted time, the Determination becomes a final, Certified Technical Determination [7 CFR PART 614 §614.2 Definitions].

If you wish to appeal this decision, please read the following information.

As a result of statutory and regulatory changes, the United States Department of Agriculture (U.S.D.A.) appeal process has changed. Under the new appeals and mediation process, this Preliminary Technical Determination will become final thirty (30) days after receipt of this letter, unless you request one or more of the following options:

- A field visit to be made by this office to review with you the basis for our preliminary technical determination, and to gather additional information from you concerning the preliminary technical determination.
- The right to review the records in our office.
- The right to file an appeal with the F.S.A. County Committee after the thirty (30) day deadline is reached and the Preliminary Technical Determination has become a Final, Certified Technical Determination.
- Mediation may be used in an attempt to settle your concerns with the preliminary technical determination.

You may request a field review and reconsideration within the thirty (30) day grace period, beginning the date this Determination was received, in accordance with 7 CFR § 614.7(b). Any request for field review and reconsideration will be conducted with you or your authorized representative present, where you will be able to present evidence and facts that N.R.C.S. may not have previously considered.

N.R.C.S. will review the Preliminary Technical Determination and all new information. The Preliminary Determination will either be rescinded and a Reconsidered, final Certified Determination issued; or the Preliminary Technical Determination will be upheld. If the Technical Determination remains adverse to you as a U.S.D.A. participant, you may further appeal, in writing, to the State Conservationist.

The Preliminary Determination and the entire case record will be forwarded to the State Conservationist for review to ensure the wetland determination has been completed in accordance with the regulations. Following that review, the State Conservationist will issue a Final, Certified Technical Wetland Determination.

To request a field review and reconsideration, and/or for further appeal, you must contact me in writing no later than thirty (30) days from the date you received this notification. Please address the letter to:

U.S.D.A./N.R.C.S.  
Daniel P Didier  
646 Cajundome Blvd. Suite 180  
Lafayette, La. 70506-4290

If you do not request a field review you may request mediation of the Preliminary Technical Determination in accordance with 7 *CFR* § 614.7(a) (2). Mediation is completed in good faith. Parties mediating a dispute are not free to make their own laws or policy, and mediation is not a means to obtain a result not otherwise permissible under statute, regulations, or generally applicable agency policy and program procedures. Within these parameters, mediation of dispute can produce benefits when mediation reveals additional relevant facts and new insights.

To request mediation you must contact the following mediation service in writing, with a copy to me, no later than thirty (30) days from the date that you receive this notification. Send the request for mediation to:

Alvin Washington  
Clinical Education  
Louisiana Agricultural Mediation Program  
P.O. Box 9294  
Baton Rouge, Louisiana 70813-9294

Phone: 225-771-3333

Cell: 225-202-2434

Fax: 225-771-3383

Email: [Awashington@sulc.edu](mailto:Awashington@sulc.edu)

If you do not exercise any of your preliminary appeal rights, this Preliminary Technical Determination will become both a Final Technical Determination in accordance with 7 *CFR* § 641.8(a)(1) and a certified Wetland Determination in accordance with 7 *CFR* § 12.30(c).

The Final Determination will be appealable as follows:

You may request an informal appeal in conformance with regulations at 7 *CFR* § 614.8(b)(1) from the F.S.A. County Committee, by providing a written request no later than thirty (30) days from the date this Determination become final [7 *CFR* § 614.8(a)]. The County Committee will then submit a request for review from the N.R.C.S. State Conservationist.

You would send your request for an informal appeal of the Final Determination to the County Committee at the following address:

Upper Delta County Committee  
c/o F.S.A. Service Center  
7747 Highway 1 South  
Addis, La. 70710

You may request a formal appeal of the Final Determination from the National Appeal Division (NAD), in conformance with the regulation at 7 CFR § 614.8(b)(2)e, by providing a written request no later than thirty (30) days from the date this Determination become final. Please include copies of this notice with the attached NRCS-CPA-026e and associated maps, and the reason you feel that this determination is incorrect. You may appeal the Final Determination by sending a written request, with a copy to me, to the following NAD regional Office:

National Appeal Division, Southern Regional Office  
P.O. Box 1508  
Cordova, Tennessee 38088

Phone 1-800-552-5377 or (901) 544-0359  
TTY: 1-800-627-8332  
Fax: (901) 544-0363

As with an informal appeal, you must submit a written request no later than thirty (30) days from the date you received this Determination. Your written request for either appeal should include, at a minimum, a copy of this letter with the attached NRCS-CPA-026e and associated maps, and the reasons that you feel the determination is incorrect.

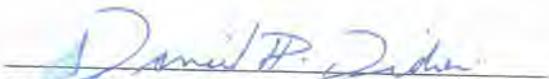
If requesting a formal or an informal appeal, please send a copy to me at the Lafayette, La. address given above.

As the owner of this tract, I urge you to discuss this letter and accompanying NRCS-CPA-026e with your tenant.

Other federal, state or local permits or restrictions may apply to activities impacting wetlands. It is your responsibility to obtain any and all necessary permits when completing any activity affecting Highly Erodible Land or wetlands on your property.

If you have any questions, please feel free to call me at 337-291-3053.

Sincerely,



Daniel P. Didier CPAg/CCA  
Area Resource Conservationist  
Lafayette Area Office

Attachments: NRCS-CPA-026e, 'H.E.L. - W.C. DETERMINATION' and the 'H.E.L. - W.C. DETERMINATION with SOILS' maps

Copies:

County Executive Director, Addis Farm Service Agency

District Conservationist, Addis N.R.C.S. Field Office

File Copy



**PRELIMINARY  
HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION**

Name	HARRY L. LAWS & CO. INC. P.O. BOX 158	Request Date:	11/16/2016	County: West Baton Rouge
Address:	BRUSLY, LA. 70719-0158			
Agency or Person Requesting Determination:	Drew Maciasz	Tract No:	433 (partial)	FSA Farm No.: 392

**Section I - Highly Erodible Land**

Is a soil survey now available for making a highly erodible land determination?	
Are there highly erodible soil map units on this farm?	

Fields in this section have undergone a determination of whether they are highly erodible land (HEL) or not; fields for which an HEL Determination has not been completed are not listed. In order to be eligible for USDA benefits, a person must be using an approved conservation system on all HEL.

Field(s)	HEL(Y/N)	Sodbust (Y/N)	Acres	Determination Date
1-3, 7-14	No	No	48.52	3/15/2016
18-33	No	No	87.59	3/15/2016
41-47	No	No	34.07	3/15/2016
49-52	No	No	20.70	3/15/2016
68	No	No	12.89	3/15/2016

The Highly Erodible Land determination was completed in the

**Section II - Wetlands**

Fields in this section have had wetland determinations completed. See the Definition of Wetland Label Codes for additional information regarding allowable activities under the wetland conservation provisions of the Food Security Act and/or when wetland determinations are necessary to determine USDA program eligibility.

Field(s)	Wetland Label*	Occurrence Year (CW)	Acres	Determination Date	Certification Date
1-3, 7-14	PC	n/a	48.52	3/15/2016	
18-33	PC	n/a	87.59	3/15/2016	
41-41	PC	n/a	34.07	3/15/2016	
49-52	PC	n/a	20.70	3/15/2016	
68	PC	n/a	12.89	3/15/2016	

The wetland determination was completed in the office. It was mailed to the person on 03/18/2016

Remarks: Do not change or alter the vegetation or hydrology of this tract without first contacting the U.S. Army Corps of Engineers (U.S.A.C.E.) for a Jurisdictional Determination.

I certify that the above determinations are correct and were conducted in accordance with policies and procedures contained in the National Food Security Act Manual.

Signature Designated Conservationist	Date
	3/15/2016

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.



## \*DEFINITIONS OF WETLAND LABELS

AW	<u>Artificial Wetland</u> : An area that was formerly a non-wetland area under natural conditions but now exhibits wetland characteristics because of the influence of human activities. These areas are exempt from the Food Security Act of 1985, as amended. This label includes irrigation induced wetlands.
CC	<u>Commenced Conversion</u> : A wetland, farmed wetland, farmed wetland pasture, or converted wetland on which the conversion began but was not completed before December 23, 1985, was approved by FSA to continue, and the conversion was completed by January 1, 1995.
CPD	<u>COE Permit with Mitigation</u> : A converted wetland authorized by a permit issued under Section 404 of the Clean Water Act. Production of agricultural commodities is allowed subject to conditions of the permit.
CMW	<u>Categorical Minimal Effect</u> : A wetland that meets specific categories of conversion activities that have been determined by NRCS to have minimal effect, individually and cumulatively, on the functions and values of the wetland and the wetlands in the watershed.
CW	<u>Converted Wetland</u> : A wetland converted between December 23, 1985, and November 28, 1990. Production of an agricultural commodity or additional manipulation of these areas will yield USDA benefit ineligibility. Also, these areas are wetlands converted after December 23, 1985, by a county, drainage district, or similar entity. For these instances, production of an agricultural commodity or forage for mechanical harvest or additional manipulation will cause ineligibility for USDA program benefits.
CW+year	<u>Converted Wetland + (year the conversion occurred)</u> : A wetland converted after November 28, 1990, where the USDA program participant is ineligible for benefits until the wetland is restored or mitigated unless an exemption applies.
CWNA	<u>Converted Wetland Non-Agricultural Use</u> : A wetland converted after November 28, 1990, to a use other than agricultural commodity production. Label not used for certified wetland determinations completed after 2/2008.
CWTE	<u>Converted Wetland Technical Error</u> : A wetland converted or commenced after December 23, 1985, based on an incorrect NRCS determination. This label does not apply to obvious wetlands as defined in the National Food Security Act Manual.
FW	<u>Farmed Wetland</u> : A wetland that was manipulated and planted before December 23, 1985, but still meets inundation or saturation criteria. These areas may be farmed and maintained as documented before December 23, 1985, as long as they are not abandoned (i.e., management or maintenance for commodity production ceased for 5 consecutive years).
FWP	<u>Farmed Wetland Pasture or Hayland</u> : A wetland that is used for pasture or haying, was manipulated and planted before December 23, 1985, but still meets the inundation or saturation criteria. These areas may be farmed and maintained as documented before December 23, 1985, as long as they are not abandoned (i.e., management or maintenance for commodity production ceased for 5 consecutive years).
MIW	<u>Mitigation Exemption</u> : A converted wetland, farmed wetland or farmed wetland pasture of which the acreage, functions and values lost have been compensated for through an NRCS-approved mitigation plan.
MW	<u>Minimal Effect Exemption</u> : A converted wetland that is exempt from the wetland conservation provisions of the Food Security Act of 1985, as amended, based on an NRCS determination that the conversion has or will have a minimal effect, individually and cumulatively, on the functions and values of the wetland and the wetlands in the watershed.
MWM	<u>Mitigation Site</u> : The site of wetland restoration, enhancement, or creation serving as mitigation for the mitigation exemption (MIW) site.
NI	<u>Not Inventoried</u> : An area where no wetland determination has been conducted. Label not used for certified wetland determinations completed after 2/2008.
NW	<u>Non-Wetland</u> : An area that does not contain a wetland. Also includes wetlands converted before December 23, 1985, but a commodity crop was not produced <del>and the area does not meet wetland criteria (not been abandoned)</del> .
PC	<u>Prior-Converted Cropland</u> : A wetland converted to cropland before December 23, 1985, and as of December 23, 1985, was capable of being cropped and did not meet farmed wetland hydrology criteria. These areas are not subject to the wetland conservation provisions of the Food Security Act of 1985, as amended, unless further drainage manipulation affects adjacent wetlands.
PC/NW	<u>Prior Converted Cropland/Non-Wetland</u> : An area that contains both PC and NW.
TP	<u>Third-Party Exemption</u> : A wetland converted after December 23, 1985, by a third party who is not associated with the participant, and the conversion is not a result of a scheme or device. A third party does not include predecessors in interest on the tract, drainage districts, or other local government entities.
W	<u>Wetland</u> : An area meeting wetland criteria that was not converted after December 23, 1985. These areas include farmed wetlands and farmed wetland pasture that have been abandoned.
WX	<u>Manipulated Wetlands</u> : A wetland manipulated after December 23, 1985, but the manipulation was not for the purpose of making production possible and production was not made possible. These areas include wetlands manipulated by drainage maintenance agreements.

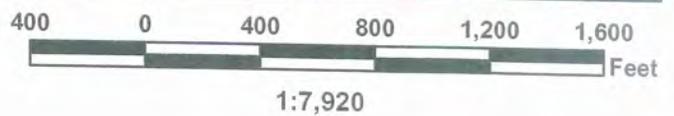
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# H.E.L. - W.C. DETERMINATION

Date: 3/15/2016

Owner: HARRY L. LAWS & Co. Inc.  
 District: UPPER DELTA S.W.C.D.  
 Approximate Acres: 238.76  
 Quad: LOBDELL PLSS: T08S/R12E/Sec. 51-54, 109-110  
 LAT. / LONG.: N 30.408261 / W -91.260228

Field Office: ADDIS  
 Agency: U.S.D.A. / N.R.C.S.  
 Assisted By: DANIEL DIDIER  
 State, Parish: LA., WEST BATON ROUGE  
 Land Units: FN-392 / T-433 - partial tract



**Legend**

- HEL-WC Determination\_WBR\_T433\_Partial Tract
- street\_dm\_I\_la-121
- LAT./LONG. Location Point



# H.E.L. - W.C. DETERMINATION with SOILS

Date: 3/15/2016

Owner: HARRY L. LAWS & Co. Inc.

Field Office: ADDIS

District: UPPER DELTA S.W.C.D.

Agency: U.S.D.A. / N.R.C.S.

Approximate Acres: 238.76

Assisted By: DANIEL DIDIER

Quad: LOBDELL PLSS: T08S/R12E/Sec. 51-54, 109-110

State, Parish: LA., WEST BATON ROUGE

LAT. / LONG.: N 30.408261 / W -91.260228

Land Units: FN-392 / T-433 - partial tract



**Legend**

- HEL-WC Determination\_WBR\_T433\_Partial Tract
- soilmu\_a\_la121
- street\_dm\_l\_la-121
- LAT./LONG. Location Point



1:7,920

