

**Mitigation Banking Instrument Cypress  
Plantation Wetlands Mitigation Bank West  
Feliciana Parish, Louisiana**

- TABLE OF CONTENTS -

I.	PURPOSE OF BANKING INSTRUMENT .....	5
II.	SCOPE OF RESPONSIBILITIES.....	5
	A. Owner .....	5
	B. Sponsor .....	6
	C. Interagency Review Team .....	6
	D. Holder of Conservation Servitude .....	7
	E. Long-Term Steward (Optional) .....	7
III.	LOCATION AND OWNERSHIP OF THE BANK.....	7
IV.	EXISTING CONDITIONS .....	8
	A. Land Use.....	8
	B. Hydrology.....	8
	C. Site Soils.....	9
	D. Vegetation.....	10
	E. Wetland Status.....	10
V.	GOALS AND OBJECTIVES.....	10
VI.	SITE RESTORATION PLAN.....	11
	A. Habitat to be Restored .....	11
	B. Habitat Restoration Procedures .....	11
	C. Hydrologic Restoration Procedures.....	13
VII.	PERFORMANCE STANDARDS.....	14
	A. Initial Success Criteria.....	14
	B. Interim Success Criteria.....	15
	C. Long-Term Success Criteria .....	16
VIII.	REPORTING PROTOCOLS AND MONITORING PLAN.....	16
	A. Visual Description .....	17
	B. Initial and Interim Success Criteria Reports.....	17
	C. Monitoring Reports.....	17
	D. Reporting Schedule.....	18
	E. Ledgers .....	19
IX.	CONTINGENCY AND REMEDIAL ACTIONS AND RESPONSIBILITIES .....	19
	A. Failure by the Sponsor to Perform.....	19
	B. Overall Performance.....	20
	C. Natural Disasters.....	21
	D. Financial Performance.....	21

- TABLE OF CONTENTS -

X. INSPECTION BY IRT AND HOLDER .....21

XI. FINANCIAL ASSURANCES.....21

XII. BANK USE .....22

    A. Service Area.....23

    B. Projects Eligible to Use the Bank .....23

    C. Determination of Bank Credits.....23

    D. Schedule of Credit Availability .....24

    E. Withdrawing Bank Credits .....24

    F. Requirements Prior to Release of Credits.....26

XIII. LONG-TERM MAINTENANCE AND PROTECTION .....28

    A. Conservation Servitude.....28

    B. Long-Term Management Plan.....29

    C. Long-Term Maintenance and Protection Fund.....30

XIV. ADDENDA TO THE MITIGATION BANK .....31

XV. MODIFICATION OF THIS MBI .....32

XVI. TERMINATION OF THIS MBI.....32

XVII. TRANSFER OF OPERATION AND/OR OWNERSHIP .....33

    A. Transfer of Bank Property .....33

    B. Transfer of Bank Sponsorship .....34

XVIII. OTHER PROVISIONS .....36

FIGURES:

- Figure 1. Vicinity Map Figure
- 2. Location Map
- Figure 3. Existing Conditions
- Figure 3a. Existing Conditions on Aerial Photograph
- Figure 4. Surrounding Land Use
- Figure 5. Existing Hydrologic Conditions
- Figure 6. Local River Gage Data
- Figure 7. Published Soil Map
- Figure 8. Bank Restoration Plan: Year 1
- Figure 9. Bank Restoration Plan: Year 10
- Figure 10. Cross Section
- Figure 11. Hydrologic Unit Map
- Figure 12. Exceptions, Easements, and Servitudes

- TABLE OF CONTENTS -

APPENDICES:

- Appendix A. Federal and State Authorities
- Appendix B. Legal Description and Map of 200-Acre Bank Easement
- Appendix C. CEMVN Jurisdictional Determination
- Appendix D. Nationwide Permit Authorization
- Appendix E. Cost Estimates for Financial Assurance and Long-Term Maintenance and Protection Fund
- Appendix F. Credit Calculations
- Appendix G. Mitigation Bank Transfer Form
- Appendix H. Mitigation Work Plan for Cypress Plantation Mitigation Bank – Phase II

**MITIGATION WORK PLAN FOR  
CYPRESS PLANTATION MITIGATION BANK – PHASE II  
TABLE OF CONTENTS**

<b>I.OBJECTIVES.....</b>	<b>1</b>
A .AQUATIC RESOURCE TYPE AND FUNCTIONS RESTORED/ENHANCED/PRESERVED .....	1
B. WATERSHED CONTRIBUTIONS .....	1
<b>II. SITE SELECTION.....</b>	<b>1</b>
<b>III. SITE PROTECTION INSTRUMENT .....</b>	<b>1</b>
<b>IV. BASELINE INFORMATION .....</b>	<b>2</b>
A. LAND USE.....	2
B. SOILS .....	2
C. HYDROLOGY .....	3
D. VEGETATION.....	4
<b>V. BANK CREDITS .....</b>	<b>5</b>
A. CREDIT DETERMINATION.....	5
B. SCHEDULE OF CREDIT AVAILABILITY .....	5
<b>VI. DESCRIPTION OF WORK TO BE PERFORMED .....</b>	<b>5</b>
<b>VII. MAINTENANCE PLAN.....</b>	<b>6</b>
<b>VIII.PERFORMANCE STANDARDS .....</b>	<b>6</b>
A. INITIAL SUCCESS CRITERIA.....	6
B. INTERIM SUCCESS CRITERIA .....	7
C. LONG-TERM SUCCESS CRITERIA.....	8
<b>IX. MONITORING AND REPORTING PROTOCOLS.....</b>	<b>9</b>
<b>X. LONG-TERM MANAGEMENT PLAN .....</b>	<b>9</b>
A. ANNUAL COST ESTIMATES FOR THESE NEEDS.....	9
B. LONG-TERM MAINTENANCE AND PROTECTION FUNDING MECHANISM.....	9
<b>XI. FINANCIAL ASSURANCES .....</b>	<b>9</b>
A. FINANCIAL ASSURANCES PURPOSE.....	9
B. ESTIMATE OF FUNDS REQUIRED.....	10
C. FUNDING MECHANISM.....	10
<b>XII. ADAPTIVE MANAGEMENT PLAN .....</b>	<b>11</b>

## ATTACHMENTS

Attachment MWP-A – Figures

Attachment MWP-B – Credit Assessments MCM

Attachment MWP-C – Estimated Construction, Establishment and Long-Term  
Maintenance Funding Requirements Report.

Attachment MWP-D - 2011 Jurisdictional Determination

## **Mitigation Work Plan**

### **I. Objectives**

#### **A. Aquatic Resource Type and Functions Restored/Enhanced/Preserved**

The goal of the Bank is to restore the 261 acres as a sustainable bottomland hardwood forest ecosystem. Cypress Plantation Farm, LLC, proposes to rehabilitate wetland functions and services associated with this type of ecosystem by reforesting the Bank site with appropriate overstory vegetation and removing or reducing the degree of impacts from surface hydrology impediments.

#### **B. Watershed Contributions**

The reclamation of this 261-acre site as a bottomland hardwood ecosystem will restore wetland functions and services such as flood storage and de-synchronization, groundwater recharge, nutrient and heavy metal immobilization, particulate removal, water filtration or purification, and development and maintenance of natural floral and faunal communities. The reclamation will increase the contiguous forested area that is situated between the Mississippi River and the Tunica Swamp. This extensive bottomland hardwood and swamp system has been drained and deforested for agricultural development extending from the south along the natural levee of the eastern Mississippi River bank. Reforestation of the Bank site will assist in trapping sediment and debris eroded from upstream, removing harmful chemicals and metals from surface and ground water, and slowing the release of flood waters into populated areas downstream. The proximity of the Bank to the Cat Island National Wildlife Refuge and an already established mitigation bank will enhance the functional restoration possibilities for the greater Tunica Swamp/Bayou Sara basin.

### **II. Site selection**

The Bank site was chosen due to its location and functional capacity within the Bayou Sarah – Thompson Creek drainage basin. The Bank site is connected to the existing Cypress Plantation Mitigation Bank (Phase I) and will increase the area of contiguous forested habitat within the site. Since the Bank is in close proximity to the existing mitigation bank, the maintenance and management schedule of the Bank will be enhanced. In addition, the establishment of this Bank will offer additional credits for future unavoidable impacts to the above mentioned watershed.

### **III. Site protection instrument**

A conservation servitude will be executed on the Bank property in accordance with the provisions in Section XIII.A of the MBI.

#### **IV. Baseline information**

The Bank is located in the Bayou Sara-Thompson Creek drainage basin designated by the U.S. Geological Survey as Cataloging Unit 08070201 and includes a portion of West Feliciana Parish, central to a point, 30° 51' 33.24" N/ 91° 29' 50.83" W, in Sections 51, 53 and 54, Township 2 South, Range 4 West, approximately 2.5 miles south of Plettenberg, Louisiana (Attachment H, Figures 1 and 2). The western boundary of the proposed addition is a farm road north of Hill Road and the delineated wetland line south of Hill Road. Ratliff Lake is located approximately 0.5 mile southwest of the Bank and the Mississippi River is located approximately 2 miles west of the Bank. The Bank is bordered to the north by a forested area; to the east by agricultural fields; to the south by the existing Cypress Plantation Mitigation Bank; and to the west by agricultural fields.

The Sponsor is the fee owner of 2,054 acres of property that includes the Bank. Soterra LLC holds an access easement for an existing private road adjacent to the southern boundary of the Bank site. Under this easement the Sponsor is required to maintain the road in condition suitable for transport of timber cut from property near the Bank site. A wetland development agreement with Ducks Unlimited, Inc. protects 115 acres of land owned by the Sponsor for improvements related to waterfowl management; the Ducks Unlimited easement does not encumber the portion of the property planned for inclusion in the Bank. There are no other recorded liens, encumbrances, easements, servitudes, or restrictions that have been identified on the portion of the property proposed for restoration and contained within the areas eligible for credit sales. Further, the subject Bank lands will not be identified as collateral in other business transactions. Exceptions, easements, and servitudes are displayed in Figure 3.

An approved jurisdictional determination for the Bank site was issued on December 20, 2011, and is included in Attachment MWP-D.

##### **A. Land Use**

1. **Historical Land Use.** According to the review of historical aerial photography, the Bank site consisted of a bottomland hardwoods forest ecosystem until around 1969 when the Bank site appeared to have been logged and put into agriculture.
2. **Current Land Use.** The 261-acre Bank site consists primarily of agricultural fields that are currently in crop rotation for soybeans, grains, and crawfish production. Ditches and modified drainage swales used for farming operations are present on parts of the site. Manmade flood protection levees are present around and near the center of the Bank site. Land use at the Bank site consists of agricultural land and levees with unimproved roads on top. The surrounding land within a one-mile radius, including the Bank site, consists of forest (~48%), active agricultural fields and fields seasonally flooded for crawfish aquaculture (~48%), open water (2%), manmade levees (~1%), and rights-of-way for roads and railroads (~1%). Figure 4 of this attachment shows the boundaries, features, and existing conditions of the Bank site. Figure 5 of this attachment shows surrounding land use and conditions.

## B. Soils

The Bank site is located in the Southern Mississippi Valley Alluvium. The Natural Resources Conservation Service (NRCS) *Web Soil Survey* for West Feliciana Parish, Louisiana, shows that the site is underlain by Commerce soils, gently undulating, occasionally flooded; Robinsonville and Convent soils, occasionally flooded; and Morganfield and Bigbee soils, frequently flooded. Commerce soils consist of deep, somewhat poorly drained, moderately slowly permeable soils formed in loamy alluvial sediments. They occur on convex natural levee positions on the alluvial plain of the Mississippi River and its distributaries. Slopes are usually less than 1 percent. The Robinsonville series consists of very deep well drained soils with moderate to moderately rapid permeability. These are level to gently sloping soils that formed in loamy alluvium on the flood plain of the Mississippi River. Slopes range from 0 to 5 percent. The Convent series consists of very deep, somewhat poorly drained, moderately permeable soils that formed in recent loamy alluvium. These soils are on nearly level to very gently sloping natural levee positions on flood plains, mainly along the Mississippi River and its distributaries. Slopes range from 0 to 3 percent. The Morganfield series consists of deep, well drained, moderately permeable, nearly level soils that formed in thick silty alluvium. These soils are on flood plains and upland drainageways in the Southern Mississippi Valley Silty Uplands Major Land Resource Area. Slopes range from 0 to 2 percent. The Bigbee series consists of deep, excessively drained, rapidly permeable soils. These soils formed in thick sandy sediments on low terraces along stream flood plains in the Southern Coastal Plain and Eastern Gulf Coast Flatwoods. Slopes are 0 to 5 percent. All of the soils that underlie the Bank site are listed as non-hydric soils on both the local list (NRCS Web Soil Survey 2010) and the national list (NRCS 2010 National Hydric Soils List by State). The distribution of these soil types is shown in Figure 6.

## C. Hydrology

1. Historical Drainage Patterns. Historically, the Bank site has drained from west to east towards Tunica Swamp, as it does currently. Since there is no flood protection levee on the eastern side of the Mississippi River, overflow from flooding occurs from the river and drains eastward. Figure 7 shows the Bank's hydrologic service areas.
2. Existing Drainage Patterns. The Bank site is within a controlled-drainage system on the Mississippi River floodplain. Topography consists of low flats with somewhat poor drainage, and a system of flood protection levees that separate the agricultural fields from Tunica Swamp and from each other. Water backs up onto the Bank site from Tunica Swamp in the south and east and from Bear Bayou in the southwest corner. Water drains from the site by sheet flow eastward toward Tunica Swamp and southward toward adjacent agricultural fields. The entire property owned by the Sponsor is in the 100-year flood plain (National Flood Insurance Program 1979). Indications of wetland hydrology are evident throughout the Bank site. Figure 8 shows the direction of flow at various locations across the Bank site. A system of manmade levees controls drainage to some extent within the property owned by the Sponsor. At times of peak flow of the Mississippi River, water backs up onto the

property and culvert gates can be closed to manage and maintain water levels. Water management can ensure that the groundwater table is within the root zone during the growing season each year. Operational water wells on the Bank site can be used for irrigation during times of low rainfall.

An interpolation of flood elevation data from nearby river gages suggests that much of the Bank site may experience intermittent flooding. Observed indicators of wetland hydrology include inundation, saturation and oxidized root channels in the upper 12 inches of soil, water marks, drift lines, sediment deposits, and positive FAC-Neutral tests. Figure 9 shows Mississippi River elevation data for the last five years at Red River Landing (CEMVN Gage 01120, located 14 river miles upstream of the Bank site) and Bayou Sara (CEMVN Gage 01140, located 21 river miles downstream of the Bank site).

#### D. Vegetation

1. **Historical Plant Community.** The historical plant community was similar to that of the Cypress Plantation Mitigation Bank – Phase I. The natural bottomland forest that represents the previous condition of the land prior to agriculture is recognized by the Louisiana Natural Heritage Program as the Overcup Oak – Water Hickory community. Common species are described by Smith (1988) as follows:

Overcup oak (*Quercus lyrata*) and water hickory (*Carya aquatica*) are co-dominants of this floodplain forest. Occurs in low-lying poorly drained flats, sloughs in the lower backwater basins, and on low ridges with clay soils that are subject to inundation. Semi-permanently inundated or saturated soils for major portion of the growing season. Such conditions typically occur during the spring and summer months with a frequency ranging from 51 – 100 years per 100 years. Associate species include *Fraxinus pennsylvanica* (green ash), *Celtis laevigata* (hackberry), *Cornus foemina* var. *foemina* (swamp dogwood), *Forestiera acuminata* (swamp privet), *Planera aquatica* (water elm), *Cephalanthus occidentalis* (buttonbush) and vines. Long successional stage.

2. **Existing Plant Community.** The Bank site at this time is in active crop rotation for rice and soybeans.

#### V. Bank Credits

##### A. Credit Determination

Credits in the Bank were determined using the Modified Charleston Method. Results are included as Attachment MWP-B. In addition to these two assessment methodologies,

CEMVN may determine mitigation requirements using best professional judgment applying those ratios included in tabular form in Section XII.C. of the MBI.

#### B. Schedule of Credit Availability

Upon submittal of all appropriate documentation by the Sponsor, and subsequent approval by the IRT, CEMVN will provide in writing the release of credits for each phase of the Bank for use by the Sponsor according to the following schedule:

1. Thirty percent (30%) of total anticipated project credits will be available for debiting upon implementation of those items listed in Section XII.F of the MBI and an initial planting of hardwood seedlings.
2. Twenty percent (20%) of total anticipated credits will be released upon complete restoration of natural hydrology (i.e., removal of the Swamp Road Levee and the Interior Levees) as stated in Section VIII.B.1 of this document.
3. The remaining fifty percent (50%) of total anticipated credits will be released upon achievement of the Year 15 vegetative success criteria listed in Section VIII.C of the MWP. A prorated release of credits from this percentage will be allowed if part, but not all, of the Bank achieves the Year 15 vegetative success criteria. The prorated amount will be determined at a meeting between the IRT and the Sponsor convened at the end of Year 10, as stated in Section IX.A.1.d. of the MBI.

### VI. Description of Work to be Performed

#### A. Habitat Restoration Procedures

Considering that historical pre-settlement forests in the Mississippi River watershed had a hard to soft mast ratio of 50/50, a hard mast component of 50% will be targeted. Realizing that in batture lands soft mast species will establish naturally to a large degree, planting should favor hard mast (following a suggested planting ratio of 75% hard mast to 25% soft mast).

Another consideration in planting is seedling density to control or prevent establishment of Chinese tallow tree (*Triadica sebifera*). Recent monitoring of existing banks in the vicinity indicates that Chinese tallow tree invasion and prevailing drought conditions have necessitated planting on a higher density than 12-foot centers. To assure sufficient seedlings, the trees-per-acre requirement has been increased to 9-foot centers. This will result in an initial density of approximately 538 trees per acre. At one year, a 50% survival rate would mean a density of approximately 266 planted seedlings per acre.

The following list and specified percentages of hard and soft mast dominants and co-dominants would be acceptable for the Bank.

Hard Mast Overstory (75%)

Water oak (*Quercus nigra*)  
Overcup oak (*Quercus lyrata*)  
Nuttall oak (*Quercus nuttallii*)  
Sweet pecan (*Carya illinoensis*)  
Bitter pecan (*Carya x lecontei*)  
Water hickory (*Carya aquatica*)

Soft Mast Overstory (25%)

Baldcypress (*Taxodium distichum*)  
Water tupelo (*Nyssa aquatica*)  
Water elm (*Planera aquatica*)  
Sugarberry (*Celtis laevigata*)  
Persimmon (*Diospyros Virginiana*)  
Water locust (*Gleditsia aquatica*)

Midstory Component

Red mulberry (*Morus rubra*)  
Deciduous holly (*Ilex decidua*)  
Green hawthorn (*Crataegus viridis*)  
Buttonbush (*Cephalanthus occidentalis*)

Planting procedures will adhere to the following specifications:

1. Prior to planting, the entire site shall be prepared by sub-soiling or “chiseling” to break existing hard pan created by previous farming practices. This will also increase the overall vigor of planted seedlings. Immediately following sub-soiling, a broadcast application of a pre-emerge chemical shall be applied to control competing vegetation. During the first and second growing seasons following planting, strips between the planted trees shall be mowed as necessary to reduce competing vegetation and invasive species. Additional chemical treatment may be used during the first and second growing seasons to provide additional control of competing vegetation and invasive species.
2. One- to two-year old bare-root seedlings obtained from a registered licensed regional nursery grower and of a regional eco-type species properly stored and handled to ensure viability, will be planted in the prepared tract during the period of December 15 through March 15 (planting season). Events such as spring flooding may warrant storage of trees with planting in late spring or early summer. If seedlings listed are not available, then substitutions may be made if the substitution is approved by the IRT. The anticipated schedule for planting is the non-growing season of 2013-2014. The Sponsor will plant bottomland hardwood species in such a manner that will ensure adequate species diversity and ensure that monotypic tree rows will not be established.
3. Seedlings will be planted at the appropriate spacing to achieve an initial stand density of, at minimum, five hundred thirty eight (538) seedlings per acre.
4. Species selected for planting will be planted in a random mixture as dictated by terrain and edaphic conditions. Single species plantings will generally be avoided.

5. The planted site(s) will be maintained, on an as-needed basis, by the use of mechanical or chemical control or some combination thereof in order to control exotic/noxious species colonization or other plant competition.
6. Sponsor will use all prudent efforts, physical, chemical, or mechanical, to remove and control Chinese tallow tree and any other existing exotic/noxious vegetation from the Bank lands to the nearest seed sources for colonization by these species. The Bank will be monitored until canopy closure to prevent re-infestation by exotic vegetation. Exotic vegetation stem density should be controlled to 5% or less of the total stem density on an acre-by-acre basis.
7. The density of early successional noxious species (i.e. black willow [*Salix nigra*], green ash [*Fraxinus pennsylvanica*], box elder [*Acer negundo*], ironwood [*Carpinus caroliniana*], red maple [*Acer rubrum*], roughleaf dogwood [*Cornus drummondii*], honey locust [*Gleditsia triacanthos*], and/or cottonwood [*Populus deltoides*]) will be carefully monitored to assure that their percent contribution to the total number of stems remains less than 30%. If monitoring indicates that any one of these species becomes a nuisance, controls will be instituted to reduce the overall percentage of that species.

## B. Hydrologic Restoration Procedures

The wetland jurisdictional determination disclosed that the entirety of the Bank site, except for manmade flood protection levees, is considered wetlands. In their current state, manmade levees at the Bank site manage surface water levels sufficiently to be integral in protecting planted seedlings from flooding. Based on research into seedling growth rates, and the presumed value of the levees to seedling protection and growth, removal of all levees and restoration of natural hydrology may negatively impact early stages of Bank development. Therefore, the removal of levees and hydrologic restoration of the Bank will be phased as stated below.

1. Immediate restoration activities (i.e., those activities to be implemented upon receiving Bank authorization) include:
  - a. Removal of the Swamp Road Levee and associated culverts, and relocation of Swamp Road west of the wetland boundary defined in jurisdictional determination MVN-2006-1405-SY;
  - b. Removal of the Interior Levees and associated culverts; and,
  - c. Minor work such as re-contouring internal drainage swales created for current or former agricultural activities to match the existing surrounding grade, in order to improve retention of water in some of the better drained parts of the Bank.

2. Upon completion of immediate restoration activities, the Bank will consist of 261 acres available for habitat restoration procedures described in Section VI.B.

## **VII. Maintenance plan**

Maintenance of the Bank will be conducted in accordance to Section VI.A.5, 6, and 7.

## **VIII. Performance standards**

### **A. Initial Success Criteria**

1. Hydrology: Although the existing hydrologic regime supports wetland development, ground surface elevations must be conducive to the establishment and support of wetland vegetation, and re-establishment and maintenance of hydric soil characteristics. The following improvements will demonstrate a quantitative functional lift for flood storage and natural sheet flow at the site.
  - a. Minor improvements in the form of re-contouring internal drainage swales and the existing spoil banks along the flume ditch will be required before the end of the first growing season following the planting (i.e., Year 1).
  - b. Removal of the Swamp Road Levee and the Interior Levees will be required before the end of Year 1.
2. Vegetation: A minimum of 250 planted seedlings per acre, consistent with the planted ratio of hard mast to soft mast-producing species and the species composition of the site restoration plan, must survive through the end of Year 1. This criterion will apply to initial plantings as well as any subsequent replanting that may be needed. Seedlings planted prior to Bank authorization for the expressed purpose of establishing the Bank, that have met the criterion for one-year survivability at the time of Bank authorization, will be immediately credited as having achieved the Initial Success Criterion for Vegetation.

## B. Interim Success Criteria

### 1. Hydrology

- a. Data demonstrating that planted tracts meet wetland criteria as described in the Corps 1987 Wetlands Delineation Manual and any current regional supplement utilized by CEMVN shall be collected by the Sponsor within one year following removal of the Swamp Road and Interior Levees. This data shall be provided to CEMVN no later than December 31 of Year 11. Upon receipt, CEMVN will review the wetland delineation and verify that the planted site is a wetland within six months.

### 2. Vegetation and Vegetative Plantings

- a. A minimum of 250 desirable trees per acre (number excludes exotic and noxious species) must be present at the end of the fourth year (i.e., Year 5) following successful attainment of the one-year survivorship criteria. Desirable trees established through natural recruitment may be included in this tally; however, species composition must be consistent with the restoration goals identified in the site restoration plan (i.e., a hard mast component of no less than 50%). Exotic/noxious species (e.g., Chinese tallowtree, black willow) may not be included in this tally. A preponderance of hard-mast producing species should be present on higher elevations; similarly, a preponderance of baldcypress should be present on lower elevations.
- b. By Year 5, the Bank acreage and the perimeter of that acreage shall be virtually free of exotic vegetation (approximately 5% or less on an acre-by-acre basis) and early successional noxious species shall be limited to no more than 30% of the total on an acre-by-acre basis.
- c. By Year 5, planted tracts must exhibit characteristics and diversity indicative of a viable native forested wetland community commensurate with stand age and site conditions. Achievement of wetland vegetation dominance is defined as a vegetation community where more than 50% of all dominant species are facultative (“FAC”) or wetter, excluding FAC- plants, using “routine delineation methods” as described in the 1987 Wetlands Delineation Manual and any current regional supplement utilized by CEMVN.
- d. By Year 10, as stated in Section VII.B.1.a. of the MBI, species composition must be consistent with the restoration goals identified in the site restoration plan (i.e., a hard mast component of no less than 50%). Early successional noxious species (e.g., green ash, red maple) may be included in this tally but shall be limited to no more than 30% of the overstory. Exotic species may not be included in this tally.

### C. Long-Term Success Criteria

1. By the fourteenth year following successful attainment of the one-year survivorship criterion (i.e., Year 15), a minimum of 165 desirable overstory trees per acre must have reached a specific height chosen by CEMVN to represent an elevation beyond which survival of the planted sapling is ensured. CEMVN has determined the height for long-term success of vegetative plantings at the Bank to be an elevation of 57 feet above the National Geodetic Vertical Datum (NGVD) for mean sea level at the Bank.
2. At the time of tree canopy closure (i.e., Year 15, a variable timeframe related to growth rates), species composition of the overstory must be consistent with the restoration goals identified in the site restoration plan (i.e., a hard mast component of no less than 50%). Early successional noxious species may be included in this tally but shall be limited to no more than 30% of the overstory. An active treatment program for controlling noxious species shall continue as part of the long-term maintenance program.
3. By the time of tree canopy closure (i.e., Year 15, a variable timeframe related to growth rates), a healthy component of midstory species shall be established. Typically, 75 midstory plants per acre will be sufficient and will comprise those species initially planted and those species present via natural recruitment. If the site is deficient in midstory abundance and diversity, the Sponsor shall perform additional planting to achieve the 75 midstory plants per acre requirement.
4. At the time of tree canopy closure (i.e., Year 15, a variable timeframe related to growth rates) the Bank shall be essentially void of exotic vegetation (all seed-producing exotic trees will be removed from the Bank and its perimeter and exotic vegetation will constitute approximately 1% or less of the understory vegetation on an acre-by-acre basis). An active treatment program for controlling exotic species shall continue as part of the long-term maintenance program.
5. Timber harvesting/thinning will only be approved if the IRT determines that such activities are needed to maintain or enhance the ecological value of the site and shall be performed under the supervision of the Sponsor/Long-Term Steward. Measures to control the encroachment of exotic/noxious vegetation after the thinning operation shall be implemented.

### IX. Monitoring and Reporting Protocols

The Sponsor agrees to perform all work necessary to monitor the Bank to demonstrate compliance with the success criteria established in this MBI. The Sponsor will monitor the Bank in the spring of each monitoring year using the guidelines in Section VIII of the MBI.

**X. Long-term management plan**

The lands contained within the Bank will be maintained and protected in perpetuity, in accordance with the commitment to restore and maintain wetland habitats as stated in Section XIII.B of the MBI.

**A. Annual Cost Estimates for These Needs**

The cost of long-term management is \$3,560 at Year 16 to \$9,720 at Year 50.

**B. Long-Term Maintenance and Protection Funding Mechanism**

To ensure that sufficient funds are available to provide for the perpetual maintenance and protection of the Bank, the Sponsor is establishing the “Long-Term Maintenance and Protection” escrow account. This account will be administered by a federally-insured depository that is “well-capitalized” or “adequately-capitalized” as defined in Section 38 of the Federal Deposit Insurance Act. The account will be incrementally funded through credit sales and shall contain a minimum balance of \$115,200 by the time 70% of the total number of credits are sold or upon successful achievement of the Interim Success Criteria, whichever occurs first. Any accrued interest shall be used in the operation, maintenance or other purpose that directly benefits the Bank. Only the interest accumulated may be withdrawn for this purpose. The principal shall not be used and shall remain as part of the Bank’s assets to ensure that sufficient funds are available should perpetual maintenance responsibilities be assumed by a third party. The Sponsor or Long-term Stewart may withdraw the accumulated interest only with written approval from CEMVN and only to be used to maintain the Bank. The Sponsor shall provide copies of depository account statements to CEMVN upon request and in their monitoring reports.

**XI. Financial Assurances**

**A. Financial assurances purpose**

Sufficient funds to ensure satisfactory completion of the work described in this Mitigation Work Plan and the Adaptive Management Plan (Section XII) will be provided. The Sponsor is establishing the Construction and Establishment (C&E) financial assurance to assure sufficient funds are available to perform work required to construct and maintain the project through year 15 or canopy coverage equal to or greater than 80%.

**B. Estimate of Funds Required**

Annual costs to maintain and protect the Bank are estimated to be \$2,218.50 per year with an average annual inflation rate of 3%. The cost of long-term maintenance and protection at Year 15 will be \$3,456 and \$9,726 at Year 50. Attachment MWP-C is an estimate of work and costs requirements for constructing and establishment of the Bank.

### C. Funding Mechanism

The purpose of financial assurance is to provide a high level of confidence that the compensatory mitigation project will be successfully completed in accordance with applicable performance standards. To accomplish this goal, funds sufficient to perform the restoration work and ensure its success must be guaranteed in the form of a surety bond, letter of credit, casualty insurance, or other mechanism set forth in 33 CFR §332.3(n) and deemed appropriate by the CEMVN.

Therefore, prior to review of Initial Success Criteria, the Sponsor shall establish a “Construction and Establishment” escrow account that authorizes access to the funds by a “third party”<sup>1</sup> in the case of non-compliance or Bank failure. The account will be funded by a contribution of fifteen thousand one-hundred ninety dollars (\$13,100) from each of the first 20 credit sales at the Bank, providing for a total of three-hundred three thousand eight hundred dollars (\$303,800). This cost estimate appears in MWP-C. The financial assurance is a limited-term obligation that decreases in value to Year 15, phased out as success criteria are achieved in accordance with the following schedule:

1. Upon verification by the IRT that Year 5 Interim Success Criteria have been attained for the 261 acres, the CEMVN, acting on behalf of the IRT, will advise the financial institution to release to the Sponsor \$177,410 of the financial assurance. If the Bank has not sold sufficient credits for the escrow account to have reached \$303,800, the Sponsor will still be required to make contributions at the rate of \$15,190 per credit sale to meet the remaining financial assurance obligation of \$126,390.
2. Upon verification by the IRT that Year 10 Interim Success Criteria have been attained for the 261 acres, the CEMVN, acting on behalf of the IRT, will advise the financial institution to release to the Sponsor \$108,997 of the financial assurance. If the Bank has not sold sufficient credits for the escrow account to have reached \$126,390, the Sponsor will still be required to make contributions at the rate of \$15,190 per credit sale to meet the remaining financial assurance obligation of \$17,393.
3. At approximately Year 15, when canopy closure has been achieved for all 261 acres and the IRT concurs that exotic and/or noxious vegetation encroachment has been sufficiently controlled, the CEMVN, acting on behalf of the IRT, will advise the financial institution to release the remaining portion of the financial assurance to the Sponsor.

The escrow account shall guarantee payment to a third party, as determined appropriate by the CEMVN in consultation with the IRT, in the event that the Sponsor does not fulfill its obligations as specified in this MBI.

---

<sup>1</sup>Third party is defined to mean a Standby Trust, the Holder, Long-Term Steward, agency represented on the IRT or its designee, or other entity to effect necessary conditions.

Payment to the third party, as identified by CEMVN, of a specified amount of the financial assurance shall be made upon written notification by CEMVN to the provider of the escrow account that the Sponsor is in non-compliance.

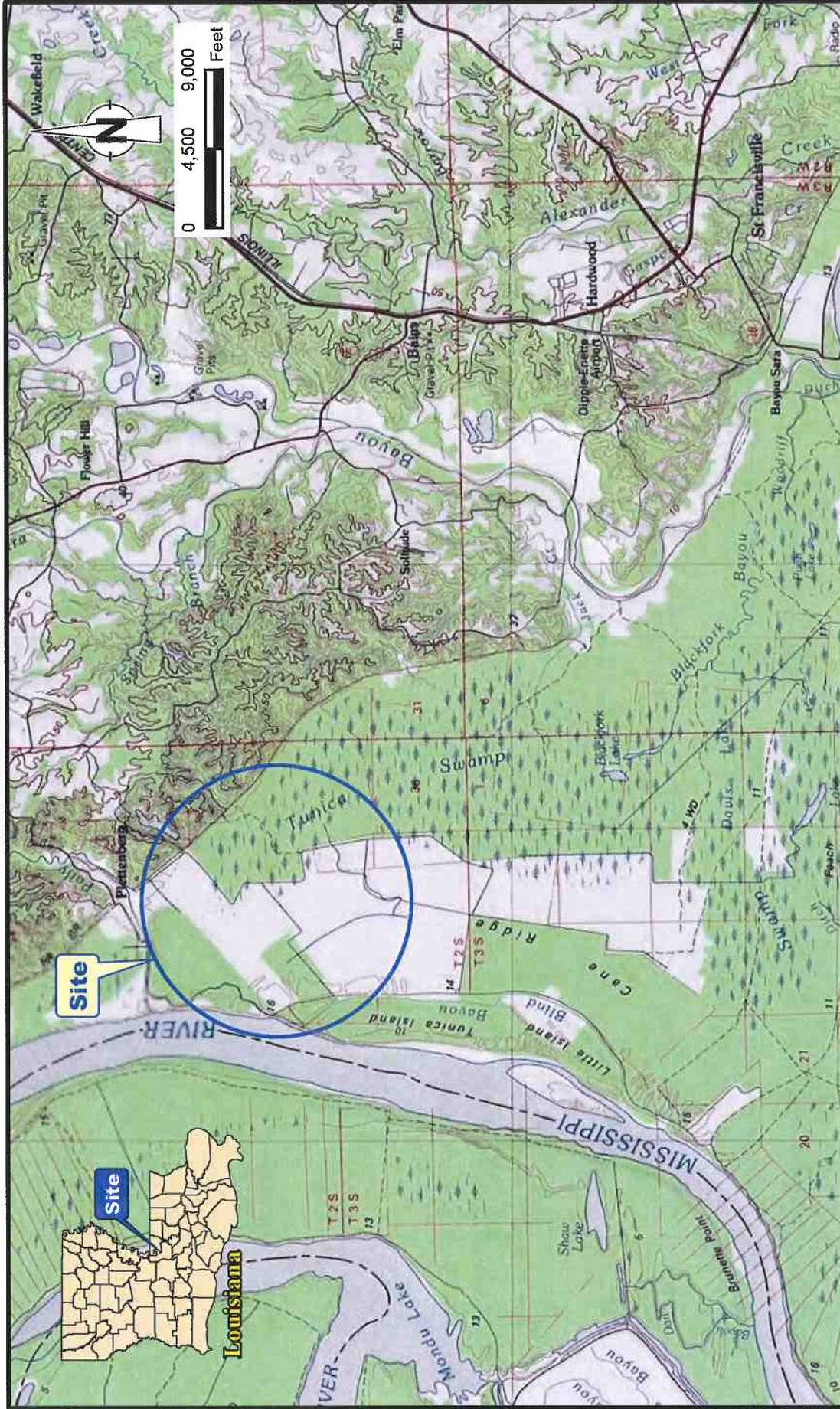
**XII. Adaptive management plan**

See Section IX of the MBI.

ATTACHMENT MWP-A

---

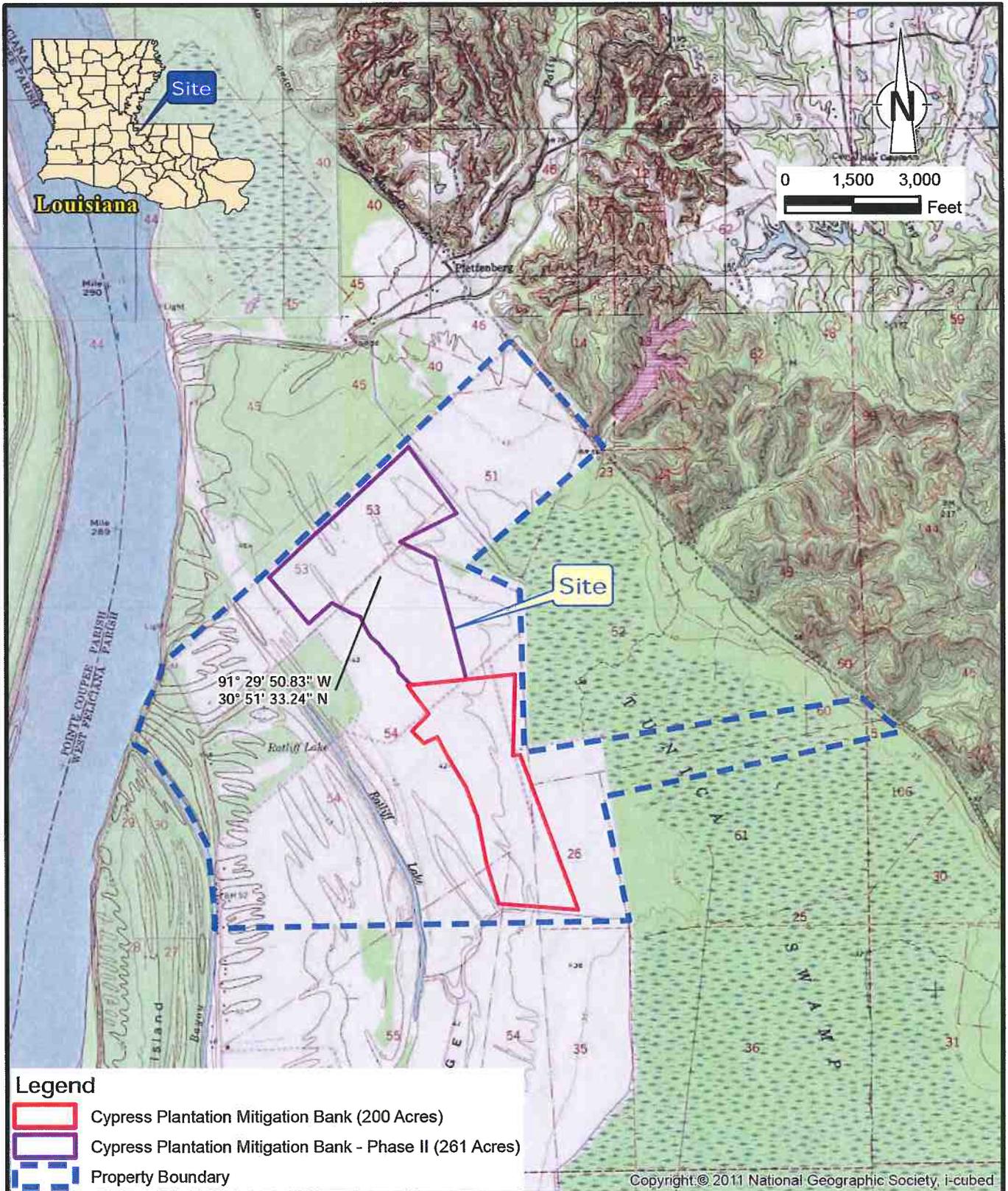
FIGURES



RE: USGS 7.5 Minute Topographic Maps.

figure 1  
VICINITY MAP  
MITIGATION WORK PLAN  
CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA  
Cypress Plantation Farm, LLC, Baton Rouge, Louisiana





**Legend**

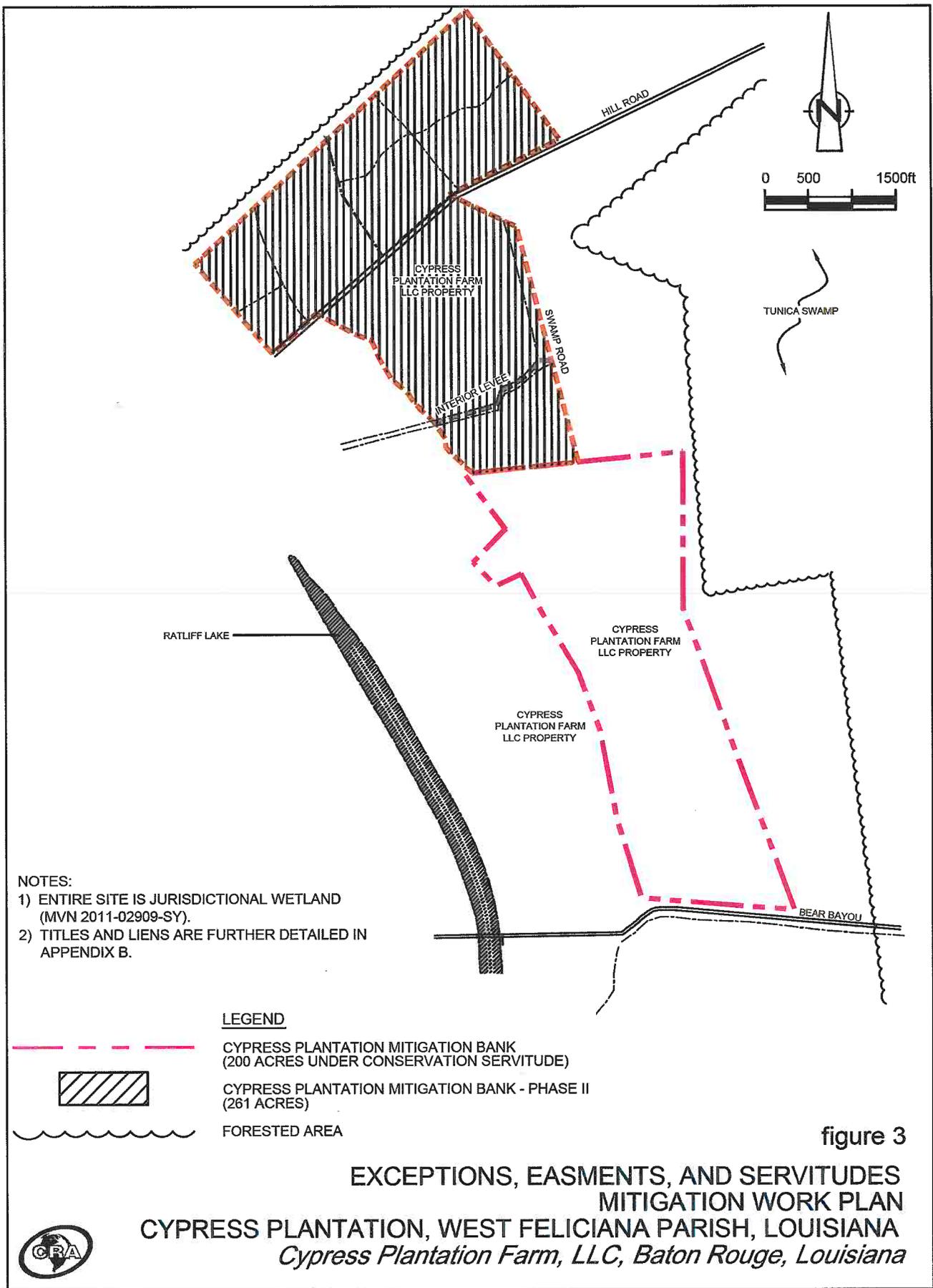
- Cypress Plantation Mitigation Bank (200 Acres)
- Cypress Plantation Mitigation Bank - Phase II (261 Acres)
- Property Boundary

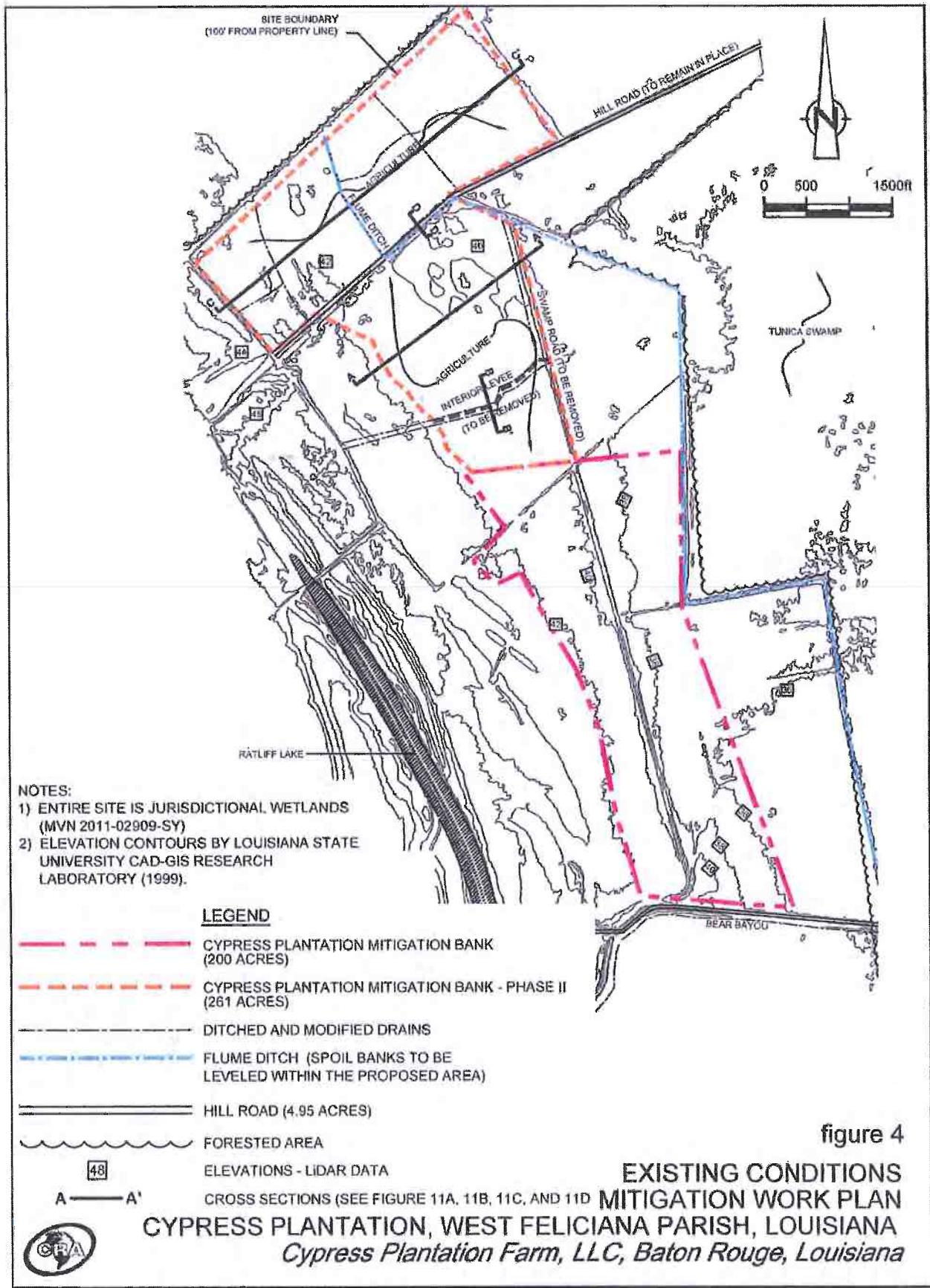
Copyright © 2011 National Geographic Society, i-cubed

RE: USGS 7.5 Minute Topographic Maps.

**figure 2**  
**SITE LOCATION MAP**  
**MITIGATION WORK PLAN**  
**CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA**  
*Cypress Plantation Farm, LLC, Baton Rouge, Louisiana*







NOTES:  
 1) ENTIRE SITE IS JURISDICTIONAL WETLANDS (MVN 2011-02909-SY)  
 2) ELEVATION CONTOURS BY LOUISIANA STATE UNIVERSITY CAD-GIS RESEARCH LABORATORY (1999).

- LEGEND**
- - - - - CYPRESS PLANTATION MITIGATION BANK (200 ACRES)
  - - - - - CYPRESS PLANTATION MITIGATION BANK - PHASE II (261 ACRES)
  - - - - - DITCHED AND MODIFIED DRAINS
  - - - - - FLUME DITCH (SPOIL BANKS TO BE LEVELED WITHIN THE PROPOSED AREA)
  - = = = = = HILL ROAD (4.95 ACRES)
  - ~~~~~ FORESTED AREA
  - 48 ELEVATIONS - LIDAR DATA
  - A — A' CROSS SECTIONS (SEE FIGURE 11A, 11B, 11C, AND 11D)

figure 4

**EXISTING CONDITIONS  
 MITIGATION WORK PLAN**  
 CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA  
*Cypress Plantation Farm, LLC, Baton Rouge, Louisiana*



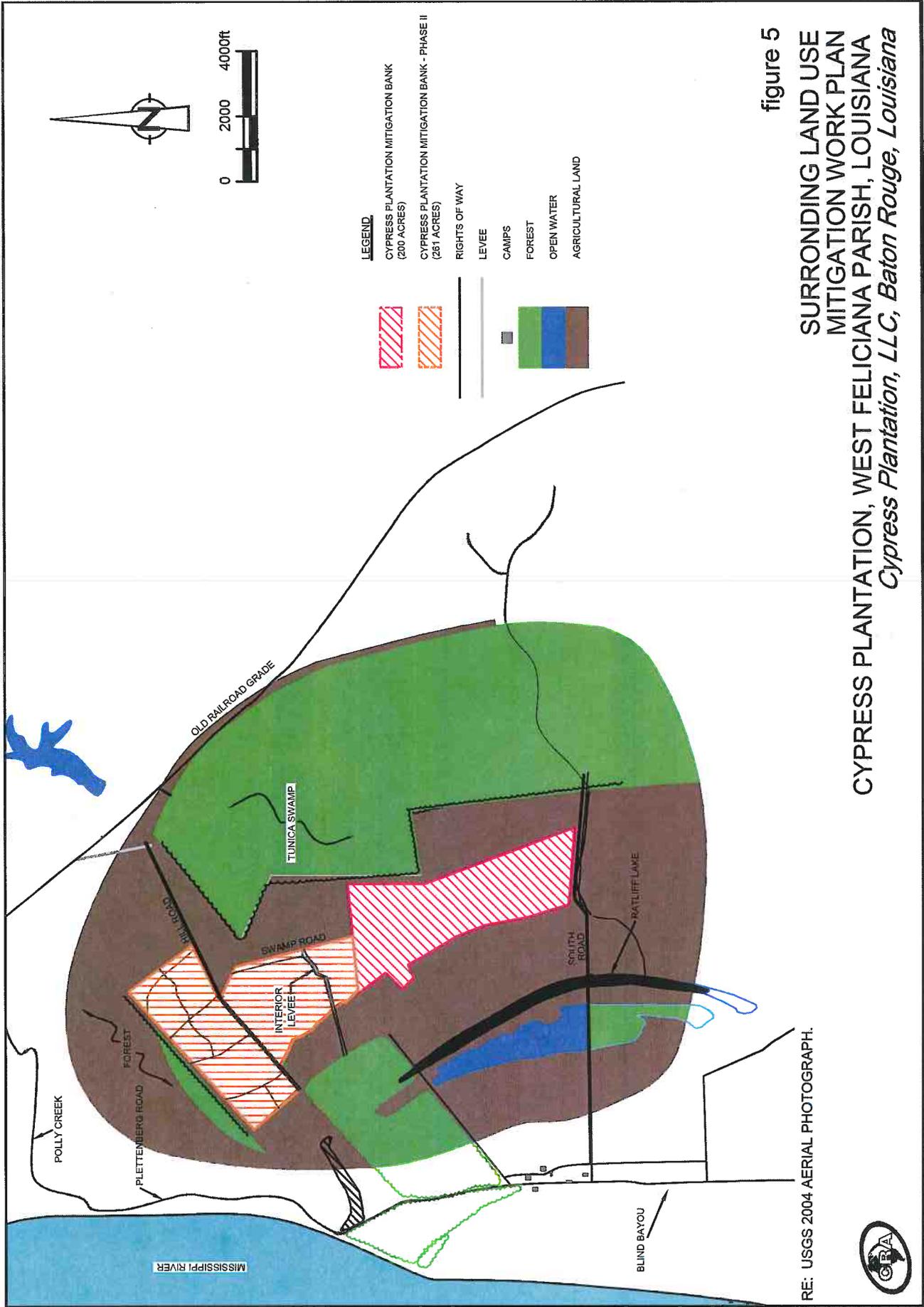
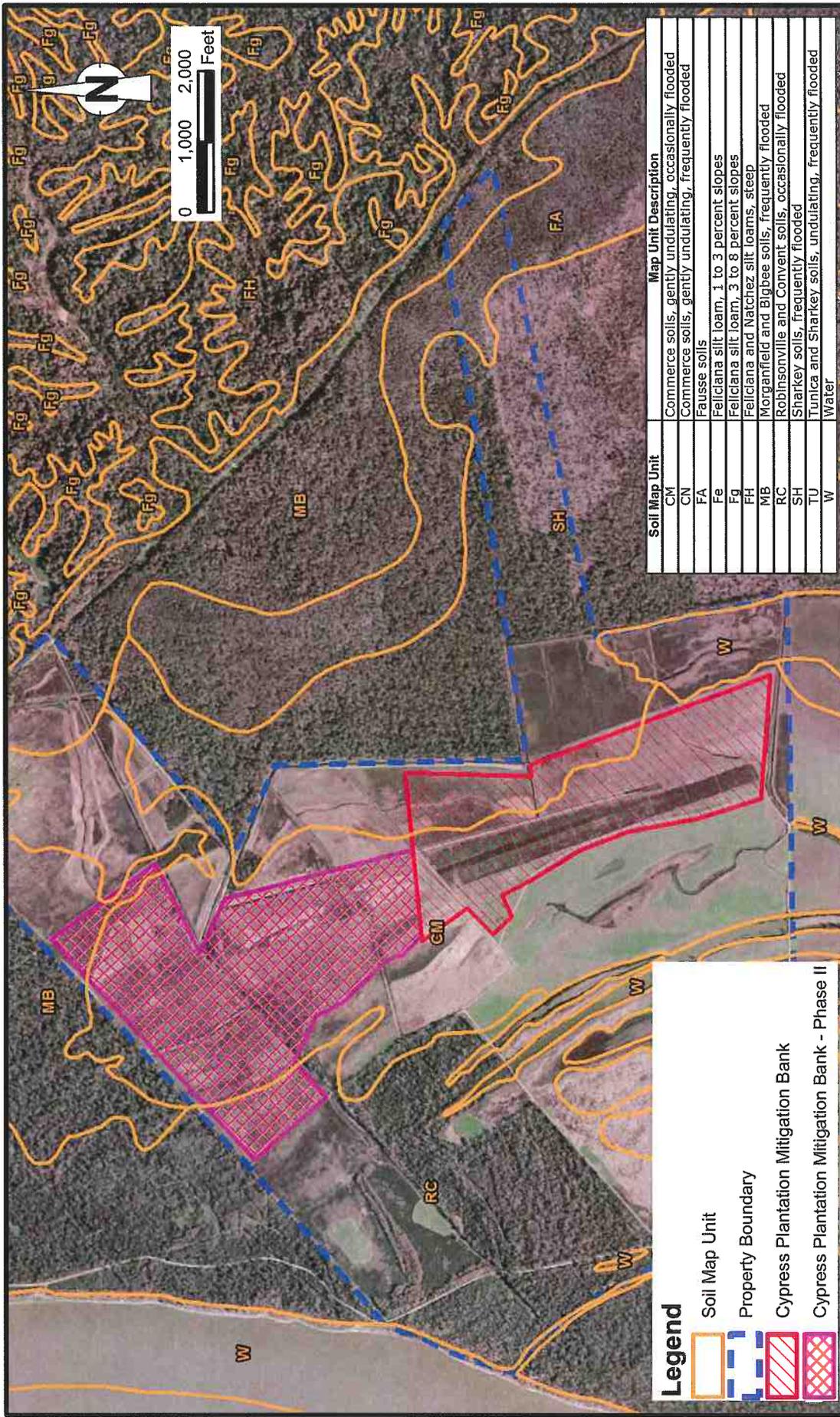


figure 5  
 SURROUNDING LAND USE  
 MITIGATION WORK PLAN  
 CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA  
*Cypress Plantation, LLC, Baton Rouge, Louisiana*

RE: USGS 2004 AERIAL PHOTOGRAPH.





Soil Map Unit	Map Unit Description
CM	Commerce soils, gently undulating, occasionally flooded
CN	Commerce soils, gently undulating, frequently flooded
FA	Fausse soils
Fe	Felidiana silt loam, 1 to 3 percent slopes
Fg	Felidiana silt loam, 3 to 8 percent slopes
FH	Felidiana and Natchez silt loams, steep
MB	Morganfield and Bigbee soils, frequently flooded
RC	Robinsonville and Convent soils, occasionally flooded
SH	Sharkey soils, frequently flooded
TU	Tunica and Sharkey soils, undulating, frequently flooded
W	Water

**Legend**

- Soil Map Unit
- Property Boundary
- Cypress Plantation Mitigation Bank
- Cypress Plantation Mitigation Bank - Phase II

RE: 2010 Aerial by Microsoft Corp and its data suppliers



figure 6  
 SOIL SURVEY  
 MITIGATION WORK PLAN  
 CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA  
 Cypress Plantation Farm, LLC, Baton Rouge, Louisiana



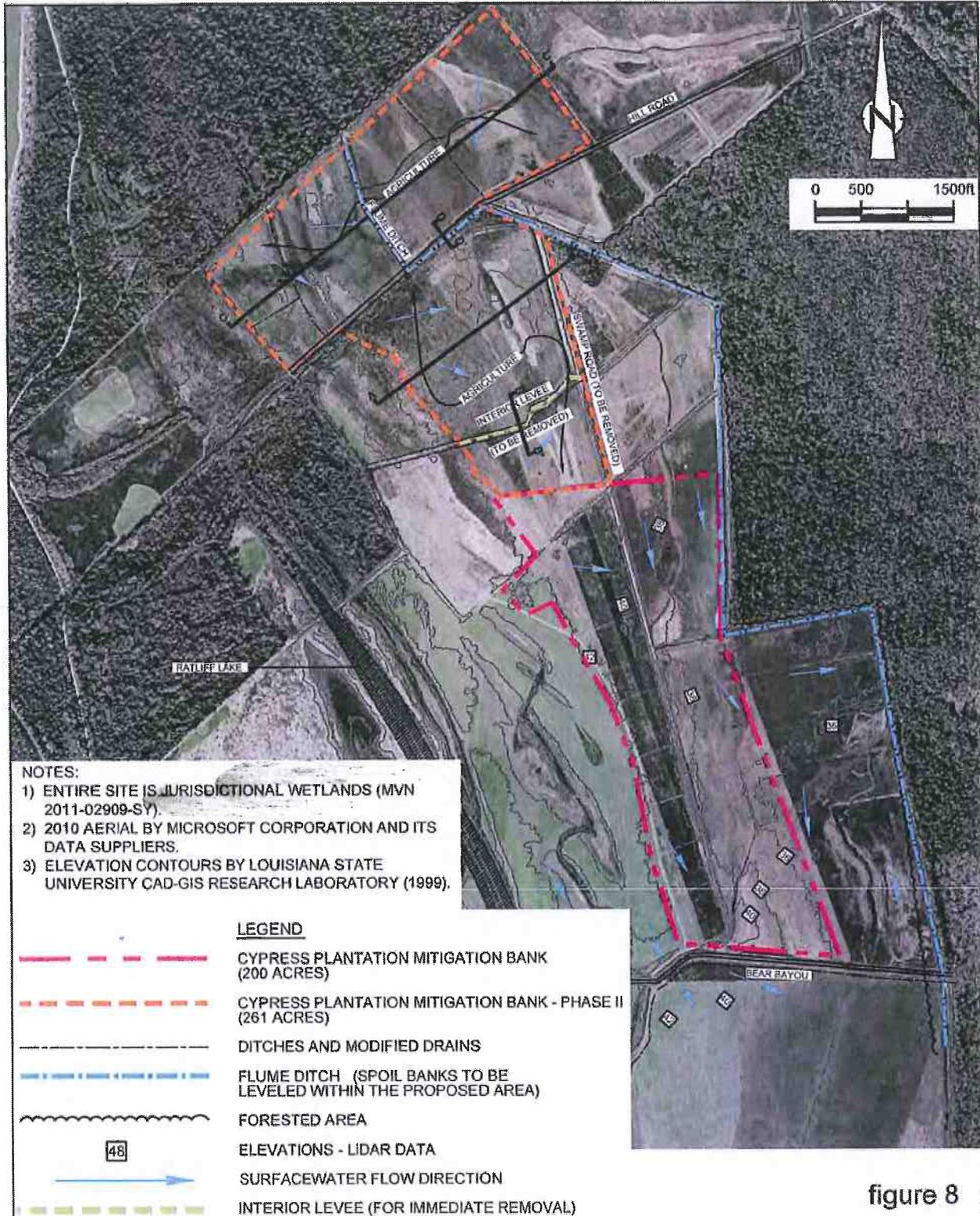


figure 8

**EXISTING HYDROLOGIC CONDITIONS  
MITIGATION WORK PLAN**

**CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA**  
*Cypress Plantation Farm, LLC, Baton Rouge, Louisiana*



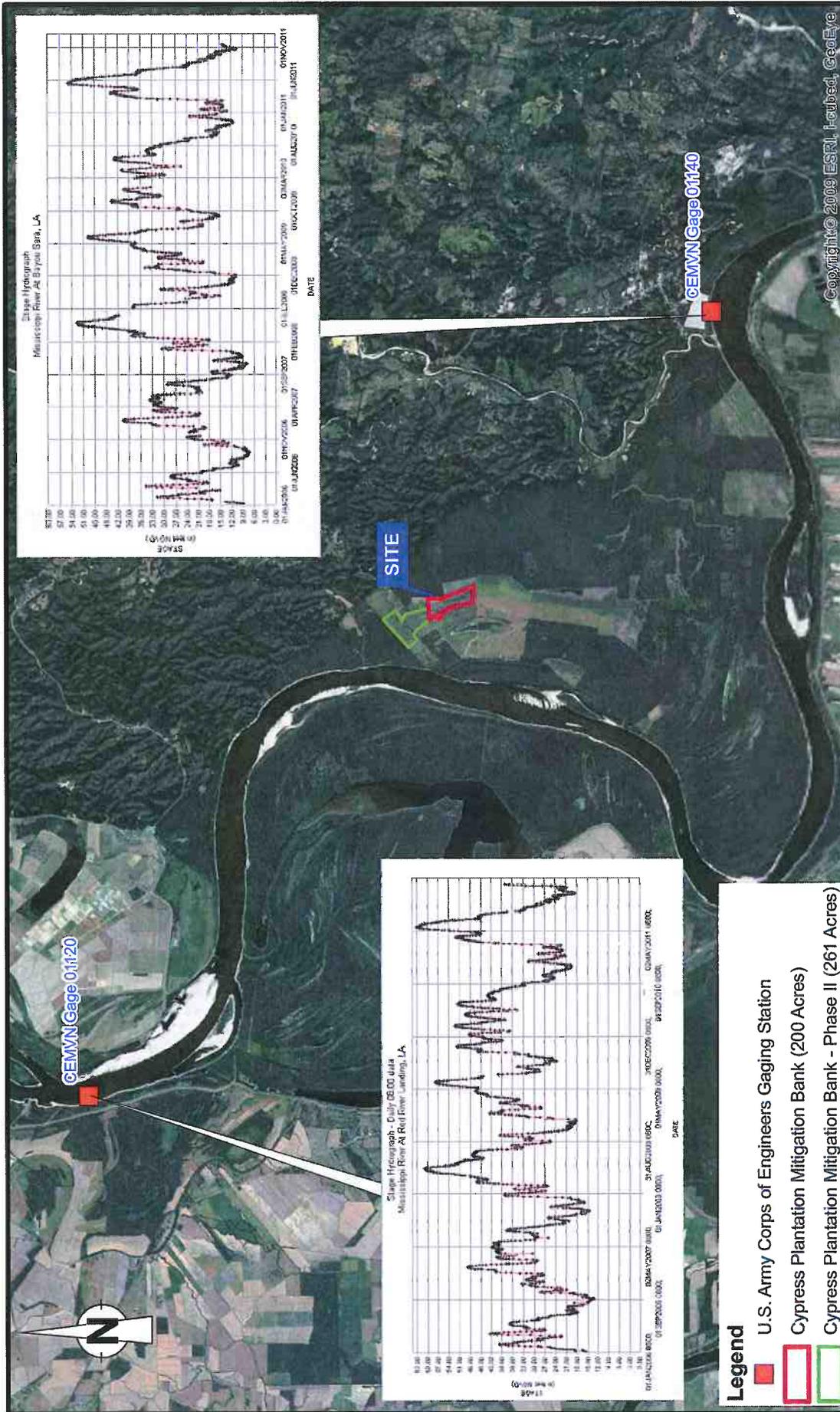
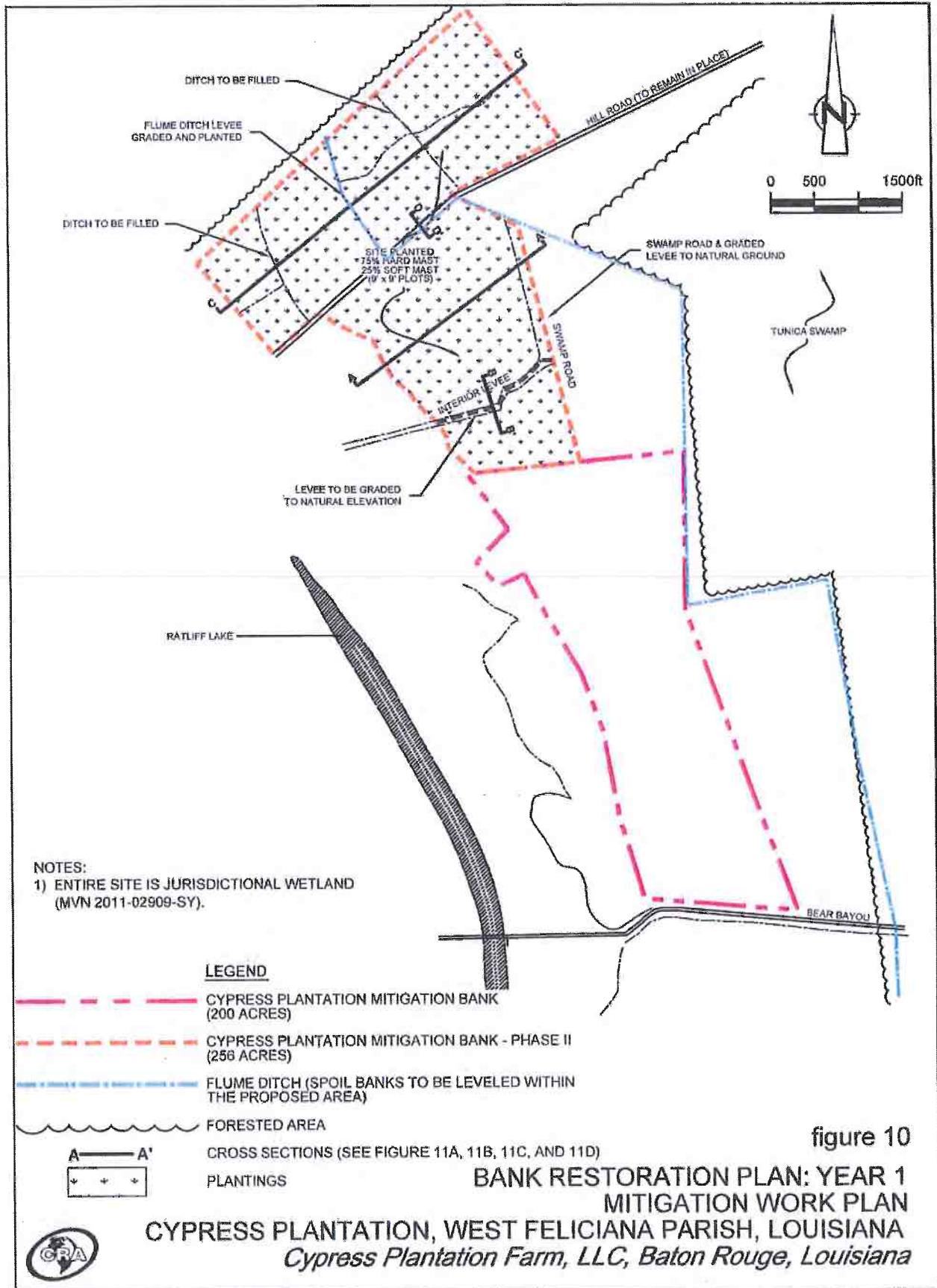
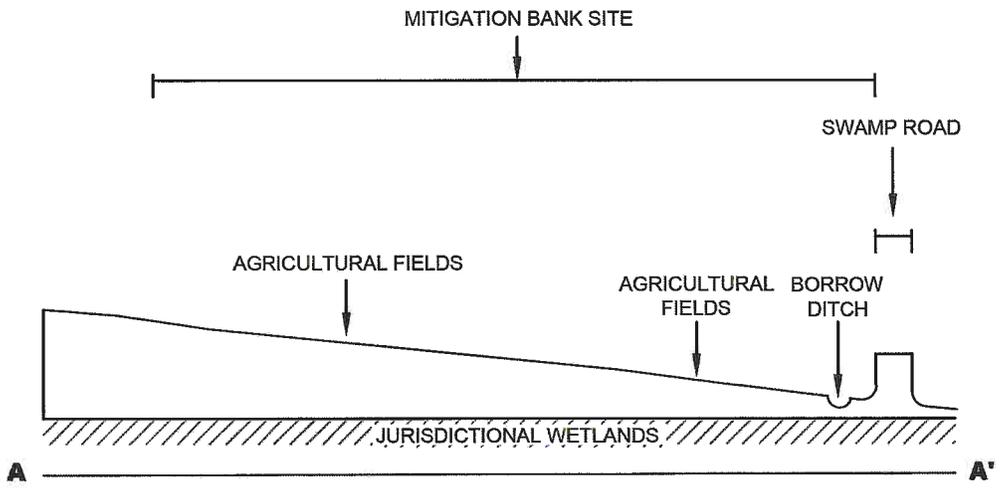


figure 9  
 LOCAL RIVER GAGE DATA  
 MITIGATION WORK PLAN

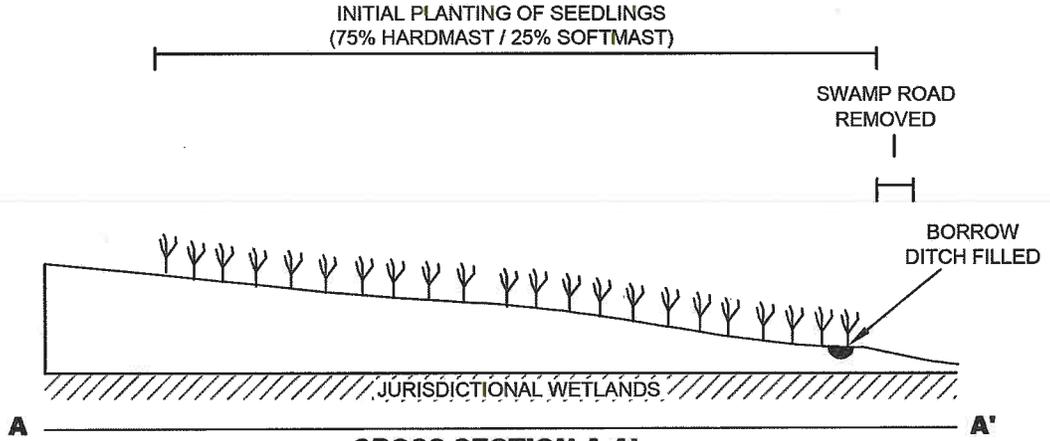
CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA  
 Cypress Plantation Farm, LLC, Baton Rouge, Louisiana



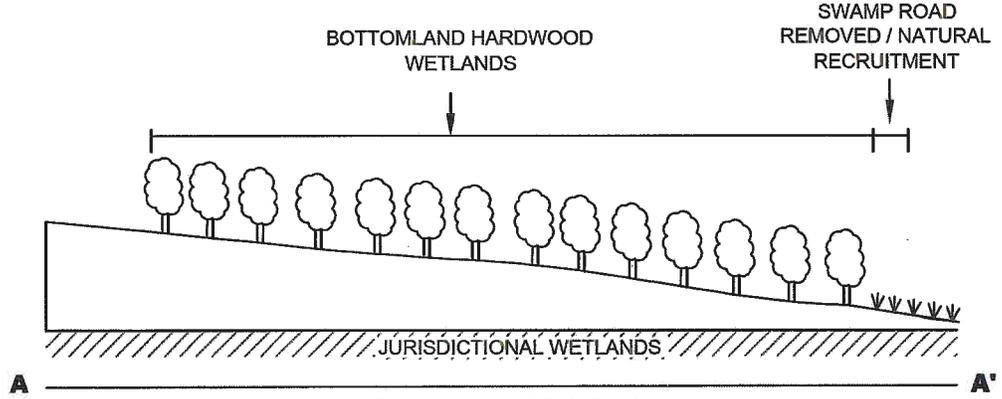




**CROSS SECTION A-A'**  
 EXISTING CONDITIONS  
 (SEE FIGURE 4)



**CROSS SECTION A-A'**  
 SITE RESTORATION: YEAR 1  
 (SEE FIGURE 10)



**CROSS SECTION A-A'**  
 SITE RESTORATION: YEAR 10

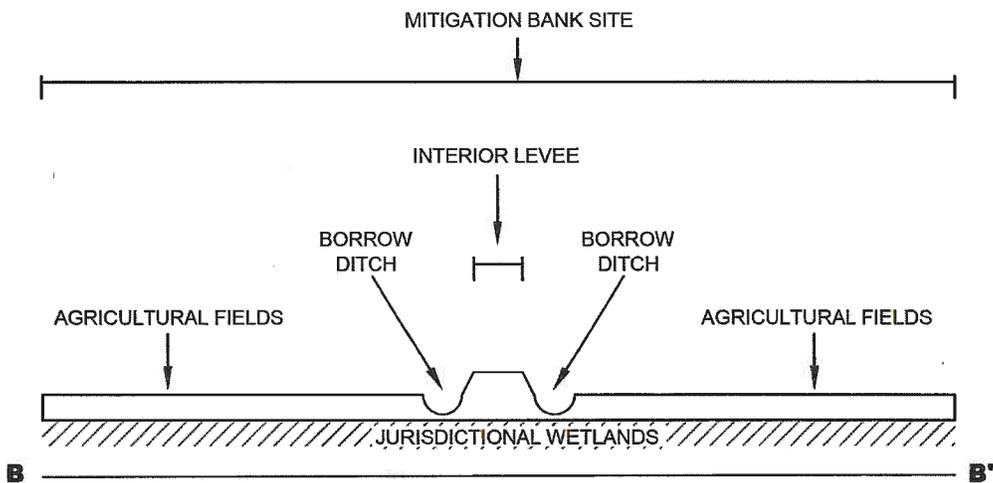
figure 11A

NOT TO SCALE

**CROSS SECTION A-A'**  
**MITIGATION WORK PLAN**

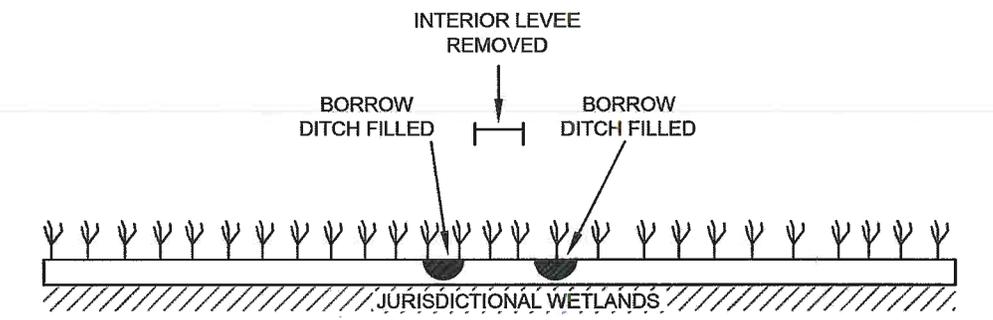
**CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA**  
*Cypress Plantation Farm, LLC, Baton Rouge, Louisiana*





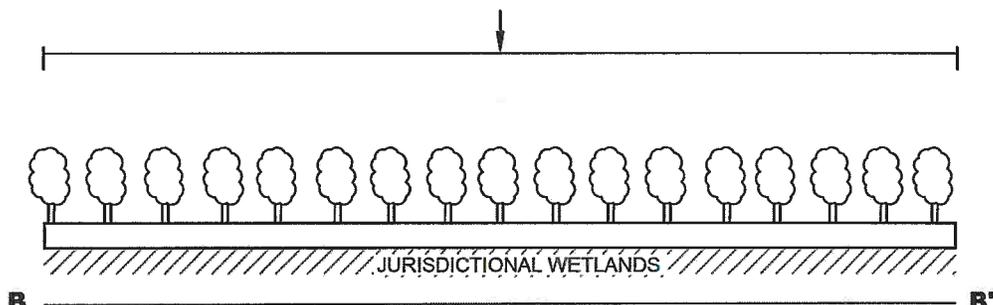
**CROSS SECTION B-B'**  
 EXISTING CONDITIONS  
 (SEE FIGURE 4)

INITIAL PLANTING OF SEEDLINGS  
 (75% HARDMAST / 25% SOFTMAST)



**CROSS SECTION B-B'**  
 SITE RESTORATION: YEAR 1  
 (SEE FIGURE 10)

BOTTOMLAND HARDWOOD  
 WETLANDS



**CROSS SECTION B-B'**  
 SITE RESTORATION: YEAR 10

figure 11B

NOT TO SCALE

**CROSS SECTION B-B'**  
**MITIGATION WORK PLAN**

**CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA**  
*Cypress Plantation Farm, LLC, Baton Rouge, Louisiana*



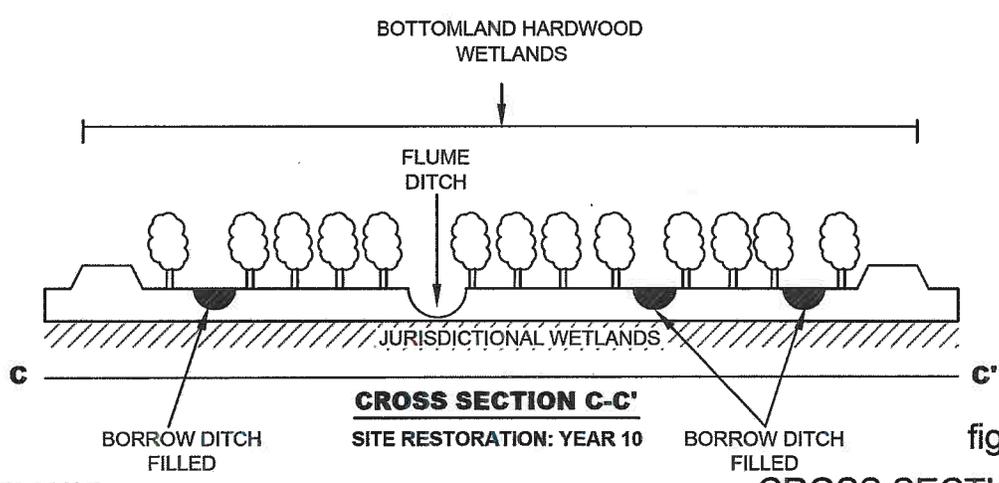
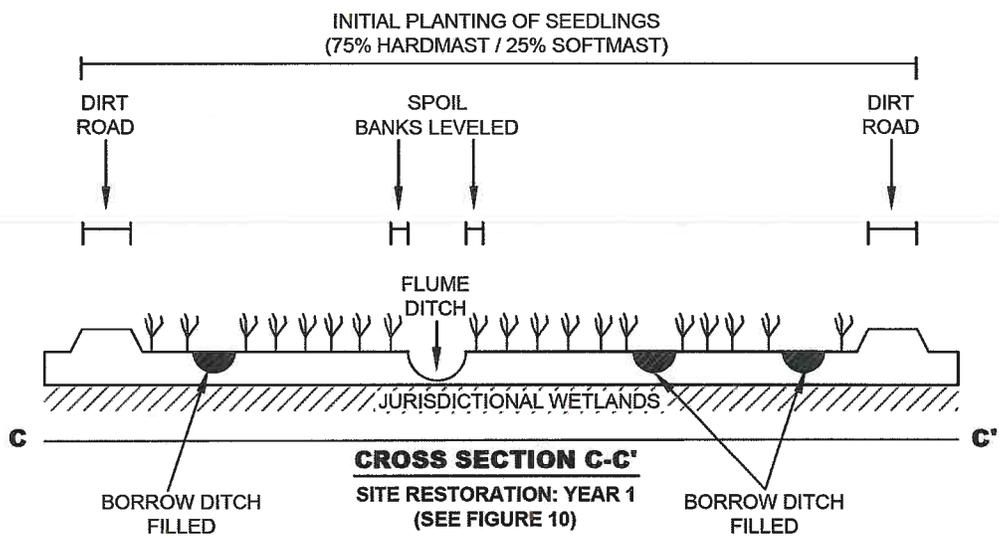
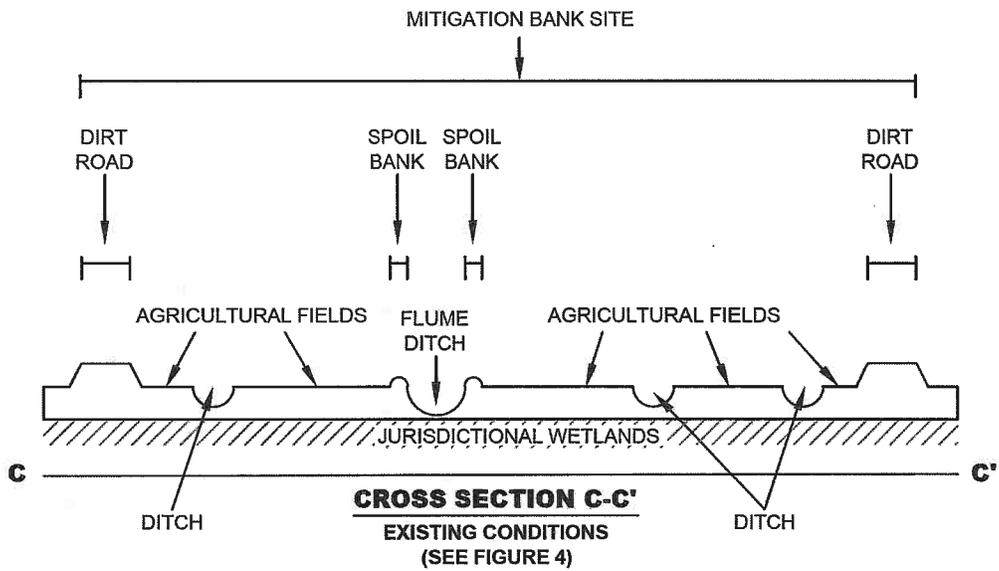
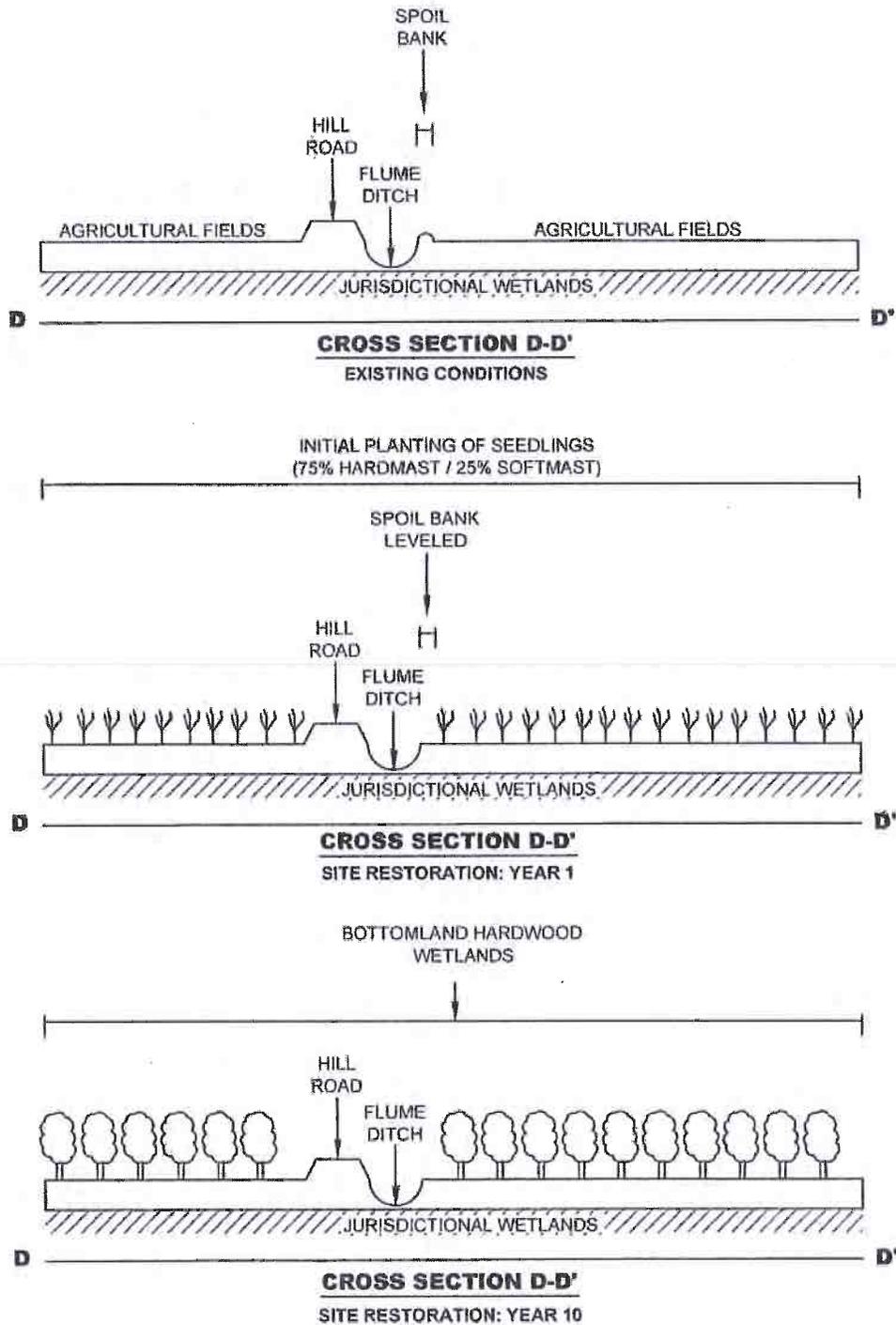


figure 11C

NOT TO SCALE

**CROSS SECTION C-C'**  
MITIGATION WORK PLAN  
CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA  
*Cypress Plantation Farm, LLC, Baton Rouge, Louisiana*





NOT TO SCALE

figure 11D

**CROSS SECTION D-D'**  
**MITIGATION WORK PLAN**  
**CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA**  
*Cypress Plantation Farm, LLC, Baton Rouge, Louisiana*



ATTACHMENT MWP-B

MCM CREDIT ASSESSMENTS

Revision\_February\_2012

**Table 2B: Proposed Restoration/Enhancement Mitigation Worksheet**

**Mitigation Project Name:**

Cypress Plantation Mitigation Bank - Phase II

**Mitigation Project Size (Acres) Include Wetlands:**

261.0

**Mitigation Project HUC: (HUC)**

**Mitigation Project Basin: (Basin)**

**Impacted HUC: 08070201**

**Mitigation Project in the same basin as the impact:**

Yes

**Proximity Factor:**

1.0

	Area 1	Area 2	Area 3	Area 4	Area 5
<b>Factors</b>	Area 1	Area 2	Area 3	Area 4	Area 5
Re-establishment II	(Select an Option)				
Short-term Structural Management	(Select an Option)				
Conservation Servitude	(Select an Option)				
Over 20	(Select an Option)				
Schedule 2	(Select an Option)				
Category 1	(Select an Option)				
Zone 1	(Select an Option)				
Commercial/Residential Development	No Impact				
Oil & gas activities	No Impact				
Size	Category 2	Category 1	Category 1	Category 1	Category 1
Corridors	No Impact				

Revision\_February\_2012

Table 2B: Proposed Restoration/Enhancement Mitigation Worksheet

Mitigation Project Name:

Cypress Plantation Mitigation Bank - Phase II

Factors	Area 1	Area 2	Area 3	Area 4	Area 5
Net Improvement					
Mitigation Type * Maintenance/ Management Requirement	3.2	0.0	0.0	0.0	0.0
Control	0.4	0.0	0.0	0.0	0.0
Temporal Lag	-0.3	0.0	0.0	0.0	0.0
Credit Schedule	0.3	0.0	0.0	0.0	0.0
Kind	0.4	0.0	0.0	0.0	0.0
Location	0.4	0.0	0.0	0.0	0.0
Subtotal	4.4	0.0	0.0	0.0	0.0
Commercial/Residential					
Development	0.0	0.0	0.0	0.0	0.0
Oil & gas activities	0.0	0.0	0.0	0.0	0.0
Size	-0.3	0.0	0.0	0.0	0.0
Utility Corridors	0.0	0.0	0.0	0.0	0.0
Sum of negative impacts	-0.3	0.0	0.0	0.0	0.0
Sum of m Factors	4.1	0.0	0.0	0.0	0.0
Size of Area (Acres)	261.0	0.0	0.0	0.0	0.0
M x A =	1070.1	0.0	0.0	0.0	0.0
Acres required for Permittee-responsible Mitigation project using required credits calculated in Adverse impact Worksheet.	#NAME?	#NAME?	#NAME?	#NAME?	#NAME?
Total Restoration/Enhancement Credits = $\sum (M \times A) =$					
Total Available including buffers					
Average Credit Per Acre =					
					1070.1
					1070.1
					#NAME?

	Buffers	Non-hydric inclusions	Hydric Inclusions
Credits per acre (M)	0.2	0.4	0.6
Size in Acres (A)	0.0	0.0	0.0
M x A =	0.0	0.0	0.0
Credits added to bank =			0.0

ATTACHMENT MWP-C

ESTIMATED CONSTRUCTION, ESTABLISHMENT AND LONG-TERM  
MAINTENANCE FUNDING REQUIREMENTS

## BASIS OF COSTS FOR FINANCIAL ASSURANCE

The basis of the Financial Assurance includes the following costs:

- Exotic/noxious species control and maintenance: This annual cost includes any required sapling removal and chemical spraying of Chinese tallow, Chinese privet, honeysuckle, or other exotic and/or noxious species. However, the Sponsor is incorporating in this item the maintenance costs for controlling all vegetation, including grasses. This line item covers the costs of herbicides, fuel for equipment, and labor. The Sponsor anticipates that there will be a diminishing need for exotic/noxious species control and maintenance as the forest crown closes. Costs are estimated to be \$100 per acre for the first five years, \$25 per acre for the next five years, and \$10 per acre for the next five years. The total estimated long-term cost for control of exotic/noxious species as well as weeds and grasses is \$179,175.

$$\$100 \times 261 \text{ acres} \times 5 \text{ years (Year 1 to Year 5)} = \$130,500$$

$$\$25 \times 261 \text{ acres} \times 5 \text{ years (Year 6 to Year 10)} = \$35,625$$

$$\$10 \times 261 \text{ acres} \times 5 \text{ years (Year 11 to Year 15)} = \$13,050$$

- Replanting: The costs allocated for replanting are based on a potential need for replacement of seedlings if initial plantings fail to meet the Year 1 survivorship criterion or if additional plantings are required to meet interim goals for vegetative composition and survivorship. No more than three attempts at replanting will be made, as indicated in Section IX.A.1 of the MBI. Based on knowledge of conditions at the Bank site, the Sponsor anticipates that replanting will not be required on all 261 acres, but may be required for 100 acres. The estimated cost per acre per year is \$140. The total estimated long-term cost for replanting is \$42,000.

$$\$140 \times 100 \text{ acres} \times 3 \text{ attempts} = \$42,000$$

- Levee removal: The interior levee and Swamp Road must be removed to re-establish natural hydrology. This line item covers the costs of equipment rental, fuel, and labor. Based on the size and length of the levees, the one-time estimated cost for removal is \$50,000. (Note: Removal of levees within the Bank boundaries will occur within the first year of Bank operation and is therefore not counted toward the cost of contingency action.)

$$\$50,000 \times 1 = \$50,000$$

- Monitoring: Documentation of Bank performance and achievement of success criteria is required as part of the MBI. Vegetative monitoring reports are required for Years 1, 3, 5, 10, and 15, as described in Section VIII.D.1 of the MBI. Reports discussing measures to control exotic/noxious species are required annually until the IRT has verified that the Bank acreage contains 5% or less exotic/noxious species on an acre-by-acre basis (estimated to be Year 5), as described in Section VIII.D.3 of the MBI. The estimated cost for an appropriate environmental professional to inspect the Bank and prepare monitoring reports is \$25 per acre per year. The total estimated long-term cost for monitoring is \$32,625.

$$\$25 \times 261 \text{ acres} \times 5 \text{ years (Year 1, 3, 5, and 10)} = \$32,625$$

The sum of these costs (i.e., the estimated total cost for Financial Assurance) is \$303,800. The Financial Assurance will be funded by a deposit of \$15,190 from each of the first 20 credit sales made at the Bank.

## BASIS OF COSTS FOR LONG-TERM MAINTENANCE AND PROTECTION FUND

The basis of the Long-Term Maintenance and Protection Fund includes the following costs:

- Insurance: The annual cost for insurance on the 261 acres is \$391.50.
- Property tax: The annual tax burden on the 261 acres is \$522.
- Long-term exotic/noxious species control and maintenance: This is an annual cost projected to be necessary beyond Year 15, and to continue in perpetuity. The cost for exotic/noxious species control, which covers herbicide, fuel, and labor, is estimated at \$5 per acre. The total for 261 acres is \$1,305 per year.

$$\text{\$5/acre/year} \times 261 \text{ acres} = \text{\$1,305/year}$$

The sum of these expected costs in 2011 is \$2,218.50 per year. Estimating an average inflation rate of 3%, the anticipated annual interest rate for the fund is 3%. The future value of the long-term maintenance costs can be calculated using the following equation:

$$FV = PV \times (1 + i)^n$$

FV = Future Value

PV = Present Value

$i$  = Interest Rate

$n$  = Number of Years

Therefore, the cost of long-term maintenance and protection at Year 15 will be:

$$FV = \$2,218.50 \times (1 + 0.03)^{15} \approx \$3,456$$

As referred to in Section XIII.B. of the MBI, costs at Year 16 and Year 50 will be:

$$FV = \$2,218.50 \times (1 + 0.03)^{16} = \$3,560$$

$$FV = \$2,218.50 \times (1 + 0.03)^{50} \approx \$9,726$$

By the time Long-Term Success Criteria are evaluated at Year 15, the principal amount must be large enough to generate \$3,456 in interest annually.

$$\text{\$3,456} / 0.03 \text{ interest rate} = \text{\$115,200}$$

The Long-Term Maintenance and Protection Fund shall contain a minimum balance of \$115,200 by the time designated in Section XIII.B. of the MBI. This amount will be funded by a deposit of \$1,537 from each of the first 60 credit sales made at the Bank.

ATTACHMENT MWP-D

2011 JURISDICTIONAL DETERMINATION



**DEPARTMENT OF THE ARMY**  
**NEW ORLEANS DISTRICT, CORPS OF ENGINEERS**  
**P.O. BOX 80267**  
**NEW ORLEANS, LOUISIANA 70160-0267**

**DEC 20 2011**

REPLY TO  
ATTENTION OF

Operations Division  
Surveillance and Enforcement Section

Mr. Charles E. Jones  
Conestoga-Rovers & Associates, Inc.  
5551 Corporate Blvd.  
Baton Rouge, LA 70808

Dear Mr. Jones:

Reference is made to your request, on behalf of Cypress Plantation, LLC, for a U.S. Army Corps of Engineers' (Corps) jurisdictional determination on property located in Township 2 South, Range 4 West, West Feliciana Parish, Louisiana (enclosed map). Specifically, this property is identified as a 2,337-acre tract east of Plettenberg Road and south of Polly Creek.

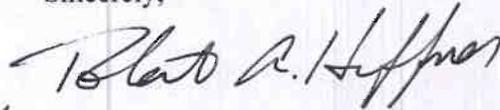
Based on review of recent maps, aerial photography, and soils data, we have determined that part of the property is wetland and may be subject to Corps' jurisdiction. The approximate limits of the wetland are designated in red on the map. A Department of the Army permit under Section 404 of the Clean 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 indicated in blue. Furthermore, waters that may be subject to Corps' jurisdiction under Section 10 of the Rivers and Harbors Act (RHA) are indicated in blue on the map. A DA Section 10 permit will be required prior to any work in waters subject to Corps' jurisdiction under Section 10 of the RHA.

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 Engineer 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-2011-02909-SY. If you have specific questions regarding the permit process or permit applications, please contact our Central Evaluation Section at (504) 862-2577. The New Orleans District Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please complete and return the enclosed Customer Service Survey or complete the survey on our web site at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

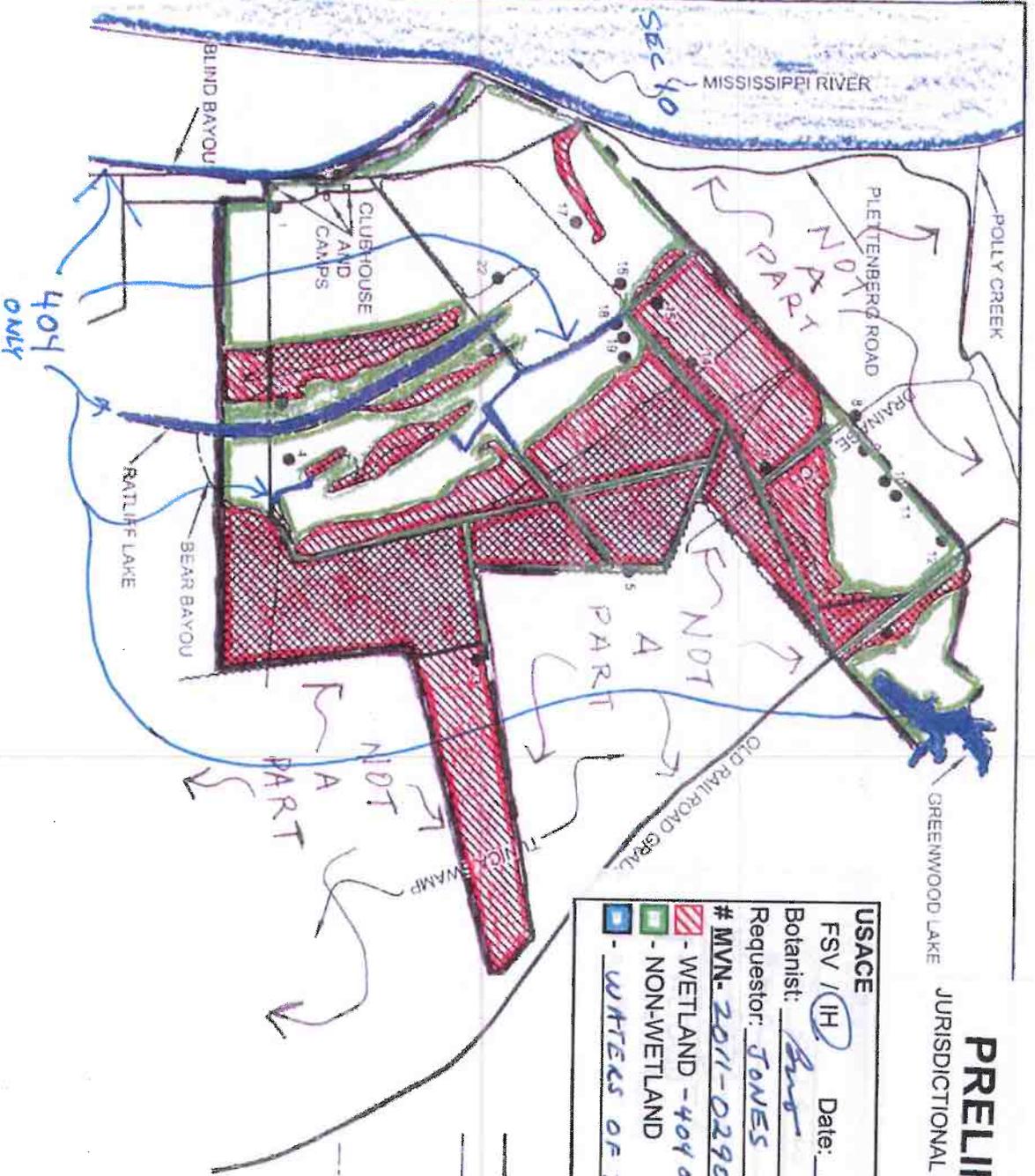
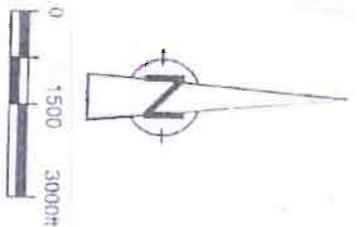


*for* Pete J. Serio  
Chief, Regulatory Branch

Enclosures

# PRELIMINARY JURISDICTIONAL DETERMINATION

**USACE**  
 FSV / IH Date: 12-13-2011  
 Botanist: *Burd*  
 Requestor: *JONES*  
 # MVN-2011-02909-SY  
 - WETLAND - 404 ONLY  
 - NON-WETLAND  
 - WETLANDS OF THE US/404  
 10



- LEGEND**
- SITE BOUNDARY
  - LEVEE
  - ▨ POTENTIAL JURISDICTIONAL WETLANDS
  - STREAMS / WATERWAYS
  - ▭ FORESTED AREA
  - SAMPLING LOCATIONS
  - ▨ AREAS INUNDATED AT TIME OF SITE VISIT
  - ▭ OTHER WATERS OF THE UNITED STATES

RE: USGS 2004 AERIAL PHOTOGRAPH AND  
 CRA SITE VISIT ON MARCH 15, 2009.

CYPRESS PLANTATION, WEST FELICIANA PARISH, LOUISIANA  
 Cypress Plantation, LLC, Baton Rouge, Louisiana

figure 2  
 WETLAND DELINEATION  
 SITE PLAN

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

Applicant: Mr. Charles E. Jones		File Number: MVN-2011-02909-SY	Date:
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
X	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://www.usace.army.mil/cecw/pages/reg\\_materials.aspx](http://www.usace.army.mil/cecw/pages/reg_materials.aspx) 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.

**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: Rob Heffner (504-862-1288)  
Chief, Surveillance & Enforcement Section  
U.S. Army Corps of Engineers  
P.O. Box 60627  
New Orleans, LA 70160

If you only have questions regarding the appeal process you may also contact: Administrative Appeals Review Officer  
USACE – Mississippi Valley Division  
P.O. Box 80  
Vicksburg, MS 39181-0080  
(601) 634-5820

**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:

## 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-2011-02909-SY	PJD Date:	Dec 13, 2011	
State	LA	City/County	West Feliciana			
Nearest Waterbody:	Mississippi River					
Location: TRS, Lat/Long or UTM:	T2S, R4E 30.850114 N -91.494308 W					
Name/Address of Person Requesting PJD	Mr. Charles E. Jones Conestoga-Rovers & Associates, Inc. 5551 Corporate Blvd. Baton Rouge, LA 70808					
Identify (Estimate) Amount of Waters in the Review Area:	Name of Any Water Bodies on the Site Identified as Section 10 Waters:		Tidal: _____ Non-Tidal: Mississippi River			
Non-Wetland Waters:	Stream Flow:					
<input checked="" type="checkbox"/> ~4000 linear ft <input type="checkbox"/> 10 width _____ acres <input type="checkbox"/> Intermittent	<input type="checkbox"/> Intermittent					
Wetlands: <input type="checkbox"/> ~1028 acre(s) Cowardin Class:	Palustrine, scrub-shrub		<input type="checkbox"/> Office (Desk) Determination <input checked="" type="checkbox"/> Field Determination: Date of Field Trip: Nov 16, 2011			

**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: CRA, Inc.

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: St. Francisville 1:24k

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: \_\_\_\_\_

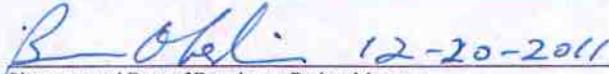
100-year Floodplain Elevation is: \_\_\_\_\_

Photographs:  Aerial (Name & Date): 98, 04, 05, 08, 10  
 Other (Name & Date): \_\_\_\_\_

Previous determination(s). File no. and date of response letter: 2006-1405-SY, 6/5/2006

Other information (please specify): \_\_\_\_\_

**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.**

 Signature and Date of Regulatory Project Manager (REQUIRED)	 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.