



**US Army Corps
of Engineers**

Vicksburg District
4155 Clay Street
Vicksburg, MS 39183-3435
www.mvk.usace.army.mil



Public Notice

APPLICATION NO.:	<u>MVK-2021-61</u>
EVALUATOR:	<u>Ms. Jennifer Brown</u>
PHONE NO.:	<u>(601) 631-5147</u>
E-MAIL:	<u>Jennifer.G.Brown@usace.army.mil</u>
DATE:	<u>September 22, 2022</u>
EXPIRATION DATE:	<u>October 13, 2022</u>

Interested parties are hereby notified that the U.S. Army Corps of Engineers, Vicksburg District, and the Arkansas Department of Energy and Environment, Division of Environmental Quality (ADEQ), are considering an application for a Department of the Army Permit and State Water Quality Certification for the work described herein. Comments should be forwarded to the Vicksburg District, Attention: CEMVK-RD, and the ADEQ at Post Office Box 8913, Little Rock, Arkansas 72219-8913, and must reach these offices by the cited expiration date.

The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying agency. As of the date of this public notice, the applicant has not submitted a certification request to ADEQ (certifying authority). In accordance with Certification Rule part 121.6, once the applicant submits a certification request, the Corps of Engineers will notify the certifying agency of the reasonable period of time for them to act upon the certification request.

Law Requiring a Permit: Section 404 of the Clean Water Act (33 U.S.C. 1344), which applies to discharges of dredged and/or fill material into waters of the United States.

Name of Applicant:
Mr. Tommy Funk
Goldcrest Farms, LLC
1250 NW Loop 410, Suite 300
San Antonio, Texas 78209

Name of Agent:
Mr. C. Shane Bray
Goldcrest Farms, LLC
1052 County Road 476
Jonesboro, Arkansas 72404

Location of Work:

Weir A: 33.29034, -93.76755; Sec. 11, T17S-R26W; Moccasin Bayou; HUC 11140201 (Lower McKinney Bayou Drainage Basin); Miller County, Arkansas

Weir B: 33.25907, -93.77391; Sec. 22, T17S-R26W; Old McKinney Bayou; HUC 11140201 (Lower McKinney Bayou Drainage Basin); Miller County, Arkansas

Weir C: 33.22836, -93.79153; Sec. 33, T17S-R26W; Old McKinney Bayou; HUC 11140201 (Lower McKinney Bayou Drainage Basin); Miller County, Arkansas

Weir D: 33.20254, -93.81240; Sec. 8, T18S-R26W; Old McKinney Bayou; HUC 11140201 (Lower McKinney Bayou Drainage Basin); Miller County, Arkansas

Weir E: 33.17732, -93.82645; Sec. 20, T18S-R26W; Old McKinney Bayou; HUC 11140201 (Lower McKinney Bayou Drainage Basin); Miller County, Arkansas

Description of Work: (See enclosed map and drawings.)

The following descriptions of the proposed project and associated impacts are based upon information provided by the applicant.

The applicant is applying for an after-the-fact Department of the Army permit for the construction of five weirs. One weir was constructed across Moccasin Bayou. Four weirs were constructed across different segments of Old McKinney Bayou. Each earthen weir is topped with erosion control fabric and stone. The purpose of the weirs is to facilitate pooling of water at each location to allow for surface water withdraw for arable crop irrigation pumping. Weir A (across Moccasin Bayou) is 0.22 acres in size. Weirs B, C, D, and E (all across Old McKinney Bayou) are 0.37 acres, 0.37 acres, 0.27 acres, and 0.39 acres in size, respectively. Each weir has been modified to include four 22-inch diameter pipes with screw-valves to allow for flow-through thereby minimizing upstream flooding potential. The impacts total 1.62 acres of fill in waters of the U.S., including wetlands. For the wetland impacts associated with the construction of the weirs, the applicant proposes to supply compensatory mitigation credits from an USACE Vicksburg District approved mitigation bank servicing the hydrologic unit code of the impacts HUC 11140201.

Upon reviewing this notice, you should write to this office to provide your opinion of the impacts this work will have on the natural and human environment and address any mitigation you believe is necessary to offset these impacts. Other comments are welcome, but the above information will further our review of the applicant's plan as proposed. Comments of a general nature are not as helpful as those specific to the impacts of the subject project.

State Water Quality Permit: The State Pollution Control Agency must certify that the described work will comply with the State's water quality standards and effluent limitations before a Corps permit is issued.

Cultural Resources: The Regulatory Archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the proposed undertaking upon these properties: The permit area has been so extensively modified that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

Endangered Species: The Threatened and Endangered Species list gained via the U.S. Fish and Wildlife Service's Information for Planning and Consultation Tool for the project area includes: Eastern Black Rail, Piping Plover, Red Knot, and Indiana Bat. The Corps has determined that the proposed activity would have had no effect on these species as the project location did not contain suitable habitat for either species.

Floodplain: In accordance with 44 CFR Part 60 (Floodplain Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. Floodplain administrators should review the proposed development described in this public notice and apprise this office of any flood plain development permit requirements. The weirs are located within the 100-year floodplain.

Evaluation Factors: The decision whether or not to issue a permit will be based upon an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which may be expected to accrue from the proposal must be balanced against its expected adverse effects. All factors which may be relevant to the proposal will be considered; among these are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classification, navigation, recreation, water supply, water quality, energy needs, safety, food requirements and, in general, the needs and welfare of the people. Evaluation of the proposed activity will include application of the guidelines published by the Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act.

Public Involvement: The purpose of this notice is to solicit comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties. These comments will be used to evaluate the impacts of this project. All comments will be considered and used to help determine whether to issue the permit, deny the permit, or issue the permit with conditions, and to help

us determine the amount and type of mitigation necessary. This information will be used in our Environmental Assessment or Impact Statement. Comments are also used to determine the need for a public hearing.

Opportunity for a Public Hearing: Any person may make a written request for a public hearing to consider this permit application. This request must be submitted by the public notice expiration date and must clearly state why a hearing is necessary. Failure of any agency or individual to comment on this notice will be interpreted to mean that there is no objection to the proposed work. Please bring this announcement to the attention of anyone you know who might be interested in this matter.

Notification of Final Permit Actions: Each month, the final permit actions from the preceding month are published on the Vicksburg District Regulatory web page. To access this information, you may follow the link from the Regulatory web page, <http://www.mvk.usace.army.mil/Missions/Regulatory.aspx>.

**Bryan Williamson
Chief, Permit and Evaluation Branch
Regulatory Division**

17. DIRECTIONS TO THE SITE

After going through Garland City, AR, travel west on Hwy 134 for approx. 2.75 miles, turn south on Hwy 134, travel approx 4 miles to farm road, turn west, travel approx .5 miles, turn south on farm road for .3 miles, turn west for .15 miles to reach the site.

18. Nature of Activity (Description of project, include all features)

Dirt was pulled from the adjoining fields to create 5 weirs within jurisdictional waters of the U.S. The 5 weirs were constructed at a height that would allow for upstream pooling to a depth the pumps would have adequate water but also designed to allow excess water to flow over when the pools get too full and not spill into the fields. The weirs also have four 22-inch pipes with valves so that they can be opened when pooling is not necessary in the irrigation season to allow water to flow through uninhibited.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

The purpose of the weirs is to create an upstream pool of water with depth, so that the water can be relieved to irrigate the adjoining agriculture fields.

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

The reason for the discharge is to create 5 weirs with upstream pools that would eliminate the need for ground water pumping and increase the reuse of surface water.

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards
250 cubic yds of onsite clay	50 cubic yds of rip rap	

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres 1.62
or
Linear Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)

The nature of the project make avoidance impossible. The weirs were designed with four 22-inch pipes with valves to minimized flow impacts and avoid upstream flooding. As compensation for jurisdictional impacts, mitigation credits will be purchased from an approved mitigation bank.

24. Is Any Portion of the Work Already Complete? Yes No IF YES, DESCRIBE THE COMPLETED WORK

The 5 weirs have been completed, pipes installed, and the tops of the weirs have erosion matting and large rock to minimize erosion.

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

a. Address- SEE ATTACHED PROPERTY OWNERS & LESEES spreadsheet

City - State - Zip -

b. Address-

City - State - Zip -

c. Address-

City - State - Zip -

d. Address-

City - State - Zip -

e. Address-

City - State - Zip -

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED

* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE



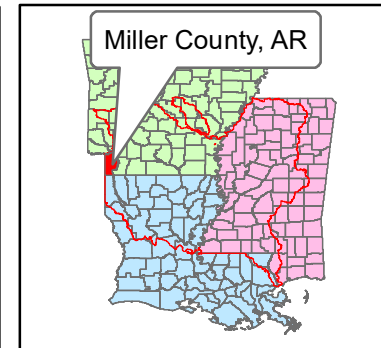
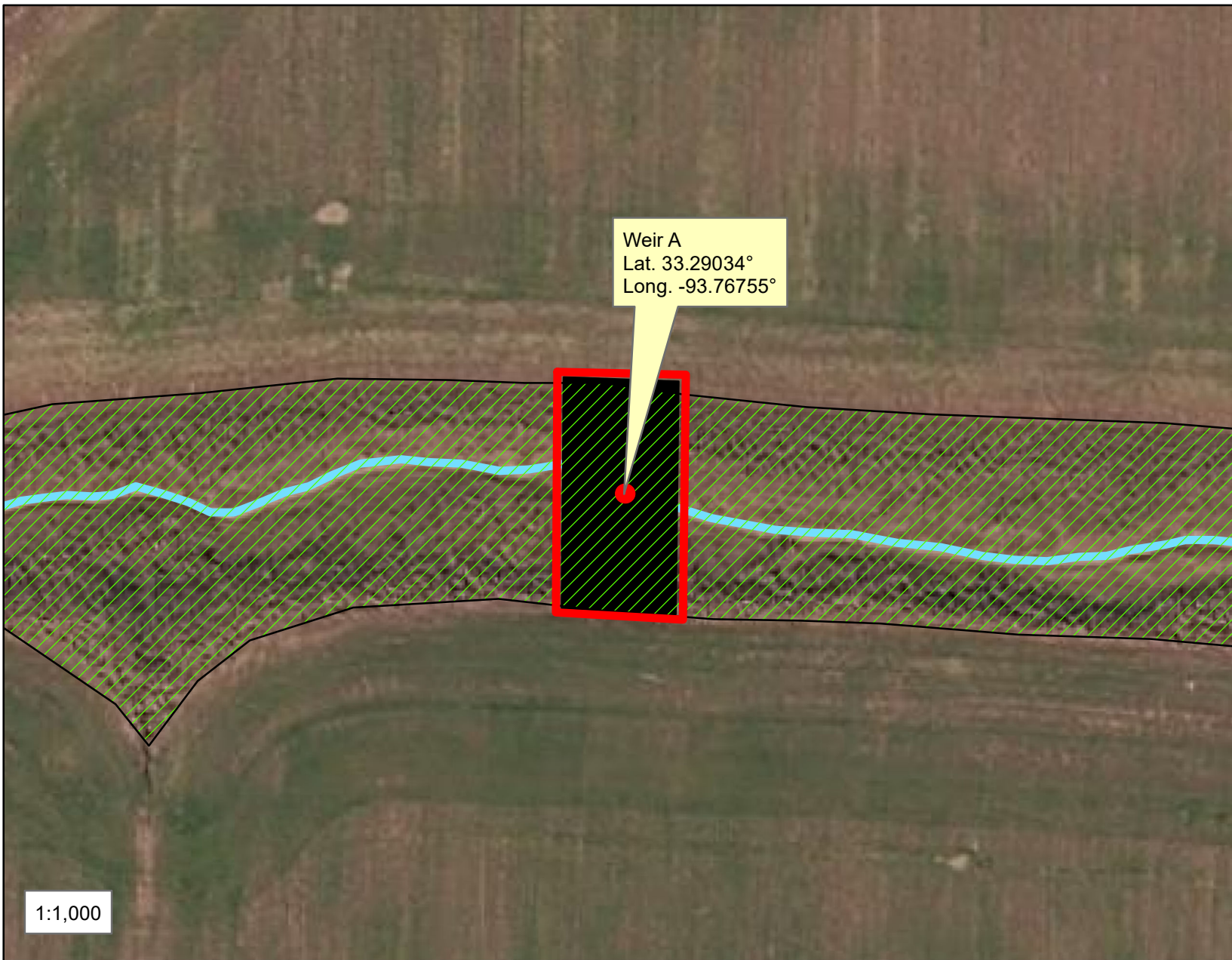
SIGNATURE OF AGENT

8/28/2022

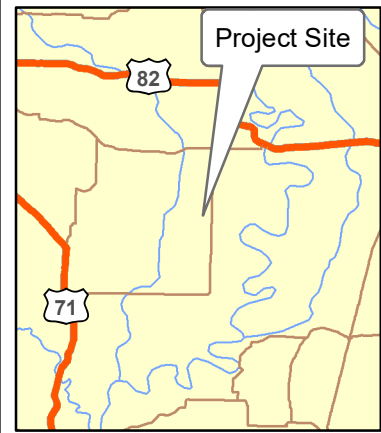
DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.



29 August 2022
MVK-2021-61
 Jurisdictional Determination
 Goldcrest Farm Trust
 Garland City, Miller County, AR
**Revised Preliminary
 Jurisdictional Determination**
 Prepared by
 Arel Simpson



**US Army Corps
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**Regulatory Division
Enforcement and
Compliance Branch**

0 25 50 100 Feet

Enclosure 1

1:1,000

There are jurisdictional waters of the U.S. within the project boundary. Any work involving the discharge of dredged or fill material into a jurisdictional water of the U.S. will require a permit.

Legend

Project Boundary	Potential Wetlands (0.21 Ac.)
Weir A	Moccasin Bayou (81 L.F.)







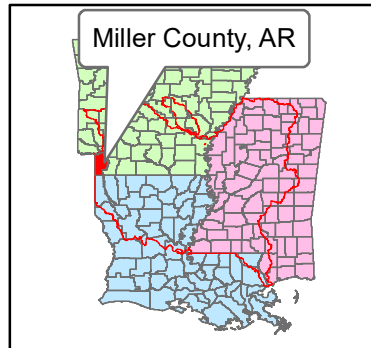
Weir B
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 Long. -93.77391°

1:1,000

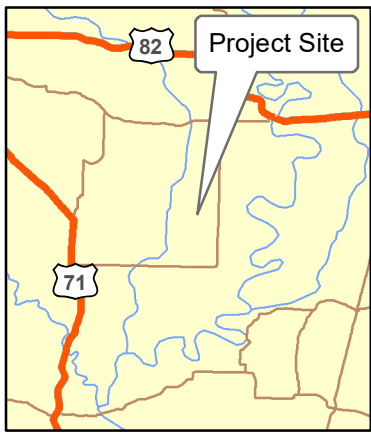


There are jurisdictional waters of the U.S. within the project boundary. Any work involving the discharge of dredged or fill material into a water of the U.S. will require a permit.

Legend

 Project Boundary	 Potential Wetlands (0.29 Ac.)
 Weir B	 Old McKinney Bayou Channel (72 LF.)



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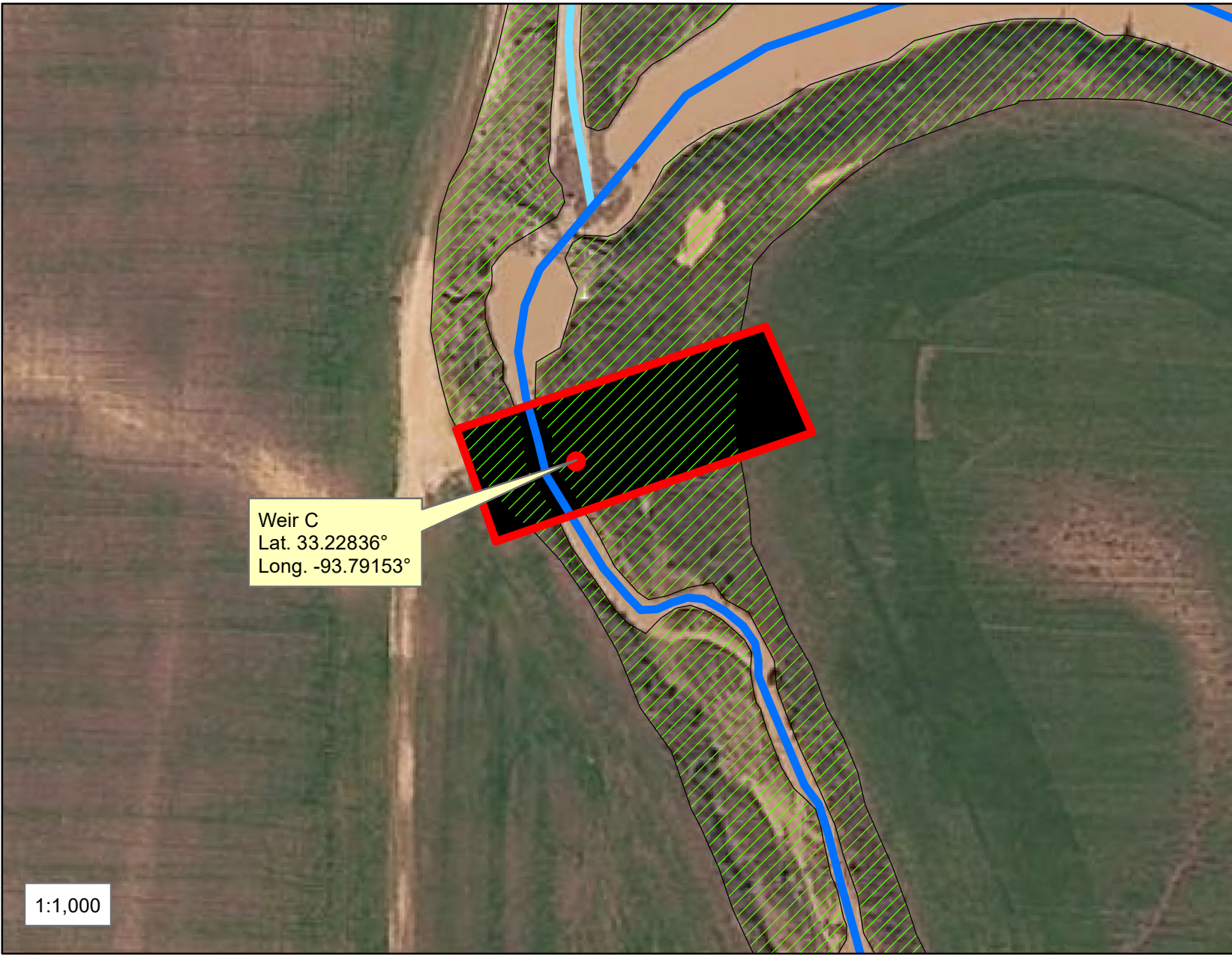




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0 25 50 100 Feet

Enclosure 1B



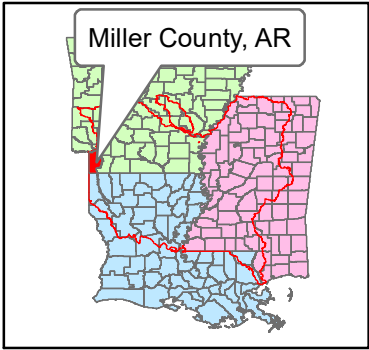
Weir C
 Lat. 33.22836°
 Long. -93.79153°

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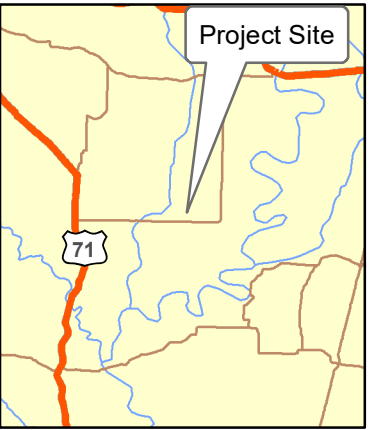
There are jurisdictional waters of the U.S. within the project boundary. Any work involving the discharge of dredged or fill material into a jurisdictional water of the U.S. will require a permit.

Legend

- Project Boundary
- Weir C
- Potential Wetlands (0.28 Ac.)
- Old McKinney Bayou Channel (77 L.F.)
- Drainage Ditch



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0 25 50 100 Feet

Enclosure 1C







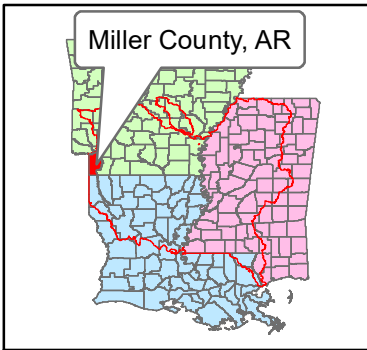
Weir D
 Lat. 33.20254°
 Long. -93.81240°

1:1,000

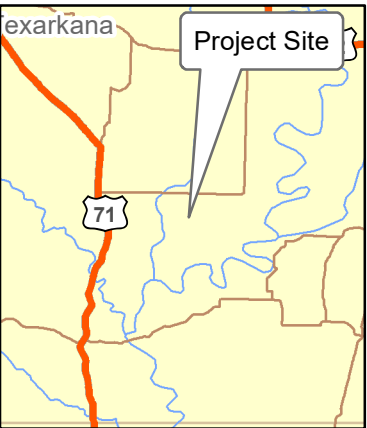
There are jurisdictional waters of the U.S. within the project boundary. Any work involving the discharge of dredged or fill material into a jurisdictional water of the U.S. will require a permit.

Legend

	Project Boundary		Potential Wetlands (0.11 Ac.)
	Weir D		Old McKinney Bayou Channel (87 L.F.)



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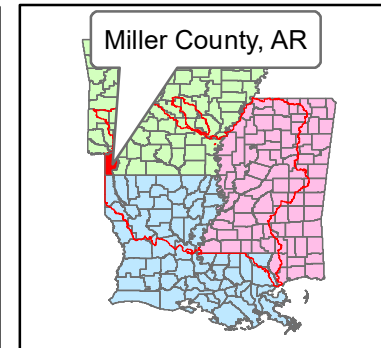
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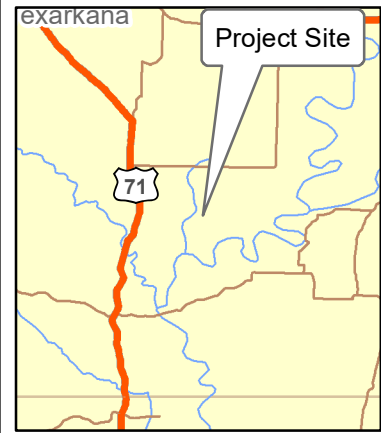


0 25 50 100 Feet

Enclosure 1D



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0 25 50 100 Feet

Enclosure 1E

There are jurisdictional waters of the U.S. within the project boundary. Any work involving the discharge of dredged or fill material into a jurisdictional water of the U.S. will require a permit.

Legend

Project Boundary	Potential Wetlands (0.16 Ac.)
Weir E	Old McKinney Bayou Channel (118 L.F.)