

Public Notice

U.S. Army Corps of Engineers, Norfolk District

May 16, 2008

CENAO-REG
NAO-2008-1531

FEDERAL PUBLIC NOTICE

The District Engineer has received a prospectus to establish a compensatory wetland mitigation bank for Federal and State permits as described below:

BANK SPONSOR

Pampatike, LLC
4413 Cox Road
Glen Allen, Virginia 23060

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed mitigation bank site is located on a 871-acre portion of a 985-acre parcel of land owned by Pampatike, LLC. The site is located at the end of Pampatike Road and is bordered by Moncuin Creek to the west and to the south by the Pamunkey River in King William County near Manquin, Virginia. The proposed bank site is located on both Moncuin Creek and the Pamunkey River, a tributary of the York River.

PROPOSED WORK AND PURPOSE: The bank sponsor, Pampatike, LLC, proposes to establish, design, construct, and operate a stream and wetland compensatory mitigation bank on approximately 871 acres near Manquin, Virginia.

The purpose of the mitigation bank is to provide off-site compensatory mitigation for projects that result in unavoidable impacts to streams and wetlands within the bank's service area. The goals and objectives of the bank will target important ecological functions and related habitat values. The proposed stream and wetland restoration, preservation, and enhancement is intended to provide a positive contribution within the drainage basin and to contribute to improved water quality of the Pamunkey, Mattaponi and York River watersheds.

The Bank Sponsor will establish this Bank by restoring or creating approximately 86 acres of emergent, scrub/shrub and forested wetlands, 17 acres of wetland enhancement, 39 acres of upland buffer enhancement, 532 acres of wetland preservation and 36 acres of upland buffer preservation. The Bank will also preserve approximately 46,893 linear feet of streams and stream buffer, encompassing an area of 161 acres. Stream credit will be calculated using the Universal Stream Methodology (January 2007).

The sponsor has proposed for purposes of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act that the geographic service area of this mitigation bank would include the USGS Hydrologic Unit Codes known as "02080107" and the coastal plain portions of "02080105" and "02080106" within the York River, Mattaponi and Pamunkey watersheds. This proposed service area would include all or portions of the counties of Hanover, Caroline, Spotsylvania, King and Queen, King William, New Kent, James City County, York and Gloucester, and portions of the City of Williamsburg.

Oversight of this mitigation bank will be by a group of federal and state agency representatives. This interagency oversight group will be known as the Mitigation Bank Review Team (MBRT). The Norfolk District of the U.S. Army Corps of Engineers shall chair the MBRT.

This mitigation bank may be one of a number of practicable options available to applicants to compensate for unavoidable wetland impacts associated with permits issued under the authority of Section 404 and 401 of the Clean Water Act (Public Law 95-217) in southern Virginia.

The actual approval of the use of this mitigation bank for a specific project is the decision of the Corps pursuant to Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act and/or by the Department of Environmental Quality pursuant to Section 401 of the Clean Water Act and Title 62.1 of the Code of Virginia. The Corps and the Department of Environmental Quality provide no guarantee that any particular individual or general permit will be granted authorization to use this mitigation bank to compensate for unavoidable wetland impacts associated with a proposed permit, even though compensatory mitigation may be available. Authorization by the Virginia Marine Resources Commission may also be required for its use for specific projects.

AUTHORITY: A Public Notice is recommended pursuant to Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Federal Register Number 228).

FEDERAL EVALUATION OF PROPOSAL: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate this proposed mitigation bank. **This is not an application for work in Waters of the United States.** The Corps of Engineers in evaluating this proposal will consider any comments received. Comments are used to assess impacts on endangered species, historic properties, water quality, conservation, economics, aesthetics, general environmental concerns, wetlands, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) conduct of work will affect no species listed as threatened or endangered under the Endangered Species Act of 1973 (PL 93-205); and (3) no cultural or historic resources considered eligible or potentially eligible for listing on the National Register of Historic Places will be affected. Additional information might change any of these preliminary findings.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed project is described above in Proposed Work and Purpose. The proposed project is not located in Essential Fish Habitat and is unlikely to directly affect EFH. However, the proposed stream and wetland restoration may increase the amount of habitat available for some anadromous species and/or contribute to improved water quality in the Pamunkey, Mattaponi and York River's. Our preliminary determination is that the project will not have a substantial adverse effect on EFH and therefore expanded EFH consultation is not required. Based on comments from the National Marine Fisheries Service in response to this public notice, further EFH consultation may be necessary.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Corps of Engineers, C/O 6669 Short Lane, Gloucester, Virginia 23061, and should be received by the close of business on **June 16, 2008**. Copies will be forwarded to the DEQ.

If you have any questions about this project or the permit process, please contact:

Alicia Riley (804) 824-9492
E mail: Alicia.G.Riley@usace.army.mil

FOR THE DISTRICT ENGINEER:

Keith Lockwood
Chief, Northern Virginia
Regulatory Section

Attachment: Drawings

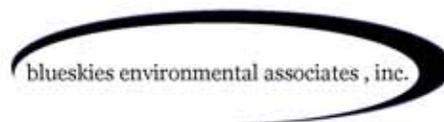
PROSPECTUS

**PAMPATIKE MITIGATION BANK
PAMUNKEY RIVER (HUC#02080106)
KING WILLIAM COUNTY, VIRGINIA**

Prepared for:

Pampatike LLC
4413 Cox Road
Glen Allen, Virginia 23060

Prepared by:



blueskies environmental associates, inc.
6767 Forest Hill Avenue, Suite 204
Richmond, Virginia 23225

May 2008

TABLE OF CONTENTS

	<u>Page</u>
1.0 INTRODUCTION.....	1
2.0 EXISTING CONDITIONS	1
2.1 Property Description.....	1
2.2 Topography	2
2.3 Geology	2
2.4 Soils.....	2
2.5 Wetlands.....	3
3.0 GOALS.....	3
4.0 CRITERIA FOR USE	4
5.0 LONG-TERM MONITORING AND MAINTENANCE.....	5

List of Figures

Figure 1	Geographic Service Area	Appendix A
Figure 2	Vicinity Map.....	Appendix A
Figure 3	Proposed Mitigation Bank Site	Appendix A
Figure 4	2002 Aerial Photography	Appendix A
Figure 5	SSURGO Soils Map	Appendix A
Figure 6	NWI Wetlands Map.....	Appendix A

Appendices

Appendix A Figures

1.0 INTRODUCTION

The Bank Sponsor (the “Sponsor”) proposes to establish a mitigation bank (the “Bank”) to provide effective off-site compensation for the unavoidable loss of wetlands and waters of the United States and their functions as a result of impacts within the proposed bank’s Geographic Service Area. The Bank, named the Pampatike Mitigation Bank, is an approximately 985-acre site located on the Pamunkey River, south of the town Manquin in King William County, Virginia. As shown in Figure 1, the primary Geographic Service Area (GSA) of the proposed bank is defined by the Hydrologic Unit Code (HUC) as the coastal plain portion of the Pamunkey River sub-basin or cataloging unit (02080106). The secondary GSA would consist of those HUCs adjacent to the primary GSA, and would include the coastal plain portion of the Mattaponi River sub-basin (02080105) and the entire York River sub-basin (02080107). This proposed service area would include all or portions of the counties of Hanover, Caroline, Spotsylvania, King and Queen, King William, New Kent, James City County, York and Gloucester, and portions of the City of Williamsburg. Other areas to be considered within the GSA are those portions of the Pamunkey River and Mattaponi River sub-basins upstream of the Fall Line on a case by case basis. The use of the Bank to compensate for wetland impacts within the GSA will be reviewed by the Mitigation Bank Review Team (MBRT) members on a case-by-case basis.

A Mitigation Banking Instrument (MBI) will be developed by the Sponsor to establish the Bank. The MBI will contain the Site Development Plan (SDP) and will include location maps, summary of existing conditions and reference sites, hydrologic analysis, design criteria, success criteria, long term real estate instrument, and plans and specifications for construction, operation, monitoring and maintenance of the Bank. This instrument and the development and operation of the Bank will be in accordance with the Code of Virginia §33.1-223.2.1 Wetland Banking and the “Federal Guidance for the Establishment, Use and Operation of Mitigation Banks”, Federal Register, Volume 60, No. 228 hereafter referred to as the Federal Banking Guidance.

The purpose of the Bank is to compensate for unavoidable impacts to jurisdictional waters and wetlands of the U.S. resulting from development projects in the primary and secondary GSAs. The goals and objectives of the SDP will focus on important ecological functions and values. The preservation, enhancement and restoration/creation of wetlands, streams and forest buffers on this site will provide a positive contribution to water quality, flooding, plant and animal habitat and erosion control.

2.0 EXISTING CONDITIONS

2.1 Property Description

The proposed mitigation site is situated within the Lower Coastal Plain of Virginia, a region of low relief adjacent the Chesapeake Bay and along major rivers where elevations generally range from 0 to 60 feet above mean sea level (AMSL). The site is located at 37° 40’ 05” North latitude and 77° 07’ 52” West longitude at the end of Pampatike Road and is bordered by Moncuin Creek to the west and to the south by the Pamunkey River (Figure 2). As shown in Figure’s 3 and 4, the ±985-acre site consists of approximately 115 acres of agricultural fields bordered by an extensive wetland complex associated with the confluence of Moncuin Creek and the Pamunkey River. The drainage patterns and vegetation of the existing wetlands have been significantly modified as a result of historical farming practices, and evidence of these modifications can still be seen in recent aerial photography. The low agricultural fields adjacent the Pamunkey River drain primarily to a linear wetland feature bisecting the fields. This wetland has also been ditched, excavated and impounded historically in

various locations.

2.2 Topography

The proposed bank site is displayed on the Manquin and King William, Virginia, United States Geological Survey (USGS) 7.5-minute topographic quadrangle maps (Figure 3). Of the agricultural fields included within the site, the lower field to the southwest is relatively flat and ranges in elevation from approximately 5 to 10 feet AMSL based on the National Geodetic Vertical Datum of 1929 (NGVD29). Progressing northward, site elevation decreases to at or below 5 feet AMSL within the linear wetland feature that connects the wetland complex closer to the Moncuin Creek with the swamps along the Pamunkey River. Site topography then rises at an average 2% to form the higher agricultural field with a maximum elevation of approximately 23 feet AMSL. Elevations within the larger wetland complex between Moncuin Creek and the Pamunkey River generally range from 2 to 5 feet AMSL. Prior to being cleared for agriculture, it is likely that wetland mineral flats and drainages occurred within the lower agricultural fields.

2.3 Geology

According to the Geologic Map and Generalized Cross Sections of the Coastal Plain and Adjacent Parts of the Piedmont, Virginia (Mixon et al., 1989), the wetland complex extending from Moncuin Creek and around the Pamunkey River shoreline is underlain by Alluvium Deposit (Qal), a fine to coarse gravelly sand and sandy gravel, silt and clay. This unit may be as deep as 80 feet thick along major streams. It is light- to medium-gray and yellowish gray. The deposits are found mainly in channel, point-bar and floodplain environments and include sandy deposits, mud and muddy deposits as well as peat in swamps and fresh and brackish-water marshes. This unit grades into colluvium along steeper valley walls at margins of the unit. This material is mostly Holocene, but may include Pleistocene terrace deposits.

The lower agricultural field is underlain by undifferentiated Lynnhaven and Poquoson Members (Qtlp). The Lynnhaven Unit, a pebbly and cobbly, fine to coarse gray sand grading upward into clayey and silty fine sand and sandy silt, ranges in thickness from 0 to 20 feet. The Poquoson Member is characterized as medium to coarse pebbly sand grading upward into clayey fine sand and silt, and ranges from 0 to 15 feet in thickness.

The upper field on the site, excluding the floodplain wetlands within the Pamunkey River valley bottomland, is underlain by the Sedgefield Member (Qts). This unit varies in thickness from 0 to 50 feet, and is characterized as pebbly and bouldery, clayey sand and fine to medium, shelly sand grading upward into sandy and clayey silt. The Sedgefield Member is a late Pleistocene formation.

2.4 Soils

According to the Natural Resources Conservation Service (NRCS) Web Soil Survey database for King William County, Virginia (USDA, 2006), the bank site is mapped primarily with six soil types, including Altavista loamy sand and fine sandy loam as well as State loamy fine sand in the lower cultivated fields, Mattan mucky silty clay loam in the floodplain wetlands, Tomotley fine sandy loam in the linear wetland drainage and the lowest fields, and Remlik and Nevarc soils along the forested hillslopes (Figure 5). The descriptions of these soils are:

Altavista loamy sand (1A) and fine sandy loam (1B), 0-2% and 2-6% slopes

Of these two units, the site is mapped primarily in Altavista loamy sand with only a minor area

mapped as Altavista fine sandy loam. These Altavista soils are very deep, moderately well-drained, moderately permeable soils that formed in loamy fluvial sediments. Surface runoff in these units is very slow. Typically, the depth to the seasonal high water table is between 18 and 30 inches during the period spanning December through April.

Mattan mucky silty clay loam, 0-1% slopes, very frequently flooded (16A)

The Mattan mucky silty clay loam consists of very deep, very poorly drained, moderately permeable soil material found in marshes and low lying areas along rivers and creeks. These soils are formed in herbaceous and woody plant remains and fluvial sediments. The slopes are generally 0 to 1% and surface water runoff is negligible.

Remlik and Nevarc soils (22D and 22F), 6-15% and 15-60% slopes

Both Remlik and Nevarc are moderately steep to very steep, very deep, well drained soils on side slopes along rivers, creeks and drainageways. These soil units are not flooded and not ponded. The Remlik soil unit is moderately permeable in contrast to the Nevarc soil unit which is slowly permeable. Surface runoff for both soils is very rapid. Remlik soil formed in sandy and loamy marine sediments on side slopes while Nevarc formed in clayey fluvial and marine sediments.

State loamy fine sand (27A), 0-2% slopes

State loamy fine sand is a very deep, well-drained soil with deep, persistent and thick internal free water occurrences. This soil unit is rarely flooded and surface runoff is negligible to medium. These soils are moderately permeable and are found in Piedmont and Coastal Plain river valleys and steam terraces. They formed in alluvium sediments.

Tomotley fine sandy loam (30A), 0-2% slopes

Tomotley fine sandy loam is a very deep, poorly drained, moderately to moderately-slow permeable soil that formed in loamy marine and fluvial sediments. Surface runoff in this unit is slow.

2.5 Wetlands

A delineation of jurisdictional wetlands and waters of the US will be performed to determine the location and extent of existing wetlands on site as well as provide data on potential reference wetlands. As shown by the National Wetlands Inventory (NWI) mapping in Figure 6, the wetlands generally occur within the floodplains of the Pamunkey River and Moncuin Creek, the linear wetland drainage between the agricultural fields and the excavated and impounded areas on site. According to the NWI data, the proposed bank site occurs at the boundary of tidal influence in the Pamunkey River, such that both non-tidal and freshwater tidal wetlands are present on the site.

3.0 GOALS

The goal of the Bank is to compensate for the unavoidable loss of wetland and stream functions and values resulting from development activities with self-sustaining, functional wetland habitats and streams within the primary and secondary GSAs. Targeted functions include improvements to: water quality, surface runoff volume and peak flow, flood storage, wildlife and plant habitat and erosion control. Restoring the historical wetlands, creating additional forested wetlands, preserving and enhancing upland buffers as well as preserving the existing wetlands and streams on site will achieve these functional goals of the project.

The Bank Sponsor will establish this Bank by restoring or creating approximately 86 acres of forested wetlands, establishing 17.25 acres of wetland enhancement, 38.82 acres of upland buffer enhancement, 531.71 acres of wetland preservation and 35.71 acres of upland buffer preservation.

The Bank will also preserve approximately 46,893 linear feet of streams. Stream credit will be calculated using the Universal Stream Methodology (January 2007).

To accomplish these goals, the Sponsor, consistent with a site-specific MBI, will:

1. Provide proof of assigned power of attorney for the subject parcel, and financial surety for the development and maintenance of the Bank.
2. Utilize acreage within the boundary of the subject property that has the potential for restoring or creating wetlands or such other adjacent lands that would provide for the preservation of existing valuable wetlands on the Pamunkey River and its floodplain.
3. Develop a detailed SDP that will include clearly stated goals and objectives for the Bank. The SDP will be based on a site-specific water budget and will provide detailed construction and planting plans and specifications for the wetland restoration and creation work that will include the following basic elements:
 - a) Establish wetland hydrology through such measures as: site grading to lower site elevation (if necessary), regulating surface runoff by constructing earthen berms and other topographic features and/or installing hydrological control devices to regulate water flow from the site, and modifying soil structure to increase water storage capacity or to reduce permeability rates.
 - b) Design and implement a hydrological monitoring plan for confirmation of target wetland hydrology regimes that are consistent with the vegetative goals and objectives of the Bank and that ensure success of all wetland systems.
 - c) Develop wetland planting plans that reflect the goals and objectives of the project, are compatible with the native wetland communities of the watershed and are indigenous to the region.
 - d) Develop performance criteria and long term goals for success and acceptance of the project as a mitigation bank.
 - e) Develop and implement construction and post-construction monitoring and contingency measures as necessary to meet established performance criteria.
3. Provide assurances of financial resources for the construction and maintenance of the Bank through a post-construction monitoring period to ensure that all performance criteria are met.
4. The Sponsor will administer the compensation credit accounting of the Bank during its operational life (until all credits are debited) and provide for the long-term preservation and management of the wetlands within the Bank.

4.0 CRITERIA FOR USE

With respect to projects seeking mitigation credits from the Bank, decisions concerning project applicability, relationship to mitigation requirements, use of a mitigation bank vs. on-site mitigation, and in-kind vs. out-of-kind determinations will be made during a project's specific permit acquisition process.

Decisions concerning credit withdrawal from a Bank will be made in accordance with the Code of Virginia §33.1-223.2.1 Wetland Banking and Sections II.D.6 and 7 of the Federal Banking Guidance

(November 28, 1995). In addition, the following general guidelines apply to this bank:

1. Availability of credit will be based on the level of achievement of those goals and objectives contained in the SDP and approved by the MBRT.
2. Debits of available credit from the Bank ledger account to compensate for the impacts of authorized projects will be based on the permit requirements for those projects. The permit requirement will normally reflect consideration of the wetlands impacted along with the value of the available compensation credit in the Bank. Standard compensation ratios consistent with those used by permitting agencies for created wetlands will be applied at the time of application.
3. This Bank can be considered as a compensation site for any project in the primary and secondary GSAs based on the review on an individual basis by the MBRT and consistent with regulatory guidelines. The bank also reserves the right to service public projects under the guidelines developed by state agencies. Limited use of the Bank for projects outside the GSAs will be considered by the MBRT on a case-by-case basis.

The Bank will establish and maintain an accounting system (i.e. ledger) that documents credits and debits to the Bank account. Each time an approved debit/credit transaction occurs, the Sponsor will submit a statement to the permitting agencies. The Sponsor will also generate an annual ledger report to be submitted to all members of the MBRT. The ledger will be available for inspection by request by any participating agency.

Remedial action may be necessary during the operational life of the Bank to meet the performance criteria. If the Sponsor does not follow the approved site development plan and as a result, the performance criteria are not achieved, the Sponsor will develop and implement corrective measures to achieve performance criteria or identify other successful areas not previously included and monitored for compensation credit within the Bank. If the Sponsor has followed the approved plan but the performance criteria are still not fully met, the MBRT will work cooperatively to determine measures to achieve the performance criteria while minimizing additional costs. If the Bank has not sold any credits for an undeveloped phase of the project, it reserves the right not to develop future phases not currently obligated by permit regulations.

5.0 LONG-TERM MONITORING AND MAINTENANCE

Decisions concerning the operational life of the Bank, long-term monitoring/management, remedial actions and financial assurances will be made in accordance with Section II. E. of the Federal Banking Guidance (November 28, 1995) and approved by the MBRT.

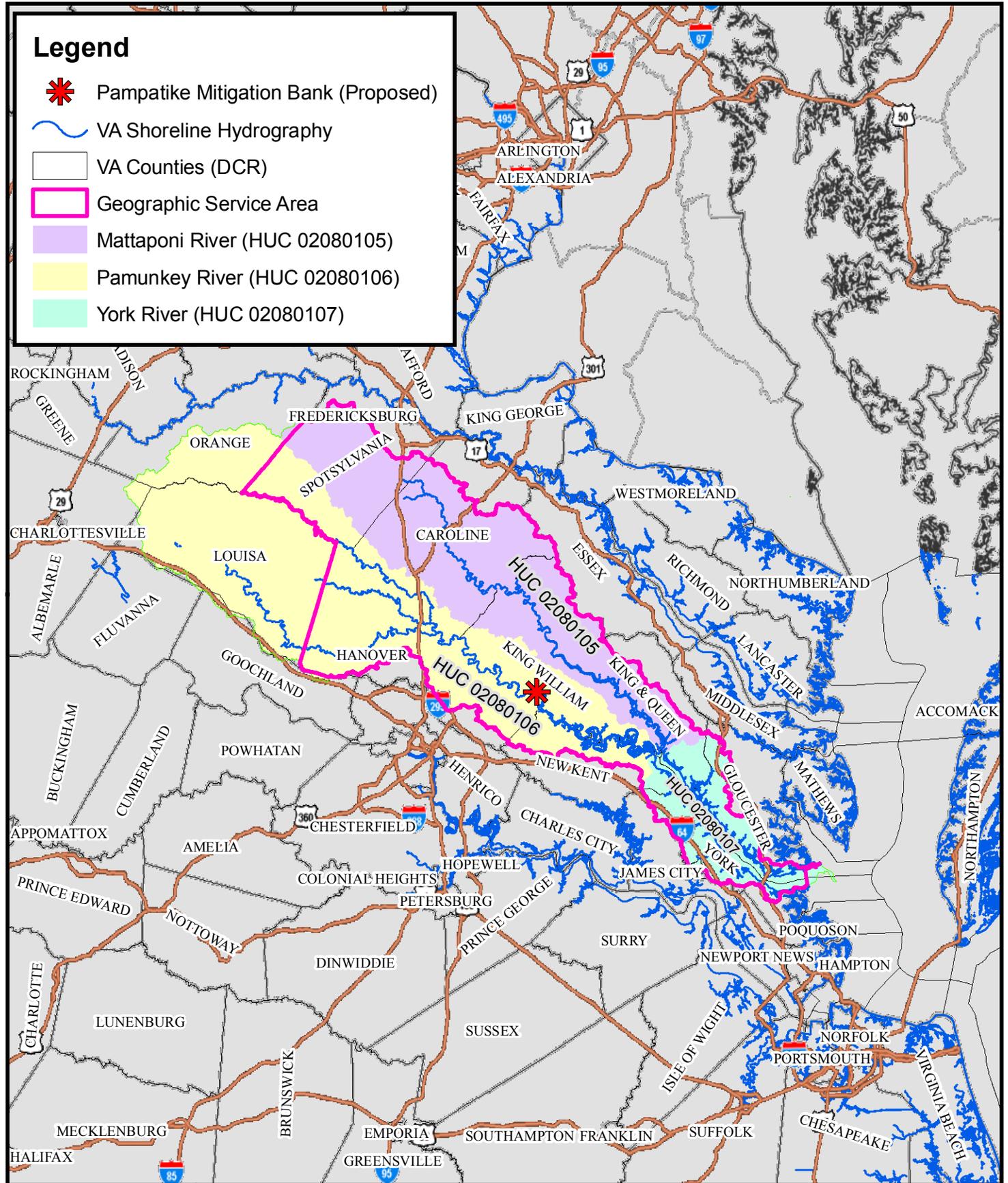
The approximately 985-acre Bank will be provided long-term protection in the form of a perpetual legal instrument that is agreeable to the MBRT.

APPENDIX A

Figures

Legend

-  Pampatike Mitigation Bank (Proposed)
-  VA Shoreline Hydrography
-  VA Counties (DCR)
-  Geographic Service Area
-  Mattaponi River (HUC 02080105)
-  Pamunkey River (HUC 02080106)
-  York River (HUC 02080107)



Pampatike Mitigation Bank King William County, Virginia

Data Source: Hydrologic Units, 24K (WBD 2008)
Hydrography (VIMS CCRM 1991)
VA County Boundaries (VDCR 2004)
Transportation (ESRI)

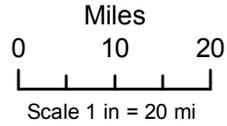
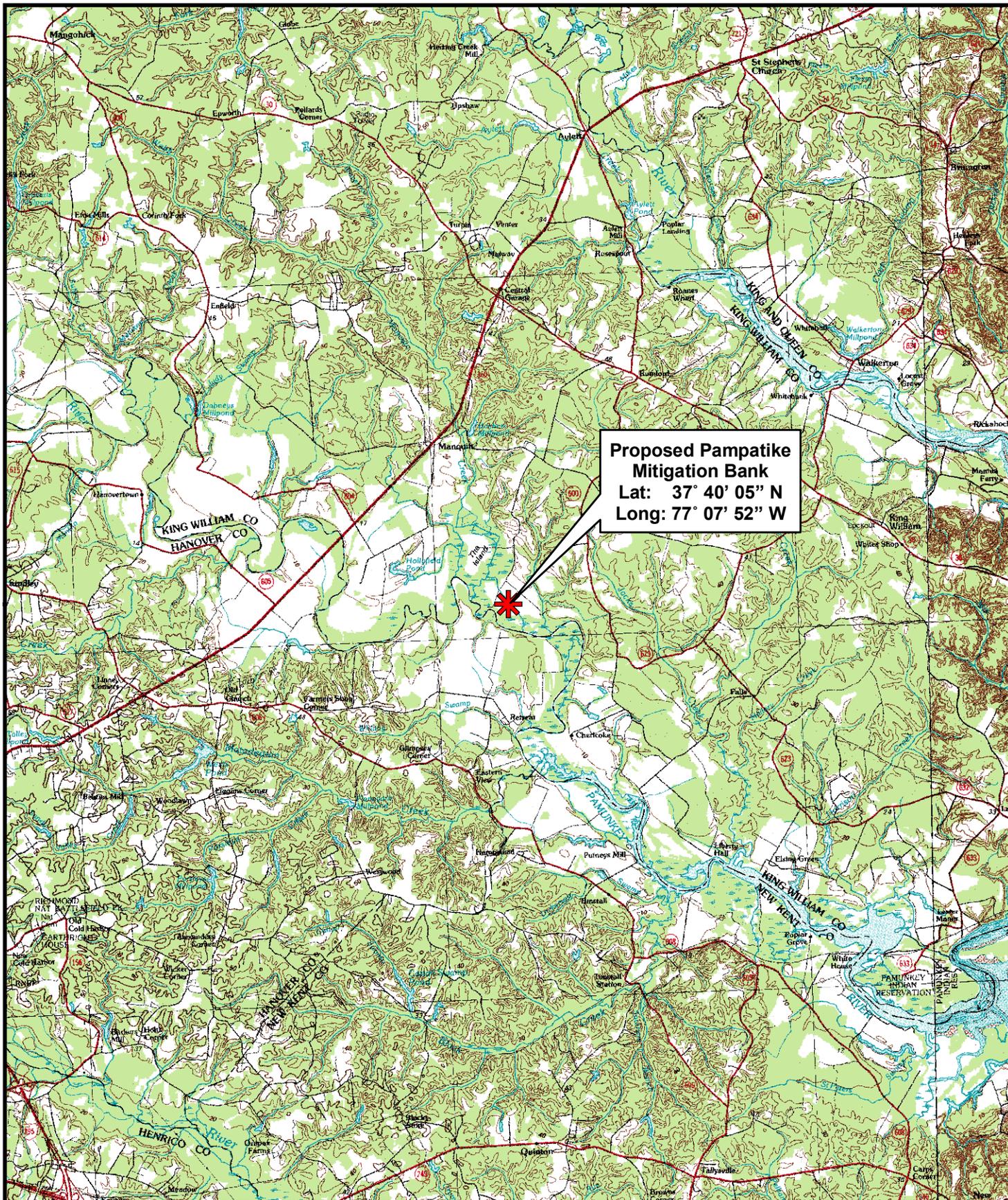


Figure 1
Geographic Service Area



Proposed Pampatike
Mitigation Bank
Lat: 37° 40' 05" N
Long: 77° 07' 52" W



Pampatike Mitigation Bank
King William County, Virginia

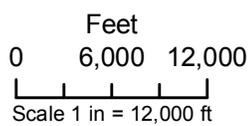
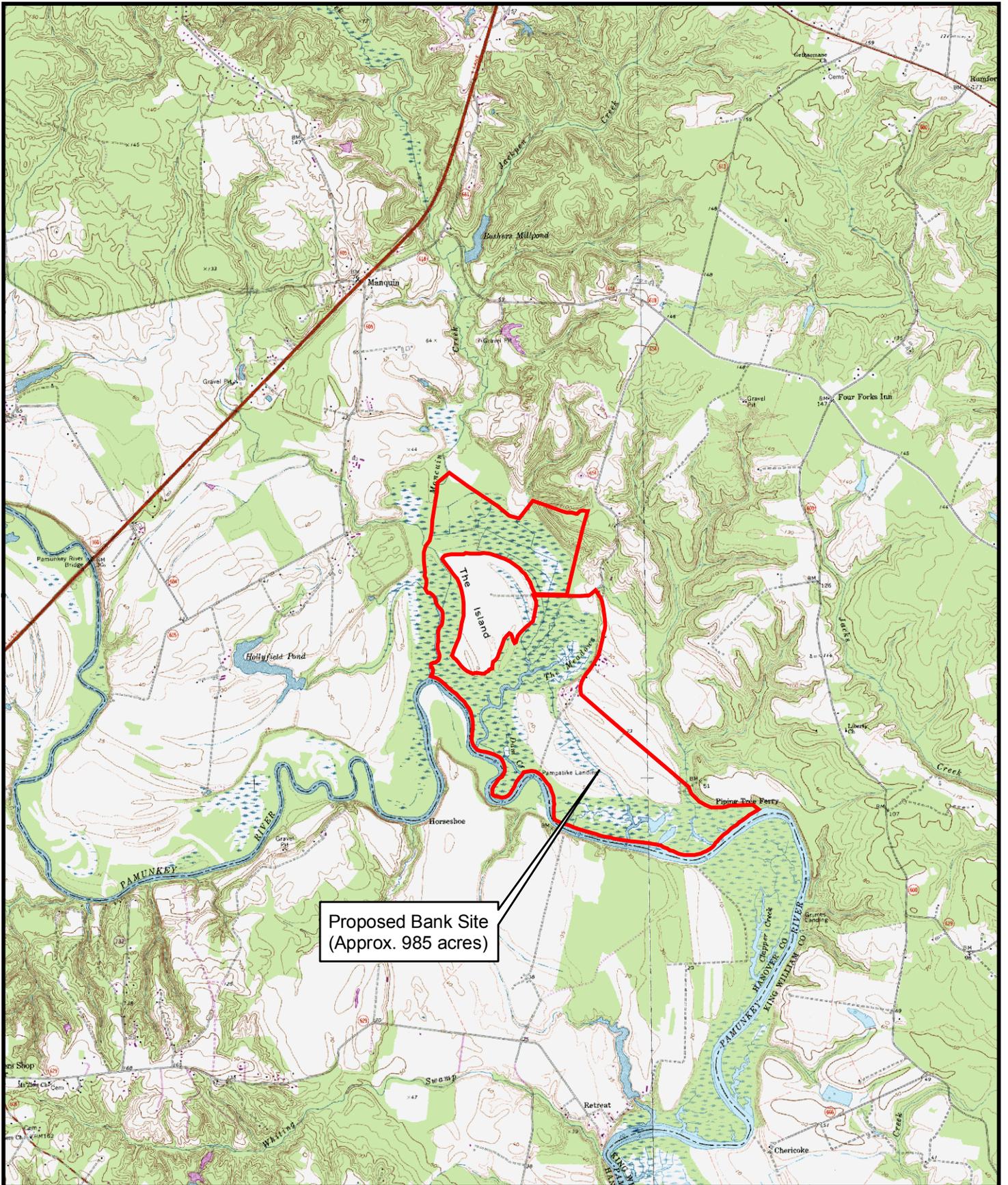


Figure 2
Vicinity Map

Data Source: USGS 100K DRG Virginia (The National Map Seamless Server)



Proposed Bank Site
(Approx. 985 acres)

blueskies environmental associates, inc.

Pampatike Mitigation Bank
King William County, Virginia

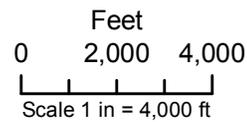
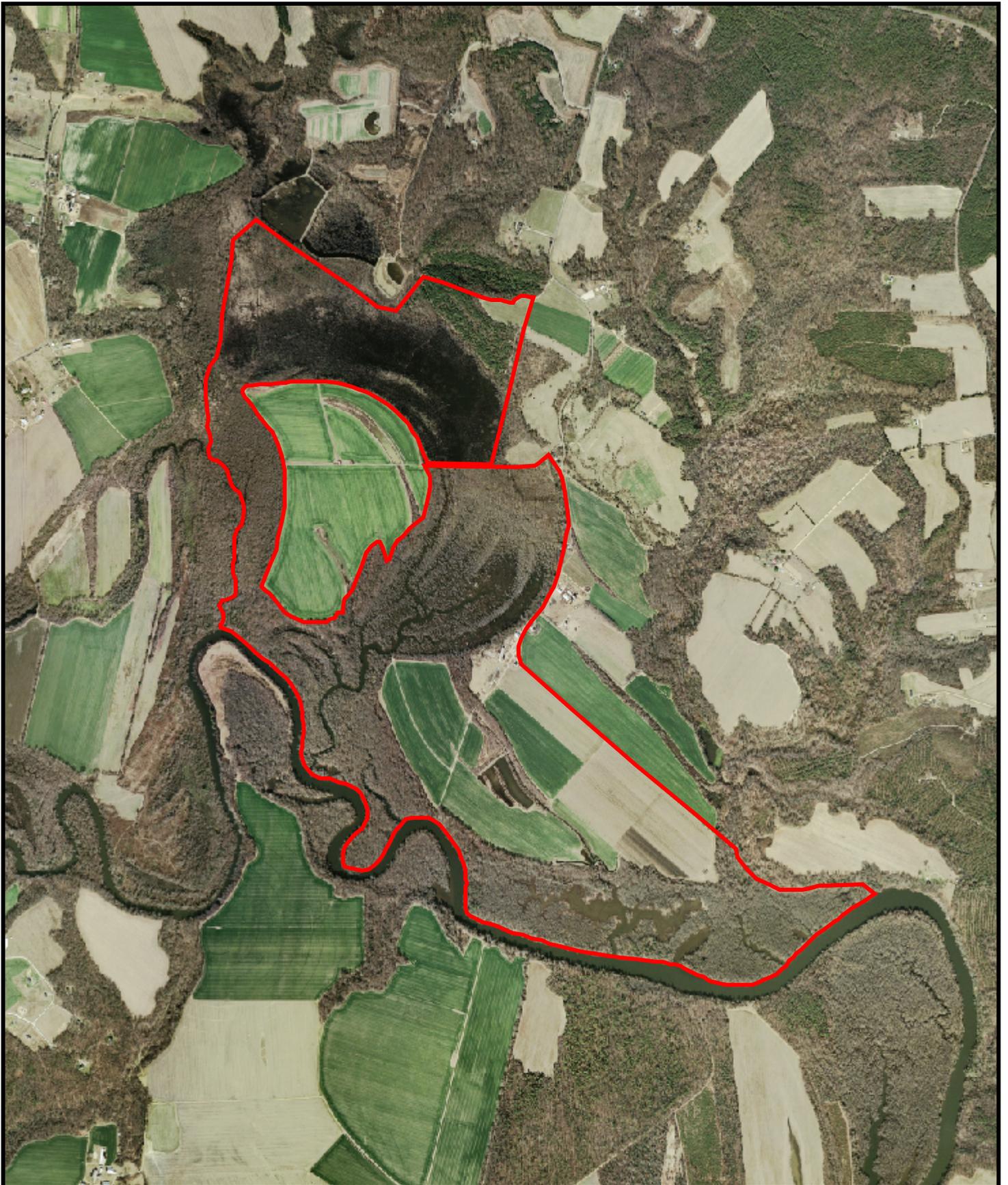


Figure 3
**Proposed
Mitigation Bank
Site**

Data Source: USGS 24K DRGs (Manquin, Va. & King William, Va.)



Pampatike Mitigation Bank
King William County, Virginia

Data Source: 2002 Color Aerial (VBMP)

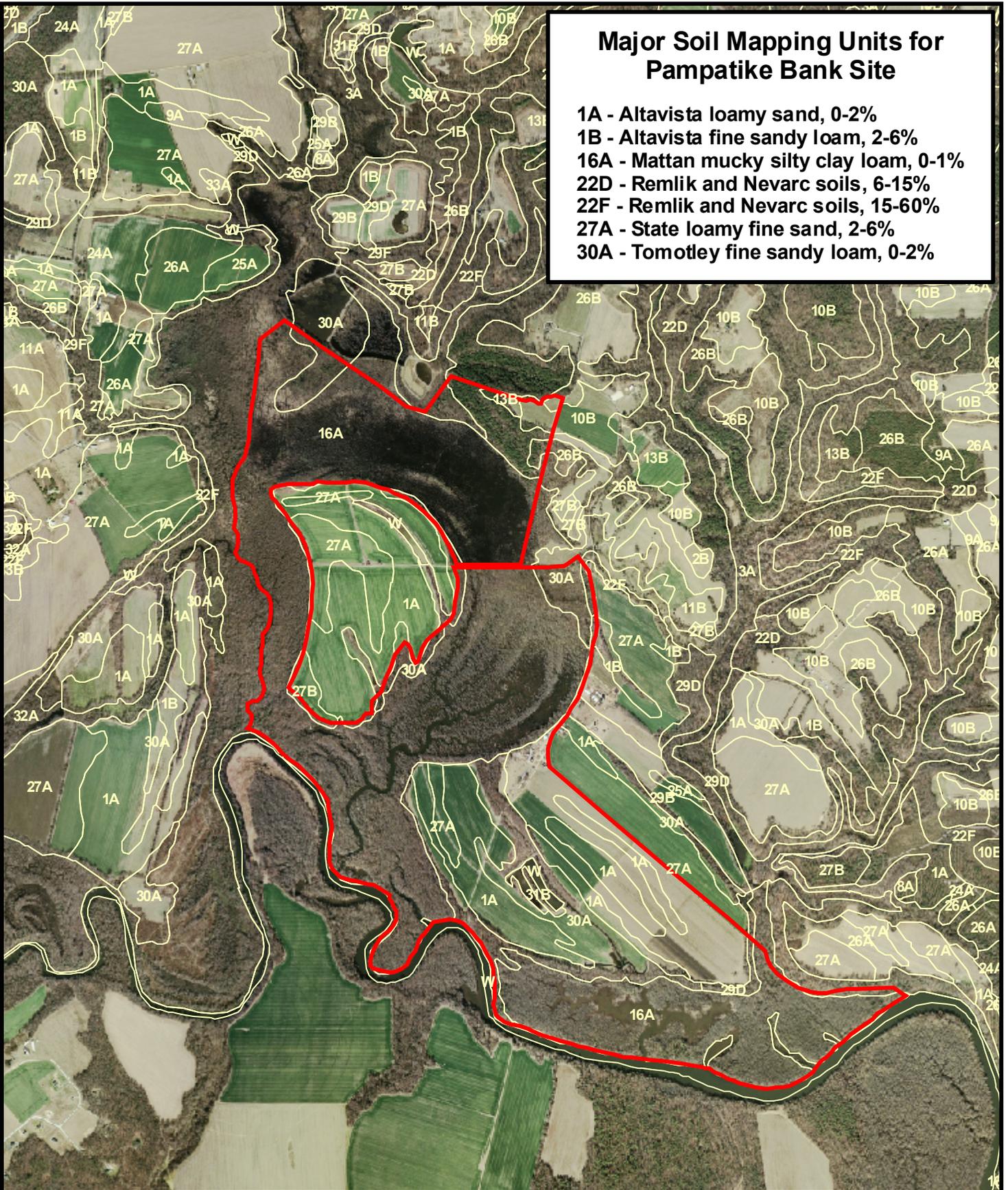
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0 1,000 2,000
Scale 1 in = 2,000 ft

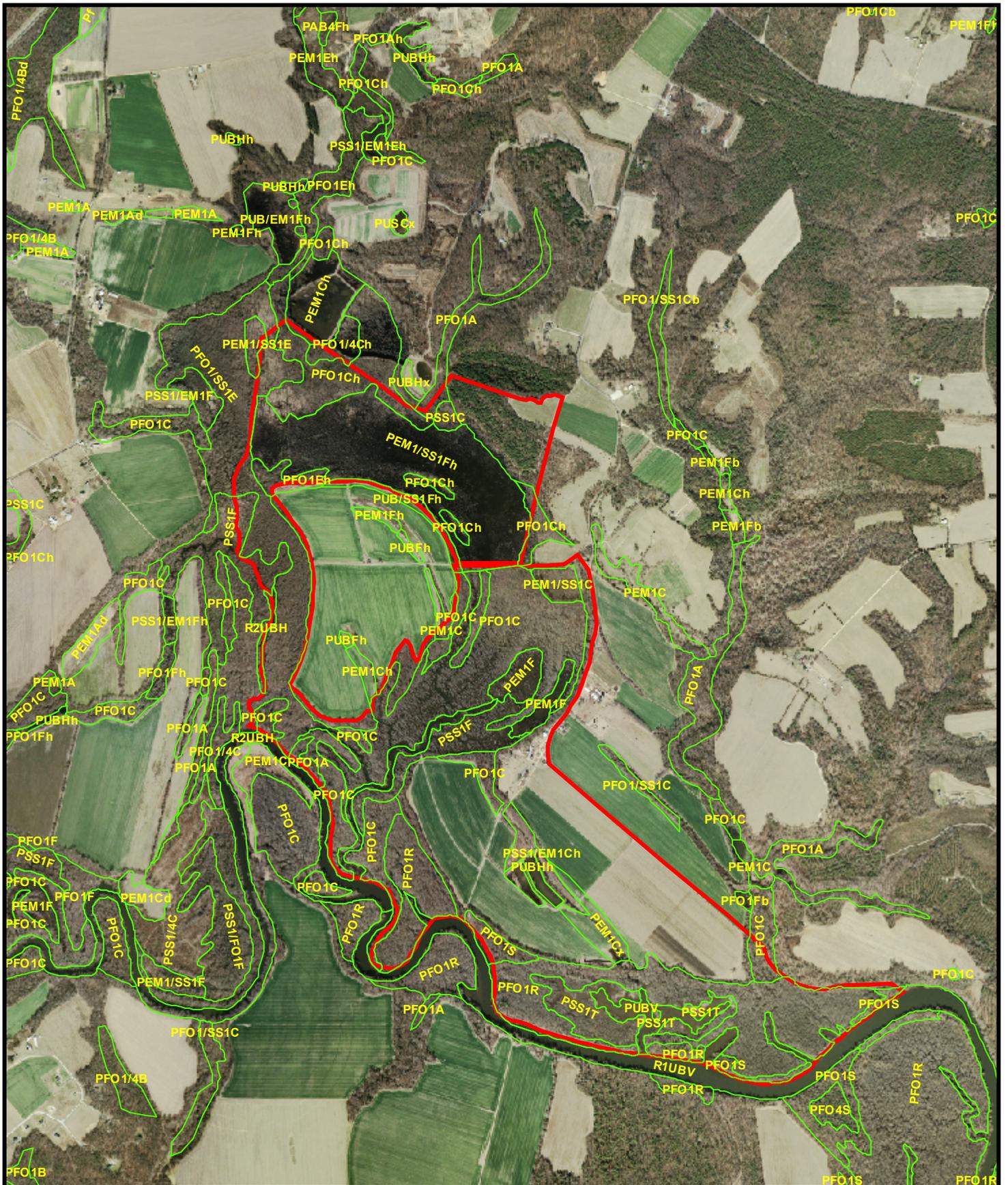


Figure 4
2002 Aerial
Photography

Major Soil Mapping Units for Pampatike Bank Site

- 1A - Altavista loamy sand, 0-2%
- 1B - Altavista fine sandy loam, 2-6%
- 16A - Mattan mucky silty clay loam, 0-1%
- 22D - Remlik and Nevarc soils, 6-15%
- 22F - Remlik and Nevarc soils, 15-60%
- 27A - State loamy fine sand, 2-6%
- 30A - Tomotley fine sandy loam, 0-2%





Pampatike Mitigation Bank
King William County, Virginia

Data Source: 2002 Color Aerial (VBMP)
NWI Mapping (USFWS Wetlands Mapper 2008)

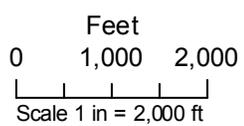


Figure 6
NWI Wetland Map