

DEPARTMENT OF THE ARMY PERMIT

Permittee: Madison County Board of Supervisors

Permit No.: MVK-2012-331

Issuing Office: CEMVK-OD-F

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: See maps and drawings (encl 1).

Conduct mechanized land clearing and associated discharge of fill material into other waters in Madison County, Mississippi

Stream Impacted: 1,971.6 linear feet of intermittent stream

Stream Mitigated: 3,063 linear feet intermittent and perennial stream

Project Location: Section 17, T10N-R5E, within the Doaks Creek drainage basin, Madison County, Mississippi, latitude 32.712690, longitude -89.812804

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on \_\_\_\_\_ . If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4, below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological sites, structures, shipwrecks or human remains while accomplishing the activity authorized by this permit, work shall cease in the area and this office notified immediately. We will initiate the Federal, State and Tribal coordination required to determine if a recovery effort is warranted and if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions (encl 2).

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being, or has been, accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The permittee shall use best management practices during construction to minimize erosion at the project site.

2. The permittee shall approve any offsite borrow area(s) and insure that in obtaining the borrow material, there are no unauthorized impacts to jurisdictional waters of the United States and/or cultural resource sites eligible or potentially eligible for inclusion in the National Register of Historic Places. If permits or other clearances are required for the use of the borrow site, those approvals must be obtained by the landowner of the site or his agent prior to use of the site for borrow.

3. As compensatory mitigation for unavoidable loss of 1,972.41 linear feet of other waters at the project site, the permittee shall restore 3,063 linear feet of other waters located in Section 30, Township 8 North, Range 2 East, Madison County, Mississippi (encl 3). A copy of the recorded mitigation covenant shall be provided to this office prior to final permit issuance.

4. The restoration shall include the reforestation of 3,063 linear feet of other waters located in Section 30, Township 8 North, Range 2 East, Madison County, Mississippi adhering to the following planting and monitoring requirements:

a. The mitigation site restoration shall be in the form of planting not less than one year old (1.0), hard mast bottomland hardwood seedlings, no later than 31 March 2014.

b. A registered forester shall select the species to be planted from the U.S. Department of the Interior Biological Report 88(26.2) National List of Plant Species That Occur in Wetlands: Southeast (Region 2). Indicator Categories should range from Facultative to Obligate depending on site hydrology.

c. Seedlings shall be planted on 12- by 12- foot spacing in the converted wetlands. Within 30 days of the completed planting date, a Planting Report shall state the date(s) of planting, species planted, and the number of each species planted.

d. Certification by a certified/registered forester of a survival rate of not less than 50 percent (150 seedlings per acre) of the target species after the first growing season (31 March 2014 through 15 August 2014) is required. This determination shall be made using standard forestry sampling techniques. The permittee shall provide the certified Survival Report to this office no later than 1 October 2014.

e. If a 50 percent survival rate of the target species (150 seedlings per acre) is not achieved after the first growing season, an appropriate number of seedlings shall be replanted no later than 31 March 2015 to achieve the required 50 percent survival rate.

f. After the second growing season (31 March 2015 through 15 August 2015), a certified/registered forester shall certify that a survival rate of not less than 50 percent of the target species (150 seedlings per acre) has been maintained. This determination shall be made using standard forestry sampling techniques. The permittee shall provide the certified Survival Report to this office no later than 1 October 2015.

g. Replanting and providing certified Survival Reports shall continue until such time that a 50 percent survival rate of the target species (150 seedlings per year) is achieved for four consecutive years or until the permit is modified to accomplish appropriate mitigation.

h. Following the establishment of a 50 percent survival rate of the target species (150 seedlings per acre) for four consecutive growing seasons, no actions to inhibit or prevent continued natural succession of the mitigation site shall be allowed. An exception to this condition would be the required control of invasive exotic species. Control recommendations by a certified/registered forester must be approved by the Vicksburg District Regulatory Branch prior to initiation of control measures.

i. Planting and Survival Reports should be mailed to:

U.S. Army Corps of Engineers  
Vicksburg District  
Regulatory Branch Attn: Compliance Officer  
4155 Clay Street  
Vicksburg, MS 39183-3435

5. The mitigation site shall be restored to a wetland with the appropriate hydrology, soils, and vegetation as defined in the "Corps of Engineers Wetlands Delineation Manual" (Waterways, Experiment Station Technical Report Y-87-1, January 1987). If deemed necessary by the Corps, the permittee shall provide to the Corps proof that all three wetland criteria are met. If the area is not successfully restored to a wetland meeting these three criteria at the end of four years, the permittee must provide alternative mitigation deemed appropriate by the Corps.

6. A "mitigation covenant" shall be placed on the mitigation site (7.21 acres located in Section 30, Township 8 North, Range 2 East, Madison County, Mississippi.) This covenant shall be properly recorded on the land records of Madison County, Mississippi. The permittee shall provide a certified copy of the land records to the Corps of Engineers documenting that the mitigation covenant has been properly recorded.

This mitigation covenant shall remain in effect for the life of the project or for as long as the project induced impacts are present on the project site. Following project life, or if the project is abandoned, the site shall be restored to preconstruction conditions. If the site is properly restored, as verified by a compliance inspection by the Corps of Engineers, the mitigation covenant shall be released, and a document so indicating shall be furnished to the permittee and property owner for recording. If the project site is not restored, the mitigation covenant shall remain in effect.

THE FOLLOWING IS AN EXAMPLE OF THE PARAGRAPH AND RESTRICTIONS THAT SHALL BE RECORDED ON THE LAND RECORDS FOR THE COVENANT. THE DOCUMENT (COVENANT) SHALL BE RETURNED TO THE CORPS AFTER PREPARATION, SIGNING (NOTARIZED SIGNATURE) BY THE PERMITTEE, MITIGATION SITE PROPERTY OWNER, AND RECORDING ON THE COUNTY LAND RECORDS.

The following notarized paragraph and restrictions shall be recorded on the land records:

The property located in 7.21 acres located in Section 30, Township 8 North, Range 2 East, Madison County, Mississippi, herein, and hereinafter as "the property", is being used to mitigate for the loss of wetlands functions and values associated with the work done by the Madison County Board of Supervisors, Section 17, T10N-R5E, within the Big Black River drainage basin,

Madison County, Mississippi. A mitigation covenant has been placed on the property (insert metes and bounds description) and is agreed upon by the permittee, the mitigation site property owner, and the Corps of Engineers. This mitigation covenant includes the following restrictions:

a. Vegetation - After vegetation is established, as defined in the above-referenced permit, there shall be no removal, destruction, cutting, mowing, application of biocides, or disturbance or other change in vegetation on the mitigation site. Timber management recommendations by a registered forester shall be considered.

b. Uses - There shall be no agricultural (to include grazing by domestic livestock), commercial, or industrial activities allowed on the mitigation site. This restriction does not apply to hunting and fishing activities in accordance with state law.

c. Buildings - There shall be no construction or placement of buildings or other structures on the mitigation site.

d. Roads - There shall be no construction of roads on the mitigation site.

Upon mutual agreement among the permittee, Madison County Board of Supervisors, and the Corps of Engineers, this mitigation covenant may be modified due to unforeseen circumstances.

This instrument may be executed in any number of counterparts, each of which shall be considered an original for all purposes.

WITNESS THE EXECUTION hereof by the parties on this the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
PERMITTEE/MITIGATION PROPERTY OWNER  
Mr. Gerald Steen  
Madison County Board of Supervisors

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or

exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project, or uses thereof, as a result of current or future activities undertaken by, or on behalf of, the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4, above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures

such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

\_\_\_\_\_  
(PERMITTEE)  
Mr. Gerald Steen

\_\_\_\_\_  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

\_\_\_\_\_  
(DISTRICT COMMANDER)  
John W. Cross  
Colonel, Corps of Engineers  
District Commander

\_\_\_\_\_  
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEREE)

\_\_\_\_\_  
(DATE)



May 6, 2013

Ms. Jana Jacobson  
Department of the Army  
Vicksburg District, Corps of Engineers  
4155 Clay Street  
Vicksburg, Mississippi 39183-3435

**RE: Madison County Board of Supervisors  
Proposed Sulphur Springs Lake Project  
Madison County, Mississippi  
USACE Permit Application No. MVK-2012-331  
Revised Mitigation Plan**

Dear Ms. Jacobson:

As per our discussions, we have been working with the Madison County Board of Supervisors and the Skinner Family to modify the previous mitigation plan provided to your office. Please accept the following as the revised mitigation plan covering the project impacts.

**Proposed Mitigation Plan**

As you are aware, one of the bigger challenges in dealing with the project permitting process has been the ability to identify an acceptable stream mitigation site to offset the project impacts. As noted before, the County was not aware that a permit would be required for the project, initially and therefore, did not have funding within the project budget to purchase off-site mitigation. As a result, the County has been in the process of trying to locate a stream mitigation site that would offset the impacts at a reasonable cost.

As you are also aware, the County initially identified a stream segment within some of their industrial park property within the Gluckstadt area that they thought would work. However, follow-up conversations with some of their tenants and associated landowners resulted in their moving forward to identify other options for the mitigation. After a lengthy search process, we think they have identified a stream segment that would work and upon which the landowner is agreeable to placing a mitigation covenant on the property.



Attached you will find a copy of the most recent color aerial photography along with a copy of the USGS Charlton, Mississippi Quadrangle Map depicting the stream location that we would like to propose for mitigation for the project. You will note that the stream runs through the Skinner Farm Property which is also located within the Gluckstadt area. You will also note that the property was originally utilized as a cattle pasture and has now been reforested with loblolly pine. The stream segments are unnamed RPW tributaries of Bear Creek, a primary tributary of the Big Black River. The County would propose that they place a mitigation covenant on the two stream segments and restore the historical forested riparian buffer along both sides of both stream segments a distance of approximately 50 feet either side of the stream channel.

As per your standard mitigation protocol, the proposed mitigation area will be under the direct control by the Skinner Farms owner, Mr. Richard Skinner, in association with the permittee. The owners of the property will take full responsibility for the long-term monitoring and maintenance of the mitigation area. In addition, the required controls will be placed on the mitigation area, including a mitigation covenant that will be recorded in the Chancery Clerk's Office in Madison County, Mississippi immediately upon the U.S. Army Corps of Engineers (USACE) approval. The filing of the deed restriction in conjunction with the permit conditions will insure that any future owners of the property will adhere to the restrictions provided in the mitigation covenant.

As noted, the property through which the proposed stream mitigation channels runs was historically an open field habitat that was primarily utilized for cattle production purposes. As such, the historic forested riparian buffer became degraded and primarily contains shrub-scrub species along the top-bank with limited tree species present. In addition, the landowner no longer raises cattle and planted the entire area as a loblolly pine plantation to the top-bank of the affected stream channels.

A portion of the riparian buffer is currently planted in a loblolly pine plantation as noted. The loblolly pine trees within the proposed riparian buffer restoration area will be removed utilizing standard timber harvesting methods. The area will be planted with native bottomland hardwood species during the January/February 2014 time frame on a standard 12' X 12' spacing resulting in the initial establishment of approximately 302 free-to-grow seedlings per acre. The species utilized would include water oak, willow oak, cherrybark oak, Nuttall oak, green ash, persimmon and native pecan.

The proposed stream mitigation plan includes the restoration of a riparian buffer zone approximately 50 feet in width along either side of a 1,612 linear foot reach of one (1) RPW. The plan also includes the restoration of a riparian buffer zone approximately 50 feet in width along either side of an approximately 1,451 linear feet reach of the other RPW. In total, a riparian buffer zone along an approximately 3,063 linear feet or 7.1 acres will be restored to its historic bottomland hardwood forested habitat type.

Upon the completion of the mitigation work plan, annual monitoring of the mitigation site will be conducted to ensure that success of the mitigation site. Due to the nature of the mitigation work plan, limited maintenance measures would be anticipated. Monitoring of the mitigation site will ensure that trespassing, encroachment, fire, natural disaster has not occurred within the

mitigation site requiring the implementation of corrective measures or the design of an adaptive management plan. The landowner, in association with the permittee, will conduct maintenance on the site through time.

The success criteria to be employed at the mitigation site shall include baseline photo points to be established at specified Geographic Positioning System (GPS) within the bottomland hardwood restoration at the time the mitigation plan is initiated (January/February 2014). These points will be monitored and photographed at each monitoring event to document success criteria within the proposed restoration and enhancement areas. The planting survival will also be monitored on an annual basis to insure at least a 50% survival rate of desired species within the planted areas. The established survival plots should mimic reference areas regarding target species composition, density and structure. The annual monitoring events will be conducted to insure survival and growth of at least 150 trees per acre through the first five (5) years. It is understood that a minimum of 150 trees per acre (50%) of the planted seedlings would be present at that time or that the site would be replanted to obtain these minimum stocking standards. In the event that the standards were not met and replanting is required, annual monitoring will continue up and until the minimum standards are met.

It is proposed that the site will be monitored to ensure the survival of an average of 150 trees per acre for a period of five (5) years with a hard mass ratio that would be not less than 50% of the total site stand stocking. Within 30 days of the completed planting date, a planting report completed by a certified/registered forester and/or qualified professional, shall be completed covering the mitigation site and provided to your office.

The monitoring plan will be initiated at the time that the restoration activities take place. The initial monitoring activities will include quality control functions during the tree planting to insure the initial planting quality is obtained. At the same time the tree planting takes place, the photograph reference points will be established at designated GPS coordinates with the completion of the initial photographic documentation of the existing conditions within the full extent of the restoration area. The long-term survival plots will also be established at the time the seedlings are planted and will also be positioned and mapped utilizing GPS coordinates. The restoration area will be monitored on an annual basis through the first five (5) years to insure that a 50% survival rate is achieved. Photographic documentation of the restoration area will also be obtained at each monitoring event. Tree counts to determine the survival success criteria will be taken at each of the established survival plots and through random sampling across the entirety of the mitigation area. Said efforts shall be the basis until such time that a 50% survival rate of the desired species is determined by a certified/registered forester and/or qualified professional annually for five (5) consecutive growing seasons.

Mitigation progress reports will be submitted to the USACE Vicksburg District Regulatory Branch beginning with an initial planting report submitted at the conclusion of the initial planting and five (5) annual reports submitted thereafter at the conclusion of each 12-month period following the submittal date of the initial report. The annual reports will document the results of the mitigation plan implementation and success criteria. Specifically, the reports will include annual assessments and documentation of the results associated with the efforts to establish and/or maintain the wetland hydrology, hydric soil conditions and the presence of hydrophytic vegetation within the mitigation area. The annual reports will also include the

completed copies of the "Routine Wetland Delineation" data forms as required in the 2008 Atlantic and Gulf Coastal Plain Regional Supplement to the "1987 Corps of Engineers Wetlands Delineation Manual" that will be taken at each of the established monitoring points.

The initial report shall describe the initial planting date, species planted, number of each species planted and include any photographs of the activities to create an initial baseline for the mitigation site. Each of the subsequent annual reports shall describe the progress of the restoration activities during the 12-month reporting period, including whether a survival rate of desired species of at least 50% has been achieved at the conclusion of the 12-month period. Any photographs of the mitigation area taken during the 12-month period shall be submitted with the report.

All reports shall be submitted to the U.S. Army Corps of Engineers, Vicksburg District, Regulatory Branch, Attention Compliance Officer, 4155 Clay Street, Vicksburg, MS 39183-3435.

The proposed mitigation area will be under the direct control the owners in association with the permittee. The owners of the property will act as long-term stewards of the mitigation site and will manage the mitigation site in its restored state in perpetuity. Upon the implementation of the mitigation work plan, very little active management is anticipated for the site due to the nature of the bottomland hardwood wetland restoration requirements and the quality of the site.

The owners shall guard against encroachment of exotic vegetation and generally ensure that the integrity of the forested wetland systems that characterize the completed mitigation site. Annual monitoring reports shall be submitted to the USACE for a period of five (5) years or until the mitigation site has been determined to be successful to ensure compliance with the mitigation plan or released by the USACE.

As noted, the required controls will be placed on the mitigation area, including a mitigation covenant that will be recorded in the Chancery Clerk's Office in Madison County, Mississippi immediately upon the USACE approval. The filing of the deed restriction in conjunction with the permit conditions will insure that any future owners of the property will adhere to the restrictions provided in the mitigation covenant.

The USACE accepts that all ecological restoration projects are site specific, that multiple endpoints are possible owing to the stochastic nature of ecological processes, and that human activities offsite and beyond the control of the mitigation site may influence the course of restoration. For these reasons, Skinner Family Farms may request and the USACE may approve change to the restoration strategy, modifications to the objectives, and/or an adjustment to the performance standards and monitoring protocols at any time prior to full project release. Such proposed changes shall be submitted to the USACE in writing and must qualify as adaptive management in response to site-specific conditions.

The owners shall demonstrate good-faith efforts to comply with restoration requirements and cannot invoke on alleged need for adaptive management as a pretext for slovenliness. Proposed changes to the restoration plan must be made in writing and must qualify as adaptive management in response to site-specific conditions and must be approved by the USACE.

The concept of identifying an in-kind mitigation site was driven specifically by the need for compensatory mitigation associated with the impacts to aquatic resources of the United States incurred by the Madison County Board of Supervisors (MVK-2012-331). The mitigation site intended to provide compensatory wetland mitigation on a permittee responsible basis for MVK-2012-331.

We are hopeful that this provides the information that you need to complete your evaluation for the project.

As always, we appreciate your evaluation of this project. If you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Goff", written in a cursive style.

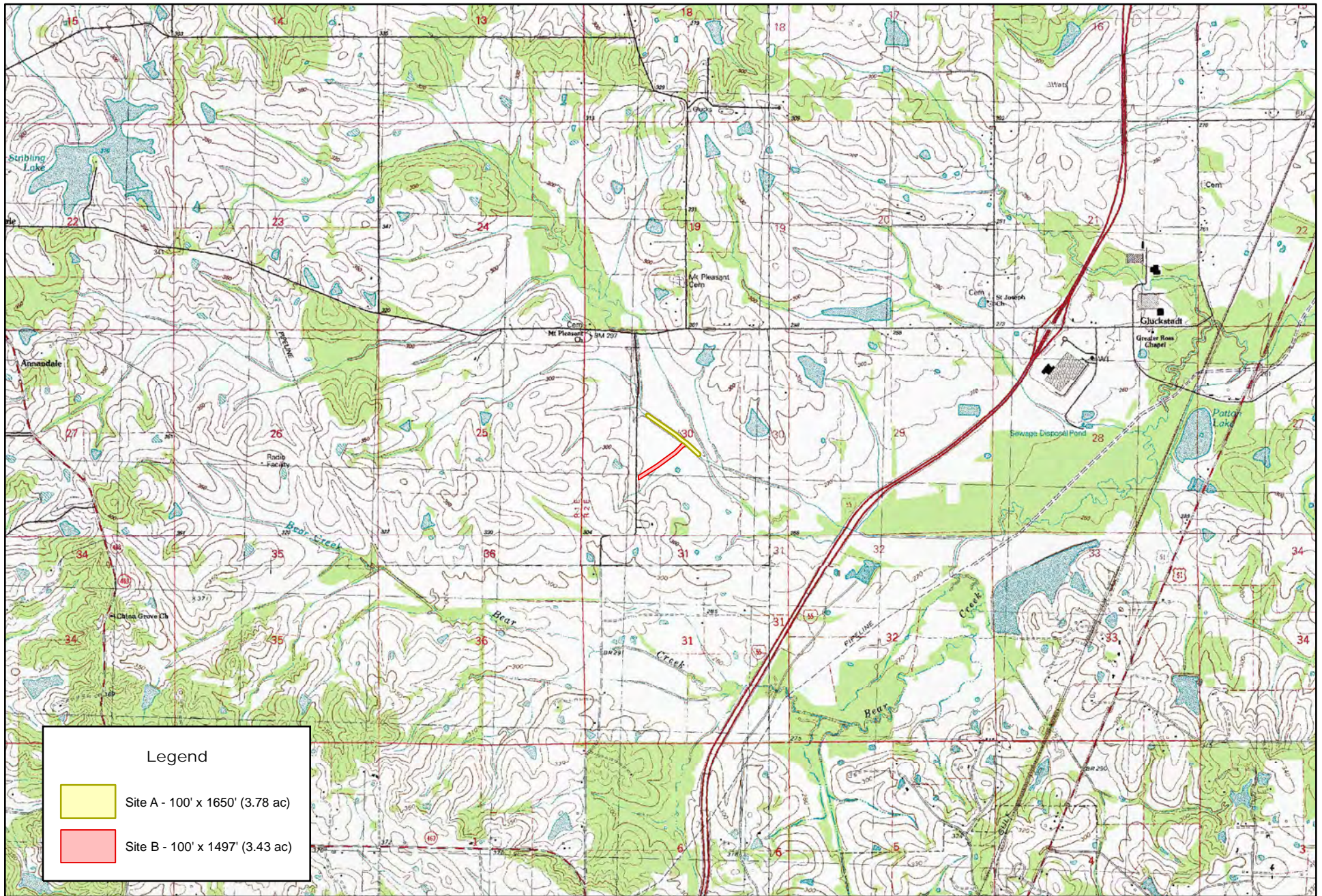
Michael Goff  
President

Attachments

Cc: Mr. Paul Griffin, Madison County Board of Supervisors

## ATTACHMENT A

Proposed Wetland Mitigation Area



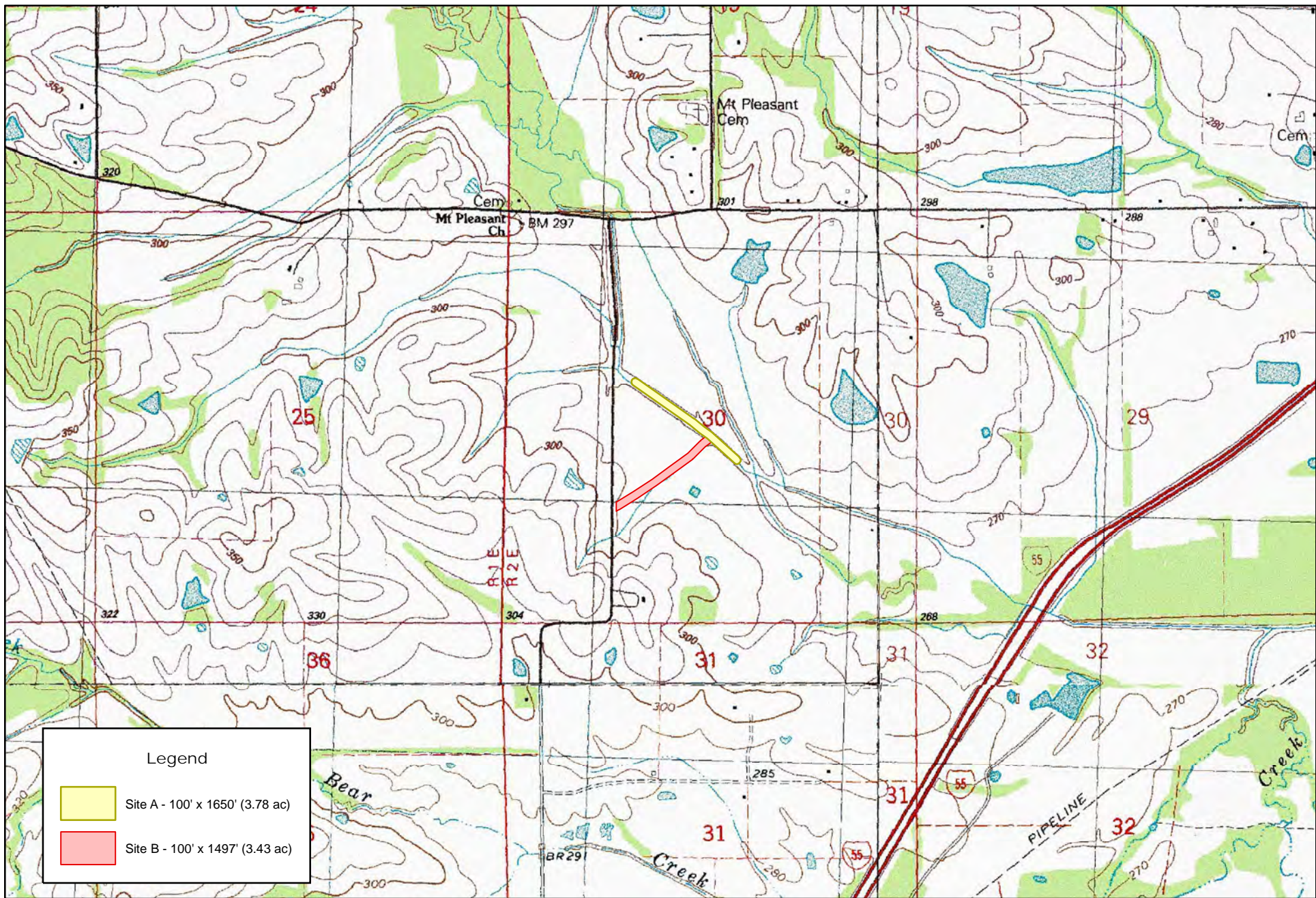
Legend

	Site A - 100' x 1650' (3.78 ac)
	Site B - 100' x 1497' (3.43 ac)



Madison County Sulfur Springs  
 Skinner Farms Property  
 Section 30, T8N-R2E  
 Madison County, Mississippi





**Legend**

- Site A - 100' x 1650' (3.78 ac)
- Site B - 100' x 1497' (3.43 ac)

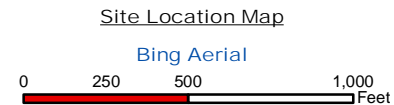
Madison County Sulfur Springs  
 Skinner Farms Property  
 Section 30, T8N-R2E  
 Madison County, Mississippi

  
 NORTH  
 1:24,000

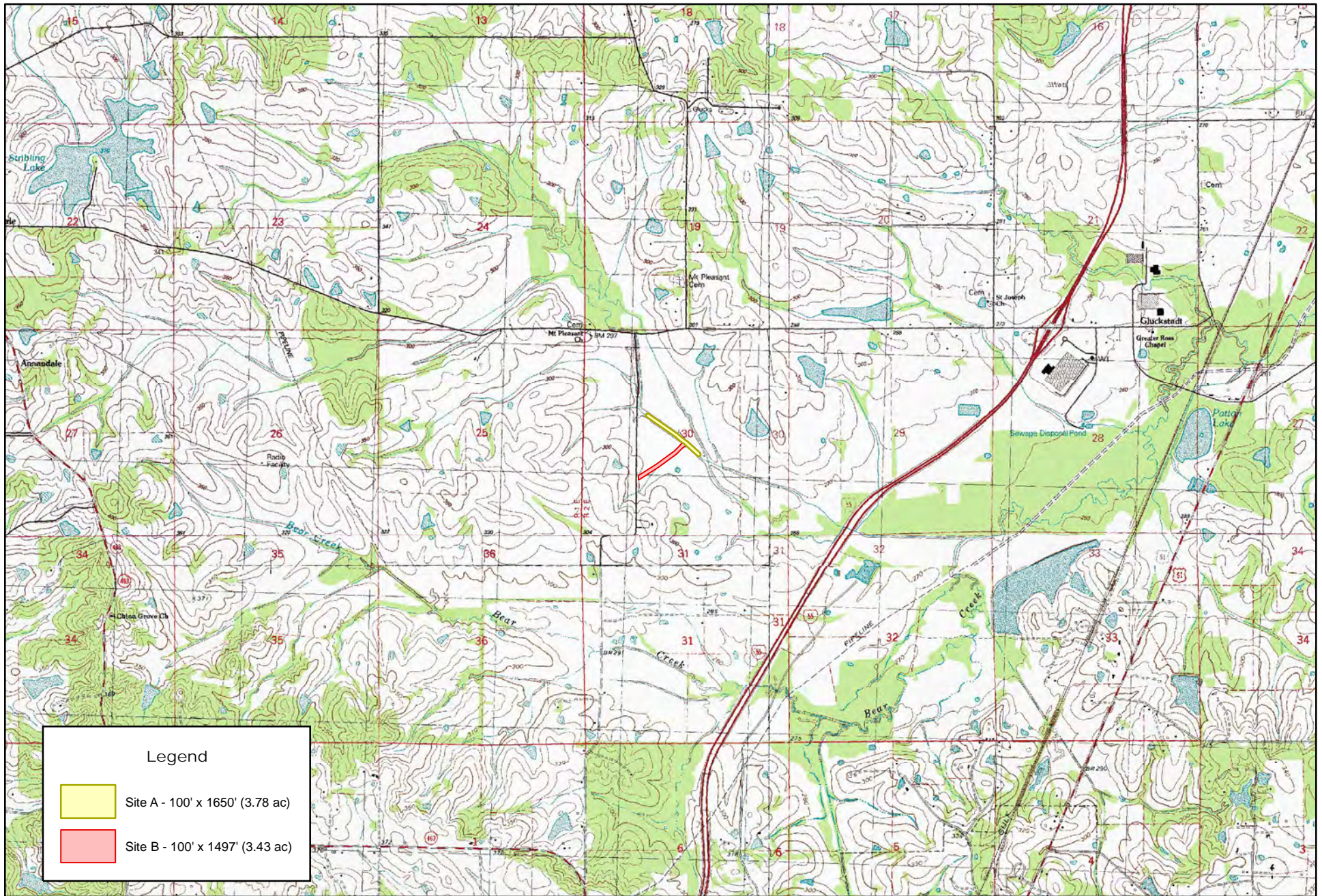
Site Location Map  
 USGS Charlton, MS  
 0 850 1,700 3,400  
 Feet



Madison County Sulfur Springs  
 Skinner Farms Property  
 Section 30, T8N-R2E  
 Madison County, Mississippi







**Legend**

- Site A - 100' x 1650' (3.78 ac)
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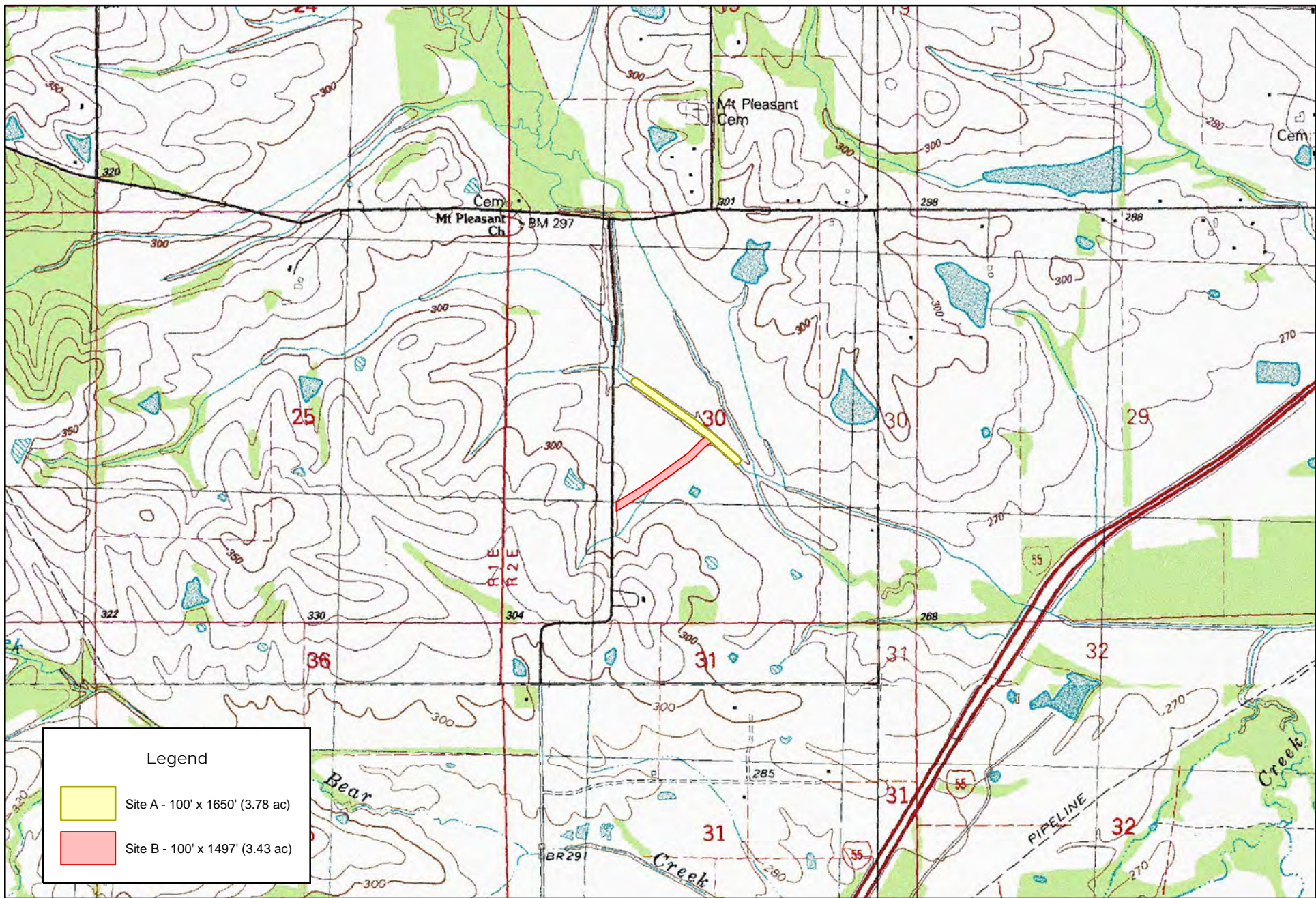


Madison County Sulfur Springs  
 Skinner Farms Property  
 Section 30, T8N-R2E  
 Madison County, Mississippi



Site Location Map  
 USGS Charlton, MS

0 1,700 3,400 6,800 Feet



Madison County Sulfur Springs  
 Skinner Farms Property  
 Section 30, T8N-R2E  
 Madison County, Mississippi

Site Location Map  
 USGS Charlton, MS





Image courtesy of USGS © 2013 Microsoft Corporation © 2010 NAVTEQ © AND



Madison County Sulfur Springs  
Skinner Farms Property  
Section 30, T8N-R2E  
Madison County, Mississippi

