



US Army Corps
of Engineers
Seattle District



Joint Public Notice

Proposal for an Umbrella Wetland and Habitat Conservation Mitigation Bank

U.S. Army Corps of Engineers,
Seattle District
Regulatory Branch, CENWS-OD-RG
P.O. Box 3755
Seattle, Washington 98124-3755
Telephone (206) 764-6903
ATTN: Ms. Gail Terzi

Washington Department of Ecology
SEA Program
P.O. Box 47600
Lacey, Washington 98504-7600
Telephone (360) 407-6861
ATTN: Mr. Brad Murphy

Public Notice Date: August 7, 2014
Expiration Date: September 6, 2014
Reference No.: NWS-2014-766
Name: Port of Tacoma Umbrella Bank

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) and Washington Department of Ecology (Ecology) are considering a proposal to establish the Port of Tacoma Umbrella Wetland and Habitat Conservation Bank, in Pierce County, Washington.

BANK SPONSOR CONTACT – Mr. Bill Rehe
Port of Tacoma
P.O. Box 1837
Tacoma, Washington 98401
(253) 592-6716
wrehe@portoftacoma.com

LOCATION – The proposed project is an umbrella mitigation and habitat conservation bank, meaning that multiple mitigation sites will be included in the bank. All mitigation sites will be operated under the same provisions of the Mitigation Bank Instrument (MBI). New sites may be added over time to an umbrella bank as amendments to the MBI, following public review and agency approval.

The Port of Tacoma currently has 19 existing mitigation sites, or phases, and preservation areas totaling approximately 152 acres (see Figure 2). Nine additional sites have been identified as potential sites for the umbrella bank. Two of these potential sites, Upper Clear Creek and Lower Wapato Combined Habitat (Lower Wapato), are in development and are discussed further in the umbrella bank prospectus document. The two sites total approximately 47 acres and are located within the Lower Puyallup Watershed (Water Resource Inventory Area [WRIA] 10). The site locations are identified on the enclosed figures and are described below.

The Upper Clear Creek mitigation site is approximately 41 acres in size and includes a 14-acre Environmental Protection Agency (EPA) settlement site which will provide compensatory mitigation for a Consent Decree (Number 11-cv-05253). The umbrella mitigation site includes approximately 27 acres adjacent to and surrounding the EPA Consent Decree portion of the site (see Figure 3). Only the 27-acre portion of the Upper Clear Creek site will be eligible for mitigation bank credit generation.

According to the Port of Tacoma, the Upper Clear Creek and Lower Wapato sites do not currently (or historically) support agricultural practices that would qualify them as agricultural lands of long-term commercial significance.

Aerial photographs taken from the 1930's until present shows that no agricultural crops have been grown on the Upper Clear Creek Mitigation Site with the exception of pasture grasses. Productivity and commercial capacity of

the site is limited due to hydrologic regime and active floodplain environment. The Clear Creek property is currently zoned as a single family dwelling (0320141001) and floodway (0320141086). The mitigation bank portion of the site is located in Sections 13 and 14 of Township 20 North, Range 3 East, Willamette Meridian.

The Lower Wapato Mitigation Site also appeared to support limited pasture land in the past, but has been used as a legal upland dredge disposal site since the 1960's. This parcel (0320013145) is currently zoned as vacant industrial land (See Figure 4). This site is in Section 1 of Township 20 North, Range 3 East.

Water rights have not been applied for, nor secured, at either site and are not anticipated to be needed. The sites are located between the cities of Puyallup and Tacoma on the southwest side of the Puyallup River valley in the Clear Creek sub-basin in WRIA 10.

PROJECT DESCRIPTION – Wetland mitigation banks provide an alternative to traditional, concurrent, compensatory wetland mitigation. Mitigation banks offer an opportunity to implement compensatory mitigation at a regional scale in advance of impacts. Mitigation banks establish “credits” through restoring, creating, enhancing and/or preserving wetlands and other natural resources. These credits can then be sold to future permit applicants who need to offset the adverse environmental impacts of projects with wetland impacts that would occur within the banks’ designated and agency approved “service area”. The document that addresses the bank process is the MBI. The MBI is a legal document that is created in cooperation with the Interagency Review Team (IRT), which includes the Corps, and Ecology, as Co-Chairs, EPA, and other Federal, tribal, State and local agencies. The MBI contains the legal language between the bank sponsor and the agencies, and the technical and procedural elements of constructing, operating, and maintaining the bank. For an umbrella mitigation bank, a single MBI applies to all sites and provides authorization to potentially add additional bank sites over time, with each new site to be approved by the IRT.

Figures showing preliminary mitigation designs for the two proposed bank sites are provided in the prospectus. The following conceptual goals are proposed for both sites:

The Port of Tacoma intends to offset future aquatic, wetland, and critical area impacts by creating credits through the establishment of a Wetland and Habitat Conservation Umbrella Mitigation Bank. Port of Tacoma development projects will follow mitigation sequencing, whereby impacts are avoided and minimized to the maximum extent practicable. In the event that unavoidable impacts to wetlands or other critical areas occur, on-site mitigation may not be possible or ecologically beneficial, especially given the industrial nature of the Service Area and limited opportunities for wetland restoration or creation on Port of Tacoma property. Creating mitigation bank credits presents a means to meet the overall objective of providing high quality, successful, long-term mitigation for unavoidable impacts to aquatic resources by:

1. Employing a watershed approach, thereby obtaining greater ecological benefits than would otherwise be achieved through on-site mitigation options that are impracticable or of low ecological value.
2. Utilizing scale efficiencies by combining the required mitigation for impacts from individual smaller projects within the designated Service Area into collective compensatory mitigation at a larger site with greater ecological value, achieving both ecologic and financial economies of scale.
3. Enabling the Port of Tacoma to efficiently meet regulatory requirements by streamlining the permitting and compensatory mitigation process.
4. Reducing or eliminating temporal functional loss.
5. Ensuring a high degree of success through monitoring and long-term management.

We are seeking comments on the proposed goals, objectives, and conceptual design of the two proposed projects. A more detailed description of the proposal is available in *Port of Tacoma Umbrella Wetland and Habitat Conservation Bank Prospectus*, dated June 9, 2014. This prospectus is available for inspection at the above-listed Corps office and the Ecology Headquarters and can be downloaded at the following Internet addresses:

<http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/public-notices.html>

<http://www.nws.usace.army.mil/Missions/CivilWorks/Regulatory/PublicNotices.aspx>

SERVICE AREA – The service area of a mitigation bank is the geographic area over which credits may be used for compensatory mitigation. The sponsor has proposed a service area for this bank that would encompass areas of WRIAs 10 and 12 – Puyallup-White and Chambers-Clover Watersheds (see Figure 5). We are seeking comments on the proposed service area. The proposed service area may be increased or decreased based on public and IRT comments.

PURPOSE – The purpose of the Port of Tacoma Umbrella Mitigation Bank is to provide compensatory mitigation for Port of Tacoma projects consisting of high-quality, consolidated, off-site compensation for a variety of future adverse aquatic ecosystem impacts associated with activities authorized by the Corps, Ecology and other regulatory entities that occur within the service area of the bank. The Port of Tacoma may also offer bank credits for sale to the general public. The use of bank credits as future compensatory mitigation would depend on case-by-case approval by the involved regulatory agencies after determining that the use of bank credits would be consistent with all applicable rules and policies of the agencies.

ADDITIONAL INFORMATION – The bank sponsor will work with a multi-agency IRT to develop the MBI in accordance with the federal rule, 33 CFR Parts 325 and 332 and 40 CFR Part 230, *Compensatory Mitigation for Losses of Aquatic Resources*; and the state rule, Chapter 173-700 WAC, *Wetland Mitigation Banks*, as well as other applicable State, local, and Federal requirements. For additional information on wetland mitigation banking within Washington State, please refer to the following website:

<http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/index.html>

If you are interested in receiving updates from the Washington State Department of Ecology concerning wetland mitigation banking in the State, please join our e-mail list at:

<http://listserv.wa.gov/archives/wetland-mitigation-banking.html>

ENDANGERED SPECIES – The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat. After receipt of comments from this public notice, the Corps will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat.

ESSENTIAL FISH HABITAT – The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). If the Corps determines that the proposed action may adversely affect EFH for federally managed fisheries in Washington waters, the Corps will initiate EFH consultation with the NMFS. The Corps' final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

For the Upper Clear Creek umbrella bank site, ESA and EFH consultation has been completed due to the need to evaluate the site for the EPA Consent Decree settlement. The entire 41-acre site was subject of both the ESA and

EFH coordination. The NMFS concurred with a finding of “may affect, not likely to adversely affect” on March 4, 2014 (NMFS Reference Number WRC-2013-101). The USFWS concurred with a finding of “may affect, not likely to adversely affect” on February 5, 2014 (USFWS Reference Number 01EWF00-2014-I-0064 and X Reference Number 01EWF00-2013-I-0482).

CULTURAL RESOURCES: A historic properties investigation will be conducted within the proposed bank site area and will be coordinated with the Washington Department of Archaeology and Historic Preservation. The District Commander will review the latest published version of the National Register of Historic Places, lists of properties determined eligible for the historic register, and other sources of information.

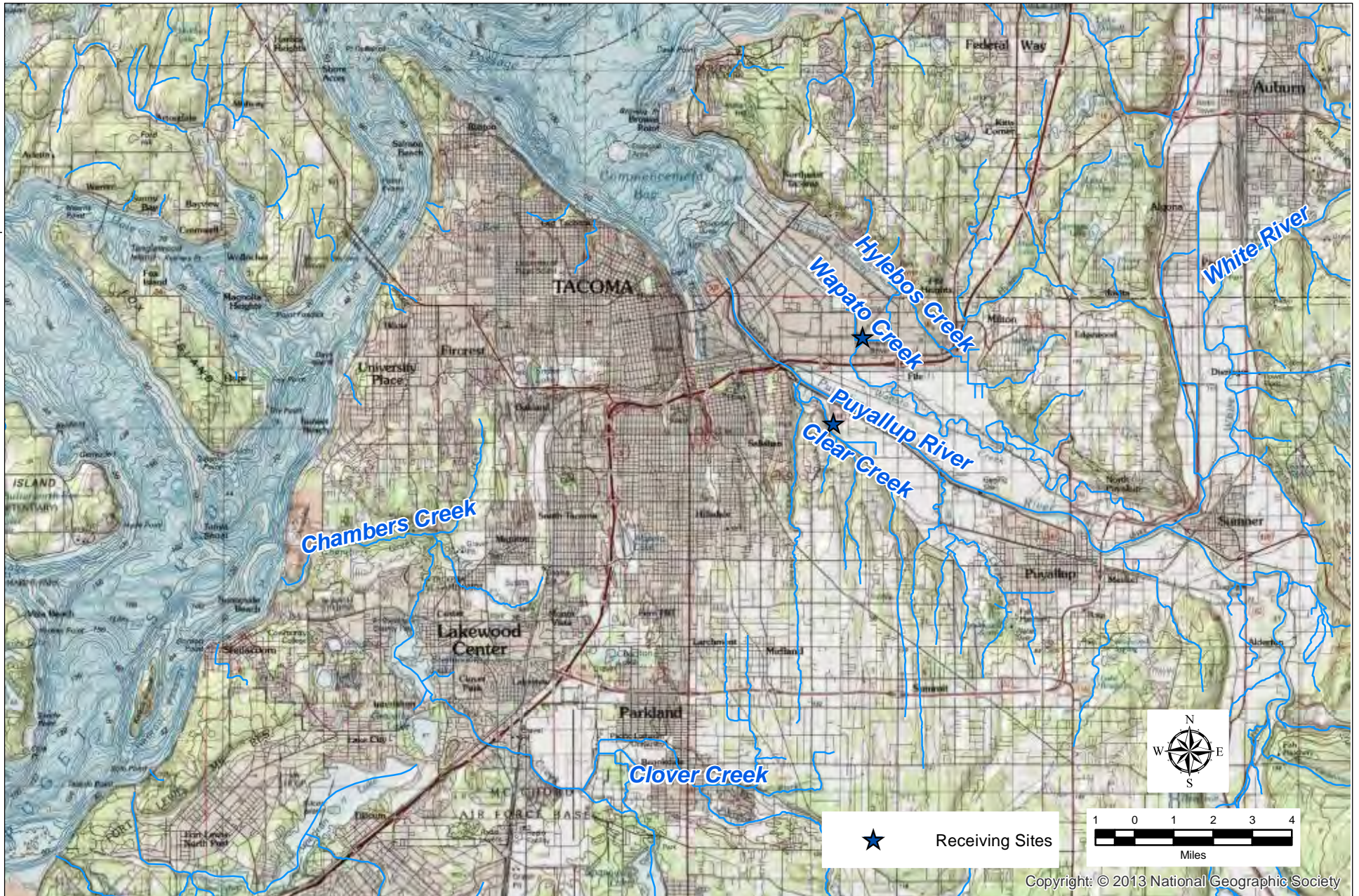
The District Engineer invites responses to this public notice from Native American Nations or tribal governments; federal, state, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns with historic properties in the area. This public notice initiates consultation under Section 106 of the National Historic Preservation Act (36 CFR 800.4[a][3]), with any Tribe that has information or concerns with historic properties in the proposed permit area.

The Corps has made a determination the Upper Clear Creek umbrella bank site is in compliance with Section 106 of the National Historic Preservation Act based on coordination under the EPA consent decree. The Port of Tacoma must implement and abide by the *Archaeological Monitoring and Inadvertent Discovery Plan for the Port of Tacoma’s Upper Clear Creek Mitigation Project, Tacoma, Washington* dated December 9, 2013.

EVALUATION – The Corps and Ecology are soliciting comments from interested parties, including the public; federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to identify project aspects that need to be addressed during the bank review process and in the development of the umbrella MBI. Public comments will assist in developing facts on which to base a decision by IRT member agencies as to whether or not to authorize the proposed umbrella mitigation bank. For accuracy and completeness of the record, all comments should be submitted in writing with sufficient detail to furnish a clear understanding of the reasons for that support or opposition.

COMMENT AND REVIEW PERIOD – Conventional mail or e-mail comments on this proposal will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. E-mail comments must originate from the author’s e-mail account and must include on the subject line of the e-mail message the reference number NWS-2014-766. All e-mail comments should be sent to gail.m.terzi@usace.army.mil at the Corps, and/or bmur461@ecy.wa.gov at Ecology. Conventional mail comments should be sent to one of the addresses at the top of this public notice. Both conventional mail and e-mail comments must include “*Port of Tacoma Umbrella Mitigation Bank, NWS-2014-766*” and the commentator’s name, address, and phone number. All comments, whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration.

Encl: 5 Figures



Copyright: © 2013 National Geographic Society

Figure 1. Vicinity Map

Corps Project No. NWS-2014-766

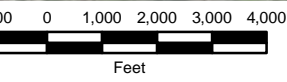
Notes: The locations of all features shown are approximate. This drawing is for information purposes. It is intended to assist in showing features discussed in the attached document. Neither the Port of Tacoma nor any of its staff or consultants (GeoEngineers) makes any warranty of any kind for this information, express or implied, including but not limited to any warranties or merchantability or fitness for a particular purpose, nor shall the distribution of this information constitute any warranty.





Figure 2. Port of Tacoma Mitigation Sites

Corps Project No. NWS-2014-766



Notes: The locations of all features shown are approximate. This drawing is for information purposes. It is intended to assist in showing features discussed in the attached document. Neither the Port of Tacoma nor any of its staff or consultants (GeoEngineers) makes any warranty of any kind for this information, express or implied, including but not limited to any warranties or merchantability or fitness for a particular purpose, nor shall the distribution of this information constitute any warranty.



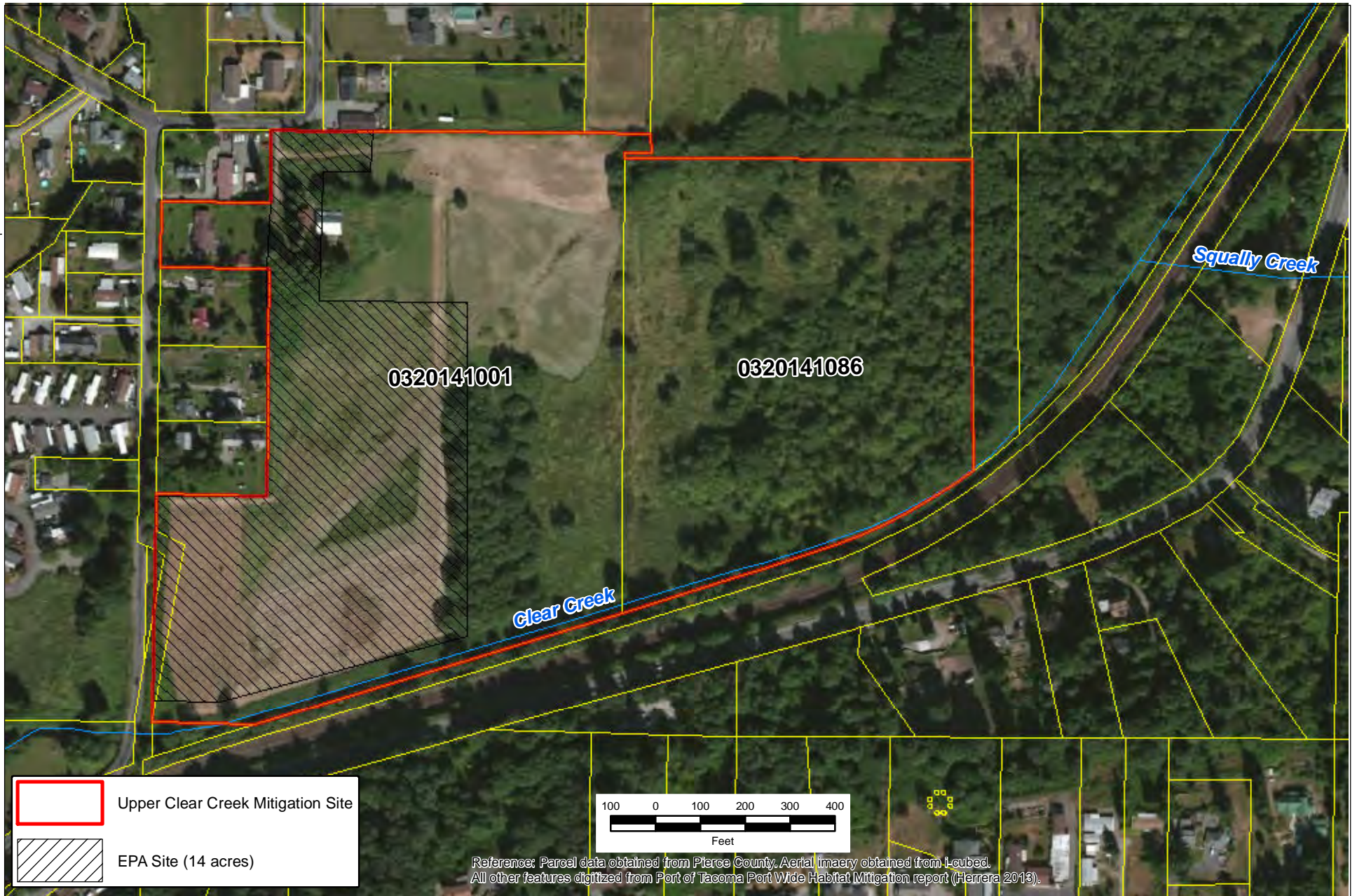


Figure 3. Parcel Map and Aerial Imagery

Corps Project No. NWS-2014-766



Notes: The locations of all features shown are approximate. This drawing is for information purposes. It is intended to assist in showing features discussed in the attached document. Neither the Port of Tacoma nor any of its staff or consultants (GeoEngineers) makes any warranty of any kind for this information, express or implied, including but not limited to any warranties or merchantability or fitness for a particular purpose, nor shall the distribution of this information constitute any warranty.



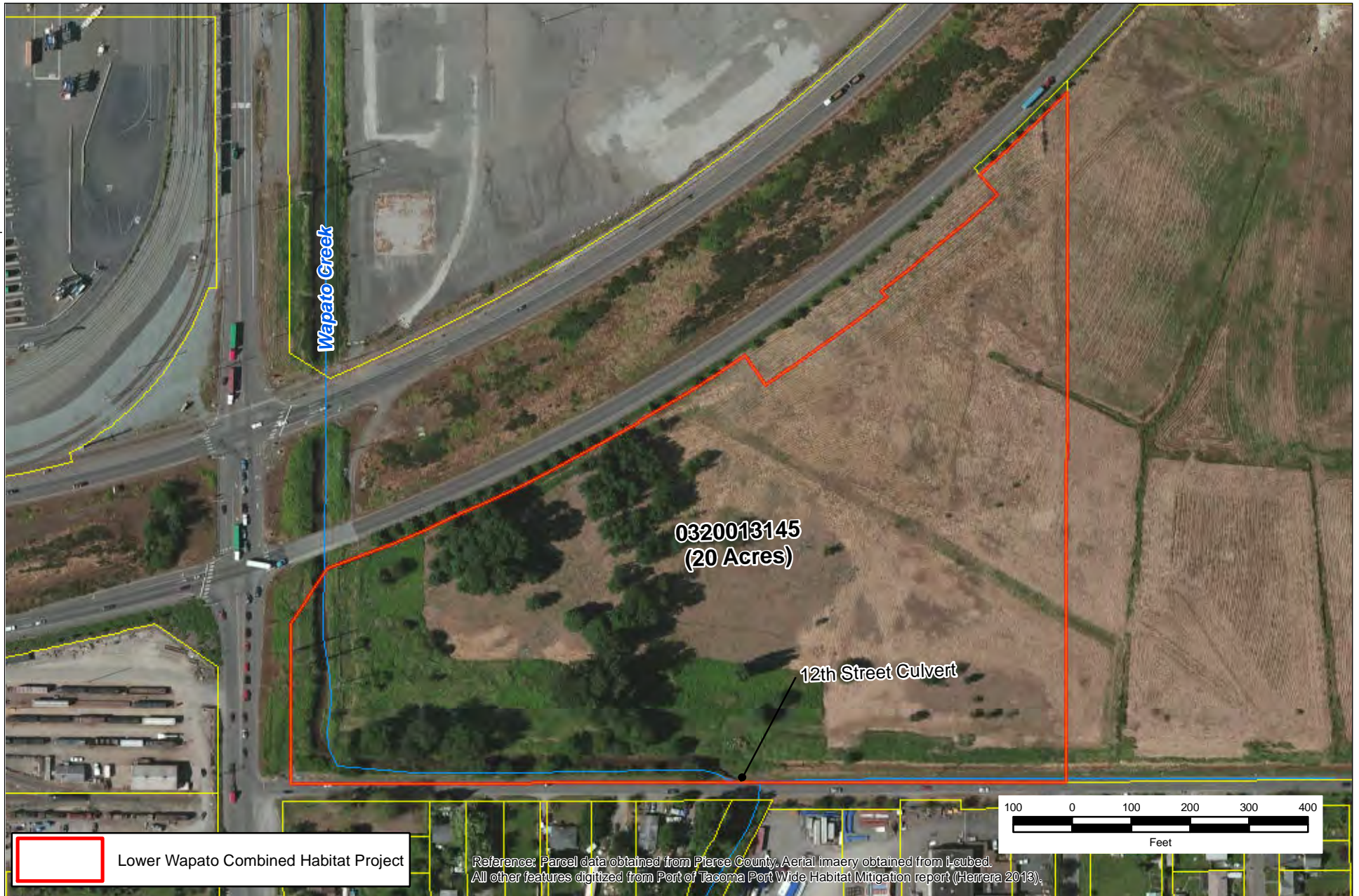


Figure 4. Lower Wapato Combined Habitat Project

Corps Project No. NWS-2014-766



Notes: The locations of all features shown are approximate. This drawing is for information purposes. It is intended to assist in showing features discussed in the attached document. Neither the Port of Tacoma nor any of its staff or consultants (GeoEngineers) makes any warranty of any kind for this information, express or implied, including but not limited to any warranties or merchantability or fitness for a particular purpose, nor shall the distribution of this information constitute any warranty.



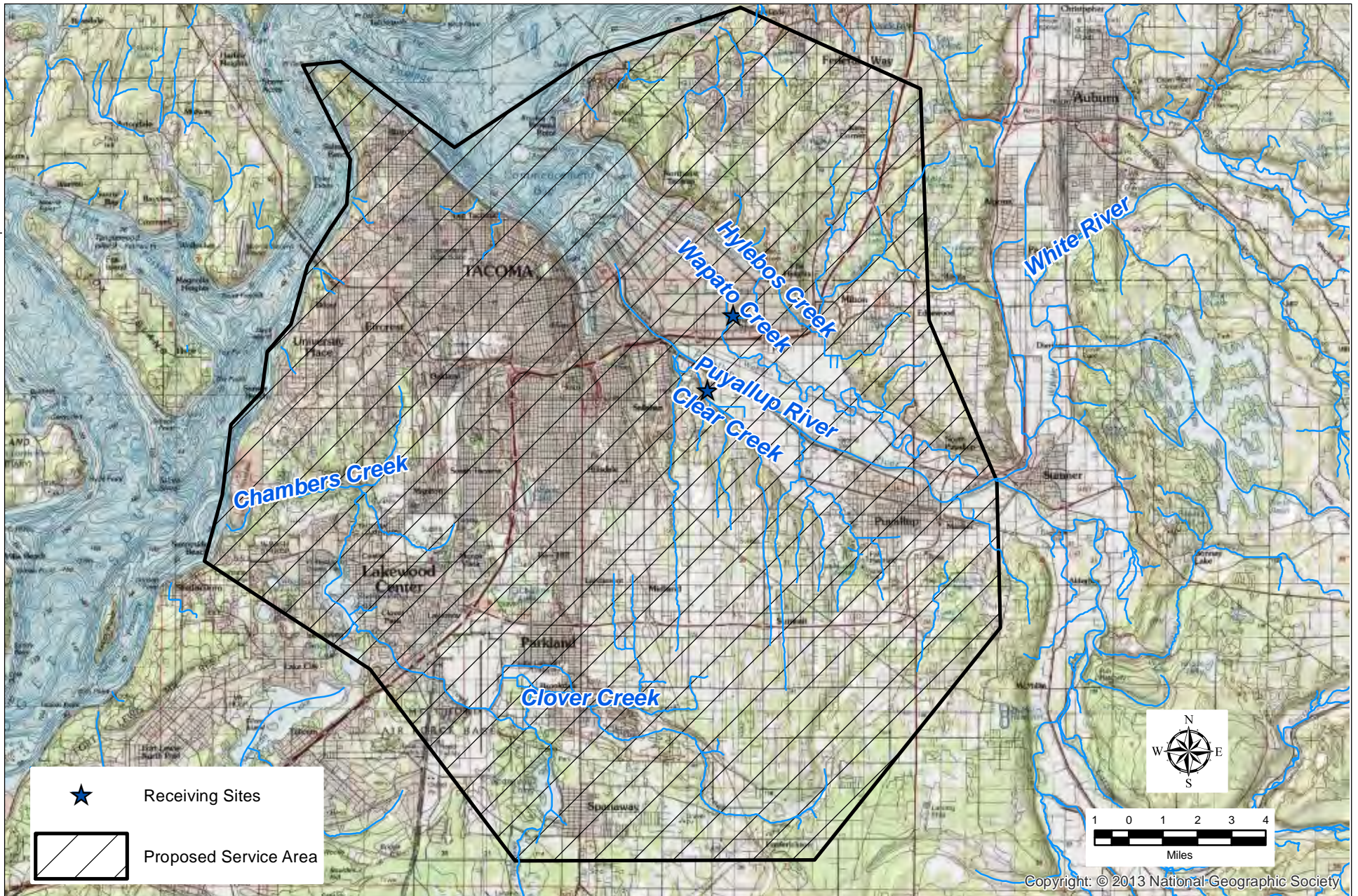


Figure 5. Wetland and Habitat Conservation Umbrella Mitigation Bank Proposed Service Area

Corps Project No. NWS-2014-766

Notes: The locations of all features shown are approximate. This drawing is for information purposes. It is intended to assist in showing features discussed in the attached document. Neither the Port of Tacoma nor any of its staff or consultants (GeoEngineers) makes any warranty of any kind for this information, express or implied, including but not limited to any warranties or merchantability or fitness for a particular purpose, nor shall the distribution of this information constitute any warranty.

