

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 26 June 2017

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Fort Worth District, Lake Ralph Hall, SWF-2003-00336

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Texas County/parish/borough: Fannin City: Ladonia
Center coordinates of site (lat/long in degree decimal format): Lat. 33.46302° N, Long. 95.90102° W.
Universal Transverse Mercator:

Name of nearest waterbody: North Sulphur River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Sulphur River

Name of watershed or Hydrologic Unit Code (HUC): 8 - 11140301

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: June 26, 2017

☒ Field Determination. Date(s): Specific field investigation to develop data to produce PJD dated October 26, 2006 were conducted by applicant August-September, 2005. USACE and cooperating agencies conducted numerous site visits to portions of project area from 2002 through 2015 associated with jurisdictional determination and resource assessments associated with development of Environmental Impact Statement for proposed project.

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☐ Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- ☒ Non-RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- ☒ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- ☒ Impoundments of jurisdictional waters
- ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Stream (non-wetland) waters: linear feet: 690,918 acreage: 387.14 (streams)

Other open waters: acres: 59.89 (on channel ponds)

Wetlands: 10.0 acres (PEM lacustrine fringe around on-channel ponds).

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual and Great Plains Delineation Supplement

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: 212 open water stock tanks constructed in uplands occur within the study area totaling 83 acres (Table A-3 of Appendix A). Additionally, there are 3.8 acres (comprised of 26 features – Table A-4 of Appendix A) of forested wetlands associated with remnant channels of the North Sulphur River. Due to historic channelization and significant channel degradation, the 100 year flood of the North Sulphur River is contained in its existing channel banks. No hydrologic connection/significant nexus exists between the remnant channels and the North Sulphur River.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: No TNWs are in assessment area. The nearest USACE designated navigable water is the segment of the Sulphur River downstream of Wright Patman Dam to the Texas/Arkansas state border. See section B.1.ii below for distance.

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”: N/A.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 100 square miles
Drainage area: 467 square miles
Average annual rainfall: 33 inches
Average annual snowfall: 3 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☒ Ephemeral tributaries flow through 2 and the North Sulphur River flows through 1 tributary before entering TNW.

Project waters are more than 100 river miles from TNW.

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Project waters are more than 30 river miles from RPW.
Project waters are 105 aerial (straight) miles from TNW.
Project waters are 37 aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW⁵: Named (see item b below) and unnamed tributaries flow into North Sulphur River which flows into Sulphur River (starting at confluence with South Sulphur River which becomes navigable approximately 105 miles downstream).

Tributary stream order, if known: Varies.

(b) General Tributary Characteristics (check all that apply):

Tributary is:

☐ Natural. Explain:

☐ Artificial (man-made). Explain:

☒ Manipulated (man-altered). Explain: North Sulphur River and named (Merrill, Bralley Pool,

Leggets Branch, Davis, Pickle, Pot, Brushy, Bear, Allen, Long and Headrick Branch Creeks) and unnamed tributaries to it are natural channels but modified due to headcuts. North Sulphur River channelized in 1930s. Unique soil properties continue to erode and channel as well as tributaries continue to degrade. Headcuts occur to all tributaries in the study area.

Tributary properties with respect to top of bank (estimate):

Average width: 150 feet

Average depth: 45 feet

Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

☒ Silts

☐ Sands

☐ Concrete

☐ Cobbles

☐ Gravel

☐ Muck

☒ Bedrock

☐ Vegetation. Type/% cover:

☐ Other. Explain: Bedrock is decomposing soft shale.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: highly eroding, sloughing banks with channel eroded into underlying shale bedrock; delamination of the shale results in average channel down-cutting at a rate of 2 inches/year and channel widening of 4 inches/year as side slopes are destabilized and slough.

Presence of run/riffle/pool complexes. Explain: No riffle pool complexes exist.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): Dependent on tributary. North Sulphur River is 0.1 %

(c) Flow:

Tributary provides for: **Intermittent but not seasonal flow** Other tributaries are ephemeral.

Estimate average number of flow events in review area/year: **6-10**

Describe flow regime: Channel flow is extremely flashy with high flows immediately following significant rain events rapidly reducing to a trickle unless subsequent rainfall experienced in the watershed. Channel is frequently dry in most locations with variable to non-existent pooling.

Other information on duration and volume: Stage discharge and rating curves are provided in the geomorphological evaluation and hydraulic and hydrologic analyses.

Surface flow is: **Discrete and confined**. Characteristics: Flashy – immediate peak with rapidly diminishing flows.

Subsurface flow: **Unknown**. Explain findings: No groundwater discharges documented in hydrologic analysis.

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

☒ Bed and banks

☒ OHWM⁶ (check all indicators that apply):

☐ clear, natural line impressed on the bank

☐ changes in the character of soil

☐ shelving

☐ vegetation matted down, bent, or absent

☐ leaf litter disturbed or washed away

☐ sediment deposition

☐ water staining

☐ the presence of litter and debris

☒ destruction of terrestrial vegetation

☐ the presence of wrack line

☐ sediment sorting

☒ scour

☒ multiple observed or predicted flow events

☐ abrupt change in plant community

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

⁶ A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

- ☐ other (list):
☐ Discontinuous OHWM.⁷ Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- | | |
|--|--|
| ☐ High Tide Line indicated by: | ☐ Mean High Water Mark indicated by: |
| ☐ oil or scum line along shore objects | ☐ survey to available datum; |
| ☐ fine shell or debris deposits (foreshore) | ☐ physical markings; |
| ☐ physical markings/characteristics | ☐ vegetation lines/changes in vegetation types. |
| ☐ tidal gauges | |
| ☐ other (list): | |

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: Turbid during flow events but clearer during lower flows

Identify specific pollutants, if known: Suspended solids.

(iv) Biological Characteristics. Channel supports (check all that apply):

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☒ Wetland fringe. Characteristics: Emergent wetland occurs on fringes of on-channel stock tanks.
- ☐ Habitat for:
- ☐ Federally Listed species. Explain findings: .
- ☐ Fish/spawn areas. Explain findings: .
- ☐ Other environmentally-sensitive species. Explain findings: .
- ☒ Aquatic/wildlife diversity. Explain findings: Limited invertebrate and songbird utilization.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties: PEM fringes associated with on channel ponds

Wetland size: 10 acres

Wetland type. Explain: Wetlands confined to on channel ponds

Wetland quality. Explain: Detailed functional assessment of the wetlands not accomplished. Vegetation in wetland areas are typically desirable and include Typha, Eleocharis, Polygnum, Carex, Juncus, Sagittaria, Ludwigia, Potamogeton and Ranunculus species. Hydrilla was also documented in some assessed areas. Wetlands are expected to rate as low to average quality based on geomorphic and vegetation type, density as well as agricultural activities and grazing adjacent and in the wetland areas. Wetlands provide soil retention and protection at pond edges.

Project wetlands cross or serve as state boundaries. N/A

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: Wetlands are associated with on-channel pond construction. Outlets exist and/or spills occur during precipitation events from ponds into connecting named and unnamed tributaries to the North Sulphur River.

Surface flow is: **Confined**

Characteristics: .

Subsurface flow: **Unknown**. Explain findings: .

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☒ Directly abutting – wetlands are created by and connected to pond pool elevations.
- ☐ Not directly abutting
- ☐ Discrete wetland hydrologic connection. Explain:
- ☐ Ecological connection. Explain: .
- ☐ Separated by berm/barrier. Explain: There is an earthen berm east of the wetland.

(d) Proximity (Relationship) to TNW

Project wetlands are **30 (or more)** river miles from TNW.

Project waters are **30 (or more)** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters**.

Estimate approximate location of wetland as within the **2-year or less** floodplain.

(ii) Chemical Characteristics:

⁷Ibid.

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Herbaceous fringe varying in widths from 1 to more than 20 feet as part of 27 on-channel ponds. Wetlands perform water quality functions from overland flow to waters via filtration and sediment trapping, retention and nutrient transformation. Nutrient transformation from stream flow into ponds also accomplished. Identify specific pollutants, if known: unknown.

(iii) Biological Characteristics. Wetland supports (check all that apply):

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☒ Vegetation type/percent cover. Explain: Eleocharis, Typha,
- ☐ Habitat for:
 - ☐ Federally Listed species. Explain findings: .
 - ☐ Fish/spawn areas. Explain findings: .
 - ☐ Other environmentally-sensitive species. Explain findings: .
 - ☒ Aquatic/wildlife diversity. Explain findings: Variation in vegetation communities compared to upland vegetation can provide minor habitat for occasional use of wetland and water dependent species.

3. Characteristics of all wetlands adjacent to tributaries (if any)

All wetland(s) being considered in the cumulative analysis: **25-30**

Approximately 10 acres in total are being considered in the cumulative analysis as identified in the delineation report at 27 on-channel ponds. Off-site desk top estimation was used to identify wetland fringes occurring with on-channel ponds. The higher resolution aerial photographs from 2014-2016 compared to those used in the 2006 PJD report facilitated in refinements of the previously identified (delineated) aquatic resources as well as identification in modifications to aquatic resources within the project area (erosional features, impoundments, etc.). These refinements to the delineated aquatic resources were performed as a “desktop” evaluation. To ground-truth observations from the desktop evaluation, field investigations were performed May 30 through June 2, 2017 to assess a representative sample area of portions of the 13,094-acre assessment area. These “on the ground” assessments aided in verification of identified aquatic resources from the desktop evaluation as well as to map the limits of potential waters of the U.S. identified both from the desktop evaluation and in the field. As an example, 14 of the 47 mapped on-channel ponds within the assessment area representing approximately 29.7 percent were investigated in the field. Lacustrine “fringe” wetland areas associated with the 14 on-channel ponds assessed in the field were observed and recorded in the field. The lacustrine wetlands, predominantly herbaceous emergent wetlands, represented approximately 3.4 acres of the 23.8 acres of the 14 on-channel ponds assessed or approximately 14.3 percent of the assessed on-channel pond acreage. This percentage of fringe wetlands was used to estimate the lacustrine wetland area associated with the total delineated area of on-channel impoundments within the assessment area that would be considered as hydraulically and hydrologically connected to waters of the U.S. Calculation of area of Lacustrine Fringe Wetlands (emergent) totaled 3.4 acres identified for 23.8 acres of 14 on-channel ponds that were field assessed. This equated to 14.3 percent of 69.9 acres of 47 on-channel ponds within assessment area resulting in the determination that slightly less than 10 acres of on-channel fringe wetlands exist.

Summarize overall biological, chemical and physical functions being performed: See descriptions above.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: The North Sulphur River totals 65,646 linear feet in the study area and is intermittent. Additionally, numerous ephemeral tributaries totaling 625,272 lineal feet have continuous ordinary high water marks that feed into the North Sulphur River. On said tributaries are 47 on channel ponds totaling 59.89 acres of open water. Wetland fringes associated with the ponds total 10 acres. All streams flow during and shortly after precipitation events allowing for biological and chemical contributions to the North Sulphur River which flows into Relatively Permanent Flow portions of the channel and eventually into the Sulphur River which is a TNW. Sediment, biota (including fish from on channel stock tanks) and organic matter are contributed to the North Sulphur River. Tributaries can also act as refugia during high flow events in the North Sulphur River. The tributaries and on channel wetlands also contribute as well as carry pollutants and flood waters to TNWs, can reduce amount of pollutants or flood water reaching a TNW, and transfer nutrients and organic carbon downstream.
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
☐ TNWs: linear feet width (ft), Or, acres.
☐ Wetlands adjacent to TNWs: acres.
2. **RPWs that flow directly or indirectly into TNWs.**
☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
 Identify type(s) of waters: .

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**
☒ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- ☒ Tributary waters: **690,918** linear feet and up to **45** width (ft).
☒ Other non-wetland waters: **59.89** acres of on channel ponds.
 Identify type(s) of waters: On channel ponds.

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

⁸See Footnote # 3.

Provide acreage estimates for jurisdictional wetlands in the review area: **10** acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- ☒ Demonstrate that impoundment was created from “waters of the U.S.,” (see **69.89** acres of on-channel ponds and associated fringe wetlands as detailed in this form), or
- ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain: .
- ☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
- Identify type(s) of waters: .
- ☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☒ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and Great Plains Regional Supplement.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
- ☐ Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
- ☒ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: Numerous stock tanks constructed in uplands exist as well as stock tanks that are not connected to tributaries to the North Sulphur River. Isolated forested wetlands also exist which are not adjacent due to significant channel degradation of North Sulphur River and are no longer connected to or have interaction with the river.
- ☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☒ Lakes/ponds: 83 acres upland ponds/stock tanks.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: 3.8 acres.

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☒ Office concurs with data sheets/delineation report.
 - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☒ U.S. Geological Survey Hydrologic Atlas: .
 - ☐ USGS NHD data.
 - ☒ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: Greenville NW, Celeste, Pike, Wolfe City, Gober, Ladonia, Honey Grove and Dodd City.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Fannin.
- ☒ National wetlands inventory map(s). Cite name: See USGS quad map names.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): 2003-2005 and 2014-2016 FSA NAIP and 2015 Texas Ortho-imagery Project.
or ☒ Other (Name & Date): On site photos from 2006 delineation report and 2017 supplement.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: .