

**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):**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Fort Worth District, SWF-2021-00354**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Texas County/parish/borough: Coleman City:

Center coordinates of site (lat/long in degree decimal format): Lat. 31.6970 **N**, Long. -99.5240° **W**.

Universal Transverse Mercator:

Name of nearest waterbody:

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

Name of watershed or Hydrologic Unit Code (HUC): 1209010603 & 1209010602

☒ 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:

☒ Field Determination. Date(s): September 23, 2021

**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 No** “*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):<sup>1</sup>**

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☐ Relatively permanent waters<sup>2</sup> (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:**

Non-wetland waters: linear feet: width (ft) and/or acres.

Wetlands: acres.

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual**

Elevation of established OHWM (if known): Unknown. Used OHWM indicators.

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: See section III.F.

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

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

### SECTION III: CWA ANALYSIS

#### **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/or appropriate Regional Supplements.
- ☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce. **Features are clearly identified on the final delineation map and supported by the report prepared by the consultant.**
- a) **Upland Swales a-rr. These swale features lacked an observable OHWM, lacked observable flow under typical conditions, and were generally vegetated unless bedrock conditions existed. Several terminate into sheet flow areas (uplands) with no definable continuation reappearing into other surface features. These features are not waters of the US due to lack of identifiable physical indicators and/or are isolated.**
- b) **Stream A. This ephemeral stream reach had an observable but broken OHWM and lacked vegetation. This feature is isolated due to lack of a downstream surface connection to a jurisdictional feature. The reach discharges into a flattened 500+ foot sheet flow area and terminates in an open water stock tank constructed in a stream/swale complex (see item d) below. In addition to the sheet flow area, a significant break (>2000 feet) in surface connection exists downstream of the item b) reach leading to a conclusion the entire area Stream A is located within is isolated.**
- c) **Stream B. This is a small reach on the western side of the site and is located within the spillway of a large stock tank (Open Water r) that contributes to downstream wetland area f. When hydrology is adequate, these features discharge into an upland swale area of more than 4900 lineal feet before being captured in 2 stock tanks which then rarely discharge into 940 feet of upland swale and leave the property. Swale conditions are described in item a) above. This feature is isolated.**
- d) **Northern Stream-Swale complex was assessed within the review area. This complex had 4 sections that classify as ephemeral stream with large sections of swale intermixed. These eventually contribute to an upland swale reach with a continuous break of greater than 2200 lineal feet downstream to the property line. Aerial imagery shows the condition continues off site with these types of intermixed features. The reaches and the complex are isolated and do not contain waters of the US.**
- ☐ 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: .
- ☒ Other: (explain, if not covered above): **Nineteen (19) stock tanks (open water) constructed in uplands and non-jurisdictional swales totaling 11.78 acres and 8 associated wetlands with those stock tanks totaling 0.79 acres exist on the site. These are preamble waters and are not waters of the US.**

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: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

### 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: Bead Mountain.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Coleman County Web Soil Survey 2021.
- ☒ National wetlands inventory map(s). Cite name: NWI Mapper .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): All Google Earth Imagery; TNRIS and NAIP 1953, 1983, 1996, 2004, 2015 and 2020.
- or ☒ Other (Name & Date): Ground level April 2021.
- ☐ 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:** .