

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): February 28, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:

Forth Worth District
Langer Solar
SWF-2021-00129

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Texas County/parish/borough: Bosque City: None
Center coordinates of site (lat/long in degree decimal format): Lat. 31.8925° **N**, Long. -97.5008° **W**.
Universal Transverse Mercator: 1983 North American Datum (NAD) Coordinates
Name of nearest waterbody: Unnamed tributaries located onsite and Kirby Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Brazos River
Name of watershed or Hydrologic Unit Code (HUC): Lake Whitney (1206020204); Childress Creek-Brazos River (1206020206)
☒ 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 1-3 and 10-11, 2020 and July 27, 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 and are not** "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:

Non-wetland waters: 3,265 linear feet: width (ft) and/or 4.2 acres.
Wetlands: 8.1 acres.

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

Elevation of established OHWM (if known): .

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

☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: Swales SWa-SWf were assessed within the review area. These swale features lacked an observable OHWM,

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.

exhibited short duration, low volume flows, and were generally vegetated. These swales (SWa through SWf) are not waters of the U.S because they do not have an OHWM.

Wetland Wa was assessed within the review area. The wetland feature appeared to have a downgradient surface water connection to OWa. However, OWa appeared to be isolated and was not adjacent to or had an observable downgradient surface water connection to another jurisdictional aquatic feature. Therefore, wetland Wa is not a water of the U.S.

Open Waters OWa-OWb, OWe-OWg, OWi and OWk were assessed within the review area. The open water features did not appear to have an observable direct downgradient surface water connection to a jurisdictional aquatic feature with an observable OHWM, therefore they are not waters of the U.S.

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 located within the study area. The nearest USACE designated navigable water is the Brazos River.

Summarize rationale supporting determination: N/A.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”:

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: 336 (1206020204) square miles

Drainage area: 1.5 square miles

Average annual rainfall: 38 inches

Average annual snowfall: <1 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☒ Tributary flows through 2 tributaries before entering TNW.

Project waters are 5-10 river miles from TNW.

Project waters are 1-2 river miles from RPW.

Project waters are 5-10 aerial (straight) miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: N/A.

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

Identify flow route to TNW⁵: Unnamed tributaries onsite flow generally southeast into Kirby and King Creek. Water flows from these creeks into Lake Whitney which flows into the Brazos River (a TNW).
Tributary stream order, if known: Varies.

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

Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

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

Average width: 5.0 feet

Average depth: 0.4 feet

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

Primary tributary substrate composition (check all that apply):

<input checked="" type="checkbox"/> Silts	<input type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover: .	
<input type="checkbox"/> Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Some bank erosion observed from cattle impacts.

Presence of run/riffle/pool complexes. Explain: some minor run/riffle/pools were observed.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): 10 %

(c) Flow:

Tributary provides for: **Intermittent but not seasonal flow**

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

Describe flow regime: Intermittent flow regime after rainfall events, but maintain some level of flow through large portions of the year.

Other information on duration and volume: .

Surface flow is: **Confined**. Characteristics: Maintained flow through large portions of the year.

Subsurface flow: **Unknown**. Explain findings: N/A.

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

<input type="checkbox"/> Bed and banks	
<input checked="" type="checkbox"/> OHWM ⁶ (check all indicators that apply):	
<input checked="" type="checkbox"/> clear, natural line impressed on the bank	<input type="checkbox"/> the presence of litter and debris
<input type="checkbox"/> changes in the character of soil	<input type="checkbox"/> destruction of terrestrial vegetation
<input type="checkbox"/> shelving	<input checked="" type="checkbox"/> the presence of wrack line
<input checked="" type="checkbox"/> vegetation matted down, bent, or absent	<input type="checkbox"/> sediment sorting
<input type="checkbox"/> leaf litter disturbed or washed away	<input type="checkbox"/> scour
<input checked="" type="checkbox"/> sediment deposition	<input checked="" type="checkbox"/> multiple observed or predicted flow events
<input type="checkbox"/> water staining	<input type="checkbox"/> abrupt change in plant community
<input type="checkbox"/> other (list):	
<input type="checkbox"/> Discontinuous OHWM. ⁷ Explain: .	

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

<input checked="" type="checkbox"/> High Tide Line indicated by:	<input type="checkbox"/> Mean High Water Mark indicated by:
<input type="checkbox"/> oil or scum line along shore objects	<input type="checkbox"/> survey to available datum;
<input type="checkbox"/> fine shell or debris deposits (foreshore)	<input type="checkbox"/> physical markings;
<input type="checkbox"/> physical markings/characteristics	<input type="checkbox"/> vegetation lines/changes in vegetation types.
<input type="checkbox"/> tidal gauges	
<input type="checkbox"/> other (list):	

(iii) **Chemical Characteristics:**

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.

⁷ Ibid.

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

Explain: Water did not appear to have any noticeable discoloration or odor.

Identify specific pollutants, if known: .

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

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☒ Habitat for:
 - ☐ Federally Listed species. Explain findings: .
 - ☐ Fish/spawn areas. Explain findings: .
 - ☐ Other environmentally-sensitive species. Explain findings: .
 - ☒ Aquatic/wildlife diversity. Explain findings: Limited invertebrates were observed.

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

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: 2.4 acres

Wetland type. Explain: Emergent Wetlands We-Wj and Wn.

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: Flow from wetland was observed from intermittent streams and upstream impoundments.

Surface flow is: **Discrete and confined**

Characteristics: Flow across wetlands was observed.

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

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting

☒ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☒ Separated by berm/barrier. Explain: Wetland Wd connects to OWc which is separated from Wb by an approximately 80-foot berm .

(d) Proximity (Relationship) to TNW

Project wetlands are **5-10** river miles from TNW.

Project waters are **5-10** aerial (straight) miles from TNW.

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

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Water generally appeared to be clear.

Identify specific pollutants, if known: .

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

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☒ Habitat for:
 - ☐ Federally Listed species. Explain findings: .
 - ☐ Fish/spawn areas. Explain findings: .
 - ☐ Other environmentally-sensitive species. Explain findings: .
 - ☒ Aquatic/wildlife diversity. Explain findings: Limited invertebrates were observed.

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **14**

Approximately (8.1) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Wb - Y	2.6		
Wc - Y	0.80		
Wd - N	0.17		
We - Y	0.23		
Wf - Y	0.09		
Wg - Y	1.5		
Wh - Y	<0.01		
Wi - Y	0.15		
Wj - Y	0.13		
Wk - Y	0.17		
Wl - Y	1.9		
Wm - Y	0.07		
Wn - Y	0.24		

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

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: Ephemeral stream Sa totals 188 linear feet and was observed within the study area. Stream Sa flows into an unnamed tributary which eventually flows into Childress Creek which flows into the Brazos River, a TNW. This ephemeral stream has the capacity to reduce pollutants/flood waters into the Brazos River. This stream provides habitat for species. Due to its downstream hydrologic connection to other jurisdictional features, these tributaries have the capacity to transfer nutrients that support downstream food webs.
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: .
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: Emergent wetland Wd was separated from OWc by an approximately 80-foot berm and ground water was observed seeping into OWc from the upgradient Wd. This wetland has the capacity to reduce pollutants/flood waters to the Brazos River, a TNW.

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: Based on field observations, it appears there are ten (10) streams that have an intermittent flow regime.

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

☒ Tributary waters: **3,077** linear feet **5** width (ft).
☐ Other non-wetland waters: acres.

Identify type(s) of waters: **Ten (10) intermittent streams.**

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: **188** linear feet **3** width (ft).
☐ Other non-wetland waters: acres.

Identify type(s) of waters: **One (1) ephemeral stream.**

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: Wb directly abuts OWd. Wc directly abuts offsite tributary. We directly abuts Sc. Wf directly abuts Sd. Wg directly abuts Se. Wh directly abuts Se. Wi directly abuts Sg. Wj directly abuts Sh. Wk directly abuts an offsite tributary. Wl directly abuts Sj. Wm directly abuts OWj. Wn directly abuts Sk. Wo directly abuts Si.

Provide acreage estimates for jurisdictional wetlands in the review area: **7.9** 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.

Provide acreage estimates for jurisdictional wetlands in the review area: **0.17** 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.

⁸See Footnote # 3.

Provide estimates for jurisdictional wetlands in the review area: **0** 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.,” 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/or appropriate Regional Supplements.
- ☒ 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: .
- ☐ 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: 1.7 acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: 0.2 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.

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.

- ☐ 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: Quadrangles: Allen Bend, Pilot Knob.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Bosque County USDA Web Soil Map, 2020.
- ☐ National wetlands inventory map(s). Cite name: National Wetlands Inventory Map, USFWS.
- ☐ State/Local wetland inventory map(s): .
- ☒ FEMA/FIRM maps: Online Flood Hazard Layer Mapper, August 2021.
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): TNRIS TOP 2015 and NAIP 1996, 2018.
- or ☒ Other (Name & Date): Ground Level Photographs, September 2020.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

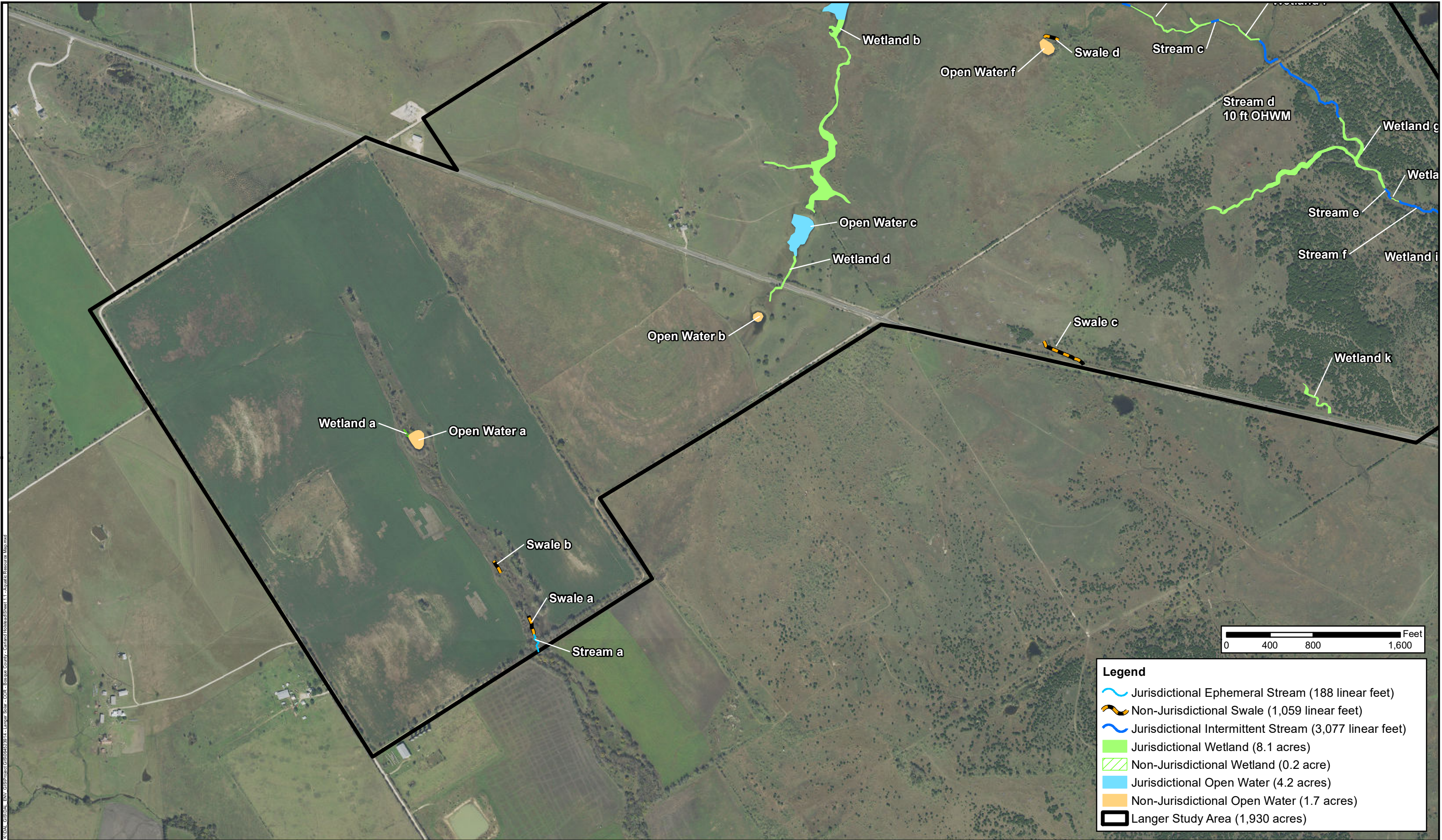
B. ADDITIONAL COMMENTS TO SUPPORT JD: Swales a-f are not jurisdictional as they were observed to be vegetated across the bottom and have no OHWM. Wetland Wa has a connection to OWa, however, wetland Wa is not jurisdictional because OWa is isolated and does not contribute surface water flow to a jurisdictional feature. Open water features a-b, e-g, i, and k are not jurisdictional as they were observed to be isolated and had no surface water connections to jurisdictional waters. Therefore, all of these features would likely not pass a significant nexus evaluation. These features are not used by interstate or foreign travelers for recreation or other purposes, would not be used for industrial purposes by industries in interstate commerce, and would not be used to take fish or shellfish sold in interstate or foreign commerce.

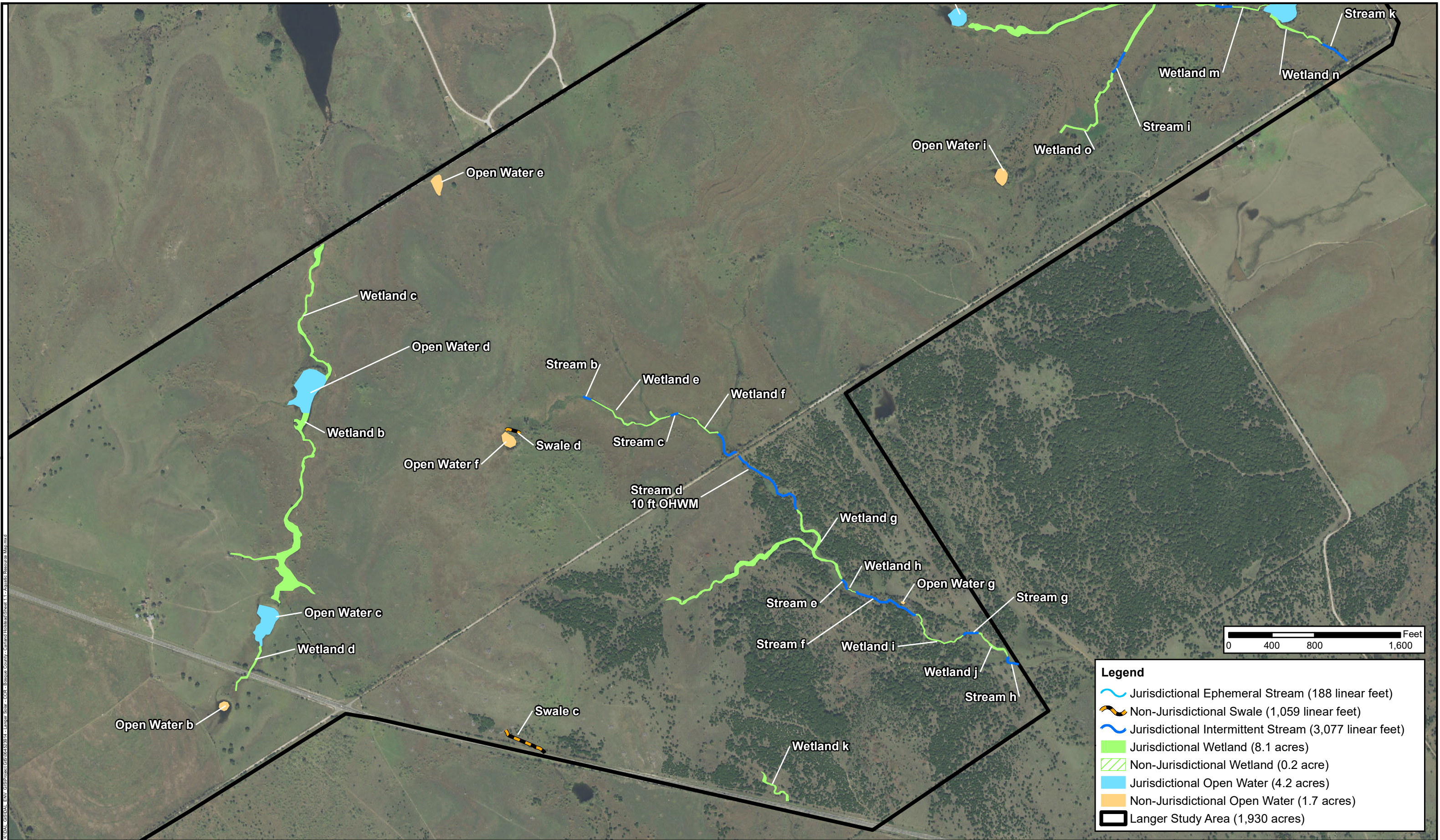
TABLE of aquatic resources for AJD SWF-2021-00129

Waters_Nam e	Latitude	Longitude	Waters Size	Type Of Aquatic Resource	Geographic Authority
Open Water A	31.8817 2	-97.52192	.41 ACRES	ISOLATE	Non-jurisdictional
Open Water B	31.8845 9	-97.51174	.13 ACRES	ISOLATE	Non-jurisdictional
Open Water C	31.8867 1	-97.51043	1.1 ACRES	RPW	Jurisdictional
Open Water D	31.8926 6	-97.50898	1.8 ACRES	RPW	Jurisdictional
Open Water E	31.8978 3	-97.50493	.3 ACRES	ISOLATE	Non-jurisdictional
Open Water F	31.8912 2	-97.50298	.28 ACRES	ISOLATE	Non-jurisdictional
Open Water G	31.8868	-97.49126	.01 ACRES	ISOLATE	Non-jurisdictional
Open Water H	31.9017 7	-97.48916	.47 ACRES	RPW	Jurisdictional
Open Water I	31.8976 6	-97.48797	.3 ACRES	ISOLATE	Non-jurisdictional
Open Water J	31.9017	-97.47939	.88 ACRES	RPW	Jurisdictional
Open Water K	31.9080 3	-97.48136	.27 ACRES	ISOLATE	Non-jurisdictional
Stream A	31.8765 1	-97.51849	188 FEET	RPW	Jurisdictional
Stream B	31.8922 5	-97.5006	82 FEET	RPW	Jurisdictional
Stream C	31.8917 7	-97.49798	75 FEET	RPW	Jurisdictional
Stream D	31.8903 5	-97.49572	1165 FEET	RPW	Jurisdictional
Stream E	31.8873 1	-97.49296	119 FEET	RPW	Jurisdictional
Stream F	31.8868 2	-97.49174	643 FEET	RPW	Jurisdictional
Stream G	31.8859 7	-97.48925	153 FEET	RPW	Jurisdictional
Stream H	31.8851 8	-97.48809	170 FEET	RPW	Jurisdictional
Stream I	31.9004 9	-97.48453	226 FEET	RPW	Jurisdictional
Stream J	31.9018 6	-97.48116	160 FEET	RPW	Jurisdictional
Stream K	31.9006 9	-97.47789	285 FEET	RPW	Jurisdictional
Swale A	31.8769 4	-97.51867	186 FEET	NRPW	Non-jurisdictional

TABLE of aquatic resources for AJD SWF-2021-00129

Swale B	31.8784 4	-97.51964	128 FEET	ISOLATE	Non-jurisdictional
Swale C	31.8834 7	-97.50273	440 FEET	NRPW	Non-jurisdictional
Swale D	31.9467	-97.50284	145 FEET	ISOLATE	Non-jurisdictional
Swale E	31.9065	-97.48788	104 FEET	ISOLATE	Non-jurisdictional
Swale F	31.9083 1	-97.48138	56 FEET	ISOLATE	Non-jurisdictional
Wetland A	31.8818 8	-97.52227	.02 ACRES	ISOLATE	Jurisdictional
Wetland B	31.8889 2	-97.50963	2.6 ACRES	RPWWD	Jurisdictional
Wetland C	31.8947 7	-97.50874	.8 ACRES	RPWWD	Jurisdictional
Wetland D	31.8855 4	-97.51074	.17 ACRES	RPWWD	Jurisdictional
Wetland E	31.8917	-97.49914	.23 ACRES	RPWWD	Jurisdictional
Wetland F	31.8914 9	-97.43721	.09 ACRES	RPWWD	Jurisdictional
Wetland G	31.8879 8	-97.49531	1.5 ACRES	RPWWD	Jurisdictional
Wetland H	31.8871 3	-97.49278	.01 ACRES	RPWWD	Jurisdictional
Wetland I	31.8859 6	-97.4903	.15 ACRES	RPWWD	Jurisdictional
Wetland J	31.8856 4	-97.48856	.13 ACRES	RPWWD	Jurisdictional
Wetland K	31.8821 4	-97.49526	.17 ACRES	RPWWD	Jurisdictional
Wetland L	31.9016 4	-97.48532	1.9 ACRES	RPWWD	Jurisdictional
Wetland M	31.9018 2	-97.48038	.07 ACRES	RPWWD	Jurisdictional
Wetland N	31.9012 6	-97.47914	.24 ACRES	RPWWD	Jurisdictional
Wetland O	31.8993 3	-97.48519	.38 ACRES	RPWWD	Jurisdictional





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EXHIBIT 1.2	DATE:	08/12/2021	AQUATIC RESOURCES DELINEATION MAP Source: TNRIS, NAIP 2018	Cypress Creek Renewables, LLC LANGER SOLAR, LLC Bosque County, Texas		Kimley»Horn <small>This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.</small>
	DESIGN:	TMB				
	CHECKED:	MREA				
	KHA NO.:	064523914				

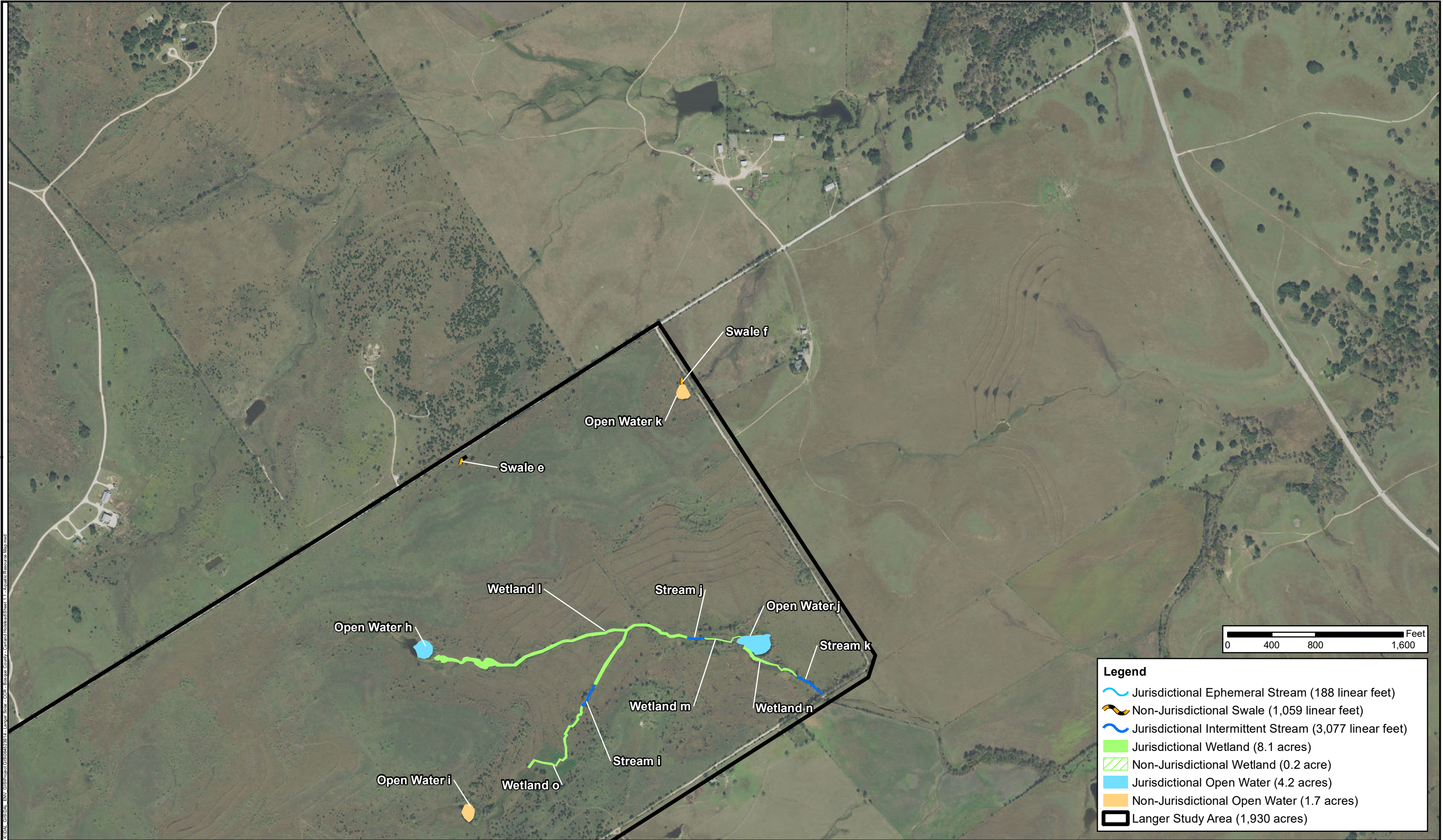



EXHIBIT 1.3	DATE:	08/12/2021	AQUATIC RESOURCES DELINEATION MAP Source: TNRIIS, NAIP 2018	Cypress Creek Renewables, LLC LANGER SOLAR, LLC Bosque County, Texas		Kimley»Horn <small>This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.</small>
	DESIGN:	TMB				
	CHECKED:	MREA				
	KHA NO.:	064523914				