



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 17, 2020

Regulatory Division

SUBJECT: Project Number SWF-2016-00015, Union Park

Ms. Reneé Cousins, PE
Hillwood Communities
3000 Turtle Creek Blvd
Dallas, Texas 75219
Renee.Cousins@hillwood.com

Dear Ms. Cousins:

This letter is in regard to the information received July 16, 2020, and subsequent submittal received on September 8, 2020, concerning a request by Hillwood Communities for an Approved Jurisdictional Determination on a 171.73-acre site located on the corner of Fish Trap Road and Navo Road in Little Elm, Denton County, Texas (Latitude: 33.23376°, Longitude: -96.92511°). This project has been assigned Project Number SWF-2016-00015. Please include this number in all future correspondence concerning this project.

We have reviewed the site in question in accordance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Under Section 404, the USACE regulates the discharge of dredged and fill material into waters of the United States, including wetlands. Our responsibility under Section 10 is to regulate any work in, or affecting, navigable waters of the United States.

Based on the report that you submitted, and other information available to us, waters of the United States under Section 404 do exist on the site. We concur with the delineation of waters that is made in the attached map entitled "Union Park Potential Water Features Exhibit". This approved jurisdictional determination (JD) is valid for a period of no more than five years from the date of this letter unless new information warrants revision of the delineation before the expiration date.

This determination does not convey any property rights, either in real estate or material or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or Federal, State, or local laws or regulations. This determination does not eliminate the requirements to obtain State or local permits or approvals as needed.

Department of the Army authorization would be required for the discharge of dredged or fill material into any areas identified as waters of the United States. If you anticipate a discharge, please provide us with a detailed description of the proposed project, a suitable map of the proposed project area showing the location of proposed discharges, the type and amount of material (temporary or permanent), if any, to be discharged, and plan and cross-section views of

the proposed project. Please note that it is unlawful to start work without a Department of the Army permit if one is required.

The Applicant may accept or appeal this approved JD or provide new information in accordance with the enclosed Notification of Administration Appeal Options and Process and Request for Appeal (NAAOP-RFA). If the Applicant elects to appeal this approved JD, the Applicant must complete Section II (Request for Appeal or Objections to an Initial Proffered Permit) of the enclosure and return it to the Division Engineer, ATTN: CESWD-PD-O Appeals Review Officer, U.S. Army Corps of Engineers, 1100 Commerce Street, Dallas, Suite 831, Texas 75242-0216 within 60 days of the date of this notice. Failure to notify the USACE within 60 days of the date of this notice means you accept the approved JD in its entirety and waive all rights to appeal the approved JD.

Thank you for your interest in our nation's water resources. If you have any questions concerning our regulatory program please refer to our website at <http://www.swf.usace.army.mil/Missions/Regulatory> or contact Ms. Hannah Halydier at the address above, by telephone (817) 886-1745, or by email Hannah.Halydier@usace.army.mil, and refer to your assigned project number.

Please help the regulatory program improve its service by completing the survey on the following website: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

Sincerely,

(for) Brandon W. Mobley
Chief, Regulatory Division

Enclosures:

Notification of Appeal Options
Union Park Potential Water Features Map
Approved Jurisdictional Determination Form and Attachments

Copy Furnished:

Ms. Lindi Webber
Peloton Land Solutions
Lindi.weber@pelotonland.com

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Hillwood Communities	File Number: SWF-2016-00015	Date: September 15, 2020
Attached is:		See Section below
INITIAL PROFFERED PERMIT		A
PROFFERED PERMIT (Standard Permit or Letter of permission)		B
PERMIT DENIAL		C
APPROVED JURISDICTIONAL DETERMINATION		D
PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
Ms. Hannah Halydier
Regulatory Division (CESWF-RC)
U.S. Army Corps of Engineers, Fort Worth District
819 Taylor Street, Room 3A37, P.O. Box 17300
Fort Worth, TX 76102-0300
(817) 886-1745
hannah.halydier@usace.army.mil

If you only have questions regarding the appeal process you may also contact:
Mr. Elliott Carman
Administrative Appeals Review Officer (CESWD-PD-O)
U.S. Army Corps of Engineers
1100 Commerce Street, Suite 831
Dallas , Texas 75242-1317
469-487-7061

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



Legend

-  Project Area
-  Impoundment of Jurisdictional Water
-  Tributary (Intermittent Stream)
-  Ephemeral Stream (Non-Jurisdictional per NWPR)

SHEET NO. 1
GRAPHIC SCALE




Union Park
Potential
Water Features Exhibit
 Little Elm, Denton County, Texas

Prepared By:



9800 HILLWOOD PARKWAY, SUITE 250
 FORT WORTH, TX 76177
 PHONE: 817-562-3350



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 16-SEP-2020

ORM Number: SWF-2016-00015

Associated JDs: N/A

Review Area Location¹:

State/Territory: Texas City: Little Elm County/Parish/Borough: Denton County

Center Coordinates of Review Area: Latitude: 33.23376 Longitude: -96.92511

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
SWF-2016-00015 Intermittent Stream	2000 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Contributes surface water flow into Lewisville Lake which eventually leads to the Trinity River, which is considered an (a)(1) water.
SWF-2016-00015 Intermittent Stream - Short	300 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Contributes surface water flow into Lewisville Lake which eventually leads to the Trinity River, which is considered an (a)(1) water.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
SWF-2016-00015 Impoundment 1	0.65 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Contributes surface water flow through an intermittent tributary that flows into Lewisville Lake which eventually leads to the Trinity River, which is considered an (a)(1) water.
SWF-2016-00015 Impoundment 2	0.85 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Contributes surface water flow through an intermittent tributary that flows into Lewisville Lake which eventually leads to the Trinity River, which is considered an (a)(1) water.

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A	N/A



U.S. ARMY CORPS OF ENGINEERS
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NAVIGABLE WATERS PROTECTION RULE

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
SWF-2016-00015 Ephemeral Stream	1000 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Surface water flows only in direct response to precipitation; does not meet the definition of an (a)(1) through (a)(4) waters.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: Union Park Potential Water Features Exhibit, dated 09/08/2020. This information is sufficient for purposes of this AJD. Rationale: N/A

Data sheets prepared by the Corps: *Title(s) and/or date(s)*.

Photographs: *(other) Attachment B, Recent Site Photos, dated June 25, 2020.*

Corps Site visit(s) conducted on: *Date(s)*.

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.

Antecedent Precipitation Tool: *see Section III.B.*

USDA NRCS Soil Survey: *Title(s) and/or date(s)*.

USFWS NWI maps: *Title(s) and/or date(s)*.

USGS topographic maps: *Title(s) and/or date(s)*.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	NOAA Record of Climatological Observations, Lincoln Park TX US1TXDN0021
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Palmer Drought Severity Index (PDSI) Map, May 2020

B. Typical year assessment(s): Typical year assessment is considered normal during dry conditions.

C. Additional comments to support AJD: Even though the date of review is a few days before the site visit was completed, the conditions are reflective of a typical year. See attached representative maps and photographs for more information.

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide and included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

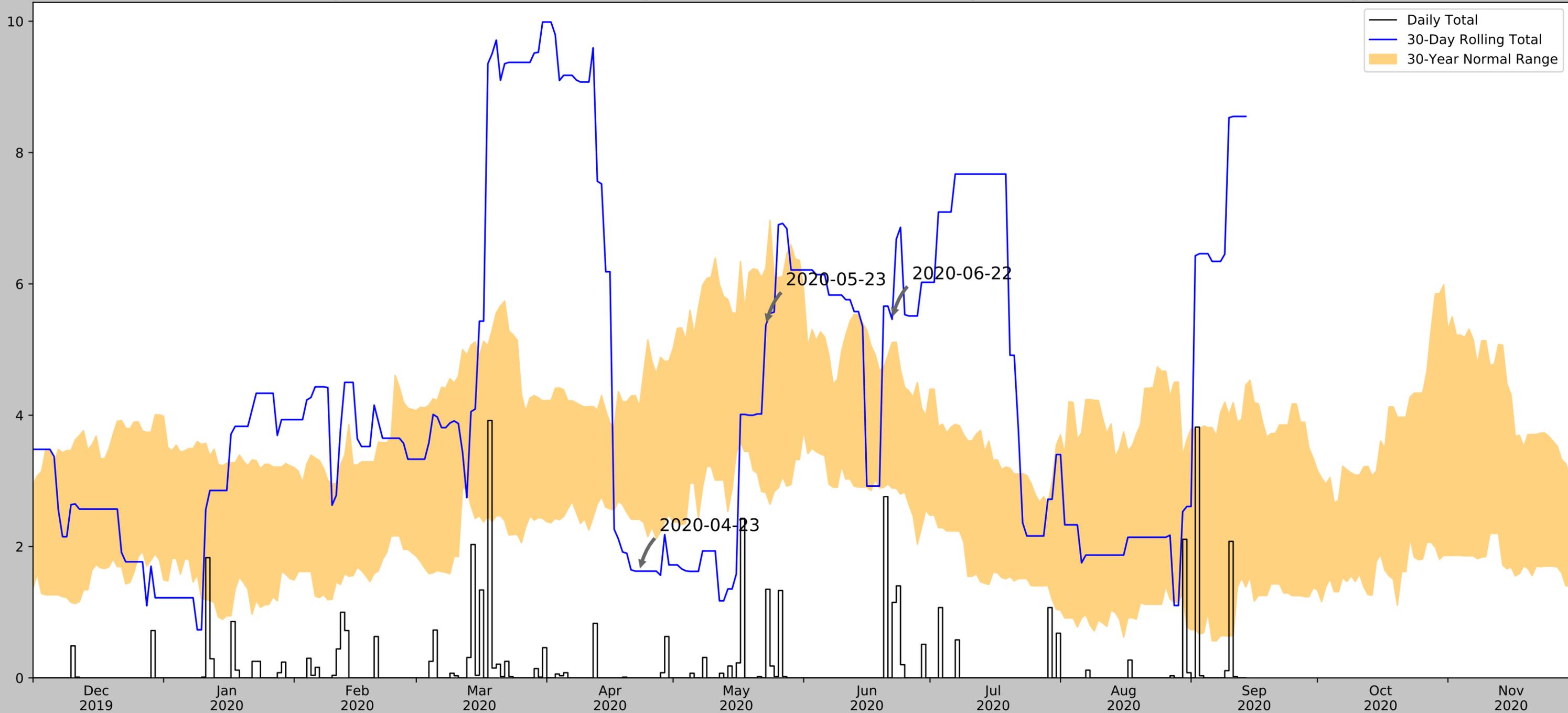
³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

Antecedent Precipitation vs Normal Range based on NOAA's Daily Global Historical Climatology Network

Rainfall (Inches)



Coordinates	33.23376, -96.92511
Observation Date	2020-06-22
Elevation (ft)	560.27
Drought Index (PDSI)	Moderate wetness
WebWIMP H ₂ O Balance	Dry Season

30 Days Ending	30 th %ile (in)	70 th %ile (in)	Observed (in)	Wetness Condition	Condition Value	Month Weight	Product
2020-06-22	2.888583	5.107874	5.46063	Wet	3	3	9
2020-05-23	2.823622	6.235827	5.370079	Normal	2	2	4
2020-04-23	2.414961	4.13937	1.625984	Dry	1	1	1
Result							Normal Conditions - 14

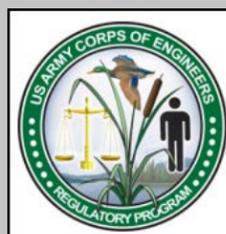


Figure and tables made by the
Antecedent Precipitation Tool
Version 1.0

Written by Jason Deters
U.S. Army Corps of Engineers

Weather Station Name	Coordinates	Elevation (ft)	Distance (mi)	Elevation Δ	Weighted Δ	Days (Normal)	Days (Antecedent)
FRISCO	33.1925, -96.7931	747.047	8.146	186.777	5.187	11351	90
LINCOLN PARK 0.8 ENE	33.2282, -96.9597	578.084	2.036	17.814	0.952	1	0

ATTACHMENT B

Recent Site Photographs



Photograph 1. View of Water 3. View is to the east (June 25, 2020).



Photograph 2. View of Water 3. View is to the east (June 25, 2020).



Photograph 3. View of Water 3. View is to the east (June 25, 2020).



Photograph 4. View of Water 3. View is to the east (June 25, 2020).

ATTACHMENT C

NOAA Record of Climatological Observations, Lincoln Park TX US1TXDN0021

Record of Climatological Observations

These data are quality controlled and may not be identical to the original observations.

Generated on 06/26/2020

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Year	Month	Day	Temperature (F)		At Observation	Precipitation					Evaporation		Soil Temperature (F)					
			24 Hrs. Ending at Observation Time			24 Hour Amounts Ending at Observation Time				At Obs. Time	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth			8 in. Depth		
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)	Flag				Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.
2020	06	01				0.00		0.0										
2020	06	02				0.00		0.0										
2020	06	03				0.00		0.0										
2020	06	04				0.00		0.0										
2020	06	05				0.00		0.0										
2020	06	06				0.00		0.0										
2020	06	07				0.00		0.0										
2020	06	08				0.00		0.0										
2020	06	09				0.00		0.0										
2020	06	10				0.00		0.0										
2020	06	11				0.00		0.0										
2020	06	12				0.00		0.0										
2020	06	13				0.00		0.0										
2020	06	14				0.00		0.0										
2020	06	15				0.00		0.0										
2020	06	16				0.00		0.0										
2020	06	17				0.00		0.0										
2020	06	18				0.00		0.0										
2020	06	19				0.00		0.0										
2020	06	20				2.25												
2020	06	21				T												
2020	06	22				1.34												
2020	06	23				0.60												
2020	06	24				0.03												
2020	06	25																
2020	06	26																
2020	06	27																
2020	06	28																
2020	06	29																
2020	06	30																
Summary						4.22		0.0										

Empty, or blank, cells indicate that a data observation was not reported.

*Ground Cover: 1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass muck; 8=Bare muck; 0=Unknown

"s" This data value failed one of NCDC's quality control tests.

"T" values in the Precipitation or Snow category above indicate a "trace" value was recorded.

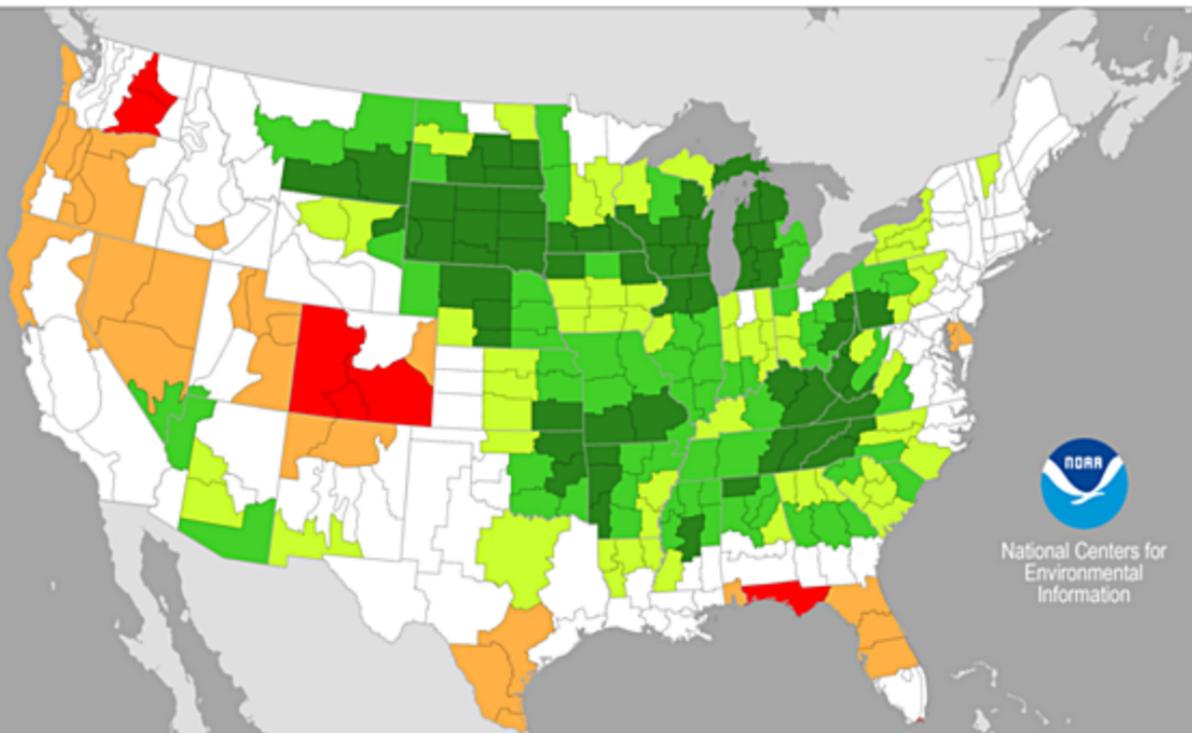
"A" values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

ATTACHMENT D

Palmer Drought Severity Index (PDSI), May 2020

Palmer Drought Severity Index

May, 2020



National Centers for
Environmental
Information

extreme
drought



-4.00
and
below

severe
drought



-3.00
to
-3.99

moderate
drought



-2.00
to
-2.99

mid-
range



-1.99
to
+1.99

moderately
moist



+2.00
to
+2.99

very
moist



+3.00
to
+3.99

extremely
moist



+4.00
and
above