



**US Army Corps
of Engineers** ®
Fort Worth District

Public Notice

Applicant: Eland Residential Development

Permit Application No.: SWF-2013-00390

Date: January 16, 2014

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

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JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States (WOUS) associated with the construction of the proposed Eland Residential Development in the city of Frisco, Collin County, Texas.

APPLICANT: Newland Real Estate Group, LLC

APPLICATION NUMBER: SWF-2013-00390

DATE ISSUED: January 16, 2014

LOCATION: The proposed Eland Residential Development would be located on a parcel of land that drains into Panther Creek that flows into Lake Lewisville, an impoundment of the Elm Fork of the Trinity River, in the city of Frisco, Denton County, Texas. The proposed project would be located approximately at Latitude 32.211 and Longitude -96.865 on the Frisco, 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 12030103 (Sheets 1-4 of 4).

OTHER AGENCY AUTHORIZATIONS: Section 401 State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 410 cubic yards of fill material into approximately 0.24 acres of WOUS in conjunction with the construction of the proposed residential development. Total proposed impacts to WOUS include direct permanent impacts to 0.05 acre of open water pond and 3,530 linear feet (0.15 acres) of ephemeral stream. Because plans for traffic connections to the project area are not yet finalized by the City of Frisco, major access thoroughfares are shown only to the proposed project boundary (Sheets 3 and 4 of 4).

EXISTING CONDITIONS: The project area is characterized into two plant communities: grazed pasture/scrub shrub mixture, and agriculture. The WOUS located within the agricultural area consists of four ephemeral streams (E1-E5). These tributaries (E1-E5) drain the project site from the south through the middle of the project and ultimately discharge into Panther Creek, which is south of the project area.

Five ephemeral streams within the project area average a 3-foot ordinary high water mark. The project area is dominated with mesquite (*Prosopis glandulosa*),

honey locust (*Gleditsia triacanthos*), hackberry (*Celtis laevigata*), cedar elm (*Ulmus crassifolia*), common broomweed (*Amphiachryis dracunculoides*), sensitive briar (*Mimosa nuttallii*), rouch cocklebur (*Xanthium strumarium*), and ryegrass (*Lolium perenne*).

ALTERNATIVES: The applicant considered four alternatives in an effort to avoid and minimize adverse impacts to WOUS. Alternative 1 is the no build alternative. The no build alternative would not impact WOUS but would not fulfill the high residential housing demands within the surrounding community. Alternative 2, constructing without impacts to WOUS, would also not impact WOUS, but this would also severely limit the residential lots and roadways along the center of the project area lowering the income generated by the development making it overall economically unfeasible to provide moderately priced housing within the area. Alternative 3, the applicant's preferred alternative, would result in the loss of approximately 0.15 acres of WOUS. This alternative places fill into the water features throughout the residential development. This alternative would allow for the construction of the maximum number of lots. Mitigation bank credits would be purchased to compensate for the impacts to WOUS. Alternative 4, maximization of residential lots alternative, consists of greater impacts to WOUS. Due to the topography of the site, extensive grading and filling would be required for the proposed configuration. Grading and filling are costly and this alternative would severely limit the number of residential lots and would be economically unfeasible.

MITIGATION: The applicant's proposed compensatory mitigation includes the purchase of credits from the Trinity River Mitigation Bank compliant with the terms of their approved mitigation banking instrument. Specifically, the required credit calculations are: 3,530 linear feet ephemeral stream X 0.005 credit/linear foot = 17.65, rounded to 17.7 ephemeral stream credits; and 0.05 acre open water pond X 2 credits/acre = 0.1 open water credit.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the

needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE in determining whether to issue, issue with modifications, or conditions, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION: This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with the processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 31, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. **Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, and P.O. Box 13087, Austin, Texas 78711-3087.** The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The complete application may be reviewed in the USACE's office. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in a Collin County where the whooping crane (*Grus americana*) are known to occur or may occur as migrants. The whooping cranes are endangered species. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The area of the proposed project has never been formally surveyed for the presence of historic or prehistoric cultural resources. There are no prehistoric or historic sites listed on the National Register of Historic Places within the vicinity of the proposed development. Though, the area has been modified by historic agriculture, including terracing, some potential exists for the presence of 19th and 20th century agricultural structures and features. Similar areas on the prairies of the upper Trinity River drainage tend to have a low potential for prehistoric cultural resources.

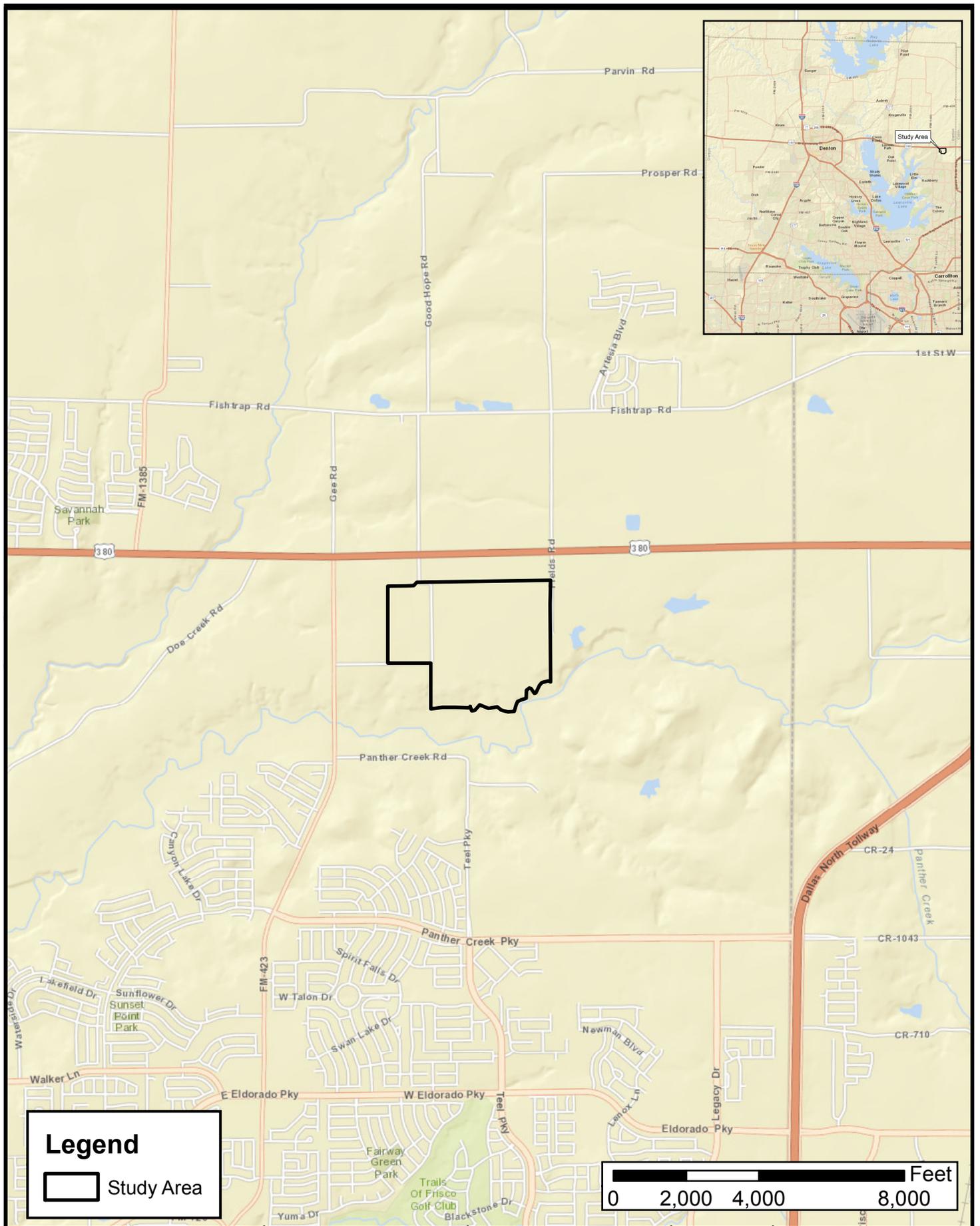
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

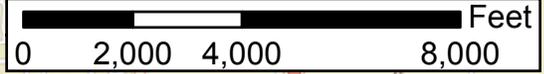
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before February 18, 2014, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to ; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



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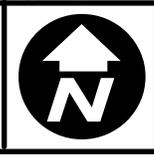
 Study Area



SHEET 1 OF 4 SHEETS	DATE:	11/11/2013
	DESIGN:	SCR
	DRAWN:	SCR
	CHECKED:	LDC
	KHA NO.:	069312000

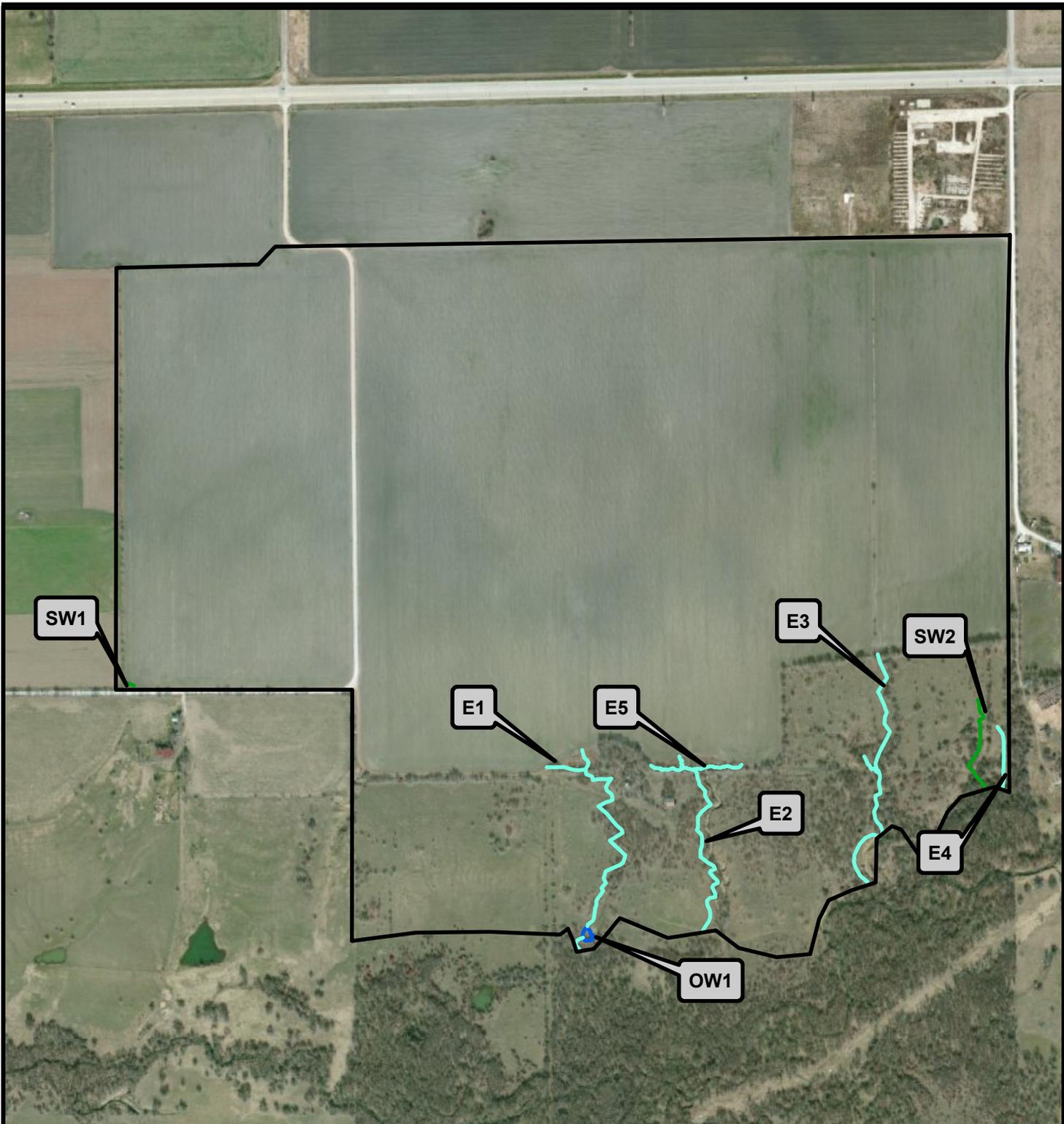
Vicinity Map

SWF-2013-00390
Eland Tract
 Frisco, Denton County, Texas




Kimley-Horn and Associates, Inc.

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Legend

-  Study Area
-  Ephemeral Stream 4,990-linear feet, jurisdictional
-  Pond, 0.05-acres, jurisdictional
-  Swale, 575-linear feet, non-jurisdictional



SHEET 2 OF 4 SHEETS	DATE:	12/18/2013
	DESIGN:	SCR
	DRAWN:	SCR
	CHECKED:	LDC
	KHA NO.:	069312000

waters of the U.S.
Aerial Source: TNRIS 2012

SWF-2013-00390
Eland Tract
Frisco, Denton County, Texas




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and Associates, Inc.

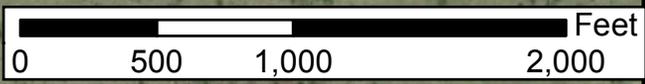
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Legend

 Study Area

 Site Plan

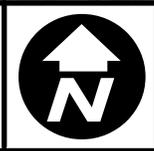


SHEET 3 OF 4 SHEETS	DATE:	12/18/2013
	DESIGN:	SCR
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	CHECKED:	LDC
	KHA NO.:	069312000

Site Plan

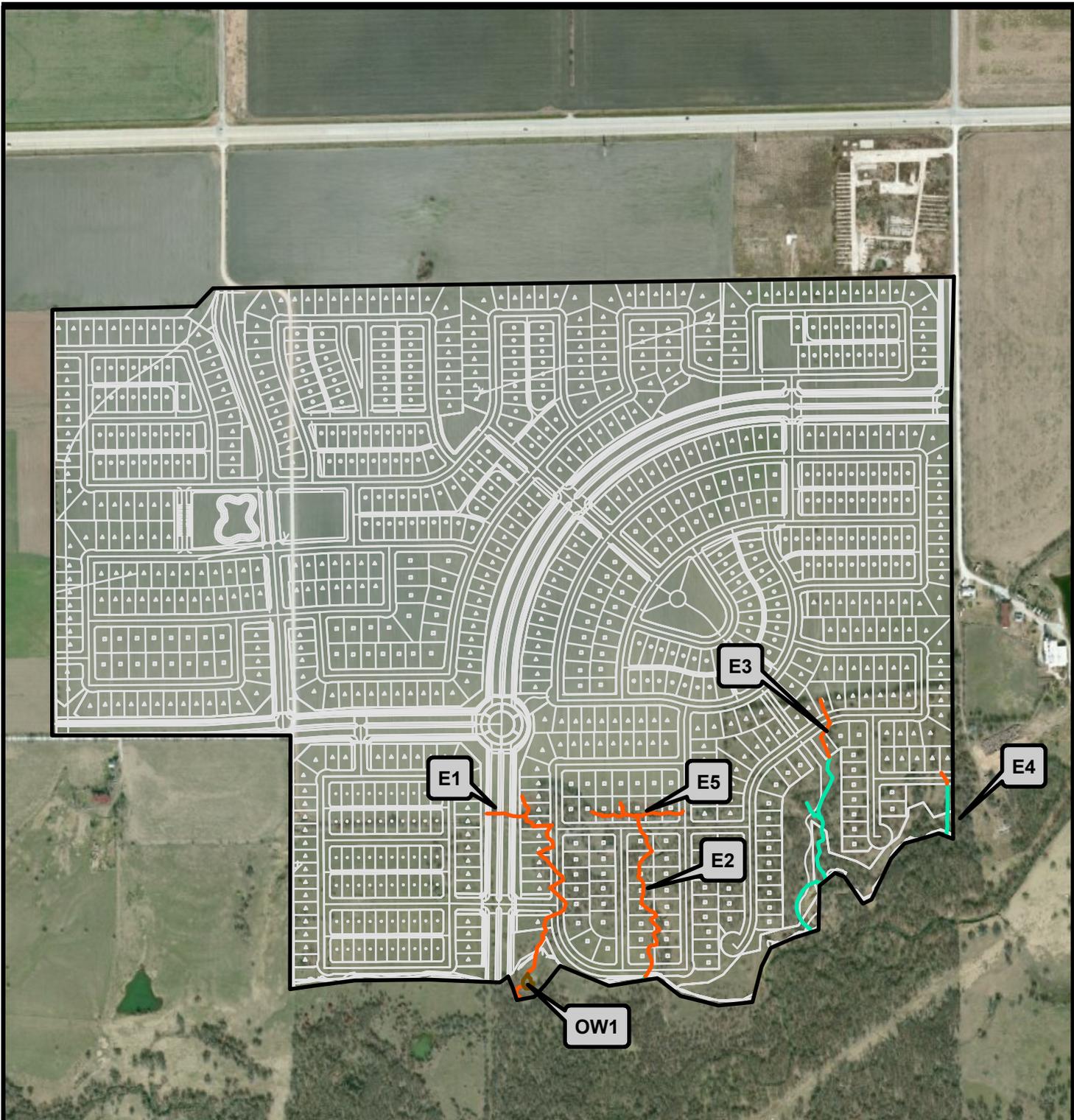
Aerial Source: TNRIS 2012

SWF-2013-00390
Eland Tract
Frisco, Denton County, Texas



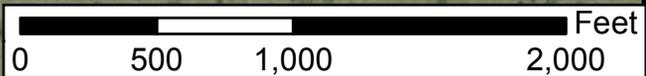
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Legend

-  Ponds Impacts, 0.05-acres, jurisdictional
-  Study Area
-  Ephemeral Streams Impacts, 3,530-linear feet, jurisdictional
-  Ephemeral Streams Avoided, 1,460-linear feet, jurisdictional
-  Site Plan



SHEET 4 OF 4 SHEETS	DATE:	12/18/2013
	DESIGN:	SCR
	DRAWN:	SCR
	CHECKED:	LDC
	KHA NO.:	069312000

waters of the U.S.
Impacts Map
Aerial Source: TNRIS 2012

SWF-2013-00390
Eland Tract

Frisco, Denton County, Texas



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