



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

Public Notice

Applicant: Hurd Urban Development, Ltd.

Project No.: SWF-2013-00479

Date: August 7, 2015

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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Phone Number: (817) 886-1744

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 development of 32 industrial lots in the final phase of the El Portal Industrial Park.

APPLICANT: Hurd Urban Development, Ltd.

APPLICATION NUMBER: SWF-2013-00479

DATE ISSUED: August 7, 2015

LOCATION: The proposed El Portal Industrial Park would be located on approximately 212 acres containing Las Manadas Creek Tributary 2, an unnamed tributary of Las Manadas Creek, an abutting wetland, and an in-channel pond located in Laredo, Webb County, Texas. The proposed project would be located approximately at UTM coordinates 451123.56 East and 3055042.33 North (Zone 14R) on the Laredo East 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 13080002 (Sheet 1 of 6).

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 1,700 cubic yards of fill material into approximately 1.73 acres of WOUS in conjunction with the construction of the eighth and final phase of the El Portal Industrial Park. Recent phases of the Park were developed without impacting WOUS. For phases older than 7 years, it is unknown whether WOUS were impacted.

The applicant's stated purpose for the proposed project is to develop the site in order to meet ongoing demand for industrial warehouse space in the Laredo area. The close proximity of Interstate 35 and the World Trade International Bridge presents an optimal location for industrial warehouse space.

EXISTING CONDITIONS: The majority of the site is undeveloped. There are two highly incised and entrenched streams which flow through the site. Dense brush and the absence of ground cover are common along the streams. Dominant vegetation found in the riparian areas consist of a low-growing (10 to 18 feet) woody canopy composed primarily of honey mesquite (*Prosopis glandulosa*), guajillo (*Acacia berlandieri*), and lime prickly ash (*Zanthoxylum fagara*). Secondary canopy and woody shrub elements observed on site are Texas persimmon (*Diospyros texana*), lotebush (*Ziziphus obtusifolia*), whitebrush (*Aloysia gratissima*), allthorn (*Castela texana*), blackbrush (*Acacia rigidula*), and bluewood (*Condalia hookeri*). Common understory species observed included Spanish dagger (*Yucca treculeana*), Texas prickly pear (*Opuntia engelmannii* var. *lindheimeri*), tasajillo (*Cylindropuntia leptocaulis*), and fishhook cacti (*Sclerocactus* sp.). Woody canopy cover varies heterogeneously across the site, varying between 30 percent and 90 percent, with an estimated average of 60 percent. Vegetative profiles generally present as dense thickets.

PROPOSED IMPACTS AND MITIGATION: Proposed impacts to WOUS would total 1.73 acres, including approximately 0.59 acre of emergent wetland, 0.10 acre of an in-channel impoundment, and 6,934 linear feet (1.04 acre) of ephemeral stream. Approximately 58 acres of 100-year floodplain are present on the project site. In order to maximize developable area on-site, the application proposes to fill 10 acres of floodplain; thus, reducing the 100-year floodplain to 48 acres.

The applicant has proposed on-site, permittee-responsible mitigation to offset adverse impacts associated with this project. The proposed mitigation would include the on-site construction of a 0.87-acre emergent wetland and 5,299 linear feet of ephemeral stream. The mitigation area would be protected in perpetuity by a conservation easement. A detailed mitigation plan specifying financial assurance amounts and mechanism, performance metrics, success criteria, detailed mitigation site plans, will be developed. The applicant also proposes to construct a high-flow detention pond located upstream of the mitigation site, in an effort to reduce flood velocity and volume and associated erosive conditions. The applicant is not seeking mitigation credit for the proposed detention pond.

ALTERNATIVES TO THE PROPOSED PROJECT:

As part of the permit application, the applicant has prepared a preliminary alternatives analysis, which is summarized below.

Alternative 1: This alternative would not result in adverse impacts to WOUS. Under this alternative the applicant would not eliminate any of the 58-acre 100-year floodplain present on-site. The project design would include the construction of a high-flow detention pond (constructed without a discharge of fill into WOUS) to be located upstream of IH-35 along Las Manadas Creek Tributary 2. Under this alternative developable area outside the floodplain would be limited to less than 109 acres of the 212-acre site. Approximately 103 acres of land adjacent to Las Manadas Creek Tributary 2 would remain undevelopable based on the location of the land and the corresponding floodplain. In addition, this alternative would not address the poor floodplain connectivity of the existing incised streams on the property. It is anticipated that development of an industrial park without addressing stream floodplain connectivity would result in further channel instability and erosion. Due to the restrictions of the amount of developable land and the possibility of further channel instability, the applicant deemed this alternative not practicable.

Alternative 2: This alternative would result in adverse impacts to approximately 1.73 acres of waters of the U.S., including approximately 0.59 acre of emergent wetland, 0.10 acre of an in-channel impoundment, and 6,934 linear feet (1.04 acre) of ephemeral stream. Under this alternative the applicant would eliminate approximately 10 acres of the 58-acre 100-year floodplain present on-site. The project design would include the construction of a detention pond to be located upstream of IH-35 along Las Manadas Creek Tributary 2. Approximately 60 acres would remain undeveloped. The project design would include the filling of WOUS to accommodate proposed lots. As part of the proposed compensatory mitigation plan, WOUS would be created near the middle section of the floodplain. The proposed grading would eliminate an existing reach of Las Manadas Creek that is characterized by a braided channel configuration. The existing wetland would be filled and replaced at the confluence of Las Manadas Creek Tributary 2 and an unnamed tributary of Las Manadas Creek. In order to improve storm water access to the floodplain, an existing berm located at the lower end of the Las Manadas Creek Tributary 2 would be removed and returned to pre-construction grades. Alternative 2 would yield approximately 152 acres of developable area. However, fill placement associated with the construction of lots would result in an increase of the 100-year surface water elevation, resulting in the flooding of adjacent property to the north and the TxDOT highway to the east. Due to the restrictions on the amount

of developable land, and lack of compliance with state and local floodplain regulations the applicant deemed this alternative not practicable.

Alternative 3: This alternative would result in adverse impacts to approximately 1.73 acres of waters of the U.S., including approximately 0.59 acre of emergent wetland, 0.10 acre of an in-channel impoundment, and 6,934 linear feet (1.04 acre) of ephemeral stream. Under this alternative the applicant would eliminate approximately 48 acres of the 58- acre 100-year floodplain present on-site. The project design would include the construction of a detention pond to be located upstream of IH-35 along Las Manadas Creek Tributary 2. The proposed lots would be raised above the 100-year flood elevation. Because large sections of stream area are currently incised, existing ground adjacent to Las Manadas Creek Tributary 2 and the unnamed tributary of Las Manadas Creek would also be graded down to reestablish connectivity between the stream and floodplain, while maintaining large sections of the existing streams. Where the existing streams would be disturbed, a new bankfull stream would be created within the lowered floodplain so a continuous, non-incised stream would be maintained through the site. Alternative 3 would maximize use of developable land, while complying with state and local floodplain regulations. Therefore this is the applicant's preferred alternative.

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 USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, 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, 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 TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting 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 Webb County where the least tern (*Sterna antillarum*), piping plover (*Chardrius melodus*), red knot (*Calidris canutus rufa*), Ashy dogweed (*Thymophylla tephroleuca*), Johnston's frankenia (*Frankenia johnstonii*), Gulf Coast jaguarondi (*Herpailurus yagouaroundi*), and Ocelot (*Leopardus pardalis*) are known to occur or may occur as migrants. The least tern, Ashy dogweed, Johnston's frankenia, Gulf Coast jaguarondi, and Ocelot are endangered species and the piping plover and red knot are threatened 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 USACE has reviewed the latest complete published version of the National Register of Historic Places and found no listed properties to be in the project area. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit.

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.

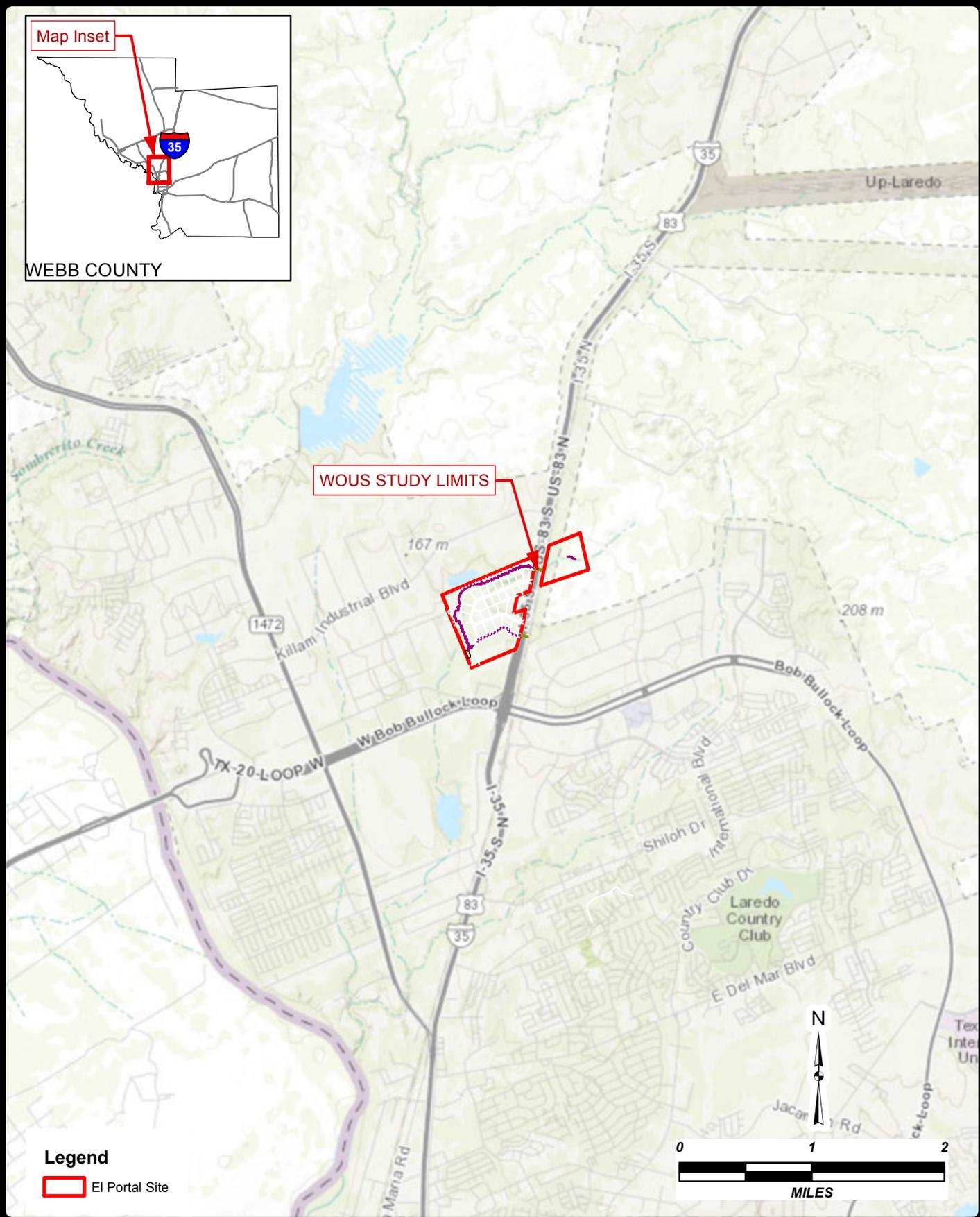
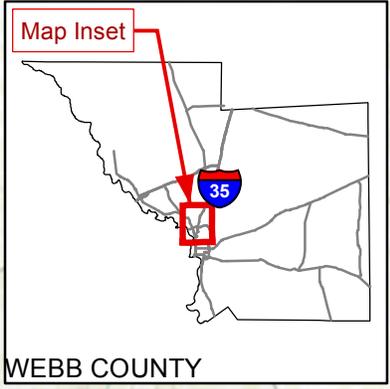
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted 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 September 8, 2015, 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-DE-R; U. S.

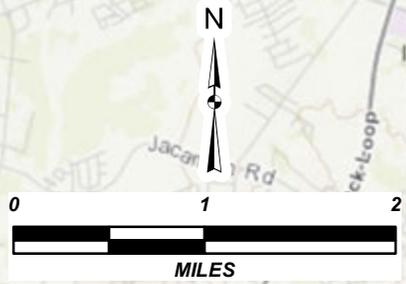
Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please 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



Legend

El Portal Site



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JOB NO. 7945-00

DATE Jul 2015

DESIGNER PSS

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SHEET 1 of 6

EL PORTAL INDUSTRIAL SITE

SWF 2013-00479

LOCATION MAP

PAPE-DAWSON ENGINEERS

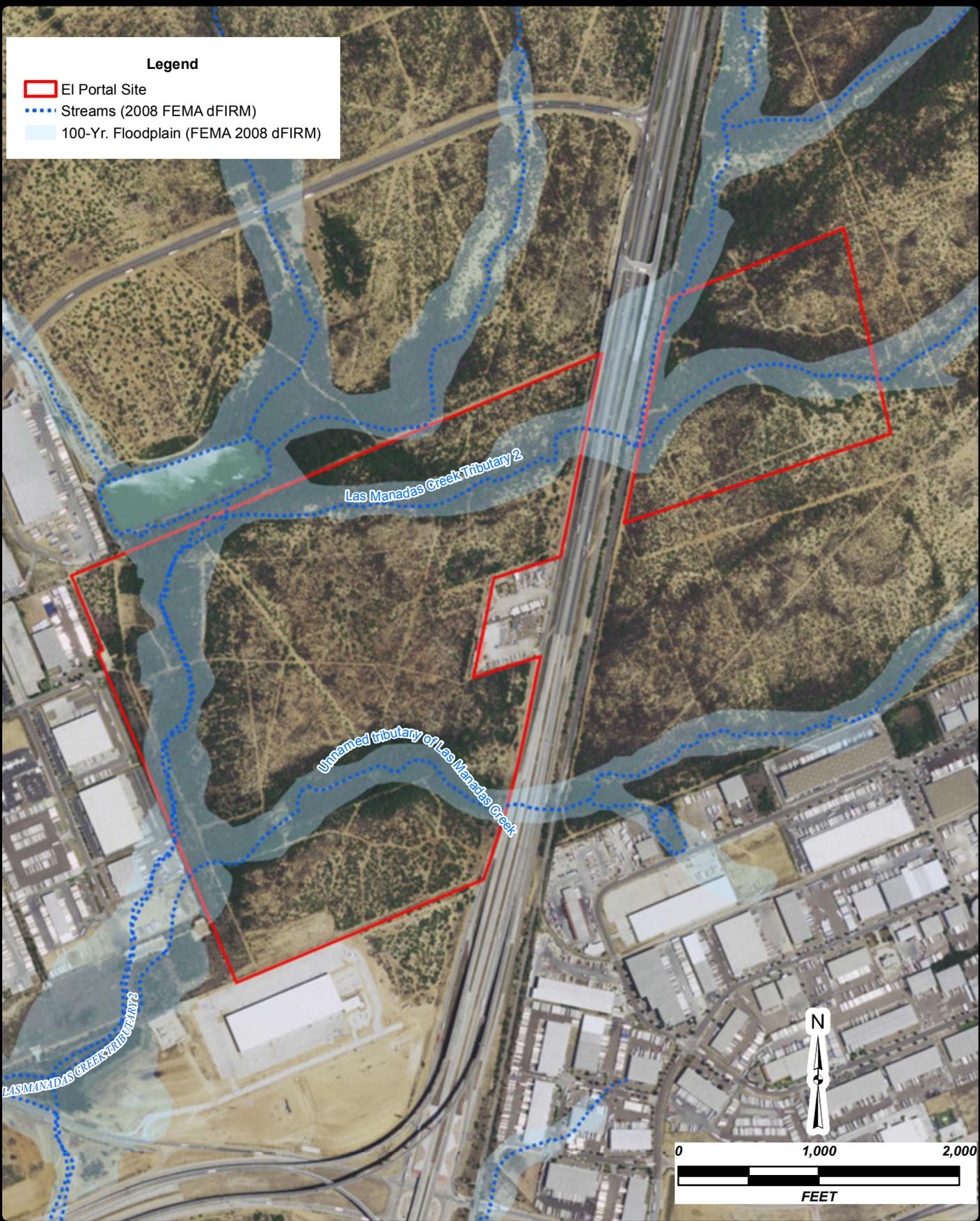
2000 NW LOOP 410 | SAN ANTONIO, TEXAS 78213 | PHONE: 210.375.9000
FAX: 210.375.9010

TEXAS BOARD OF PROFESSIONAL ENGINEERS, FIRM REGISTRATION # 470

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Legend

- El Portal Site
- Streams (2008 FEMA dFIRM)
- 100-Yr. Floodplain (FEMA 2008 dFIRM)



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 SHEET 2 of 6

EL PORTAL INDUSTRIAL SITE
SWF 2013-00479
SITE MAP


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Legend

-  El Portal Site
-  Wetland (0.59 ac.)
-  Pond (0.10 ac.)
-  WOUS Delineated Stream
-  100-Yr. Floodplain (FEMA 2008 dFIRM)



Wetland (0.59 ac.)

Pond (0.10 ac.)



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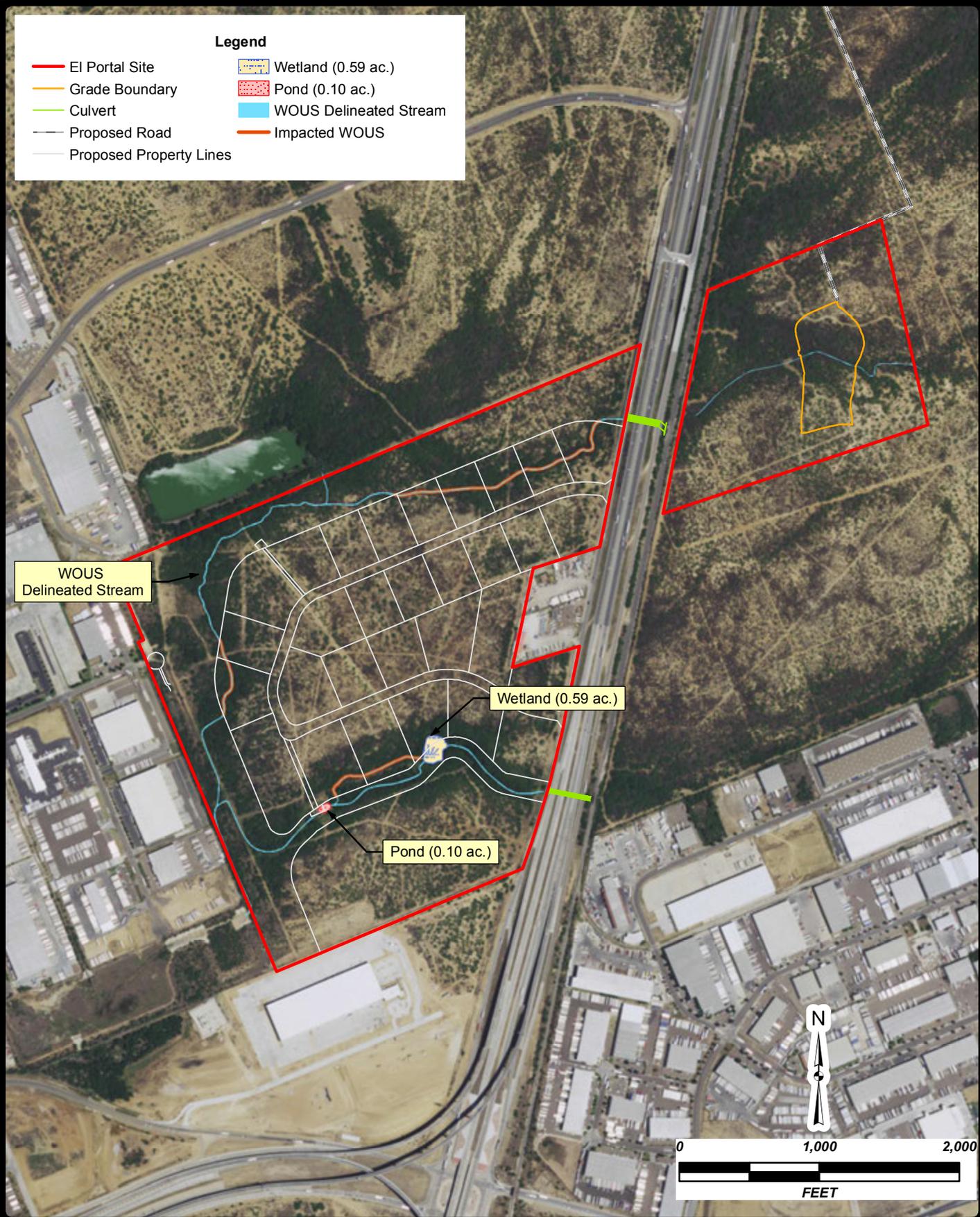
EL PORTAL INDUSTRIAL SITE
SWF 2013-00479
WOUS MAP

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Legend

- El Portal Site
- Grade Boundary
- Culvert
- Proposed Road
- Proposed Property Lines
- Wetland (0.59 ac.)
- Pond (0.10 ac.)
- WOUS Delineated Stream
- Impacted WOUS



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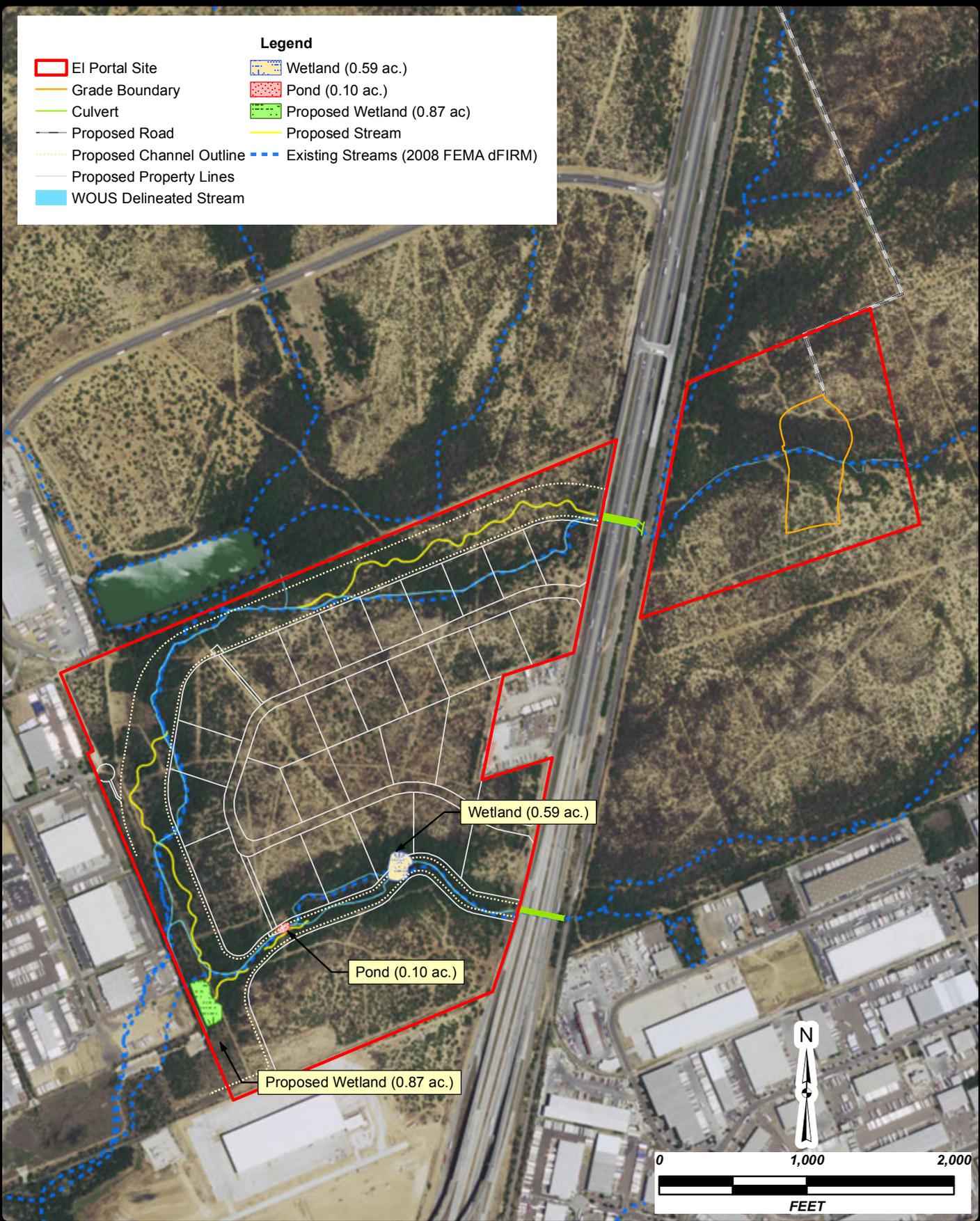
EL PORTAL INDUSTRIAL SITE
SWF 2013-00479
IMPACTS MAP

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Legend

- El Portal Site
- Grade Boundary
- Culvert
- Proposed Road
- Proposed Channel Outline
- Proposed Property Lines
- WOUS Delineated Stream
- Wetland (0.59 ac.)
- Pond (0.10 ac.)
- Proposed Wetland (0.87 ac)
- Proposed Stream
- Existing Streams (2008 FEMA dFIRM)



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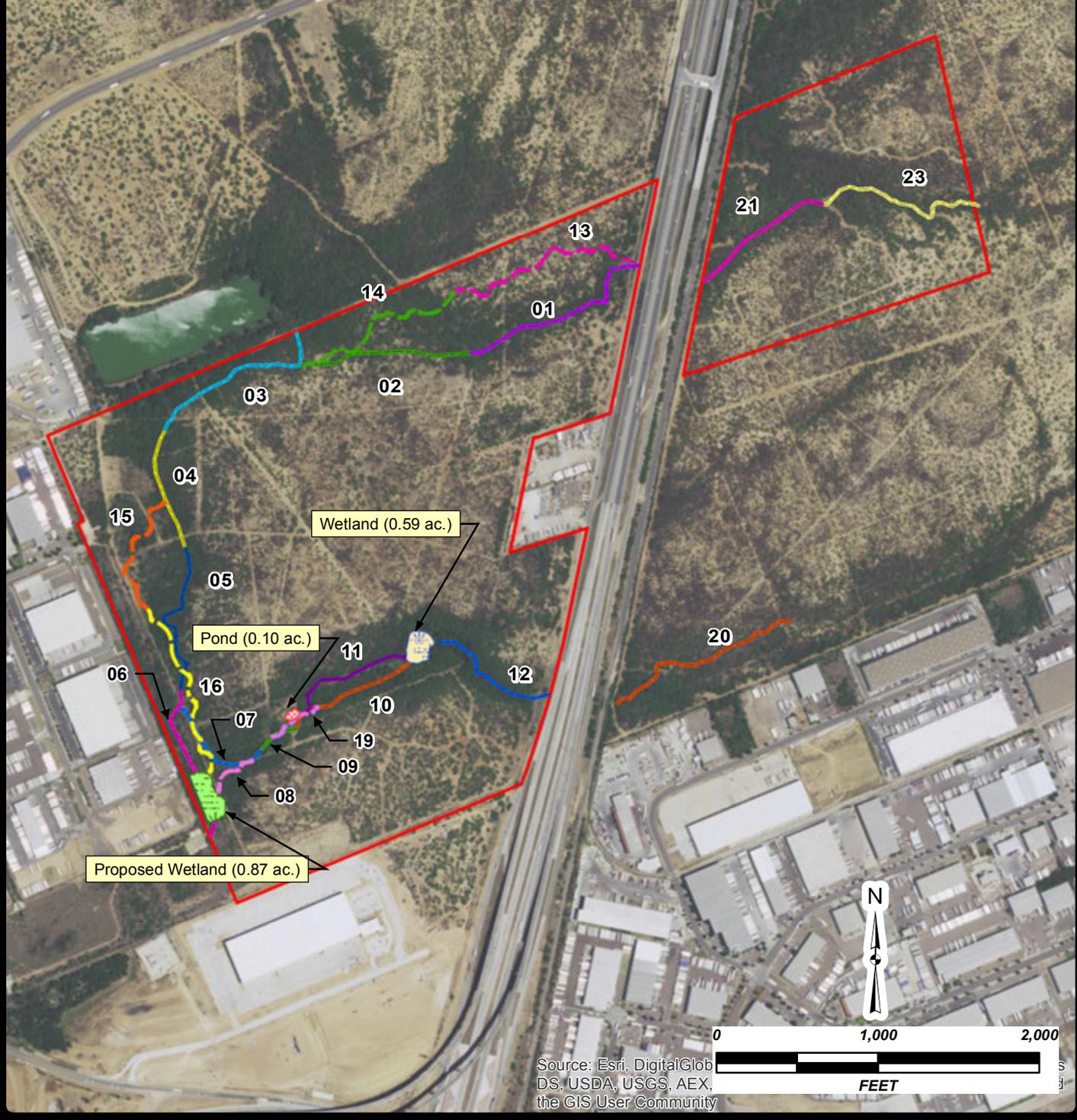
EL PORTAL INDUSTRIAL SITE
SWF 2013-00479
CONCEPTUAL MITIGATION PLAN

Pape-Dawson
ENGINEERS

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El Portal Site	SAR	05 (1054.76 LF)	11 (854.87 LF)	08 (349.08 LF)
Proposed Wetland (0.87 ac.)	01 (1305.01 LF)	06 (1002.29 LF)	12 (853.48 LF)	13 (1307.51 LF)
Wetland (0.59 ac.)	02 (1083.01 LF)	07 (737.96 LF)	20 (1317.58 LF)	14 (1159.85 LF)
Pond (0.10 ac.)	03 (1216.88 LF)	09 (272.60 LF)	21 (928.80 LF)	15 (885.24 LF)
*Denotes Existing	04 (768.35 LF)	10 (896.05 LF)	23 (1151.45 LF)	16 (1225.49 LF)
*Denotes Proposed				19 (372.05 LF)



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EL PORTAL INDUSTRIAL SITE
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TxRAM STREAM ASSESSMENT REACH MAP

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