



**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): 3/15/2021

ORM Number: N/ASWF-2021-00106

Associated JDs: N/A

Review Area Location¹: State/Territory: TX City: Midlothian County/Parish/Borough: Ellis

Center Coordinates of Review Area: Latitude 32.468164 Longitude -97.045573

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: .
- 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

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

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
ID-1	0.46	N/A.	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The drainage is a tributary to Soap Creek which flows to Joe Pool Lake and Mountain Creek before entering Trinity River near Dallas (TNW). This drainage had water at the time of the survey.

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 or 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 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.



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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		directly to an (a)(1) water in a typical year	
ID-2	0.10 AC.	N/A.	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. The drainage is a tributary to ID-1, which is a tributary to Soap Creek which flows to Joe Pool Lake and Mountain Creek before entering Trinity River near Dallas (TNW). This drainage had water at the time of the survey.
PD-1	1.36 AC.	N/A.	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. The drainage drains northwest and west to Cottonwood Creek then Soap Creek which flows to Joe Pool Lake and Mountain Creek before entering Trinity River near Dallas (TNW). This drainage contained water and was actively flowing during the site survey.
PD-2	0.07 AC.	N/A.	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. The drainage is a tributary to PD-1 which drains northwest and west to Cottonwood Creek then Soap Creek which flows to Joe Pool Lake and Mountain Creek before entering Trinity River near Dallas (TNW). This drainage contained water and was actively flowing during the site survey.

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
Pond-8	7.37	N/A.	(a)(3) Lake/pond or impoundment of a jurisdictional water inundated by flooding from an (a)(1)-(a)(3) water in a typical year. This pond is an impoundment of a natural stream associated with PD-1 and is connected to this drainage via PD-2.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
FEW-1	0.03	N/A.	(a)(4) Wetland abuts an (a)(1)-(a)(3) water. FEW-1 is part of a larger, offsite wetland. FEW-1 appears to have been formed by diking of PD-1 to form a pond on the adjacent landowner's property and is contiguous with PD-1.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
FEW-2	0.24	N/A.	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	FEW-2 is associated with Pond-8 and is contiguous with PD-2.
FEW-3	0.28	N/A.	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	FEW-3 is associated and contiguous with PD-2.
FW-01	0.02	N/A.	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	FW-01 is associated with PD-1 and ID-1.
FW-02	0.07	N/A.	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	FW-02 is associated with PD-1 and ID-1.
FW-03	0.02	N/A.	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	FW-03 is associated with PD-1 and ID-1.
FW-04	0.01	N/A.	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	FW-04 is associated with PD-1 and ID-1.
FW-05	0.03	N/A.	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	FW-05 is associated with PD-1 and ID-1.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
AD-1	0.04	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Feature is a ditch dug in uplands.
ED-1	208	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature is an ephemeral drainage.
ED-2	107	linear feet	(b)(3) Ephemeral feature, including an ephemeral	Feature is an ephemeral drainage.

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.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		stream, swale, gully, rill, or pool.	
ED-3	284	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral drainage.
ED-4	23	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral drainage.
ED-5	172	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral drainage.
ED-6	1011	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral drainage.
ED-7	117	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral drainage.
ED-8	99	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral drainage.
ED-9	104	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral drainage.
Pond-1	0.31	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of The pond is an isolated stock pond excavated and/or bermed in the upland landscape to provide water sources for cattle.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		a jurisdictional water that meets (c)(6).	
Pond-2	0.36	acre(s) (b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The pond is an isolated stock pond excavated and/or bermed in the upland landscape to provide water sources for cattle.
Pond-3	0.18	acre(s) (b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The pond is an isolated stock pond excavated and/or bermed in the upland landscape to provide water sources for cattle.
Pond-4	0.33	acre(s) (b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The pond is an isolated stock pond excavated and/or bermed in the upland landscape to provide water sources for cattle.
Pond-5	1.83	acre(s) (b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional	The pond is an isolated stock pond excavated and/or bermed in the upland landscape to provide water sources for cattle.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
			water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	
Pond-6	0.25	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The pond is an isolated stock pond excavated and/or bermed in the upland landscape to provide water sources for cattle.
Pond-7	0.21	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The pond is an isolated stock pond excavated and/or bermed in the upland landscape to provide water sources for cattle.
Pond-9	0.43	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The pond is an isolated stock pond excavated and/or bermed in the upland landscape to provide water sources for cattle.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
RS-1	1614	linear feet (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	RS-01 is a roadside swale that drains runoff and rainfall south along the roadway to a culvert that eventually drains to ID-1.
SW-1	0.20	acre(s) (b)(1) Non-adjacent wetland.	Adjacent to an isolated, excluded b(8) pond; therefore, it is not adjacent to an (a)(1)-(a)(3) waters.
SW-2	0.01	acre(s) (b)(1) Non-adjacent wetland.	Not adjacent to an (a)(1)-(a)(3) waters.
SW-3	0.28	acre(s) (b)(1) Non-adjacent wetland.	Not adjacent to an (a)(1)-(a)(3) waters.
SW-4	0.21	acre(s) (b)(1) Non-adjacent wetland.	Not adjacent to an (a)(1)-(a)(3) waters.
SW-5	0.11	acre(s) (b)(1) Non-adjacent wetland.	Adjacent to an isolated, excluded b(8) pond; therefore, it is not adjacent to an (a)(1)-(a)(3) waters.
SW-6	1.08	acre(s) (b)(1) Non-adjacent wetland.	Not adjacent to an (a)(1)-(a)(3) waters.
SW-7	0.47	acre(s) (b)(1) Non-adjacent wetland.	Not adjacent to an (a)(1)-(a)(3) waters.
US-1	0.01	acre(s) (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Upland swale; lacks OHWM indicators.
US-2	<0.00	acre(s) (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Upland swale; lacks OHWM indicators.
US-3	<0.00	acre(s) (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Upland swale; lacks OHWM indicators.

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.



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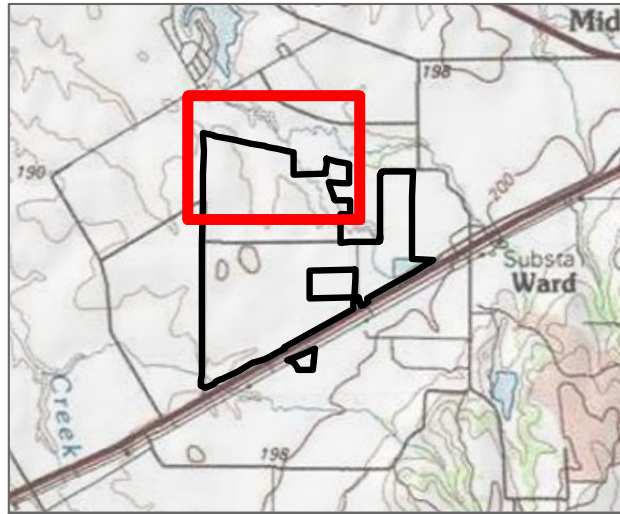
- Information submitted by, or on behalf of, the applicant/consultant: [See the file.](#)
This information [is](#) sufficient for purposes of this AJD.
Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Aerial imagery and Photo Appendix A](#)
- Corps site visit(s) conducted on: [3/2/2021](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [USDA 2019. Web Soil Survey for Ellis County, Texas. USDA Natural Resources Conservation Service](#)
- USFWS NWI maps: [The National Wetlands Inventory, 2019.](#)
- 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	GAP Analysis Program. Terrestrial Ecosystems – National Inventory of Vegetation and Land Use, 2011.
USDA Sources	List of Hydric Soils, 2019.
NOAA Sources	N/A.
USACE Sources	NWPL – National Wetland Plant List
State/Local/Tribal Sources	N/A.
Other Sources	Flood Insurance Rate Maps, FEMA, 2019

B. Typical year assessment(s): [The Antecedent Precipitation Tool output shows that the consultant delineation conducted on December 10 and 11, 2019 occurred in drier than normal \(9\) conditions during the wet season. The 30 day rolling total was near the 40th percentil of the 30 year normal range. The drought index was “mild wetness” indicating that the field conditions and data reflect the aquatic resources on site in a drier than normal condition. Recent precipitation occurred prior to and during their site visit. The APT output for the Corps’ site visit of 3/2/2021 indicates normal conditions \(10\) were present during the west season with incipient wetness in the drought index. The 30 day rolling total was near the 50th percentil of the 30 year normal range.](#)

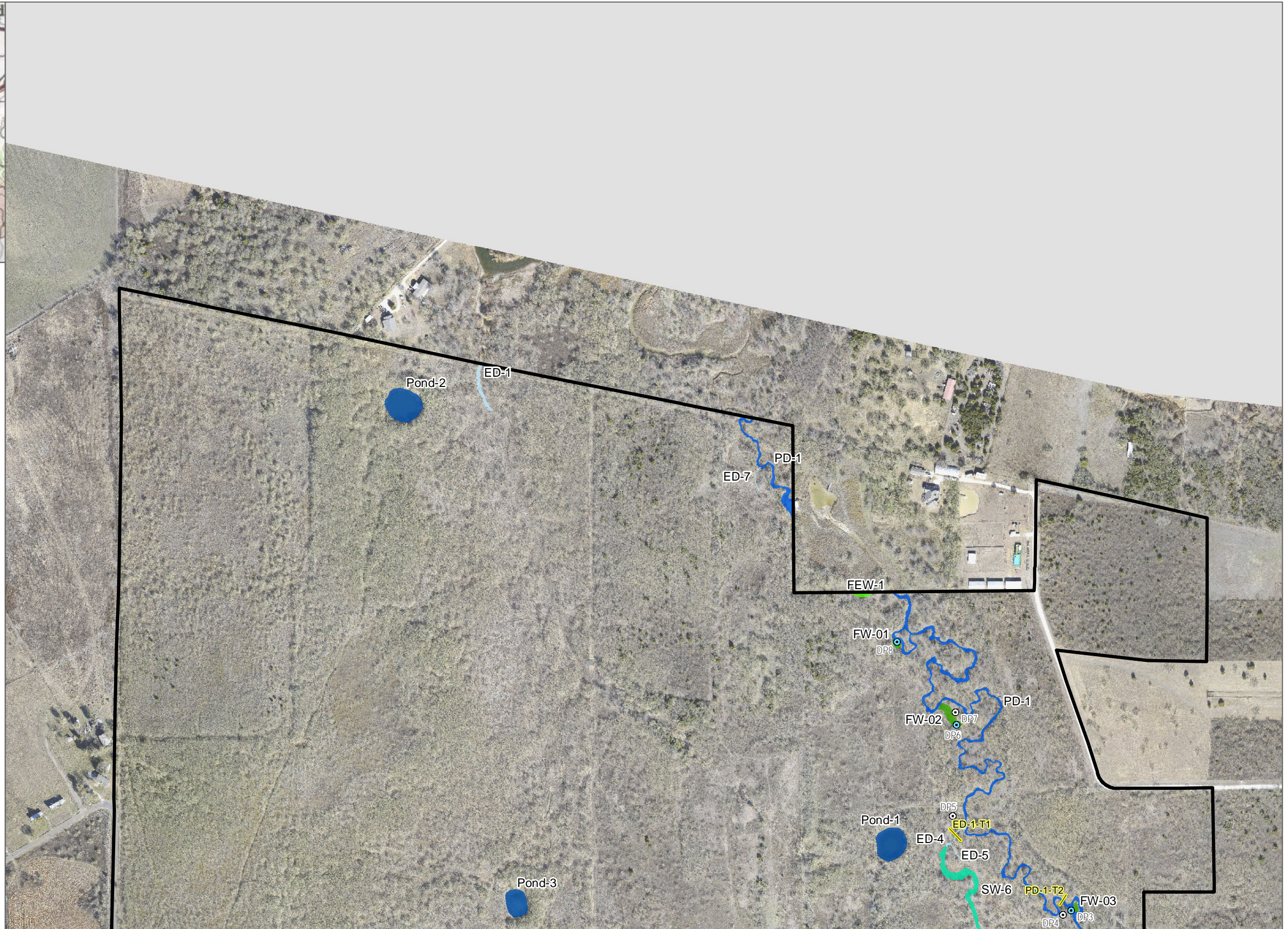
C. Additional comments to support AJD: [The drainages \(tributary a\) drain northwest and west to Cottonwood Creek \(tributary b\) then Soap Creek \(tributary c\) which flows to Joe Pool Lake and Mountain Creek \(tributary d\) before entering Trinity River near Dallas \(TNW\).](#)



- Study Area (704.96 acres)
- ↘ Transects
- ⊙ Upland Data Point
- ⊙ Wetland Data Point
- Aquatic Features**
- Roadside Swale (0.04 acres)
- Agricultural Drainage (0.04 acres)
- Ephemeral Drainage (0.39 acres)
- Intermittent Drainage (0.55 acres)
- Perennial Drainage (1.43 acres)
- Upland Swale (0.01 acres)
- Freshwater Emergent Wetland (0.55 acres)
- Fringe Wetland (0.15 acres)
- Seasonal Wetland (2.36 acres)
- Pond (11.28 acres)

Coordinate System: NAD 1983 Texas North Central
 Projection: Lambert Conformal Conic
 Datum: North American 1983
 Vertical Datum: NAVD 88, U.S. Feet
 1 inch = 400 feet

Created on January 6th, 2020



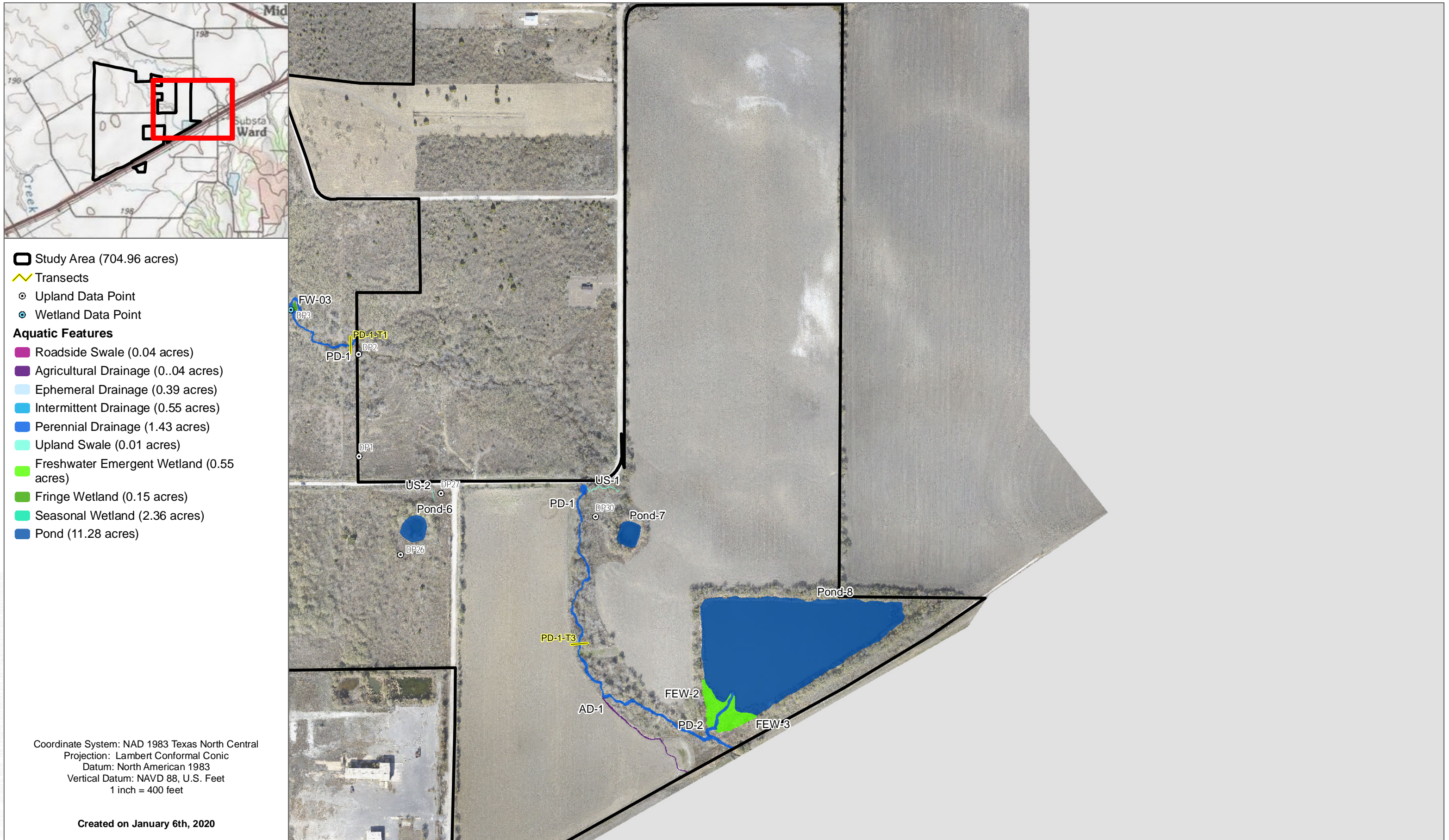


FIGURE 4-2

Aquatic Resources Delineation

Aquatic Resources Delineation Report for the Gerdau Solar Project



FIGURE 4-3

Aquatic Resources Delineation

Aquatic Resources Delineation Report for the Gerdau Solar Project



FIGURE 4-4

Aquatic Resources Delineation

Aquatic Resources Delineation Report for the Gerdau Solar Project