



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): 12-AGU-2021

ORM Number: SWF-2021-00337

Associated JDs: N/A

State/Territory: Texas City: Lake Worth County/Parish/Borough: Tarrant County

Center Coordinates of Review Area: Latitude 32.814 Longitude -97.423

**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)<sup>2</sup>**

| § 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)<sup>3</sup>

| (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-2021-00337-IS1 | 41 feet     | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | Project information provided by the consultant, and other information available to USACE supports that Stream 1 (IS1) exhibits intermittent flow. IS1 is located within a localized area of repeated anthropogenic activity and appears to receive hydrology via a swale from Stream 2 (IS2). USACE has determined that IS1 meets the criteria of an (a)(2) Intermittent tributary which contributes surface water flow directly or indirectly to an (a)(1) water. |
| SWF-2021-00337-IS2 | 1477 feet   | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | Project information provided by the consultant, and other information available to USACE supports that Stream 2 (IS2) exhibits intermittent flow. IS2 transects the project site(northeast / southwest) and appears to   |

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

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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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|  |  |  |  |
|--|--|--|--|
|  |  |  | receive hydrology upstream of the project site. USACE has determined that IS2 meets the criteria of an (a)(2) Intermittent tributary which contributes surface water flow directly or indirectly to 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 |
|-------------|-------------|-----------------|------------------------------------|
| N/A         | N/A         | N/A             | N/A                                |

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                                |

#### D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

| Exclusion Name     | Exclusion Size | Exclusion <sup>5</sup>   | Rationale for Exclusion Determination   |
|--------------------|----------------|--|---|
| SWF-2021-00337-ES1 | 101 feet       | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Project information provided by the consultant and other information available to USACE indicate that Ephemeral Stream 1 (ES1) displays a lack of indicators for more than ephemeral flow. ES1 originates from a culvert, flowing southwest before intersecting other overland hydrology inputs and transitioning to an intermittent stream (IS1). USACE has determined that ES1 meets the criteria of a (b)(3) excluded water feature. |
| SWF-2021-00337-ES2 | 421 feet       | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Project information provided by the consultant and other information available to USACE indicate that Ephemeral Stream 2 (ES2) displays a lack of indicators for more than ephemeral flow. ES2 originates from a culvert, flowing south before intersecting IS1. USACE has determined that ES1 meets the criteria of a (b)(3) excluded water feature.   |
| SWF-2021-00337-SW1 | 270 feet       | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Project information provided by the consultant and other information available to USACE indicate that SW1 conveys hydrology as a vegetated swale. USACE has determined that SW1 meets the criteria of a (b)(3) excluded water feature.  |

### 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.

x Information submitted by, or on behalf of, the applicant/consultant: [Aquatic Resources Delineation Report, dated 25-JUN-2021, and prepared by Kimley Horn, available within electronic project file \(SWF-2021-00337\).](#)

This information *is* sufficient for purposes of this AJD.

Rationale: *N/A*

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

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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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- \_\_\_ Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- x Photographs: Aerial and Other: [Photographs submitted by the consultant available within the electronic project file \(SWF-2021-00337\)](#). Imagery from Digital Globe, Google Earth, and [Regulatory National Viewer, 20-JUL-2021 \(multiple layers\)](#).
- \_\_\_ Corps Site visit(s) conducted on: *Date(s)*.
- \_\_\_ Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.
- x Antecedent Precipitation Tool: [See Section III.B.](#)
- x USDA NRCS Soil Survey: [Information/Map provided by the consultant, available within the electronic project file \(SWF-2021-00337\)](#).
- x USFWS NWI maps: [ESRI managed imagery, National Regulatory Viewer, 20-JUL-2021](#).
- x USGS topographic maps: [National Regulatory Viewer and ORM II, 20-JUL-2021](#).

**Other data sources used to aid in this determination:**

| Data Source (select)       | Name and/or date and other relevant information   |
|----------------------------|---|
| USGS Sources               | <a href="#">National Hydrography Dataset, National Regulatory Viewer, 20-JUL-2021</a> .                             |
| USDA Sources               | <a href="#">Web Soil Survey Accessed 20-JUL-2021</a>  |
| NOAA Sources               | <a href="#">N/A</a>   |
| USACE Sources              | <a href="#">USACE Regulatory ORM II Database and National Regulatory Viewer (LIDAR)</a>                             |
| State/Local/Tribal Sources | <a href="#">N/A</a>   |
| Other Sources              | <a href="#">FEMA FIRM: Tarrant County, Panel 48439C0160K (25-SEP-2009); National Regulatory Viewer, 20-JUL-2021</a> |

**B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) for 02-JUN-2021, (the consultant site visit date) indicated that the site was experiencing “wetter than normal” conditions during the expected dry season recorded under the WebWIMP Wet Season output. The Palmer Drought Severity Index (PDSI) within the APT indicates “mild wetness” for the date. These conditions do not complicate the observed conditions of aquatic features for 02-JUN-2021.

**C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

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

<sup>2</sup> 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.

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## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

|                                   |  |                                    |                          |
|-----------------------------------|--|------------------------------------|--------------------------|
| Applicant: <b>Mr. Brady Blair</b> |  | File Number: <b>SWF-2021-00337</b> | Date: <b>12-AGU-2021</b> |
| Attached is:                      |  | See Section below                  |                          |
|                                   | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) | A                                  |                          |
|                                   | PROFFERED PERMIT (Standard Permit or Letter of permission)         | B                                  |                          |
|                                   | PERMIT DENIAL  | C                                  |                          |
| <b>X</b>                          | <b>APPROVED JURISDICTIONAL DETERMINATION</b>                       | <b>D</b>                           |                          |
|                                   | 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:

Mr. Joseph L. Shelnut  
Regulatory Biologist  
[Joseph.l.shelnutt@usace.army.mil](mailto:Joseph.l.shelnutt@usace.army.mil)  
817-886-1738

If you only have questions regarding the appeal process you may also contact:

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

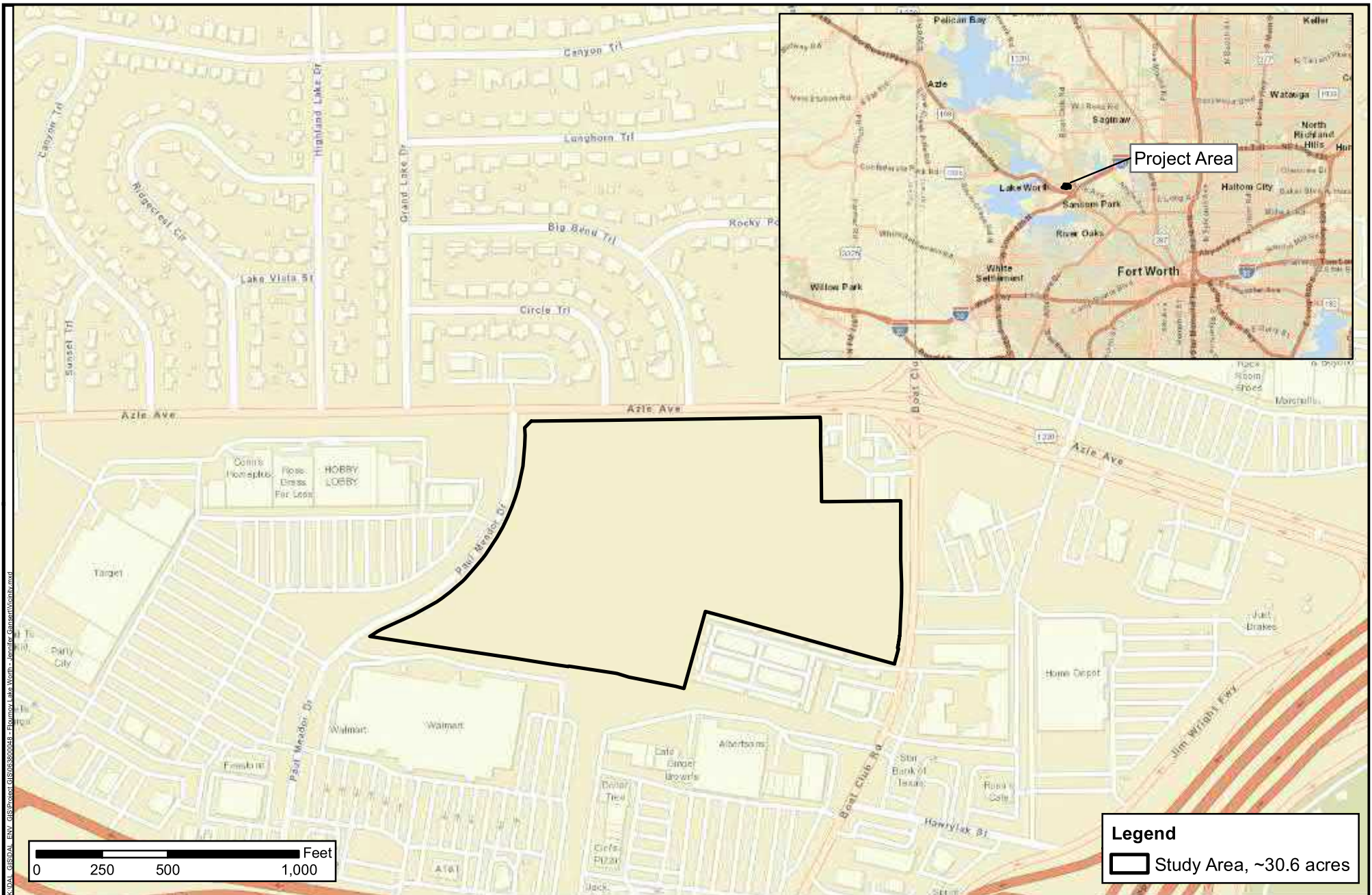
**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the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

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number:





FIGURE

1

DATE: 06/14/2021

DESIGN: KRK

CHECKED: MREA

KHA NO.: 063800048

Vicinity Map  
Source: ESRI Basemap

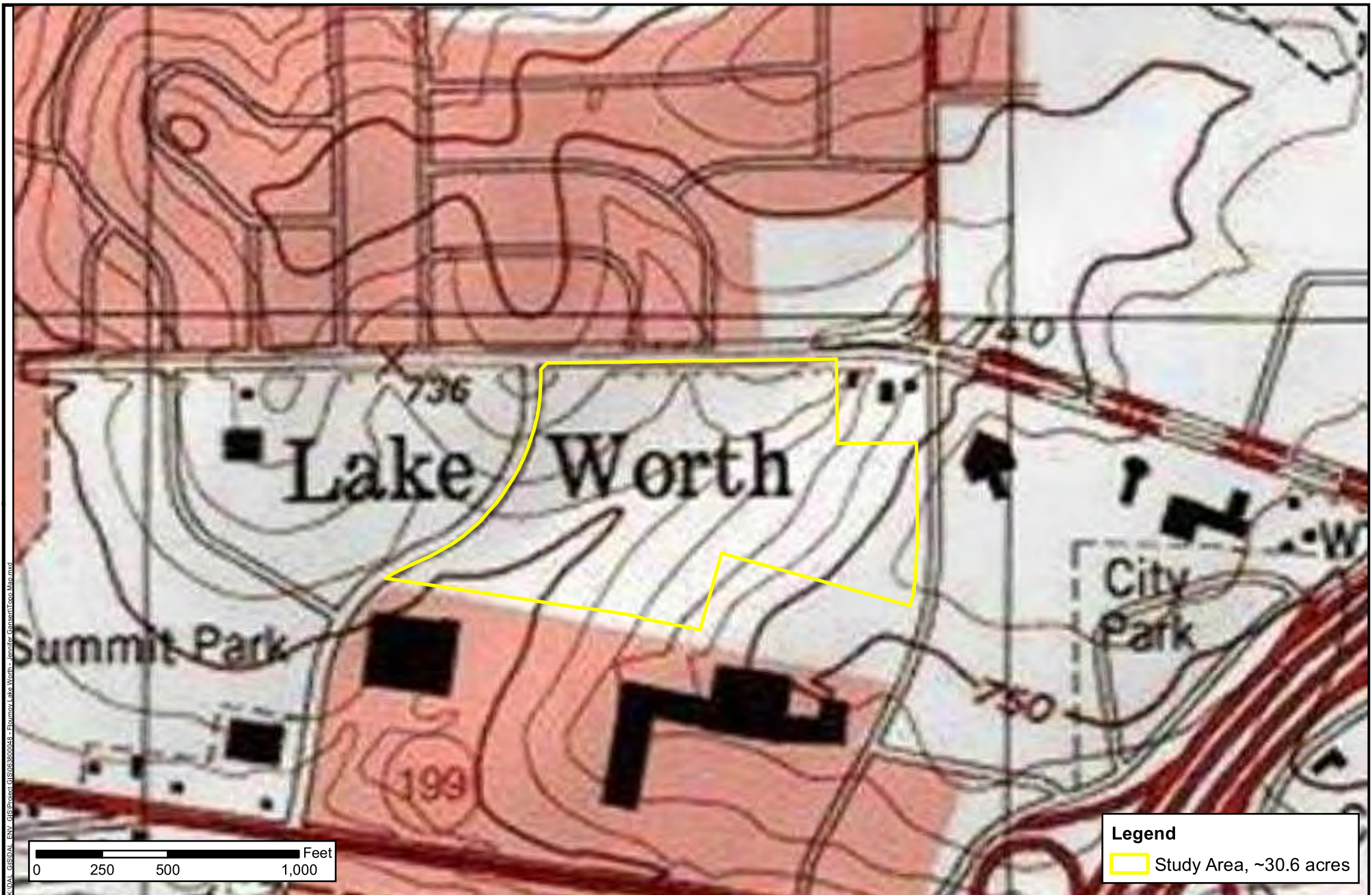
Lake Worth Multifamily  
Lake Worth, Tarrant County, Texas



**Kimley»Horn**

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.





|                               |   |  |  |  |   |
|-------------------------------|---|--|--|--|---|
| <p>FIGURE</p> <p><b>2</b></p> | <p>DATE: 06/14/2021</p> <p>DESIGN: KRK</p> <p>CHECKED: MREA</p> <p>KHA NO.: 063800048</p> | <p>USGS Topographic Map</p> <p>Quad Name: Lake Worth</p> | <p>Lake Worth Multifamily</p> <p>Lake Worth, Tarrant County, Texas</p> |  | <p><b>Kimley»Horn</b></p> <p><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></p> |
|-------------------------------|---|--|--|--|---|





|                    |                    |
|--------------------|--------------------|
| FIGURE<br><b>3</b> | DATE: 06/14/2021   |
|                    | DESIGN: KRK        |
|                    | CHECKED: MREA      |
|                    | KHA NO.: 063800048 |

**Aquatic Feature Map**  
Source: Nearmap February 2021

Lake Worth Multifamily  
Lake Worth, Tarrant County, Texas

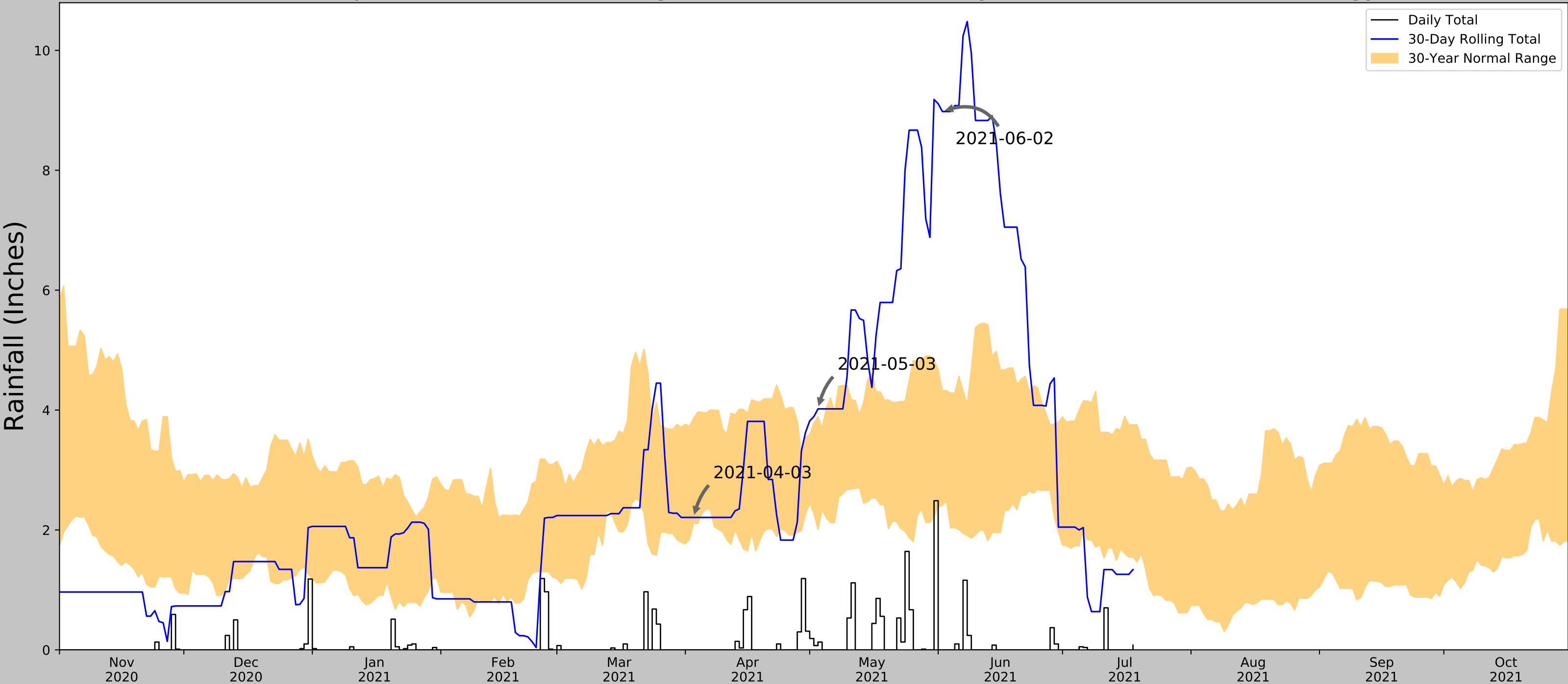


**Kimley»Horn**

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



|                                  |                 |
|----------------------------------|-----------------|
| Coordinates                      | 32.814, -97.423 |
| Observation Date                 | 2021-06-02      |
| Elevation (ft)                   | 713.19          |
| Drought Index (PDSI)             | Mild wetness    |
| WebWIMP H <sub>2</sub> O Balance | Dry Season      |

| 30 Days Ending | 30 <sup>th</sup> %ile (in) | 70 <sup>th</sup> %ile (in) | Observed (in) | Wetness Condition | Condition Value | Month Weight | Product                 |
|----------------|----------------------------|----------------------------|---------------|-------------------|-----------------|--------------|-------------------------|
| 2021-06-02     | 2.411417                   | 4.324803                   | 8.980315      | Wet               | 3               | 3            | 9                       |
| 2021-05-03     | 2.006693                   | 3.890158                   | 4.019685      | Wet               | 3               | 2            | 6                       |
| 2021-04-03     | 2.109843                   | 3.865748                   | 2.208661      | Normal            | 2               | 1            | 2                       |
| Result         |                            |                            |               |                   |                 |              | Wetter than Normal - 17 |




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) |
|----------------------|-------------------|----------------|---------------|-------------|------------|---------------|-------------------|
| FT WORTH MEACHAM FLD | 32.8192, -97.3614 | 687.008        | 3.595         | 26.182      | 1.712      | 10081         | 90                |
| LAKE WORTH 1.0 WSW   | 32.8071, -97.448  | 645.013        | 1.528         | 68.177      | 0.792      | 1             | 0                 |
| FT WORTH NAS         | 32.7667, -97.45   | 607.94         | 3.625         | 105.25      | 2.013      | 340           | 0                 |
| EAGLE MTN LAKE       | 32.8692, -97.4497 | 759.843        | 4.117         | 46.653      | 2.045      | 929           | 0                 |
| FT WORTH WSFO        | 32.8342, -97.2981 | 644.029        | 7.385         | 69.161      | 3.834      | 2             | 0                 |