



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SWF DISTRICT
819 TAYLOR STREET
FORT WORTH, TEXAS 76102

SWFCE-RD

19 August 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023),¹ [SWF-2020-00498](#).

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court’s decision in *Sackett*. This AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in [Texas](#) due to litigation.

¹ While the Supreme Court’s decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

Feature Name	Feature Type	Coordinates	Jurisdictional Y/N	Notes
SSB	Ephemeral	32.6174853 -98.0404745	N	Non-WOTUS
SSBa	Ephemeral	32.617355, -98.0390593	N	Non-WOTUS
SSE	Ephemeral	32.619501, -98.037724	N	Non-WOTUS
SSEb	Ephemeral	32.61858500 -98.0372900	N	Non-WOTUS
SSA	Swale	32.61922000 -98.04266000	N	Non-WOTUS
SSAa	Swale	32.61809000 -98.04237000	N	Non-WOTUS
SSC	Swale	32.61758000 -98.04211000	N	Non-WOTUS
SSBb	Swale	32.61735000 -98.03824000	N	Non-WOTUS
SSEa	Swale	32.61919000 -98.03751000	N	Non-WOTUS
SP-1	Upland pond	32.61953400 -98.04270300	N	Non-WOTUS
SP-2	Upland pond	32.62090100 -98.03842800	N	Non-WOTUS

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

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3. REVIEW AREA.

The site is approximately 46.09 acres and it is located off of Interstate Highway 20 southwest of Weatherford, Parker County, Texas 76087. Coordinates: 32.6187189, -98.039192. Topography within the project area ranges from 780 to 850 feet above mean sea level (amsl). A total of approximately 2,054 LF of ephemeral channels were delineated on site with OHWM, limited amounts of scour, limited wrack lines, minimal sediment on plants and debris, sediment sorting and minimal amounts of confinement with bed and bank. Most of these reaches exhibited only one or two OHWM indicators. ATP showed a wetter than normal period during site visits. No baseflow or other indicators of a groundwater connection such as algae or hydrophytic vegetation were observed anywhere within the reach. Short stretches were observed to lack any OHWM indicators. Two stock ponds totaling 0.30 acres are onsite and were excavated in uplands.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [Brazos River base upon the state of Texas list and USACE digital layer in Google Earth.](#) (Approximately 70 miles from the site to the beginning of the TNW section of the Brazos River.)
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS [The tributaries flow into Hill Creek, which feeds into the Brazos River's non-TNW section and flows southeasterly for approximately 65 miles to the beginning of the TNW portion of the Brazos River and then out to the Gulf of American \(formerly known as the Gulf of Mexico.\)](#)
6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ [N/A](#)

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as “navigable in law” even though it is not presently used for commerce or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. TNWs (a)(1): [N/A](#)
 - b. Interstate Waters (a)(2): [N/A](#)
 - c. Other Waters (a)(3): [N/A](#)
 - d. Impoundments (a)(4): [N/A](#)
 - e. Tributaries (a)(5): [N/A](#)
 - f. The territorial seas (a)(6): [N/A](#)
 - g. Adjacent wetlands (a)(7): [N/A](#)
8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES
 - a. Describe aquatic resources and other features within the review area identified as "generally non-jurisdictional" in the preamble to the 1986 regulations (referred to as "preamble waters").⁷ Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water. [N/A](#)
 - b. Describe aquatic resources and features within the review area identified as "generally not jurisdictional" in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance.

⁷ 51 FR 41217, November 13, 1986.

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- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. *N/A*
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. *N/A*
- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “*SWANCC*,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with *SWANCC*.

Feature Name	Feature Type	Coordinates	Total Project LF	Feature Area (AC)
SP-1	Upland pond	32.61953400 -98.04270300	-	0.21
SP-2	Upland pond	32.62090100 -98.03842800	-	0.06

SP-1 – Stock pond, 0.21 acre; This pond was dug in order to provide water for livestock. There is no direct connection to a relatively permanent water with the built-up dam on the back side of the pond. RPW, excavated in uplands, Upland with no CSC, Pre-amble, Artificial lake/pond, Non-JD.

SP-2 – Stock Pond, ~0.09 ac. This pond was dug in order to provide water for livestock. There is no direct connection to a relatively permanent water with the built-up dam on the back side of the pond. RPW, excavated in uplands, Upland with no CSC, Pre-amble, Artificial lake/pond, Non-JD

- f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court’s decision in *Sackett* (e.g., tributaries that are

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non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

Feature Name	Feature Type	Coordinates	Total Project LF	Feature Area (AC)
SSB	Ephemeral	32.6174853 -98.0404745	495	-
SSBa	Ephemeral	32.617355, -98.0390593	991	-
SSE	Ephemeral	32.619501, -98.037724	141	-
SSEb	Ephemeral	32.61858500 -98.0372900	427	-
SSA	Swale	32.61922000 -98.04266000	211	-
SSAa	Swale	32.61809000 -98.04237000	124	-
SSC	Swale	32.61758000 -98.04211000	60	-
SSBb	Swale	32.61735000 -98.03824000	102	-
SSEa	Swale	32.61919000 -98.03751000	61	-

SSB - Ephemeral, 1st order stream, ~495 LF; This ephemeral channel is classified as such because the reach contains a few ordinary high water mark indicators. This feature has the presence of confinement, small wrack lines, scour in some areas, and has minimal leaf litter in the channel. This feature is ephemeral because it lacks a true ground water connection. R6, Non RPW, 1st order, negative A5 stream, Non-WOTUS

SSBa – Ephemeral Channel, 1st order stream, ~ 991 LF; This ephemeral channel is classified as such because the reach contains a few ordinary high water mark indicators. This feature has the presence of confinement, small wrack lines, scour in some areas, and has minimal leaf litter in the channel. This feature is ephemeral because it lacks a true ground water connection. R6, Non RPW, 1st order, negative A5 stream, Non-WOTUS

SSE – Ephemeral Channel, 1st order stream, ~141 LF. This ephemeral channel is classified as such because the reach contains a few ordinary high water mark indicators. This feature has the presence of confinement, small wrack lines, scour in some areas, and has minimal leaf litter in the channel. This feature is ephemeral because it lacks a true ground water connection. R6, Non RPW, 1st order, negative A5 stream, Non-WOTUS

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SSEb – Ephemeral Channel, 1st order stream ~427 LF. This ephemeral channel is classified as such because the reach contains a few ordinary high water mark indicators. This feature has the presence of confinement, small wrack lines, scour in some areas, and has minimal leaf litter in the channel. This feature is ephemeral because it lacks a true ground water connection. R6, Non RPW, 1st order, negative A5 stream, Non-WOTUS

SSA – Upland Drainage, Swale, ~211 LF; Feature lacks ordinary high water mark indicators. This feature lack scour, confinement, wrack lines, leaf litter disturbance, sediment sorting, and matted down vegetation. No OHWM, Non-RPW, Non-JD-Rapanos Guide, Swale, Erosion

SSAa – Upland Drainage, Swale, ~124 LF; Feature lacks ordinary high water mark indicators. This feature lack scour, confinement, wrack lines, leaf litter disturbance, sediment sorting, and matted down vegetation. No OHWM, Non-RPW, Non-JD-Rapanos Guide, Swale, Erosion

SSC – Upland Drainage, Swale ~60 LF; Feature lacks ordinary high water mark indicators. This feature lack scour, confinement, wrack lines, leaf litter disturbance, sediment sorting, and matted down vegetation. No OHWM, Non-RPW, Non-JD-Rapanos Guide, Swale, Erosion

SSBb – Upland Drainage, Swale ~102 LF; Feature lacks ordinary high water mark indicators. This feature lacks scour, confinement, wrack lines, leaf litter disturbance, sediment sorting and matted down vegetation. No OHWM, Non-RPW, Non-JD-Rapanos Guide, Swale, Erosion

SSEa – Upland Drainage, Swale, ~61 LF. Feature lacks ordinary high water mark indicators. This feature lack scour, confinement, wrack lines, leaf litter disturbance, sediment sorting, and matted down vegetation. No OHWM, Non-RPW, Non-JD-Rapanos Guide, Swale, Erosion

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. Contractor's site visit occurred on July 10, 2025; office evaluation was conducted August 15, 2025.
 - b. Google Earth images and topographic layer, USACE's TNW layer for Texas

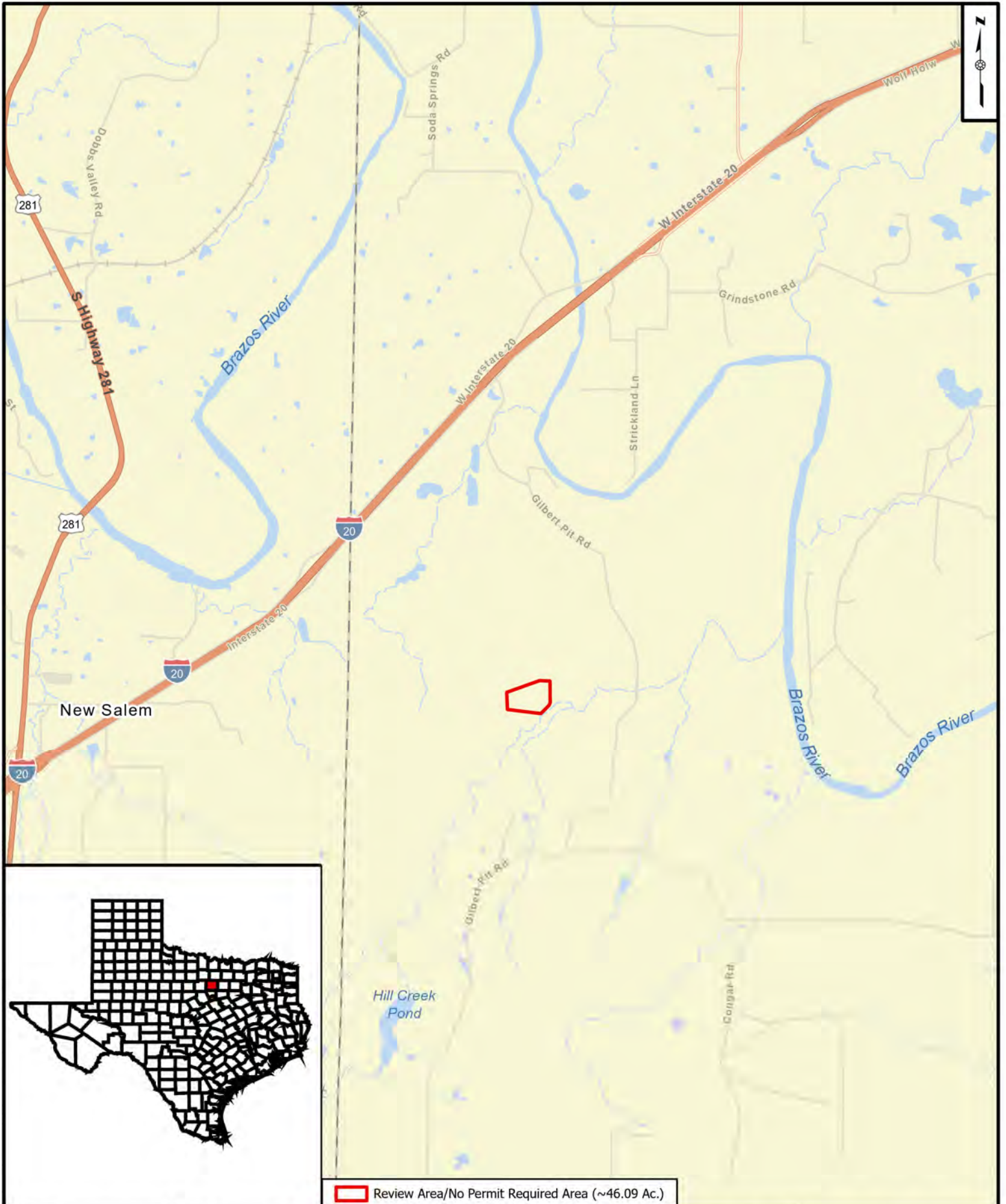
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c. [National Regulatory Viewer topographic, USFWS NWI maps, FEMA FIRM, NHD, HUC, Aerial and Hillshade layers](#)

10. OTHER SUPPORTING INFORMATION. [Contractor submittals and email communications, refer to folder 2020/SWF-2020-00498](#)

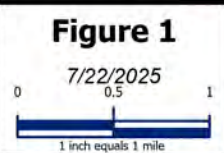
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



 Review Area/No Permit Required Area (~46.09 Ac.)



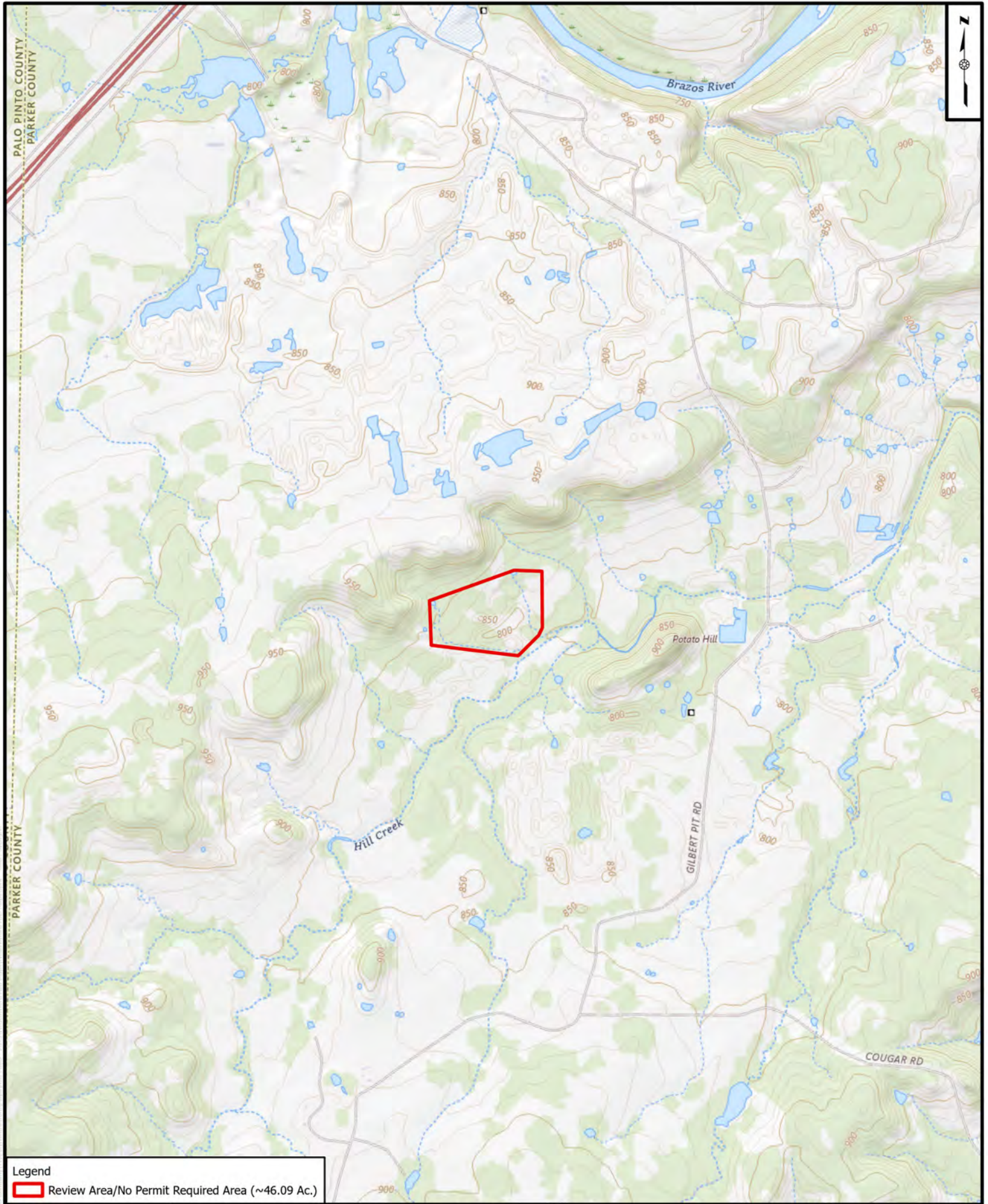
DISCLAIMER:
 This drawing and the information contained herein is for general presentation purposes only and is a compilation of shapefile(s) provided by various source(s). The source and accuracy of the file(s) has not been verified by HHNT and therefore the drawing is not intended for use as an engineering drawing or for design purposes.



Location Map
 Weatherford Quarry
 Vulcan Materials Company
 Parker County, TX

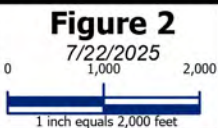
Notes:
 1. Imagery obtained from ESRI World Basemap.
 Source: Street Viewer.
 2. Property boundary obtained from Vulcan.





Legend
 Review Area/No Permit Required Area (~46.09 Ac.)

DISCLAIMER:
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Topographic Map
 Weatherford Quarry
 Vulcan Materials Company
 Parker County, TX

Notes:
 1. Topographic basemap obtained from USGS Topographic Map.
 2. Property boundary obtained from Vulcan.





Legend

- Review Area/No Permit Required Area (~46.09 Ac.)
- National Hydrography Dataset
- National Wetland Inventory

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Figure 4
 7/22/2025



National Wetland Inventory Map
 Weatherford Quarry
 Vulcan Materials Company
 Parker County, TX




Notes:

1. Imagery obtained from ESRI World Basemap. Source: Vivid, Maxar Date: 6/6/22.
2. Stream data obtained from USGS National Hydrography Dataset (NHD).
3. Wetland data obtained from USFWS National Wetland Inventory.
4. Property boundary obtained from Vulcan.





Legend

-  Review Area/No Permit Required Area (~46.09 Ac.)
-  100 Year Floodplain
-  500 Year Floodplain

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Figure 5

7/22/2025



Floodplain Map
 Weatherford Quarry
 Vulcan Materials Company
 Parker County, TX

Notes:

1. Imagery obtained from ESRI World Basemap. Source: Vivid, Maxar Date: 6/6/22.
2. Floodplain data obtained from the Federal Emergency Management Agency (FEMA).
3. Property boundary obtained from Vulcan.

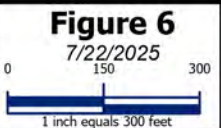




Legend	
	Review Area/No Permit Required Area (~46.09 Ac.)
	Ephemeral Channel (~ 2,053.57 LF)
	Upland Drainage* (~ 557.98 LF)
	Stock Ponds (~ 0.30 Ac.)

**DELINEATED WETLANDS AND STREAMS
HAVE NOT BEEN APPROVED BY ACOE.**

DISCLAIMER:
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Delineation Map
Weatherford Quarry
Vulcan Materials Company
Parker County, TX

Notes:
1. Imagery obtained from ESRI World Basemap. Source: Vivid, Maxar
Date: 6/6/22.
2. Aquatic resource delineation performed by HHNT ecologists on 7/10/25.
3. Property boundary obtained from Vulcan.
*4. Upland Drainage are drainage-ways that are lacking the presence of any Ordinary High Water Mark Indicators.





32.6187189, -98.039192 X Q

Show search results for 32.6187189, -98.039192



PUSCh

PUBFh

R4SBC

R4SBC

PANEL

48363C0600F
eff. 4/5/2019

PANEL

48143C01000
eff. 11/16/2011

PANEL

48143C01000
eff. 4/5/2019

PANEL

48221C0025D
eff. 8/16/2012

R4SBC

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32.6187189, -98.039192 X Q

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