



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, SWF DISTRICT  
819 TAYLOR STREET, RM 3A37  
FORT WORTH, TEXAS 76102

CESWF-RDE

23 October 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023),<sup>1</sup> SWF-2024-0058.

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.<sup>2</sup> 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.<sup>3</sup>

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>4</sup> the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

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<sup>1</sup> While the Revised Definition of "Waters of the United States"; Conforming 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.

<sup>2</sup> 33 CFR 331.2.

<sup>3</sup> Regulatory Guidance Letter 05-02.

<sup>4</sup> 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).

Name of Water Body	Coordinates	Classification
Stream 03C-1	29.812875, -97.383405	Non-RPW, Non-Jurisdictional
Stream 04C-1	29.816516, -97.391578	Non-RPW, Non-Jurisdictional
Stream 04C-2	29.817016, -97.393244	Non-RPW, Non-Jurisdictional
Stream 07C-1	29.803898, -97.389203	Non-RPW, Non-Jurisdictional
Stream 19C-1	29.786716, -97.364933	Non-RPW, Non-Jurisdictional
Stream 19C-2	29.787479, -97.360457	Non-RPW, Non-Jurisdictional
Swale 09C	29.798101, -97.389546	Non-RPW, Non-Jurisdictional

2. REFERENCES.

- a. “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”)
- b. “Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 (September 8, 2023)
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. NE of Highway 304 and Wolf Run Road, city of Rosanky, Caldwell County, Texas. The project area is located just to the north and east of the existing water treatment plant located at 362 Wolf Run Road, Rosanky, Caldwell County, Texas. Per the USGS Topographic maps, the review area is generally level with elevations ranging from 500-550 feet above mean sea level (Msl) Based on field observations, the entire review area generally meets the description of grassland and woodland vegetation communities. Five ephemeral stream channels were identified crossing the proposed pipeline easements, which flow toward the northeast. Of the four soils mapped for the review area, none were listed on the NRCS 2015 Hydric Soils of the United States List. Soils on site were sandy loams and sands. The NWI Map review indicated six tributaries (R4SBC) of Copperas Creek. Each of the streams are shown to flow toward the north-northeast joining the larger channel of Copperas Creek in the northeast portion of the review area. FEMA FIRM Maps show the review area as being outside of a flood hazard area.

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The NHD and Watershed Boundary Dataset (WBD) indicate that the review area is within the Peach Creek Watershed, Hydrologic Unit Code (HUC) 1210020203. These tributaries have downstream connections to Peach Creek, and the Guadalupe River. Center Coordinates: 29.786179, -97.401327

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. NA
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A – Per the contractor’s report, “the tributaries appear to have ephemeral flow with no continuous direct hydrologic connection to downstream traditionally navigable waters (TNW)”. The region has been in severe drought for several years and much of it is forested. If connections still exist, the flow path would be the following: all tributaries would flow to Copperas Creek, which drains into Peach Creek, Guadalupe River and Guadalupe Bay, San Antonio Bay, Espiritu Santo Bay, Gulf of America (formerly called Gulf of Mexico).
6. SECTION 10 JURISDICTIONAL WATERS<sup>5</sup>: 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.<sup>6</sup> N/A
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 2023 Rule as amended, 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 2023 Rule as amended. 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,

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<sup>5</sup> 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.

<sup>6</sup> 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.

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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. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A
- b. The Territorial Seas (a)(1)(ii): N/A
- c. Interstate Waters (a)(1)(iii): N/A
- d. Impoundments (a)(2): N/A
- e. Tributaries (a)(3): N/A
- f. Adjacent Wetlands (a)(4): N/A
- g. Additional Waters (a)(5): N/A

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).<sup>7</sup> NA
- b. 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 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

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<sup>7</sup> 88 FR 3004 (January 18, 2023)

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Feature	Name of Water Body	Hydrology Characteristics	Length (ft)	Coordinates	Classification
1	Stream 03C-1	Ephemeral, 1 <sup>st</sup> order	65	29.812875, -97.383405	Non-RPW
2	Stream 04C-1	Ephemeral, 1 <sup>st</sup> order	65	29.816516, -97.391578	Non-RPW
3	Stream 04C-2	Ephemeral, 1 <sup>st</sup> order	55	29.817016, -97.393244	Non-RPW
4	Stream 07C-1	Ephemeral, 1 <sup>st</sup> order	50	29.803898, -97.389203	Non-RPW
5	Stream 19C-1	Ephemeral, 1 <sup>st</sup> order	64	29.786716, -97.364933	Non-RPW
6	Stream 19C-2	Ephemeral, 1 <sup>st</sup> order	97	29.787479, -97.360457	Non-RPW
7	Swale 09C	Ephemeral, 1 <sup>st</sup> order	42	29.798101, -97.389546	Non-RPW

All streams were determined to be 1<sup>st</sup> order ephemeral stream in the upper portions of the watershed based upon field determination and data resources. Photos shown in the Delineation Report supports the non-RPW, ephemeral status of all listed resources. Refer to the report for photos and regional climatic information. There are existing easements in or near these areas that have been cleared of vegetation; otherwise, several of the resources are heavily wooded. The region has been in a severe drought for several years and the trees reduce the likelihood that intermittent streams would exist this high in the subwatersheds.

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.

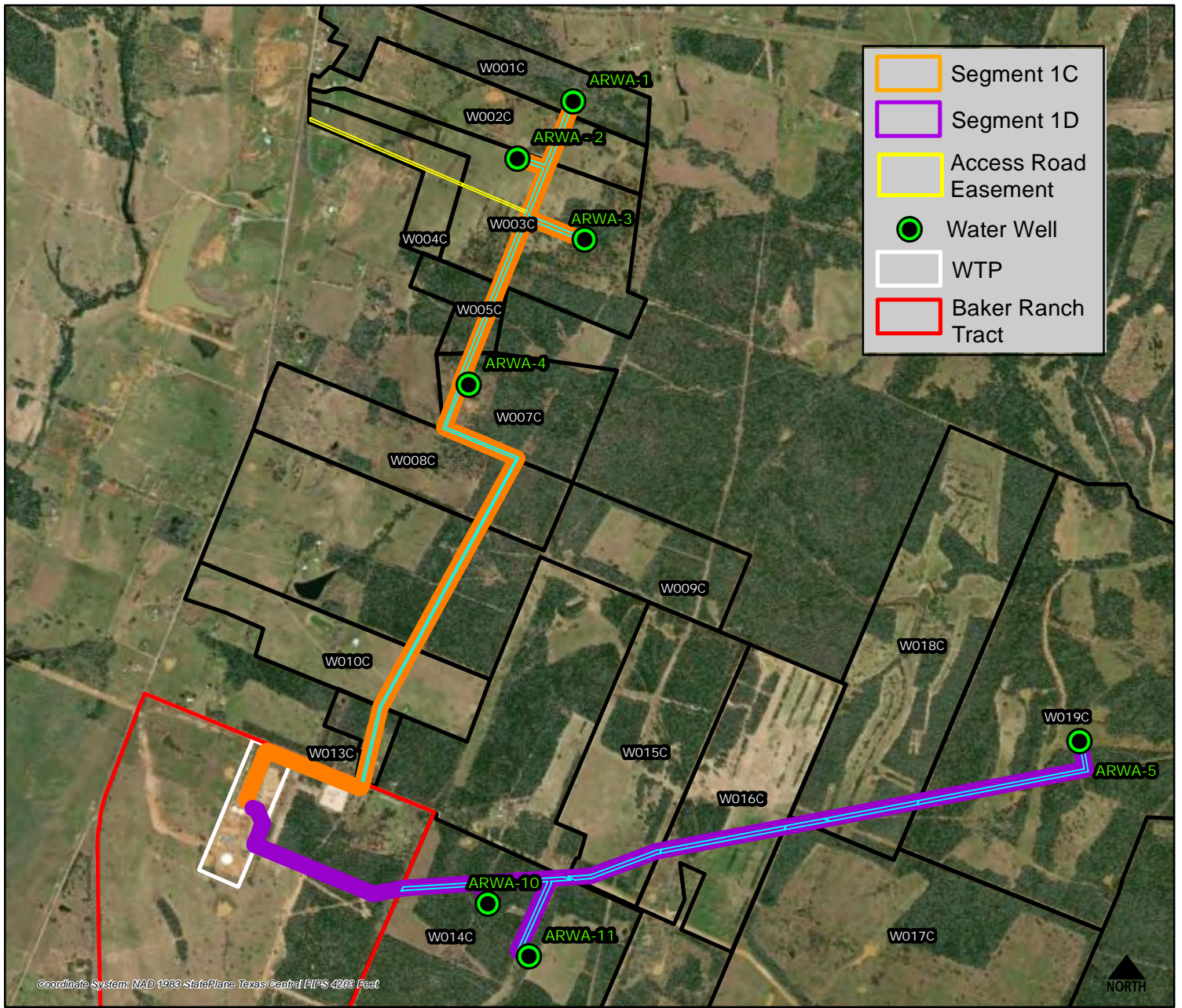
- a. Contractor site visits occurred on April 1-2, 2025, under wetter than normal conditions while experiencing extreme regional drought. The office evaluation was conducted on October 22, 2025.
- b. Google Earth images and topography layers, USACE, 10/21/2025
- c. National Regulatory Viewer layers for NWI, FEMA, NHD, HUC, Aerial and Hillshade, USACE, 10/21/2025

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10. OTHER SUPPORTING INFORMATION. Wetland Delineation, Alliance Regional Water Authority, Phase 1B Program, Raw Water Infrastructure (RWI) Segments 1C and 1D and Wells ARWA 1-5, ARWA-10, and ARWA-11, Along Wolf Run Road, Caldwell County, Texas, August 2025, Phase Engineering

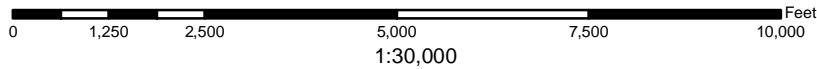
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional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



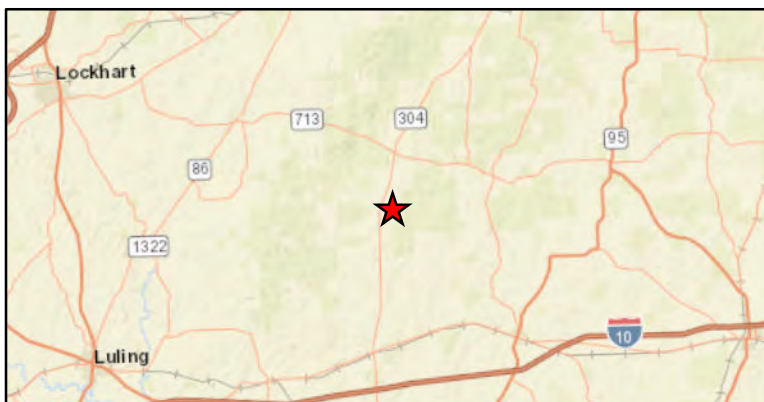
Source: USGS NHL

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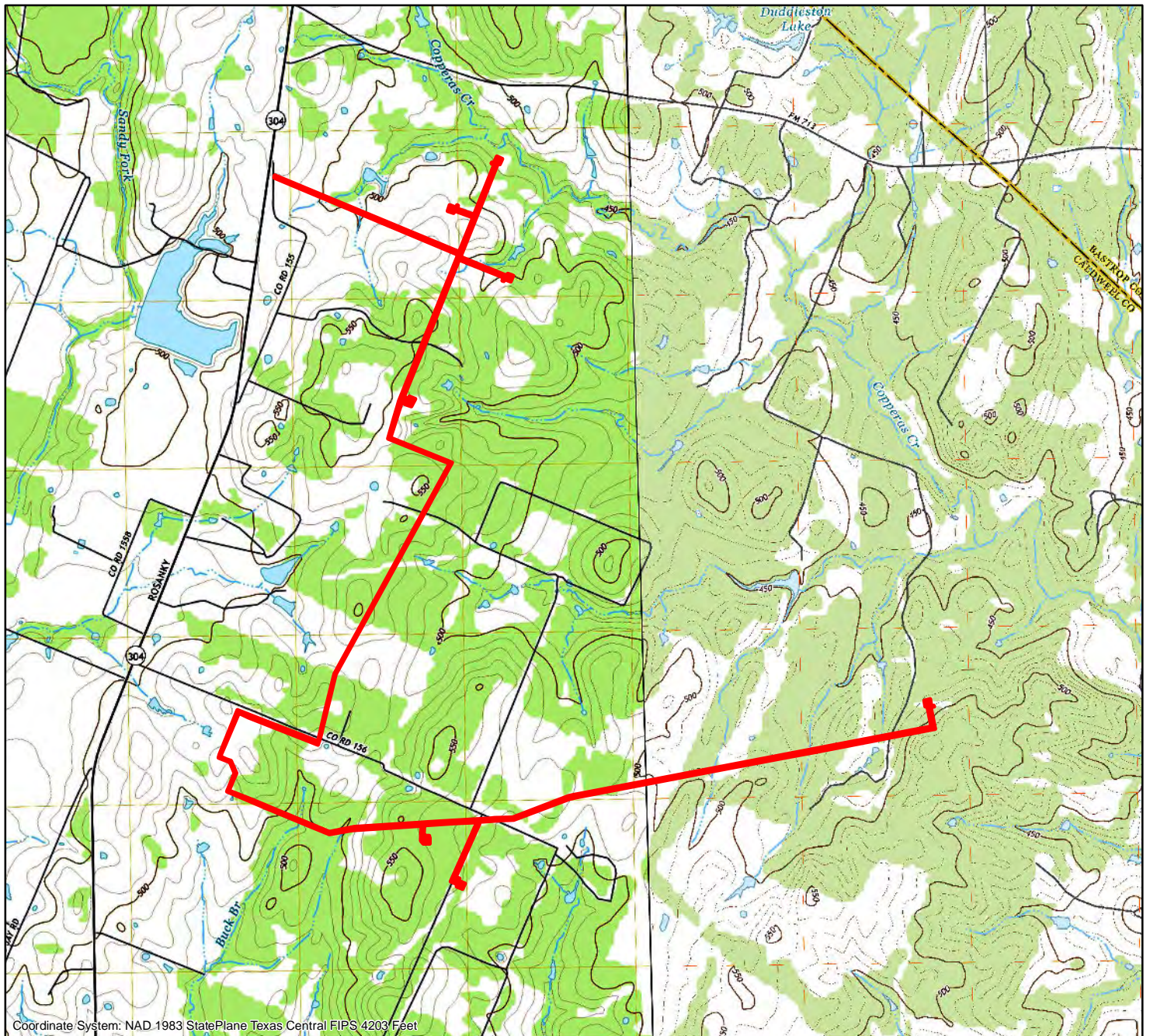
**Figure 1: Location Map**



**STATE**

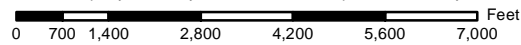


**Alliance Regional Water Authority  
Phase 1B Raw Water Infrastructure  
Segments 1C and 1D, and Wells 1-5, 10 and 11  
Caldwell County, Texas**



Coordinate System: NAD.1983 StatePlane Texas Central FIPS 4203 Feet

Source: Property boundary and locations are representative only. Copyright © 2025 Phase Engineering, LLC



1:35,000

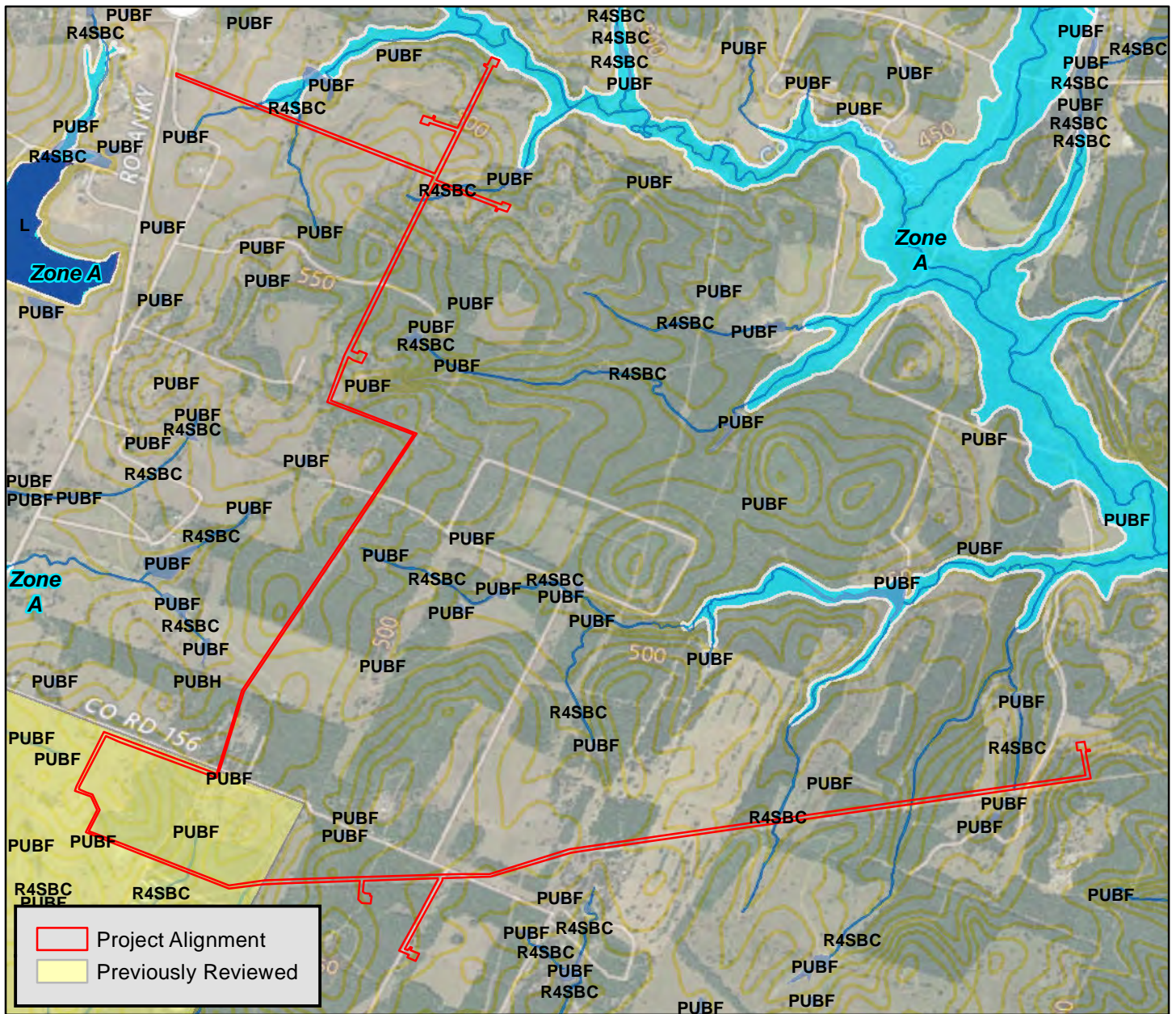


## Figure 2: Topographic Map

The U.S. Geological Survey (USGS) produced its first topographic map in 1879, the same year it was established. Today, more than 100 years and millions of map copies later, topographic mapping is still a central activity for the USGS. The topographic map remains an indispensable tool for government, science, industry, and leisure.

Topographic maps usually portray both natural and manmade features. They show and name works of nature including mountains, valleys, plains, lakes, rivers, and vegetation. They also identify the principal works of man, such as roads, boundaries, transmission lines, and major buildings. The colors represent the following: Contours - brown, Hydrography - blue, Public Land Survey System and other surveys - red, Updates - purple/magenta, Miscellaneous - black, and Vegetation - green.

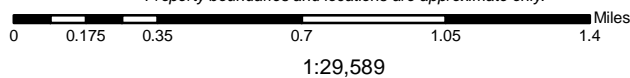
**USGS 7.5 Minute Topographic Series**  
Dehli, 2019; Jeddo, 2022



Source: USF&WS,  
ESRI USGS Topographic Map

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**Figure 3a: Hydrology Resources Map**








**NWI Wetland and Riverine Features**

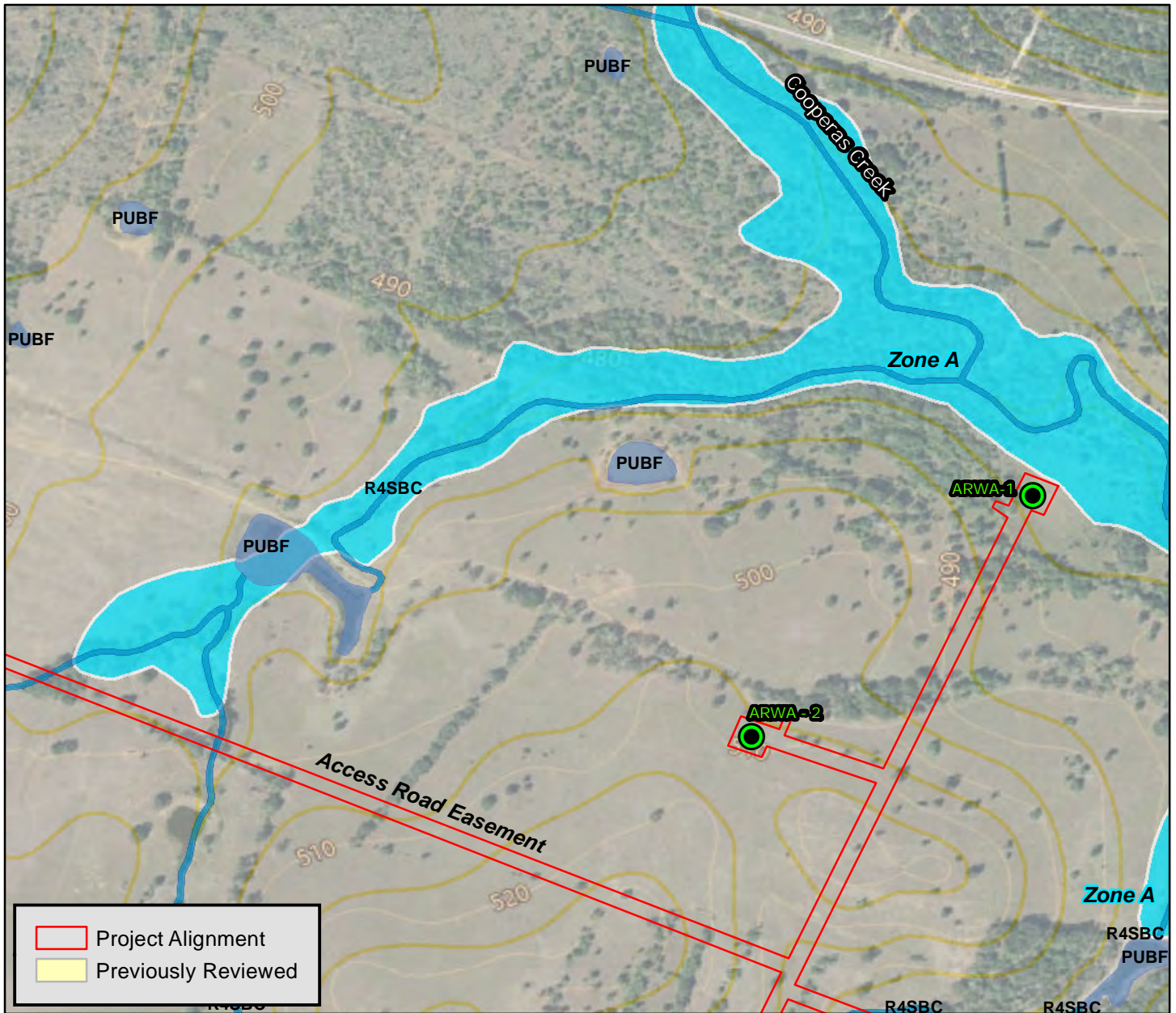
- |   |   |
|---|---|
|  Estuarine and Marine Deepwater    |  Freshwater Pond |
|  Estuarine and Marine Wetland      |  Lake            |
|  Freshwater Emergent Wetland       |  Other           |
|  Freshwater Forested/Shrub Wetland |  Riverine        |

**FEMA National Flood Hazard Layer**

-  FEMA Flood Hazard

**NHD Streams and Waterbodies**

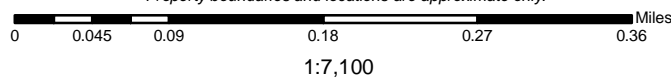
- |   |   |
|---|---|
|  Artificial Path |  Underground Conduit |
|  Canal Ditch     |  Reservoir           |
|  Stream/River    |  SwampMarsh          |
|  Lake/Pond       |   |



Source: USF&WS,  
ESRI USGS Topographic Map

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**Figure 3b: Hydrology Resources Map**








**NWI Wetland and Riverine Features**

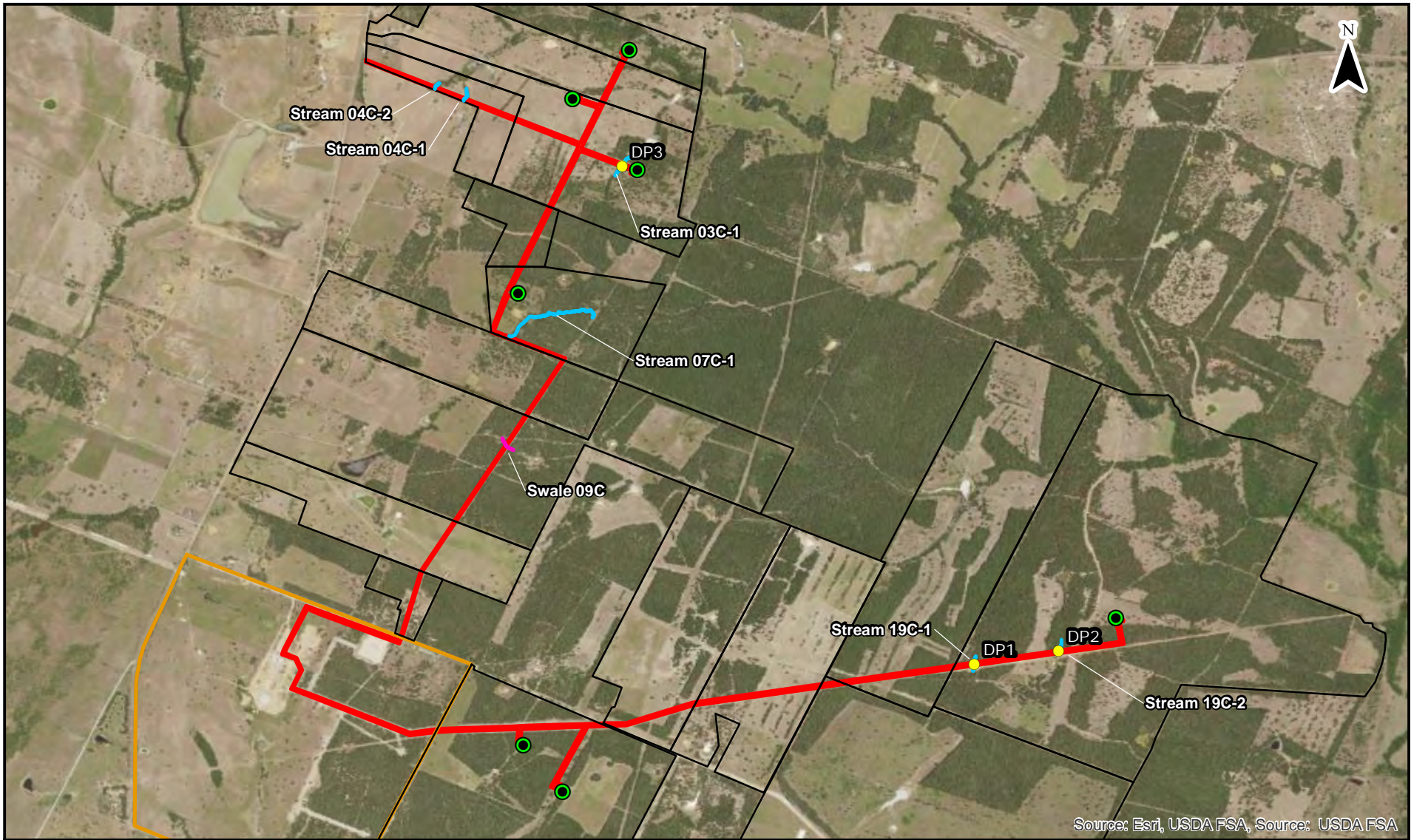
- |   |   |
|---|---|
|  Estuarine and Marine Deepwater    |  Freshwater Pond |
|  Estuarine and Marine Wetland      |  Lake            |
|  Freshwater Emergent Wetland       |  Other           |
|  Freshwater Forested/Shrub Wetland |  Riverine        |

**FEMA National Flood Hazard Layer**

-  FEMA Flood Hazard

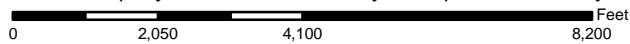
**NHD Streams and Waterbodies**

- |   |   |
|---|---|
|  Artificial Path |  Underground Conduit |
|  Canal Ditch     |  Reservoir           |
|  Stream/River    |  SwampMarsh          |
|  LakePond        |   |



Note: Property location and boundary are representative only.

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**Figure 5a:**  
**Aquatic Features - Overall**

- |   |                     |   |                  |
|---|---------------------|---|------------------|
|  | Project Alignment   |  | Data Points      |
|  | Previously Reviewed |  | Water Well       |
|  | Land Parcels        |  | Ephemeral Stream |
|   |                     |  | Swale            |

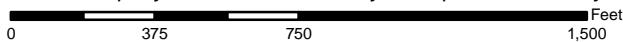


**PE Project No: 202410140**



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**Figure 5b:**  
**Aquatic Features - North Segment 1C**

- |   |                     |   |                  |
|---|---------------------|---|------------------|
|  | Project Alignment   |  | Data Points      |
|  | Previously Reviewed |  | Water Well       |
|  | Land Parcels        |  | Ephemeral Stream |
|   |                     |  | Swale            |

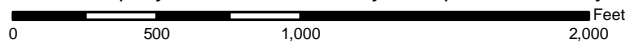


**PE Project No: 202410140**



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**Figure 5c:**  
**Aquatic Features - Center Segment 1C**

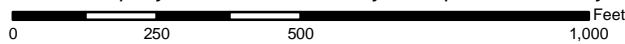
- |   |                     |   |                  |
|---|---------------------|---|------------------|
|  | Project Alignment   |  | Data Points      |
|  | Previously Reviewed |  | Water Well       |
|  | Land Parcels        |  | Ephemeral Stream |
|   |                     |  | Swale            |



Source: Esri, USDA FSA, Source: USDA FSA

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Note: Property location and boundary are representative only.



**Figure 5d:**  
**Aquatic Features - East Segment 1D**

- |   |                     |   |                  |
|---|---------------------|---|------------------|
|  | Project Alignment   |  | Data Points      |
|  | Previously Reviewed |  | Water Well       |
|  | Land Parcels        |  | Ephemeral Stream |
|   |                     |  | Swale            |



**PE Project No: 202410140**