



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

CESWF-RDE

November 10, 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) ,¹ [SWF-2025-00495](#).

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

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),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

¹ 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.

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).
 - i. Wetland 1, jurisdictional, Section 404
 - ii. Wetland 2, jurisdictional, Section 404
 - iii. Low Branch, jurisdictional, Section 404
 - iv. Wetland 3, non-jurisdictional, NA
 - v. Trib 1, non-jurisdictional, NA
 - vi. Trib 2, non-jurisdictional, NA
 - vii. Trib 3, non-jurisdictional, NA

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. The site (7.4 Ac) is mostly undeveloped forest and grassland. The northern and southwestern portions of the site are located within Zone X (areas determined to be outside of the 500-year floodplain per FEMA data). The central portion of the site along Low Branch and the eastern portion of the site north of Low Branch are in Zone AE – Regulated Floodway and within the 100-YR floodplain with portions in Zone X (area within the 500-YR floodplain. (FEMA PANEL: 48251C0115K, eff. 9/21/0223; PANEL 48113C0590K, eff. 7/7/2014) and PANEL 48139C0025G, eff. 10/19/2023). USGS topography maps indicates an intermittent stream, Low Branch, flowing generally east through the central portion of the proposed construction area. Ultimately Low Branch drains into the Trinity River (TNW). Elevation ranges from 600 amsl to 610 feet amsl. NWI maps depict the stream (R4SBC) and an impounded feature (PUBFH) in the central portion of the site along Low Branch Creek. Site visits determined the presence of one intermittent stream (Low Branch), three ephemeral streams (Tributaries 1-3), two emergent wetlands (Wetlands 1 & 2) and one forested wetland (Wetland 3). Watershed: HUC 12-120301020603. Coordinates: 32.55117544, -97.11659048

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4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [Trinity River as traced on USGS topography maps](#)⁵
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. [Ephemerals to Low Branch Creek, to Joe Pool Lake to Mountain Creek to West Fork Trinity River to Trinity River \(TNW\)](#).
6. SECTION 10 JURISDICTIONAL WATERS⁶: 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 10.⁷ [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, 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](#)

⁵ This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) 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.

⁶ 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.

⁷ 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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- 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):

Low Branch, intermittent stream, flows through the central portion of the evaluated construction corridor with an average width between OHWMs of 9.25 ft. (0.107 acres). Low Branch continues flowing generally southeast and ultimately draining eventually into the Trinity River, a TNW. The stream is an RPW with connection to TNW. Under the North Carolina Division of Water Quality (NCDWQ) Stream Identification Methodology, this stream scored 27.5, 28.5, 29.5 and 24, and all points were above the score of 19 and supports the determination of intermittent stream. A5 stream - Tributary of waters identified in paragraph (a)(1) through (4), where the tributary is a relatively permanent, standing or continuously flowing body of water.

- f. Adjacent Wetlands (a)(4):

Wetland 1 – EM is a linear emergent wetland that encompasses approximately 0.512 AC in the southern portion of the evaluated construction corridor. The wetland has a CSC to Low Branch (RPW) and the Trinity River (TNW). Therefore Wetland 1-EM is an (a)(7) Wetland adjacent to a non-wetland water identified in (a)(1) – (a)(6).

Wetland 2 - EM is a fringe emergent wetland that encompasses approximately 0.087 acres in the central portion of the evaluated construction corridor. The wetland has a CSC to Low Branch (RPW) and the Trinity River (TNW). Therefore Wetland 1-EM is an (a)(7) Wetland adjacent to a non-wetland water identified in (a)(1) – (a)(6).

- 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

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within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁸ N/A

- 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).

Trib 1 is an ephemeral stream that flows generally east for approximately 83 LF (0.003 AC) and drains into Low Branch (RPW connected to TNW); based on NCDWQ Stream Identification Methodology, this stream scored less than 19.0 on the North Carolina Division of Water Quality (NCDWQ) Stream Identification Methodology, which supported the ephemeral determination. The streams score was 11. Non-WOTUS. Tributary to a water identified in paragraphs (a)(1) through (4), where the tributary is not a relatively permanent, standing or continuously flowing body of water.

Trib 2 is an ephemeral stream that flows generally east on site for approximately 15 LF (0.001 AC) before flowing offsite and eventually draining into Low Branch (RPW connected to TNW). The NCDWQ stream score was 14.5, supporting the determination of being an ephemeral stream. NON-WOTUS: Tributary to a water identified in paragraphs (a)(1) through (4), where the tributary is not a relatively permanent, standing or continuously flowing body of water.

Trib 3 is an ephemeral stream in the central portion of the site and flows generally east for 60 LF (0.006 LF) before flowing off site and eventually draining to Low Branch. The NCDWQ stream score was 15, supporting the determination of being an ephemeral stream. NON-WOTUS: Tributary to a water identified in paragraphs (a)(1) through (4), where the tributary is not a relatively permanent, standing or continuously flowing body of water.

Wetland 3 - EM is a depressional forested wetland of approximately 0.038 acres in the northern portion of the site. The wetland is blocked by a debris dam to the west and lacks a continuous surface connection to a TNW; therefore, Wetland 3 is potentially non-jurisdictional. NON-WOTUS: Wetland that is not adjacent to a water identified in paragraph (a)(1) through (6).

⁸ 88 FR 3004 (January 18, 2023)

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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 field visits occurred on August 29, September 16, 2024, and August 7, 2025; office evaluation was conducted on November 5, 2025.
 - b. Google Earth Maps and topography layer, accessed on November 5, 2025.
 - c. National Regulatory Viewer, accessed on November 5, 2025.

10. OTHER SUPPORTING INFORMATION. [Delineation of Aquatic Resources, Proposed Vinewood Drive Connector, Vinewood Drive Terminus at Lariat Lane to Heritable Parkway, Mansfield, Tarrant County, Texas, for Bannister Engineering, by Groundwater & Environmental Services, Inc., September 4, 2025.](#)

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.

N:\Dallas\Projects\GES\Projects\Bannister Engineering\Bannister Vinewood Connector Update - 4325076\GIS\MXDs\6_Vinewood Aquatic Features.mxd - Scale 1:3,000 - 9/4/2025 6:40:30 PM - mpeters - NAD 1983 UTM Zone 14N



Legend

- Vinewood Drive Evaluation Area
- Intermittent Stream (Potentially Jurisdictional)
- Ephemeral Streams (Non-jurisdictional)

Wetland

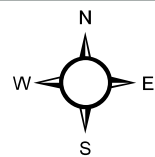
- Emergent (Potentially Jurisdictional)
- Forested (Potentially Non-jurisdictional)

Aquatic Features Map

Vinewood Drive Extension
Bannister Engineering
Vinewood Dr. Terminus to Heritage Pkwy.
Mansfield, Texas

Drawn
LR
Designed
LR
Approved
JS

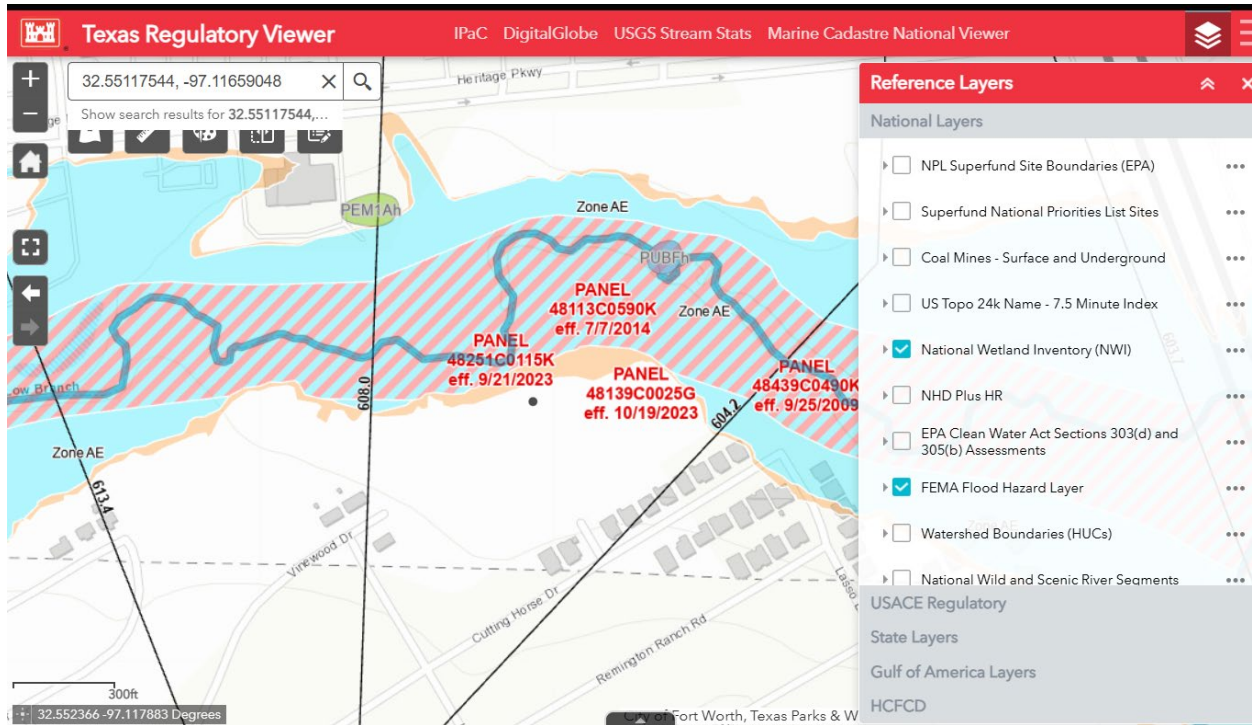
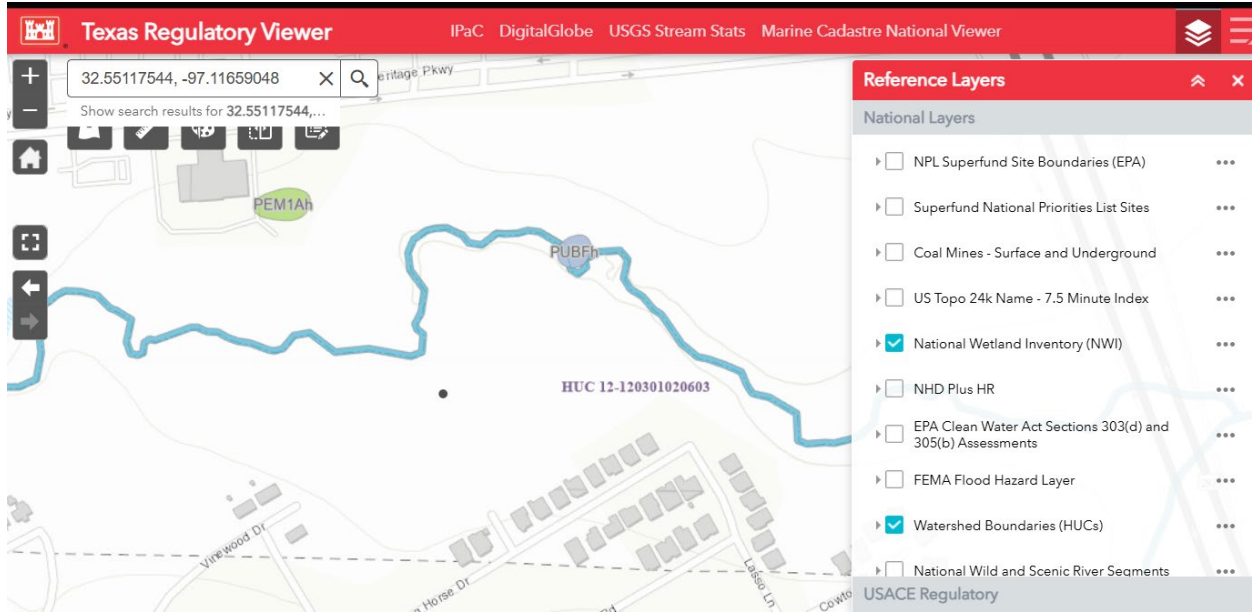
Date
9-4-25
Figure
6



Scale In Feet (Approximate)



Groundwater & Environmental Services, Inc.



Oklahoma **Texas** Missouri Arkansas Louisiana Tools Report an Issue SWI

Texas Regulatory Viewer IPaC DigitalGlobe USGS Stream Stats Marine Cadastre National Viewer

32.55117544, -97.11659048
Show search results for 32.55117544,...

HUC 12-120301020603

300ft

Imagery

Satellite and Aerial Imagery

Layers

- USA NAIP Imagery: Natural Color
- EPA Ecoregions Level III and IV
- TOP - 96_CIR_1m
- USA NAIP Imagery: Color Infrared
- USA NAIP Imagery: NDVI

Lidar

- 3DEP 5-ft Contour
- 3DEP 2-ft Contour
- EPA Ecoregions Level III and IV
- 3DEP Slope
- 3DEP Digital Elevation Model (DEM)
- 3DEP Hillshade