



**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): 10/13/2020
 ORM Number: SWF-2020-00274
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Texas City: Forney County/Parish/Borough: Kaufman
 Center Coordinates of Review Area: Latitude N 32.738269° Longitude W 96.410351°

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
- 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

§ 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): ³			
(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
N/A.	N/A.	N/A.	N/A.

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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
SWF-2020-00274-1: ditch (D-1)	528	linear feet	(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).	Project information provided by the consultant, USACE site visit, and supporting data indicate that the water feature (ditch) is a B5 exclusion. The ditch was artificially constructed within upland (dry land). The ditch likely is a result of adjacent road construction.
SWF-2020-00274-2: stream 1 (S-1)	1071	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Project information provided by the consultant, USACE site visit, and supporting data indicate that the stream (S-1) is an ephemeral tributary. S-1 receives flow in direct response to precipitation events. S-1 does not provide sufficient flow duration to constitute sustained flows beyond a direct response to precipitation events. S-1 connects hydrologically to a tributary to Big Brushy Creek, a perennial water (a2).
SWF-2020-00274-3: stream 2 (S-2)	765	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Same response as above.

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.

Information submitted by, or on behalf of, the applicant/consultant: [Reference 20200713 SWF-2020-00274 NPR.pdf within the electronic project file.](#) Provided by Joshua Baker, BGE, July 13, 2020

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: *N/A*

Photographs: **Aerial and Other:** [Google Earth Imagery, Numerous Years.](#)

[Photographs provided by J. Baker, BGE, July 13, 2020 \(referenced above\) and Brian C. Bartels, August 18, 2020, located within the electronic project file.](#)

Corps site visit(s) conducted on: [August 18, 2020](#)

Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*

Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

USDA NRCS Soil Survey: *N/A*

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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- USFWS NWI maps: [ESRI Managed Imagary \(SWF Regulatory Viewer\), October 13, 2020](#)
- USGS topographic maps: [Forney South, TX 1:24,000](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset (SWF Regulatory Viewer) October 13, 2020
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources (enclosed)	Location map provided by J. Baker, BGE

B. Typical year assessment(s): The project site was visited twice during the dry season, but on June 15, 2020, conditions were normal and on August 18, 2020 conditons were drier than normal. Note: Flow was observed within the confined drainage channel of S-1 on August 18, 2020, because construction activities off the Gateway Project Site had begun and water was temporarily being pumped into S-1. Flow was not observed wthin S-1 during the site visit on June 15, 2020 by J. Baker, during a time of normal conditions, as indicated by the antecedent precipitation tool graph. Flow was not observed in D-1, S-1, and S-2 on June 15, 2020. Flow was not observed in D-1 and S-2 on August, 18, 2020. It is the Corps' determination through an assessment of all available information that S-1 and S-2 are ephemeral and exhibits surface water flowing or pooling only in direct response to precipitation.

C. Additional comments to support AJD: The drainage area for the three water features (D-1, S-1, S-2) combined is less than 100 acres. Evidence of the presence of water within the confined drainage areas of S-1 and S-2 by using Google Earth Imagery and Digital Globe was not observed (years viewed: 1996, 2001, 2005, 2008-2019).

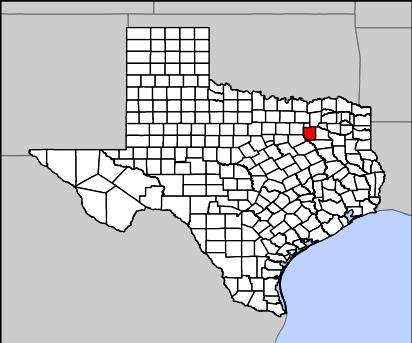
Enclosures: Location Map

Photographs of each water feature (D-1, S-1, S-2)

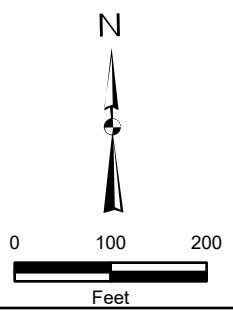
Antecedent Precipitaion Tool Graphs for June 15, 2020 and August 18, 2020



C:\Projects\Environmental\Forney Site (Southeast 80 & Gateway)\04_Environmental\02_GIS\02_MXD\Forney_East.aprx



- Study Area
- Mapped Man-made Drainage
- Mapped Ephemeral Stream
- Upland Data Point



VanTrust Real Estate		
	BGE, Inc. 2595 Dallas Parkway, Suite 101, Frisco, TX 75034 Tel: 972-464-4800 Fax: 972-464-4899 www.bgeinc.com	
Waters of the U.S. Map		
Gateway Industrial Project Kaufman County, Texas		
Date: July 2020	Proj. No: 7849	Figure No: 4



Photo 1: S-1



Photo 2: S-1



Photo 3: S-1



Photo 4: S-1



Photo 5: Construction disrupting connection of S-1 to the unnamed tributary.



Photo 6: Construction disrupting connection of S-1 to the unnamed tributary.



Photo 7: S-2



Photo 8: S-2



Photo 9: S-2

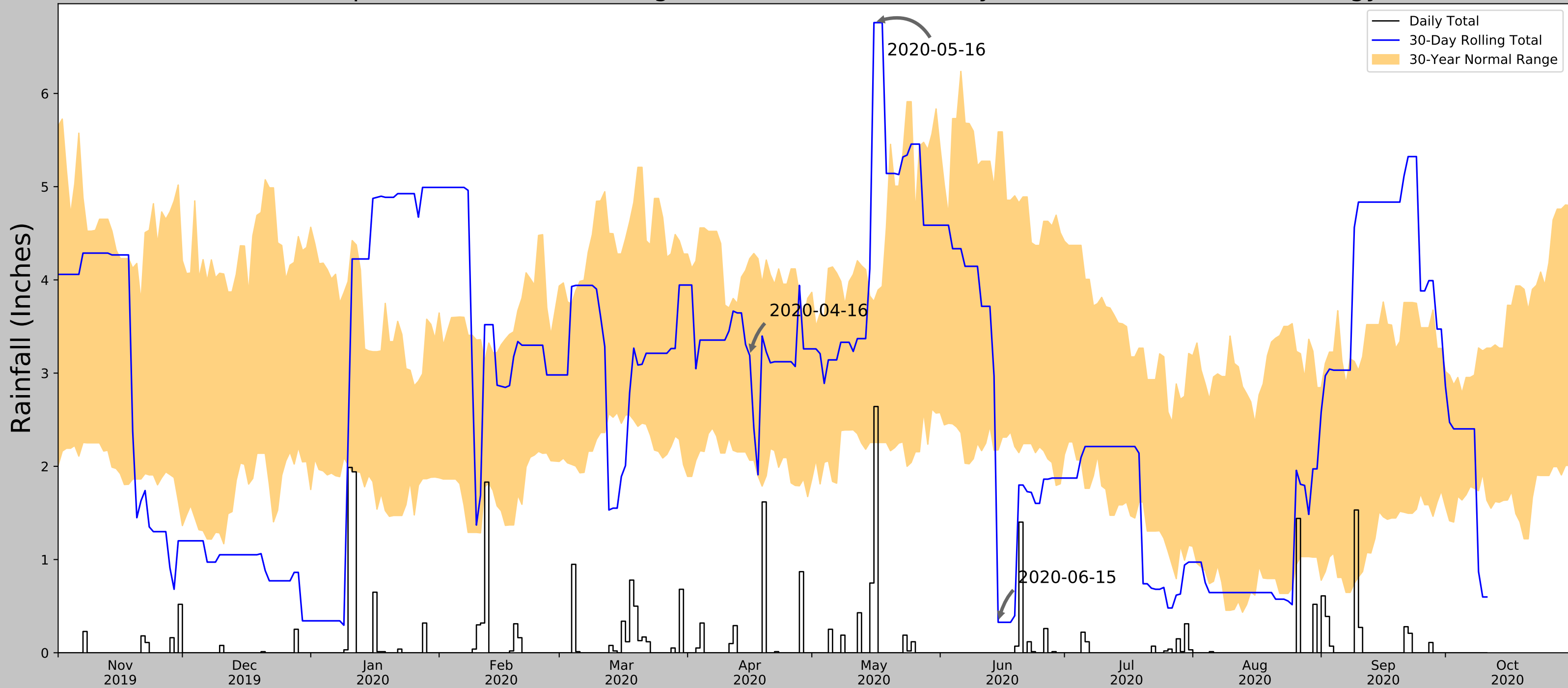


Photo 10: S-2



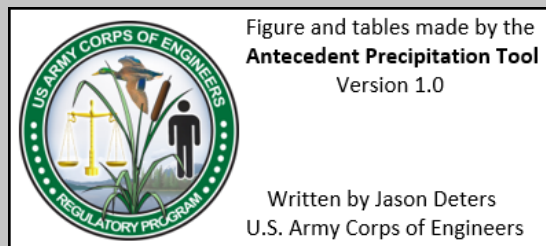
Photo 5: ED-1 - Man Made Drainage

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



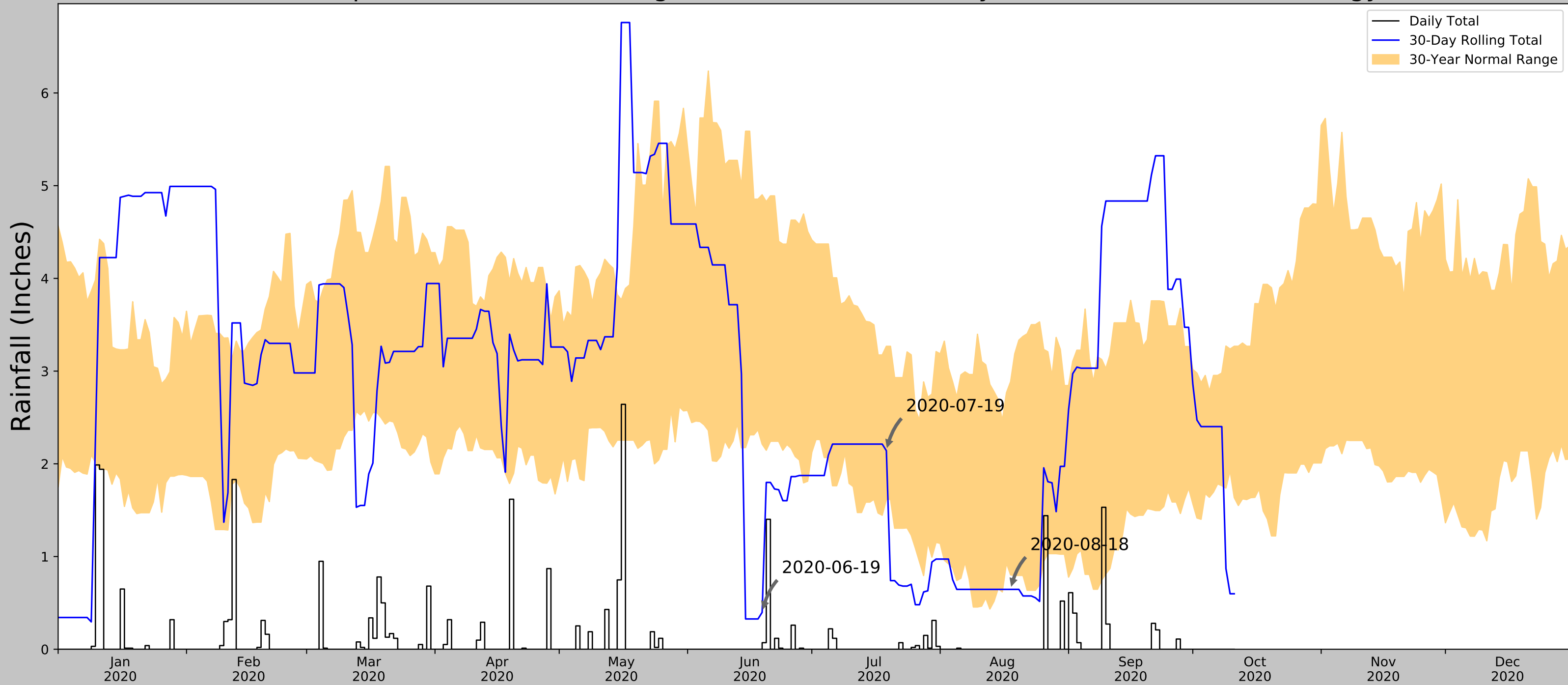
Coordinates	32.736653, -96.399861
Observation Date	2020-06-15
Elevation (ft)	459.14
Drought Index (PDSI)	Moderate wetness
WebWIMP H ₂ O Balance	Dry Season

30 Days Ending	30 th %ile (in)	70 th %ile (in)	Observed (in)	Wetness Condition	Condition Value	Month Weight	Product
2020-06-15	2.175984	5.587795	0.326772	Dry	1	3	3
2020-05-16	2.255118	3.768898	6.759843	Wet	3	2	6
2020-04-16	2.064961	4.227559	3.188976	Normal	2	1	2
Result							Normal Conditions - 11



Weather Station Name	Coordinates	Elevation (ft)	Distance (mi)	Elevation Δ	Weighted Δ	Days (Normal)	Days (Antecedent)
TERRELL MUNI AP	32.71, -96.2672	475.066	7.928	15.926	3.694	7829	89
TERRELL 1.8 NW	32.7524, -96.3348	512.139	3.934	52.999	1.979	1	0
TERRELL	32.7336, -96.3225	495.079	4.501	35.939	2.187	3516	0
TERRELL 1.3 NNE	32.7494, -96.2833	538.058	6.831	78.918	3.613	1	1
KAUFMAN 3 SE	32.5589, -96.2725	419.948	14.344	39.192	7.017	5	0

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



Coordinates	32.736653, -96.399861
Observation Date	2020-08-18
Elevation (ft)	459.14
Drought Index (PDSI)	Mild wetness
WebWIMP H ₂ O Balance	Dry Season

30 Days Ending	30 th %ile (in)	70 th %ile (in)	Observed (in)	Wetness Condition	Condition Value	Month Weight	Product
2020-08-18	0.801575	2.885433	0.645669	Dry	1	3	3
2020-07-19	1.616929	3.267717	2.141732	Normal	2	2	4
2020-06-19	2.212598	4.901969	0.397638	Dry	1	1	1
Result							Drier than Normal - 8

Weather Station Name	Coordinates	Elevation (ft)	Distance (mi)	Elevation Δ	Weighted Δ	Days (Normal)	Days (Antecedent)
TERRELL MUNI AP	32.71, -96.2672	475.066	7.928	15.926	3.694	7829	88
TERRELL 1.8 NW	32.7524, -96.3348	512.139	3.934	52.999	1.979	1	0
TERRELL	32.7336, -96.3225	495.079	4.501	35.939	2.187	3516	0
TERRELL 1.3 NNE	32.7494, -96.2833	538.058	6.831	78.918	3.613	1	1
TERRELL 8.2 SSW	32.6276, -96.3586	429.134	7.908	30.006	3.796	0	1
KAUFMAN 3 SE	32.5589, -96.2725	419.948	14.344	39.192	7.017	5	0

Figure and tables made by the
Antecedent Precipitation Tool
Version 1.0

Written by Jason Deters
U.S. Army Corps of Engineers