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): 2/1/2021
ORM Number: SWF-2020-00396
Associated JDs: N/A
Review Area Location[1]: State/Territory: Texas City: N/A County/Parish/Borough: Bosque
Center Coordinates of Review Area: Latitude 31.808274 Longitude -97.445361

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)[2]

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	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.	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.	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.	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.	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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
SWF-2020-00396-1 (S1)	109	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 water feature is an ephemeral stream that connects hydrologically to Coon Creek. The stream flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is approximately 400 acres. During the USACE site visit on 2020-12-02 flow was not observed. Rainfall data from Whitney Dam approximately 5 miles away from the project site shows that 1.02 inches of rain was recorded three days prior to the date of the site visit. The APT of the date of the site visit indicates that normal conditions were present during the wet season. Thus, the Corps has determined that the stream meets the criteria of a (b)(3) excluded water feature.
SWF-2020-00396-2 (S2)	1161	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Project information provided by the consultant and supporting data indicate that the water feature is an ephemeral stream that connects hydrologically to Childress Creek. The stream flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is approximately 100 acres. Thus, the Corps has determined that the stream meets the criteria of a (b)(3) excluded water feature.
SWF-2020-00396-3 (S3)	2221	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Project information provided by the consultant and supporting data indicate that the water feature is an ephemeral stream portion of the uppermost reach of Coon Creek. This portion of stream within the project boundary flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is approximately 175 acres. Thus, the Corps has determined that the stream meets the criteria of a (b)(3) excluded water feature.

[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.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
SWF-2020-00396-4 (S4)	3049	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Project information provided by the consultant and supporting data indicate that the water feature is an ephemeral stream portion of the uppermost reach of Willow Creek. This portion of stream within the project boundary flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is approximately 400 acres. Thus, the Corps has determined that the stream meets the criteria of a (b)(3) excluded water feature.
SWF-2020-00396-5 (S5)	1045	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Project information provided by the consultant and supporting data indicate that the water feature is an ephemeral swale that connects hydrologically to S3. The swale flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is less than 50 acres. Thus, the Corps has determined that the stream meets the criteria of a (b)(3) excluded water feature.
SWF-2020-00396-6 (S6)	697	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Project information provided by the consultant and supporting data indicate that the water feature is an ephemeral swale that connects hydrologically to South Prong Coon Creek. The swale flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is less than 50 acres. Thus, the Corps has determined that the stream meets the criteria of a (b)(3) excluded water feature.
SWF-2020-00396-7 (S7)	1411	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Project information provided by the consultant and supporting data indicate that the water feature is an ephemeral swale portion of the uppermost reach of South Prong Coon Creek. This portion of swale within the project boundary flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is approximately 65 acres. Thus, the Corps has determined that the stream meets the criteria of a (b)(3) excluded water feature.
SWF-2020-00396-8 (P1)	0.1	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in	Project information provided by the consultant and supporting data indicate that the pond was constructed within a (b)(3) ephemeral water feature (S2). Thus, the Corps has determined

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
			upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	that the pond meets the criteria of a (b)(8) excluded water feature.
SWF-2020-00396-9 (P2)	0.5	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Project information provided by the consultant and supporting data indicate that the pond was constructed within a (b)(3) ephemeral water feature (S7). Thus, the Corps has determined that the pond meets the criteria of a (b)(8) excluded water feature.
SWF-2020-00396-10 (P3)	0.2	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Project information provided by the consultant and supporting data indicate that the pond was constructed within the upland, i.e., dry land. Thus, the Corps has determined that the pond meets the criteria of a (b)(8) excluded water feature.
SWF-2020-00396-11 (P4)	0.1	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Project information provided by the consultant and supporting data indicate that the pond was constructed within a (b)(3) ephemeral water feature (S6). Thus, the Corps has determined that the pond meets the criteria of a (b)(8) excluded water feature.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
SWF-2020-00396-12 (P5)	0.03	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Project information provided by the consultant and supporting data indicate that the pond was constructed within the upland, i.e., dry land. Thus, the Corps has determined that the pond meets the criteria of a (b)(8) excluded water feature.
SWF-2020-00396-13 (EW)	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Project information provided by the consultant and supporting data indicate that the emergent wetland was constructed within the upland, i.e., dry land. Aerial imagery (Google Earth) indicates that the wetland likely was originally constructed as a stock-watering pond that has silted in over time. The wetland is not hydrologically connected to a (b)(3) ephemeral water feature or jurisdictional water of the U.S. Thus, the Corps has determined that the wetland meets the criteria of a (b)(1) non-adjacent wetland.

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: Ecological Assessment Technical Report provided by Cox/McLain Environmental Consulting on 2020-09-28 was referenced throughout review. Available within the electronic project file, SWF-2020-00396.

This information is sufficient for purposes of this AJD.

Rationale: N/A

☐ Data sheets prepared by the Corps:

☒ Photographs: Aerial and Other: Google Earth Imagery, HistoricAerials.com - numerous years; Photographs provided by Cox/McLain, 2020-08-31 (enclosed) and Brian C. Bartels, 2020-12-02, (enclosed).

☒ Corps site visit(s) conducted on: 2020-12-02

☐ Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).

☒ Antecedent Precipitation Tool: See Section III.B.

☐ USDA NRCS Soil Survey:

☒ USFWS NWI maps: ESRI managed imagery, SWF Regulatory Viewer, 2021-02-01

☒ USGS topographic maps: Laguna Park, 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, 2020-12-02
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Location and topographic maps provided by Cox/McLain

B. Typical year assessment(s): The project site was visited on 2020-12-02, conditions were normal during the wet season. Only one water feature was viewed during the site visit because after reviewing project information provided by the consultant it was the only feature that warranted field observation. Flow was not observed during the site visit to S1 even after a precipitation event of over one inch three days prior to the site visit. The amount of precipitation was observed from Whitney Dam collection point that is approximately 5 miles away from the project area. It is the Corps' determination through an assessment of all available information that S1 is an ephemeral water feature and exhibits surface water flowing or pooling only in direct response to precipitation.

C. Additional comments to support AJD:
Enclosures include location map, site photographs provided by the agent, APT data, and site-visit photos from 2020-12-02.

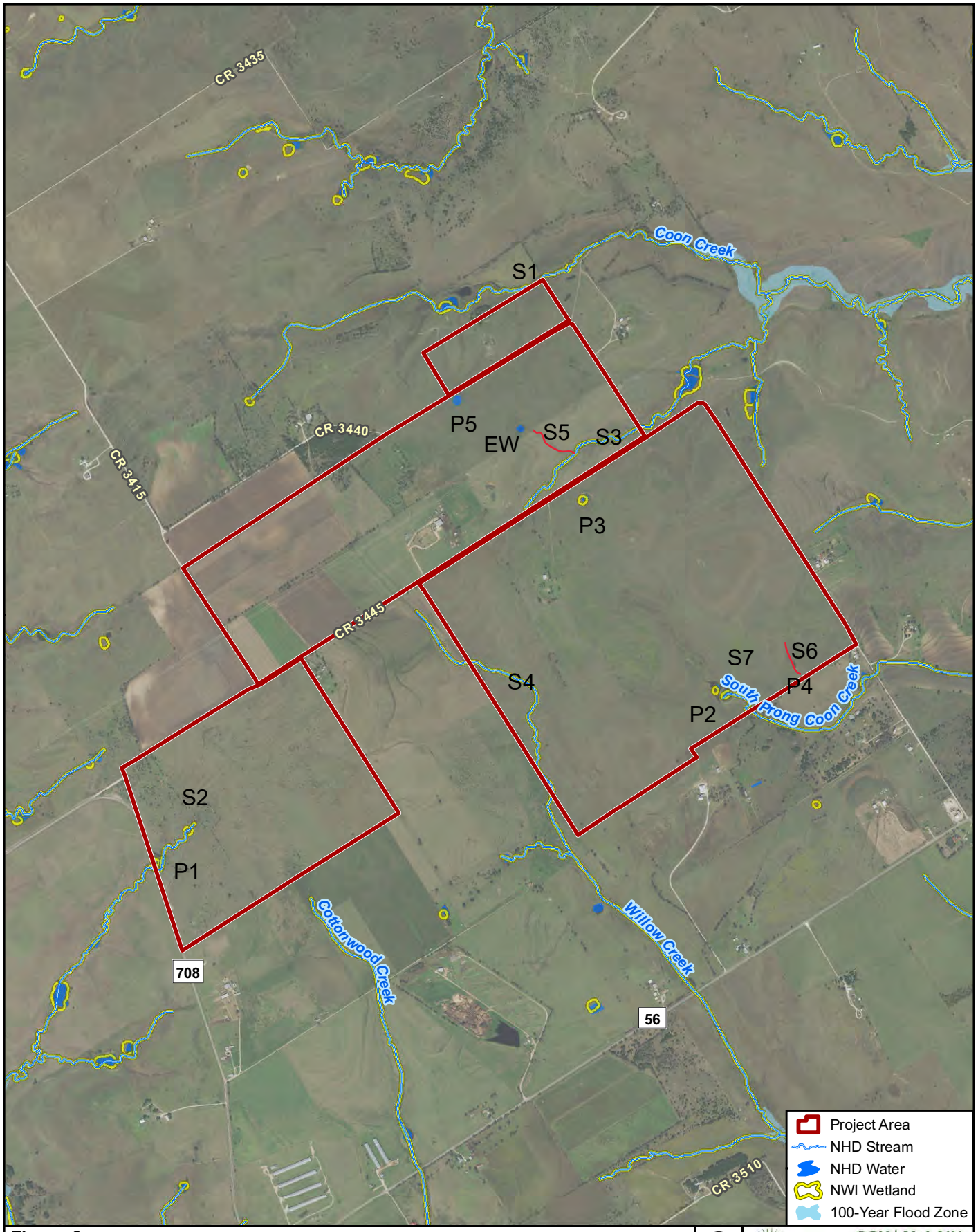


Figure 8.
Water Resources

Rueter Solar

Data Sources: NHD (2020), NWI (2020), FEMA NFHL (2020)
Aerial Source: NAIP (2018)

COX | McLAIN Environmental Consulting

0 2,000 Feet
0 600 Meters

1 in = 2,000 feet
Scale: 1:24,000
Date: 9/17/2020

G:\Projects\Belltown Power\Fairview_Solar\Rueter_EATR_Figure 8_Water Resources_20200917_TLS.mxd

Photo 16: WDP16 (Wetland) located within an emergent wetland in the central portion of the project area.

Photo 17: WDP17 (Upland) located adjacent to an ephemeral wetland in the central portion of the project area.

Photo 21: WDP21 (Upland) located adjacent to an upland stock tank in the central portion of the project area.

Photo 36: WDP36 (Upland) located adjacent to an upland stock tank in the southern portion of the project area.

Photo 38: WDP38 (Upland) located within an upland depression in the southwestern portion of the project area.

Photo 40: An example of a non-wetland vegetated swale found within the project area.

Photo 41: An example of a non-wetland depression found within the project area.

Photo 42: An example of an upland stock tank found within the project area.

Photo 43: An example of a relic stream feature found within the project area.

Photo 44: An example of an ephemeral stream found within the project area.

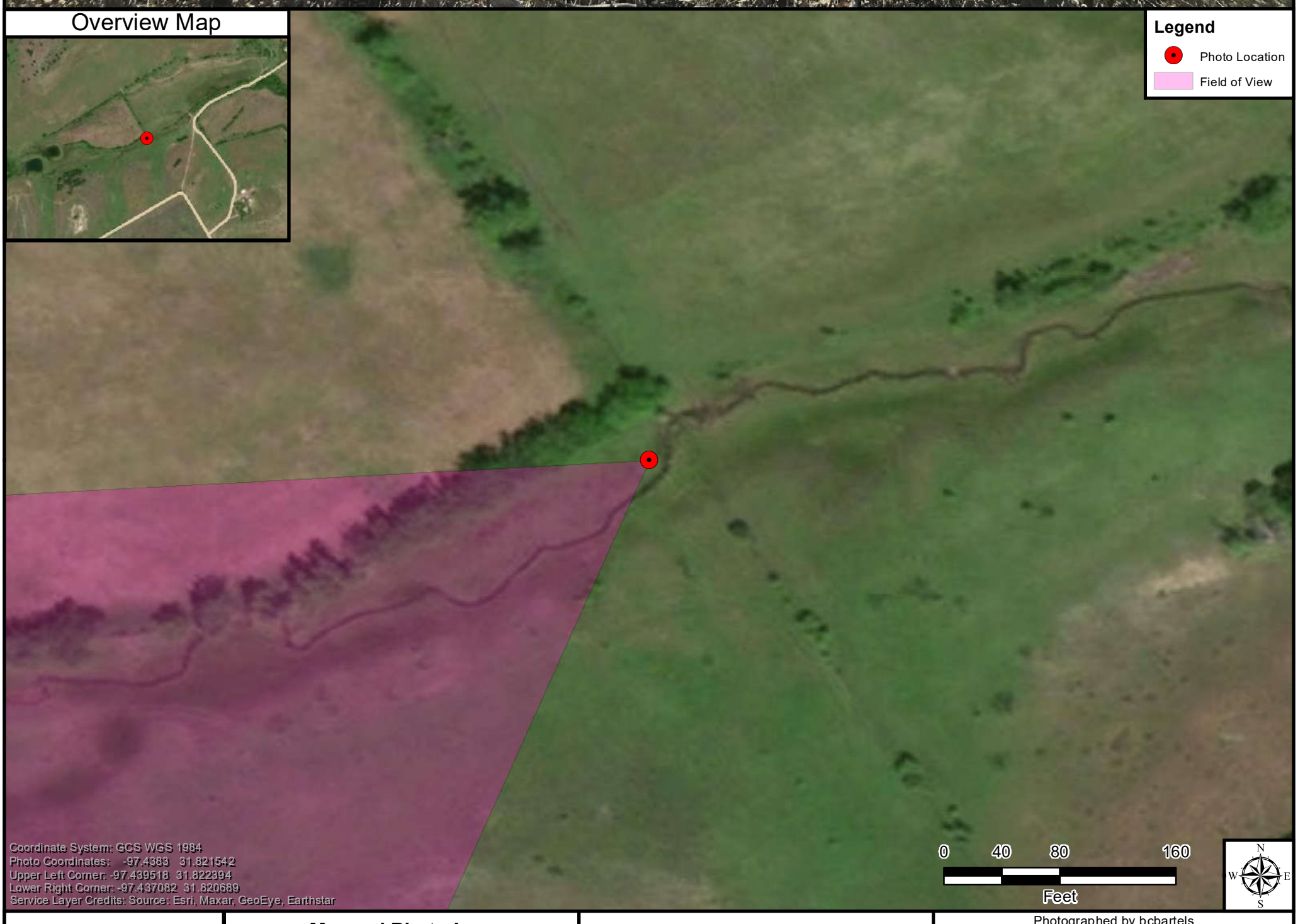
Photo 45: An example of an emergent wetland found within the project area.

Mapped Photo Log for Reuter Solar Project SWF-2020-396

Description:

Image of S1; water not observed within the stream channel; substrate within the channel is dry and cracked even after an inch of rain three days prior.

Photographed by bcbartels
on 12/2/2020 at 2:45:18 PM CST
Camera: Apple iPhone 7
Location Source: Camera's internal GPS
Heading Source: Camera's internal compass
Map generated on 2/1/2021 using the
Photo Log Toolbar, written by Jason C. Deters



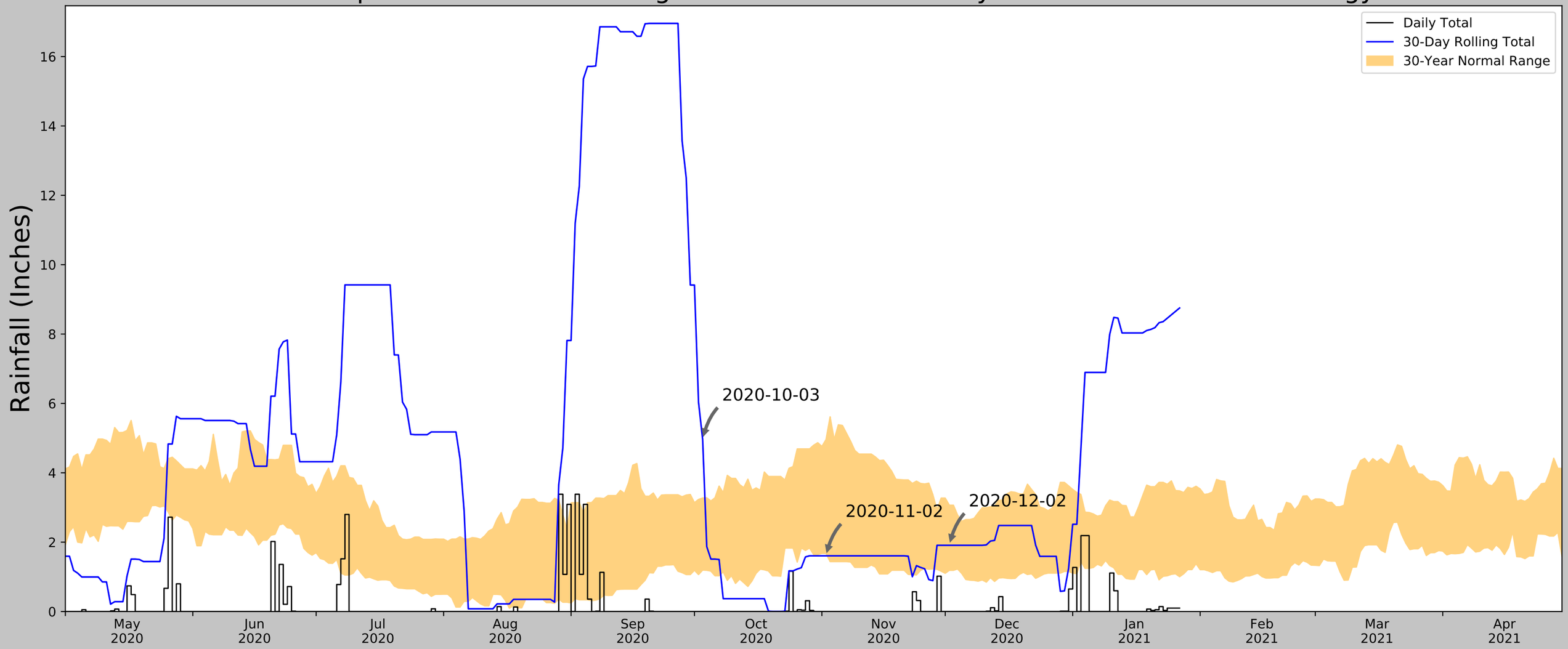
Mapped Photo Log for Reuter Solar Project SWF-2020-396

Description:

Image of S1; water not observed within the stream channel; substrate within the channel is dry and cracked even after an inch of rain three days prior.

Photographed by bcbartels
on 12/2/2020 at 2:45:23 PM CST
Camera: Apple iPhone 7
Location Source: Camera's internal GPS
Heading Source: Camera's internal compass
Map generated on 2/1/2021 using the
Photo Log Toolbar, written by Jason C. Deters

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



Coordinates	31.821438, -97.438391
Observation Date	2020-12-02
Elevation (ft)	729.85
Drought Index (PDSI)	Mild wetness
WebWIMP H_2O Balance	Wet Season

30 Days Ending	30^{th} %ile (in)	70^{th} %ile (in)	Observed (in)	Wetness Condition	Condition Value	Month Weight	Product
2020-12-02	1.187795	3.065354	1.909449	Normal	2	3	6
2020-11-02	1.675984	4.95748	1.606299	Dry	1	2	2
2020-10-03	1.194488	3.273228	4.96063	Wet	3	1	3
Result							Normal Conditions - 11

Weather Station Name	Coordinates	Elevation (ft)	Distance (mi)	Elevation Δ	Weighted Δ	Days (Normal)	Days (Antecedent)
WHITNEY DAM	31.8611, -97.375	574.147	4.621	155.703	2.799	10760	90
CLIFTON 3.4 SSE	31.7342, -97.563	766.076	9.482	36.226	4.61	65	0
VALLEY MILLS 0.9 ESE	31.6512, -97.4591	698.163	11.825	31.687	5.696	197	0
CHINA SPRING 3.3 WNW	31.6677, -97.3618	625.984	11.536	103.866	6.39	43	0
CHINA SPRING 2.9 NNW	31.6913, -97.3282	600.066	11.08	129.784	6.424	7	0
VALLEY MILLS	31.6606, -97.4661	577.1	11.231	152.75	6.77	96	0
CLIFTON 3.9 WSW	31.7623, -97.6421	853.018	12.642	123.168	7.246	2	0
MERIDIAN	31.93, -97.6608	770.013	15.052	40.163	7.378	90	0
MORGAN	32.0139, -97.6131	728.018	16.787	1.832	7.585	82	0
AQUILLA 1.3 NNE	31.8741, -97.217	534.121	13.494	195.729	8.713	9	0
AQUILLA 1 SSE	31.8411, -97.2114	520.013	13.394	209.837	8.838	2	0

Figure and tables made by the
Antecedent Precipitation Tool
Version 1.0

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