



**US Army Corps
of Engineers** ®
Fort Worth District

Public Notice

Applicant: The City of The Colony

Permit Application No.: SWF-2012-00231

Date: December 20, 2012

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Ms. Elisha Bradshaw, Project Manager

Phone Number: (817) 886-1738

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the proposed construction of the Nebraska Furniture Warehouse, located in The Colony, Denton County Texas.

APPLICANT: The city of The Colony
6800 Main Street
The Colony, Texas 75056-1133

APPLICATION NUMBER: SWF-2012-00231

DATE ISSUED: December 20, 2012

LOCATION: The project site is located southwest of the intersection of SH 121 and W. Spring Creek Parkway in the city of The Colony, Denton County, Texas. The commercial development would be located along SH 121, which forms the northwest boundary. Spring Creek Parkway forms the boundary to the east, and Plano Parkway to the southwest (Sheet 1-2 of 9). The U.S. Geological Survey (USGS) North American Datum of 1983 coordinates for the proposed project are as follows: Latitude 33.08105° North, Longitude -96.85172° West. The site is mapped on the Hebron, Texas 7.5-minute USGS quadrangle map (Sheet 3 of 9) in the USGS Hydrologic Unit 12030103.

OTHER AGENCY AUTHORIZATIONS: Section 401 State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposed to discharge approximately 970 cubic yards of dredged and fill material into approximately 1.2 acres of waters of the United States in conjunction with the construction of a commercial development. Total adverse impacts proposed impacts to waters of the U.S. are the direct, permanent fill of the 1.2 acre pond which lacks a wetland fringe. This purpose of the project is to facilitate development in the surrounding areas.

The study area contains scattered trees buffering the tributary to Indian Creek and contains a dominance of wetland vegetation within the northern most portion of the property, where runoff from SH 121 flows onto the property. The most recent Soil Survey of Denton County, Texas indicates that the subject area contains soils of the Branyon-Burleson-Heiden association and the

Altoga-Vertel-Ferris association (Sheet 4 of 9). According to the FEMA Flood Insurance Rate Map, Community Panel Number FM 48121C0580 G, revised April 18, 2011, most of the property occurs within Zone X, which are determined to be outside of the 0.2% annual chance floodplain (Sheet 5 of 9). According to the National Wetland Inventory Map, two wetland types are identified on-site (Sheet 6 of 9); Paulstrine, Unconsolidated Bottom, Permanently Flooded, Diked/Impounded (POWHh) and Paulstrine, Emergent, Persistent, Temporarily Flooded, Diked/impounded (PEM1Ah). The study area includes an 8,040 lf ephemeral/intermittent stream, 0.38 acres of on-channel prairie wetland, 1.2 acres of on-channel ponds, and 0.29 acres of upland isolated ponds (Sheet 7 and 7a of 9). The 1.2-acre pond is the only waters of the United States that would be impacted as a result of this project. The dam of the pond has been breached for agricultural purposes.

Impacts to jurisdictional waters include the filling of approximately 1.2-acres of a dry stock pond as part of the mass grading for the Nebraska Furniture Warehouse project (Sheets 8-9 of 9). Native Soils will be used for fill materials. Water discharged offsite will meet the 300 mg/l turbidity standard outlined in the Section 401 water quality best management practices.

COMPENSATORY MITIGATION: The applicant proposes to compensate for the loss of aquatic functions associated with the waters of the U.S. wholly through the purchase of mitigation banking credits. To offset the loss of 1.2-acres of on-channel pond, the applicant is proposing to purchase 2.4 wetland credits from the Trinity River Mitigation Bank.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE in determining whether to issue, issue with modifications, or conditions, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest

factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION: This project incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those that result in a direct impact of three acres or less of waters of the State or 1,500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices (BMPs) and other provisions designed to safeguard water quality. The USACE has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in Denton County where the whooping crane (*Grus americana*), least tern (*Sterna antillarum*), bald eagle (*Haliaeetus leucocephalus*), and piping plover (*Charadrius melodus*), are known to occur or may occur as migrants. The whooping crane and least tern are endangered species and the bald eagle and piping plover are threatened species. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The USACE has reviewed the latest complete published version of the National Register of Historic Places and found no listed properties to be in the project area. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit.

FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

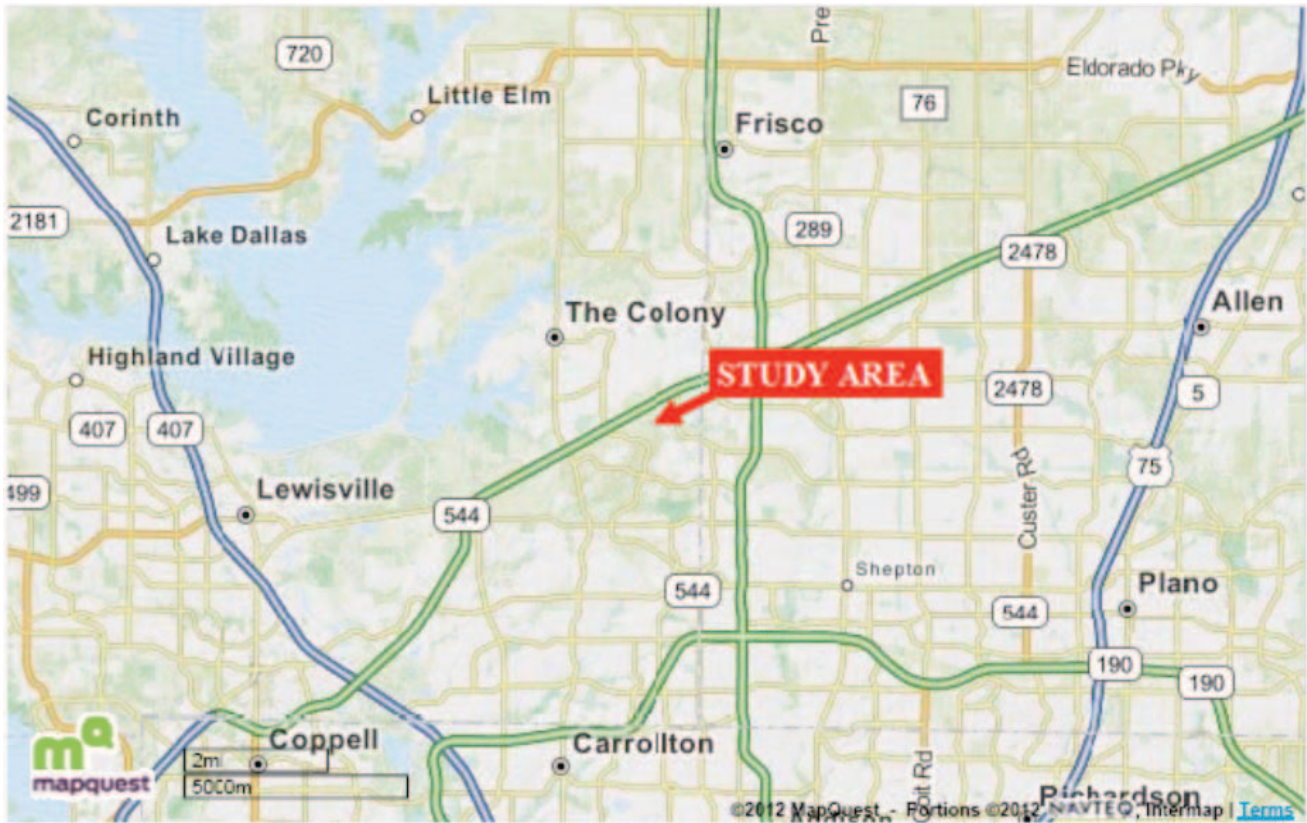
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District

Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before January 20, 2012, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to ; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



LOCATION MAP



1506 Audrey Dr.
Garland, TX
75040
(972) 496-4701
(972) 414-0451 (fax)

LMG INDIVIDUAL PERMIT THE COLONY, TEXAS

SWF-2012-00231
PN Date: December 20, 2012

Job No. 22-05007

AUGUST 2012

Sheet 1 of 9



AERIAL PHOTOGRAPHY



1506 Audrey Dr.
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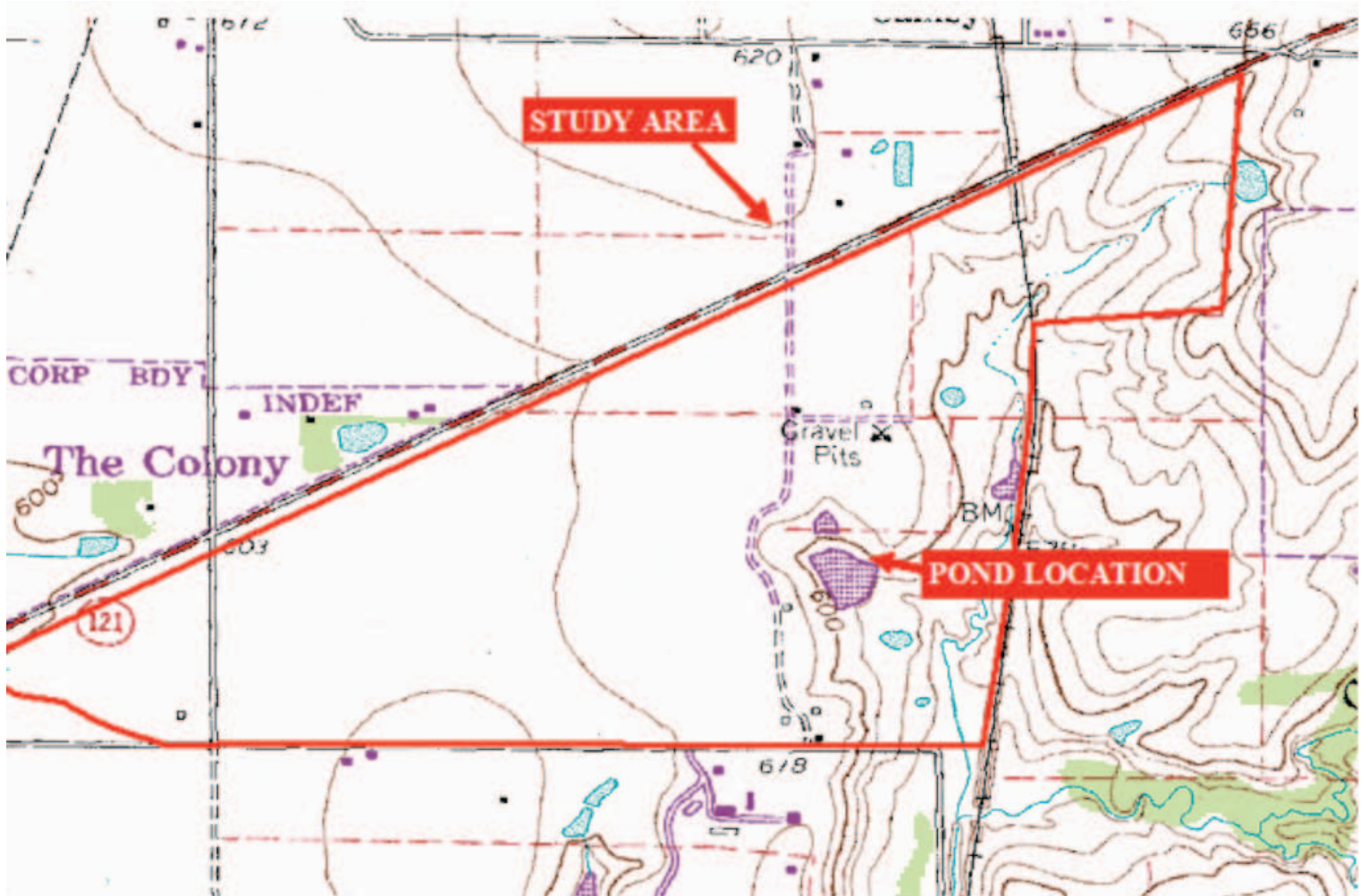
LMG INDIVIDUAL PERMIT THE COLONY, TEXAS

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Sheet 2 of 9



USGS 7.5 MINUTE QUADRANGLE MAP HEBRON, TX



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Sheet 3 of 9



Map Unit Symbol	Map Unit Name
3	Altoga silty clay, 5 to 8 percent slopes
18	Branyon clay, 0 to 1 percent slopes
19	Branyon clay, 1 to 3 percent slopes
32	Ferris-Heiden clay, 5 to 15 percent slopes
42	Heiden clay, 3 to 5 percent slopes
44	Houston Black clay, 1 to 3 percent slopes
59	Navo clay loam, 0 to 1 percent slopes
W	Water

DENTON COUNTY SOIL SURVEY



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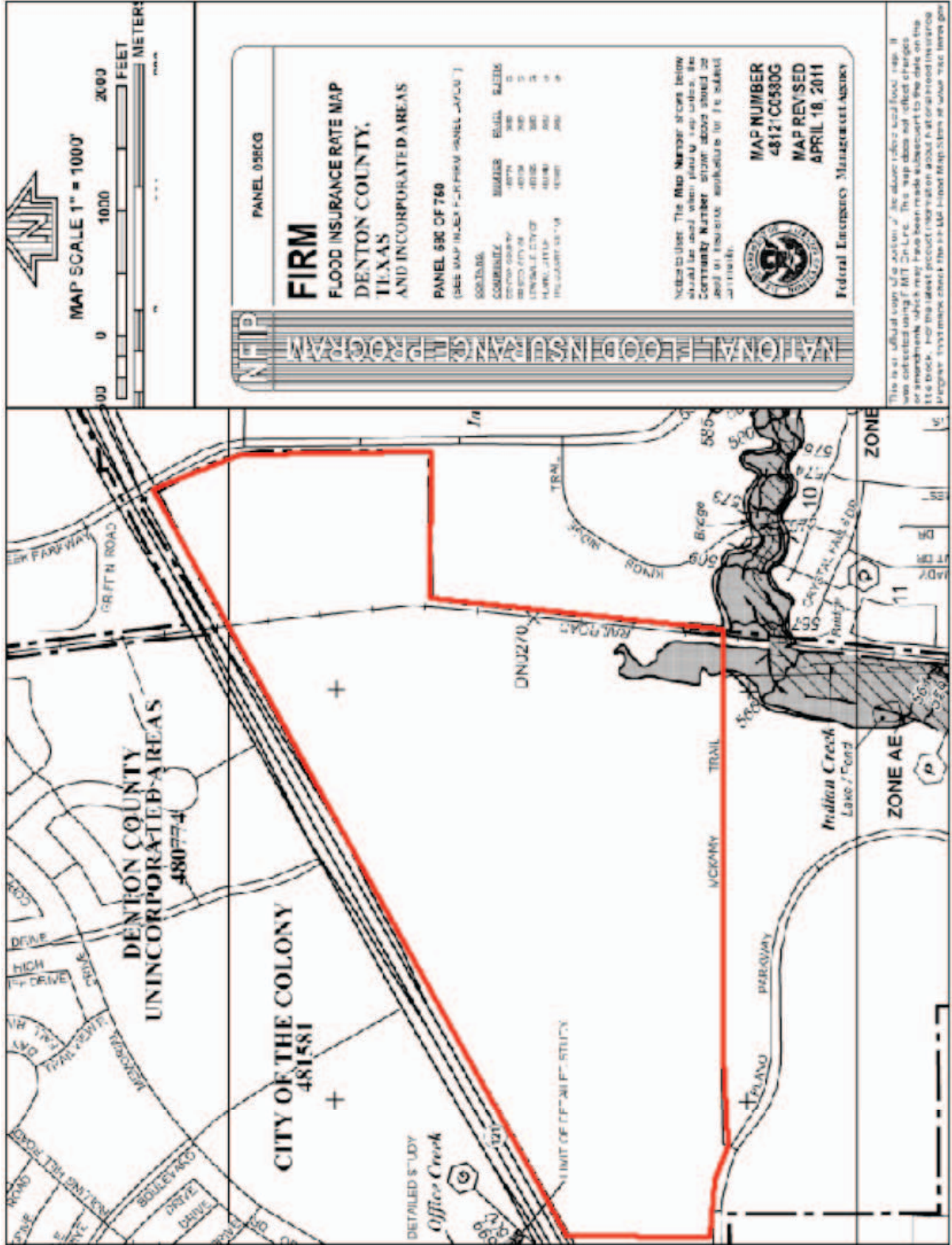
LMG INDIVIDUAL PERMIT THE COLONY, TEXAS

SWF-2012-00231
PN Date: December 20, 2012

Job No. 22-05007

August 2012

Sheet 4 of 9



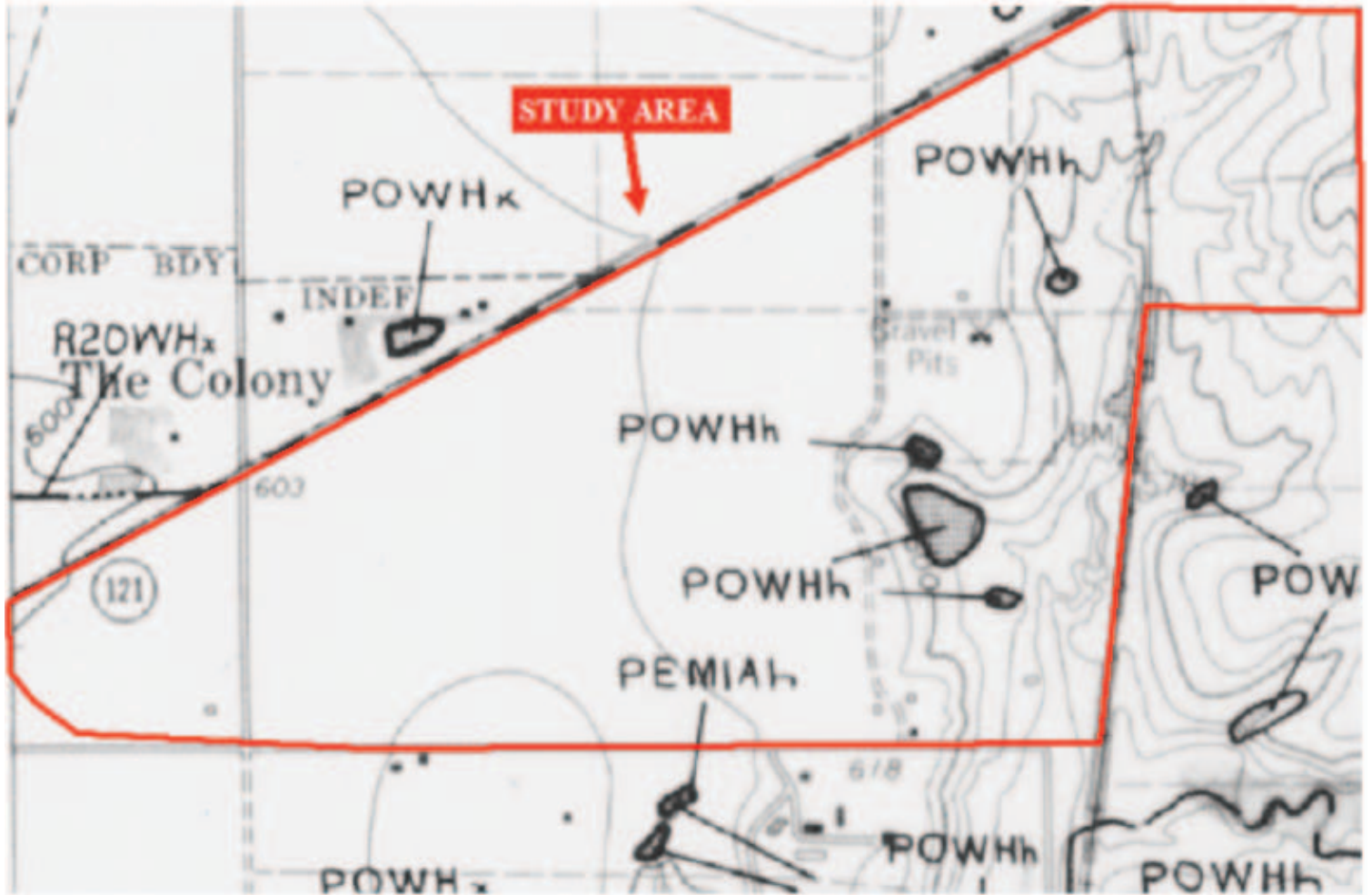
FEMA FIRM FLOODPLAIN MAP 48121C0580G



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Job No. 22-05007
 AUGUST 2012
 Sheet 5 of 9



POWHh — Palustrine, Unconsolidated Bottom, Permanently Flooded, Diked/Impounded
 PEMIAh — Palustrine, Emergent, Persistent, Temporary Flooded, Diked/Impounded

NATIONAL WETLANDS INVENTORY MAP



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AUGUST 2012

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JURISDICTIONAL DETERMINATION



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Job No.22-02007

AUGUST 2012

Sheet 7 of 9

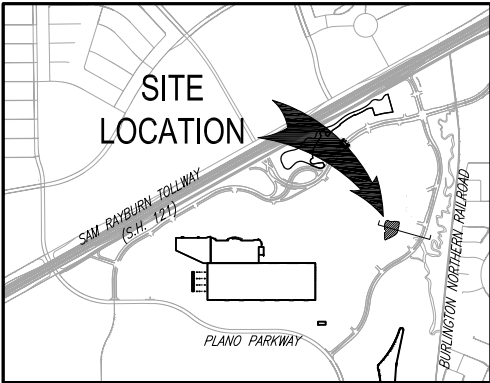


- 0.38 ac. Jurisdictional Wetland
- 8,040 If Jurisdictional Ephemeral/Intermittent Stream Channel
- 0.29 ac. Non-Jurisdictional Upland Ponds
- 1.20 ac. Jurisdictional Stock Ponds

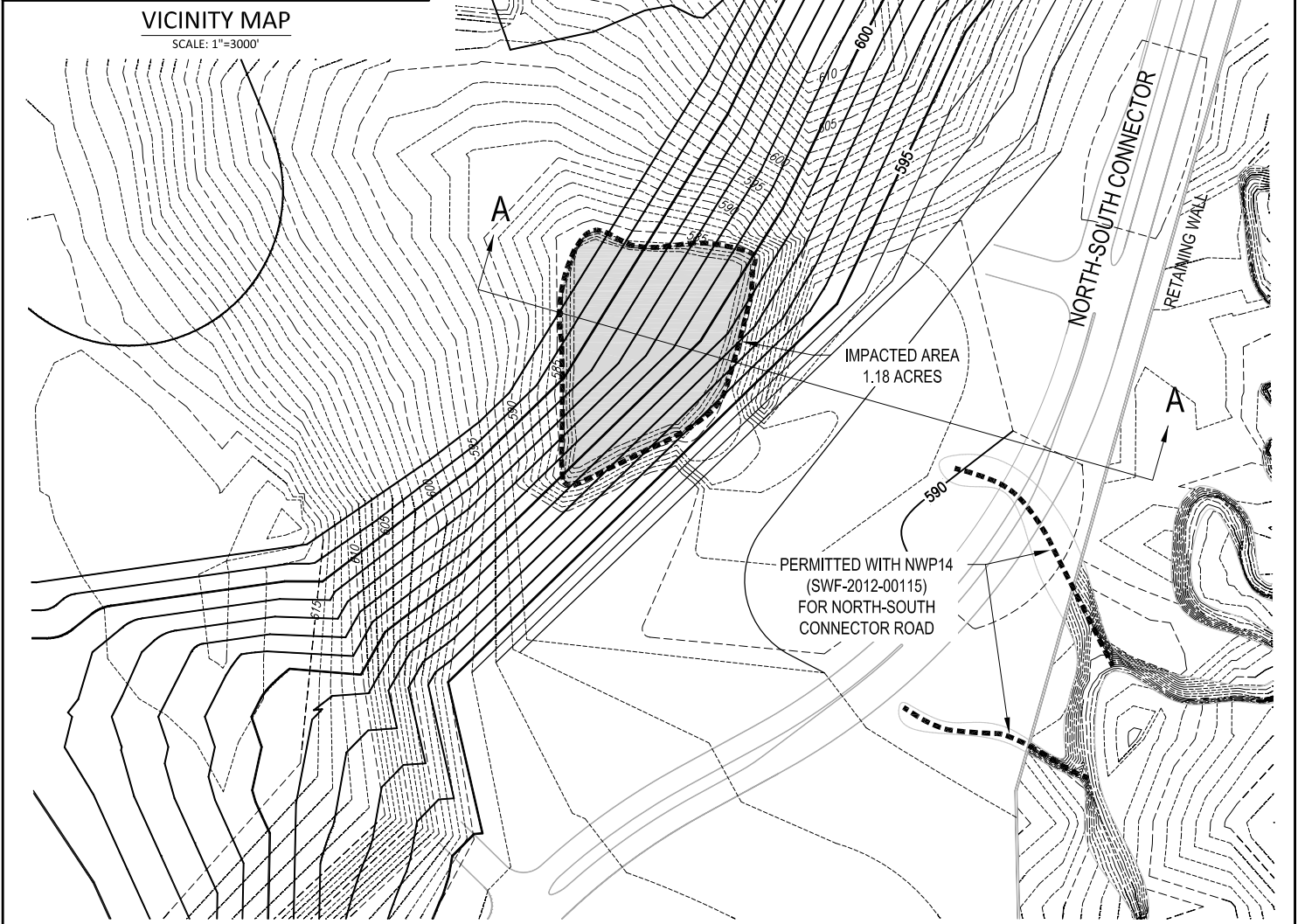

 1506 Audrey Drive
 Garland, Texas 75040
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LMG
 JURISDICTIONAL DETERMINATION
 THE COLONY, COLLIN COUNTY, TEXAS

JOB NUMBER 22-01007
DECEMBER 2011
Sheet 7a of 9

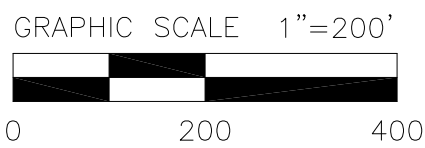


VICINITY MAP
SCALE: 1"=3000'



LEGEND

- PROPOSED FINISHED CONTOURS WITH NEBRASKA FURNITURE MART PROJECT
- - - EXISTING GROUND BASED ON CITY OF THE COLONY PUBLIC INFRASTRUCTURE IMPROVEMENTS PROJECT (SWF-2012-00115)



Graham Associates, Inc.
CONSULTING ENGINEERS & PLANNERS
600 SIX FLAGS DRIVE, SUITE 500
ARLINGTON, TEXAS 76011 (817) 640-8535
TBPE FIRM: F-1191/TBPLS FIRM: 101538-00

**NEBRASKA FURNITURE MART
CORPS PERMITTING EXHIBIT**

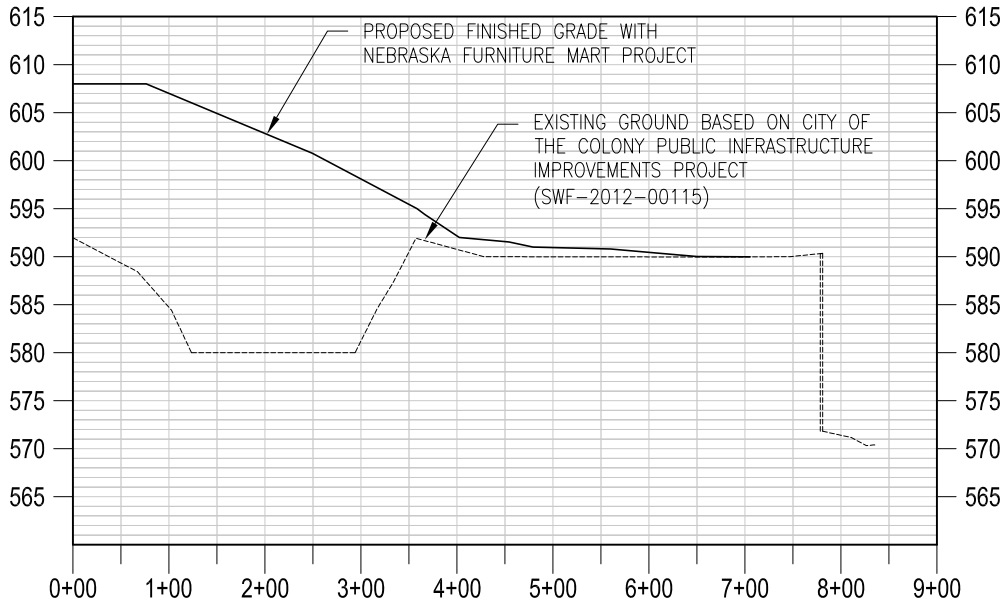
DRAWN BY: AMM

DATE: 11/09/2012

Sheet 8 of 9

PROJECT NO.: 2588-1000

SHEET 1 OF 2



POND SECTION A-A

PROFILE SCALE:
 1" = 200' HORZ.
 1" = 20' VERT.



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**NEBRASKA FURNITURE MART
 CORPS PERMITTING EXHIBIT**

DRAWN BY: AMM

DATE: 11/09/2012

PROJECT NO.: 2588-1000

SHEET 2 OF 2

Sheet 9 of 9