



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

June 4, 2026

Regulatory Division

SUBJECT: Project Number SWF-2025-00261 Laredo Gateway Industrial Railway (Docket No. FD 36847) Surface Transportation Board

Ms. Andrea Poole
Surface Transportation Board
395 E Street SW
Washington, DC 20423
Andrea.Poole@stb.gov

Dear Ms. Poole:

This letter is in regard to information received April 10, 2026, concerning the construction of a railway facility and associated infrastructure in Webb County, Texas. This project has been assigned Project Number SWF-2025-00261. Please include this number in all future correspondence concerning this project.

We have reviewed the site in question in accordance with Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act of 1899 (RHA). Under Section 404, the USACE regulates the discharge of dredged and fill material into waters of the United States, including wetlands. Our responsibility under Section 10 is to regulate any work in, or affecting, navigable waters of the United States.

Based on your description of the proposed work, information you provided, and additional analysis conducted by the Corps, we have determined the discharge of dredged or fill material within the approved jurisdictional determination (AJD) review area would not require Department of the Army authorization pursuant to Section 404 or Section 10. The USACE based this decision on an AJD that there are no waters of the United States within the AJD review area. The basis of this AJD is enclosed. This AJD is valid for a period of no more than five years from the date of this letter unless new information warrants revision of the delineation before the expiration date.

The Applicant may accept or appeal this AJD or provide new information in accordance with the enclosed Notification of Administration Appeal Options and Process and Request for Appeal (NAAOP-RFA). If the Applicant elects to appeal this AJD, the Applicant must complete Section II (Request for Appeal or Objections to an Initial Proffered Permit) of the appeal form (enclosed) and return it to the Division Engineer, ATTN: CESWD-PD-O Appeals Review Officer, U.S. Army Corps of Engineers, 1100 Commerce Street Suite 831, Dallas, Texas 75242-0216 within 60 days of the date of this notice. Failure to notify the USACE within 60 days of the date of this notice means you accept the AJD in its entirety and waive all rights to appeal the AJD.

Thank you for your interest in our nation's water resources. If you have any questions concerning our regulatory program, please refer to our [website](#) or contact Mr. Eric Dephouse (817-886-1820, eric.j.dephouse@usace.army.mil) and refer to your assigned project number.

Please help the regulatory program improve its service by completing our [survey](#).

Sincerely,

A handwritten signature in black ink, reading "Eric J. Dephouse". The signature is fluid and cursive, with the first name "Eric" and last name "Dephouse" clearly legible.

For: Brandon W. Mobley
Chief, Regulatory Division

Enclosures

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Surface Transportation Board

File Number: SWF-2025-00261

Date: 6/4/26

Attached is:

See Section below

	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Eric Dephouse
Project Manager
US Army Corps of Engineers
Fort Worth District CESWF-RDE
819 Taylor Street, Room 3A37
Fort Worth, Texas 76102-0300
Office: 817.886.1820
Email: eric.j.dephouse@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Administrative Appeals Review Officer
Southwestern Division U.S. Army Corps of Engineers (CESWD-PD-O)
1100 Commerce Street, Suite 831
Dallas, Texas 75242-1317
Contact email: swdregulatoryappeals@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

CESWF-RD

4 June 2026

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime
Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322
(2023),¹ [SWF-2025-00261](#), [MFR 1 of 1](#)²

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.³ 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.⁴ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁵ the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court’s decision in *Sackett*. This AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as

¹ While the Supreme Court’s decision in *Sackett* 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 When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, interstate water, or territorial seas that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ 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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SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SWF-2025-00261](#)

amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable [in this state](#) due to litigation.

1. SUMMARY OF CONCLUSIONS.

- a. [The review area is comprised entirely of dry land \(i.e., there are no waters such as streams, rivers, wetlands, lakes, ponds, tidal waters, ditches, and the like in the entire review area and there are no areas that have previously been determined to be jurisdictional under the Rivers and Harbors Act of 1899 in the review area\).](#)

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. [The review area consists of 148 acres of undeveloped scrub shrub uplands. Lat/Lon: 27.839075 -99.410001.](#)

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [N/A](#)⁶

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. [N/A](#)

⁶ 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.

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6. SECTION 10 JURISDICTIONAL WATERS⁷: 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 10.⁸ [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 pre-2015 regulatory regime and 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 pre-2015 regulatory regime. 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. TNWs (a)(1): [N/A](#)
 - b. Interstate Waters (a)(2): [N/A](#)
 - c. Other Waters (a)(3): [N/A](#)
 - d. Impoundments (a)(4): [N/A](#)
 - e. Tributaries (a)(5): [N/A](#)
 - f. The territorial seas (a)(6): [N/A](#)
 - g. Adjacent wetlands (a)(7): [N/A](#)

⁷ 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.

⁸ 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.

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as “generally non-jurisdictional” in the preamble to the 1986 regulations (referred to as “preamble waters”).⁹ Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water. [N/A](#)
- b. Describe aquatic resources and features within the review area identified as “generally not jurisdictional” in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance. [N/A](#)
- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. [N/A](#)
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. [N/A](#)
- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “*SWANCC*,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with *SWANCC*. [N/A](#)
- f. 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 pre-2015 regulatory regime consistent with the Supreme Court’s decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water). [N/A](#)

⁹ 51 FR 41217, November 13, 1986.

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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. Consultant site assessment / inspection December 9, 2025.
- b. Aquatic Resources Delineation Report Materials for SWF-2025-00261.
- c. Cowardin, L. M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Fish and Wildlife Service (USFWS) Report No. FWS/OBS-79/31. Washington, D.C.
- d. Google Earth. Aerial Imagery. Accessed 2026.
- e. Soil Survey Staff, Natural Resources Conservation Service (NRCS), USDA. Soil Geographic (SSURGO) Database.
- f. U.S. Army Corps of Engineers (USACE). 1987. Corps of Engineers Wetlands Delineation Manual. Technical Report Y 87 1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi.
- g. USACE. 2010. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region (Version 2.0), ed. Wakeley, J.S., R.W. Lichvar, and C.V. Noble. ERDC/EL TR-10-1. Vicksburg, Mississippi., U.S. Army Engineer Research and Development Center.
- h. USFWS. 2024. National Wetlands Inventory (NWI) Version 2. NWI website. U.S. Department of Interior, Fish and Wildlife Service, Washington, D.C. <https://www.fws.gov/wetlands/>.
- i. USGS. 7.5-minute digital topographic quadrangle; 1:24,000.
- j. USGS. National Hydrography Dataset (NHD).

10. OTHER SUPPORTING INFORMATION.

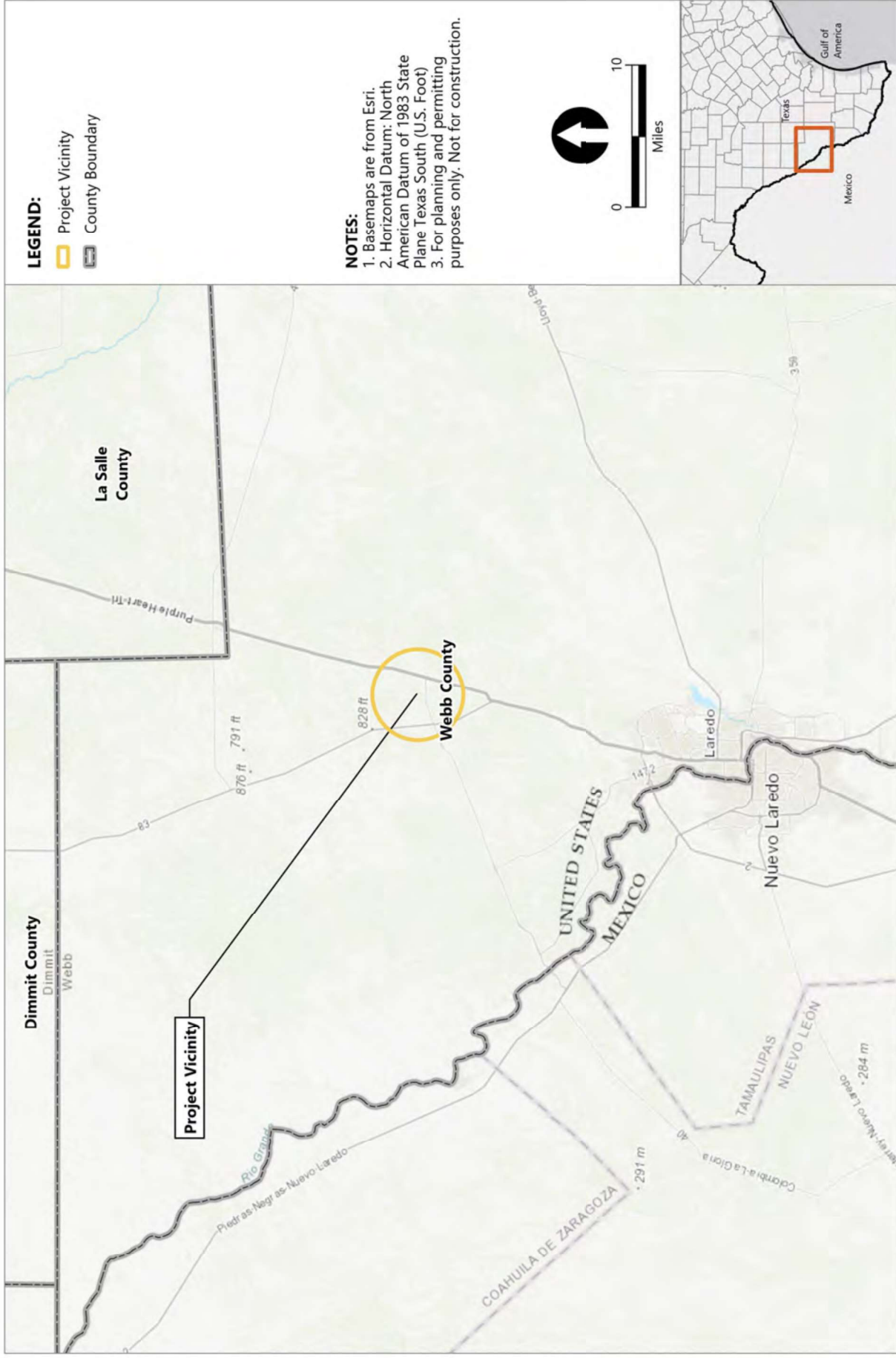
- a. U.S. Department of the Army, U.S. Army Corps Of Engineers, & U.S. Environmental Protection Agency. (2025). Memorandum To The Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of “Continuous Surface Connection” Under The Definition Of “Waters Of The United States” Under The Clean Water Act [Memorandum].

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SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SWF-2025-00261](#)

<https://www.epa.gov/system/files/documents/2025-03/2025cscguidance.pdf>

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.

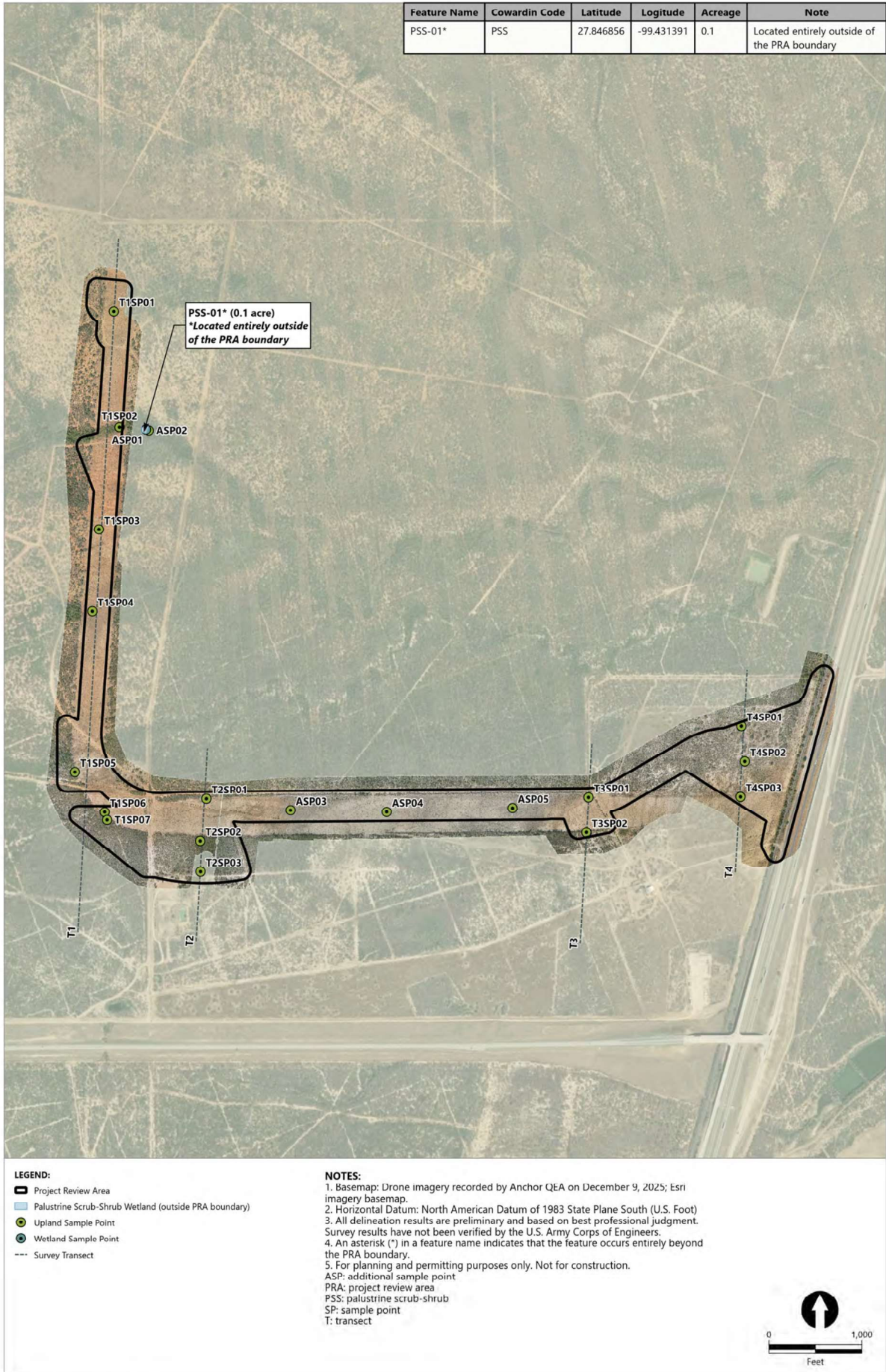


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Figure 1
Vicinity Map
 Wetlands and Waters Delineation Report
 Laredo Gateway Industrial Railway

Feature Name	Cowardin Code	Latitude	Longitude	Acreage	Note
PSS-01*	PSS	27.846856	-99.431391	0.1	Located entirely outside of the PRA boundary



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Figure 3
Survey Overview Map
Wetlands and Waters Delineation Report
Laredo Gateway Industrial Railway