

## **RESPONSE 20**

## 14.0 WETLANDS

In accordance with §330.61(m)(2) and (3) and §330.553, a wetlands assessment for the proposed Temple Recycling and Disposal Facility expansion was conducted under applicable federal, state, and local laws. The assessment was conducted to determine if existing water features within the proposed expansion area meet federal (33 CFR §328.3(c)(4)) and/or state (30 TAC §307.3(84)) criteria for wetlands, and whether there are any jurisdictional “waters of the U.S.” within the expansion area. Under the federal Clean Water Act §404 (CWA § 404), the U.S. Army Corps of Engineers (USACE) regulates the discharge of dredged and fill material into “waters of the U.S.” The phrase “waters of the United States” defines the extent of the USACE’s geographic jurisdiction of the CWA § 404. There are no known local laws or ordinances that would regulate or otherwise apply to wetlands within the proposed expansion area.

The wetlands assessment for the proposed Temple Recycling and Disposal Facility expansion area was conducted by JBS Engineering & Environmental, LLC. (JBS) and JBS’s findings are included in Appendix IIC-2. The assessment identified federal, CWA § 404 jurisdictional “waters of the U.S.,” including wetlands. No jurisdictional wetlands, and no wetlands meeting the state criteria for wetlands, will be impacted by the proposed expansion, but 0.016 acres of a jurisdictional ephemeral stream will be impacted. Accordingly, a Nationwide Permit (NWP) Pre-Construction Notification (PCN) was submitted to the USACE, Ft. Worth District (USACE SWF) to authorize the ephemeral stream impacts. A copy of the PCN, as submitted to the USACE SWF, is provided in Appendix IIC-2a. A letter documenting JBS’s findings regarding the assessment of state criteria for wetlands is included in Appendix IIC-2b. Correspondence regarding the USACE SWF’s determination that Project Number SWF-2015-00107 is authorized by NWP 39 as well as the credit transaction report are included in Appendices IIC-2c through IIC-2e.

For the currently permitted area under MSW-692A, a previous wetland study concluded that waters of the United States, including wetlands are limited to between the ordinary high water marks of Williamson Branch, along the northern boundary of the landfill property, and the unnamed tributary of Little Elm Creek, along the southern boundary of the landfill property. Neither of the tributaries affected the waste disposal areas under MSW-692A. Note that the permit boundary has been adjusted as part of this PAA along the northern and southern boundaries so that the two tributaries are completely offsite except for a small portion. A copy of the previous wetland study and USACE letter is included in Appendix IIG-1.

### 14.1 Wetlands and “Waters of the U.S.” Assessment

The wetlands and “waters of the U.S.” assessment for the proposed Temple Recycling and Disposal Facility expansion area was conducted in June 2015 by Mr. W.R. Cullen, a Professional Engineer (#65215), and Mr. Stephen Swetish, a Professional Geoscientist (Soil Science #6639).

**APPENDIX IIG-1**

**WETLANDS**

**6. Wetlands §330.51(b)(7), §330.53(b)(12)(B), §330.302**

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**WETLANDS 30 TAC §§330.51(b)(7), 330.53(b)(12)(B) and 330.302**

A field investigation of the Temple Recycling and Disposal Facility was conducted on August 18, 1998 to determine the potential for waters of the United States, including wetlands, to exist on this property. Two tributaries, including Williamson Branch, crossing the northeast corner of the landfill property, and an unnamed tributary of Little Elm Creek, located at the southern boundary of the landfill property, were identified as waters of the United States which exist on the landfill property. No other areas identified as potential waters of the United States, including wetlands, were observed to exist on this property. The results of the August 18, 1998 wetlands field investigation were forwarded to the U.S. Army Corps of Engineers (USACE) in correspondence dated September 3, 1998.

In correspondence received from the USACE, dated October 8, 1998, the USACE indicated that this project was reviewed in accordance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The USACE verified that waters of the United States which exist on this site "are limited to between the ordinary high water marks of Williamson Branch, crossing the northeast corner of the landfill, and the unnamed tributary to Little Elm Creek, located on the southern end of the landfill facility." Neither of these tributaries are located within the two expansion areas of this facility.

Supporting information is provided in Part I/II, Appendix B, Section 6.

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**RUST Rust Environment & Infrastructure Inc.**

A Rust International Company  
2929 Briarpark Drive, Suite 600  
Houston, TX 77042-3703

Phone 713.785.9800  
Fax 713.785.9779

September 3, 1998

Mr. Wayne Lea  
Regulatory Branch  
Department of the Army  
Corps of Engineers, Fort Worth District  
P.O. Box 17300  
Fort Worth, Texas 76102-0300

RE: Temple Recycling and Disposal Facility, Temple, Bell County, Texas  
TNRCC Municipal Solid Waste Permit No. MSW 692  
Jurisdictional Determination

Dear Mr. Lea:

On behalf of our client, Waste Management of Texas, Inc., Rust Environment & Infrastructure (Rust E & I) is preparing a permit amendment application to be submitted to the TNRCC for the vertical and horizontal expansion of the Temple Recycling and Disposal Facility (Temple RDF), located in Temple, Bell County, Texas. At this time Rust E&I would like to request a jurisdictional determination for this facility.

The currently permitted Temple RDF consists of an approximately 215-acre municipal solid waste landfill facility, permitted by the Texas Department of Health in 1979. The facility is located on Landfill Road southeast of the City of Temple, approximately 2.25 miles east of U.S. Highway 190 and 0.5 miles south of State Highway 53. The Temple RDF is located immediately south of Little Flock Road, approximately 1,200 feet east of Loop 363. An unnamed tributary of Little Elm Creek is located immediately south of the landfill facility, while Williamson Branch, another tributary of Little Elm Creek, crosses the northeast corner of the landfill property. Primarily undeveloped land surrounds the landfill facility. Exhibit 1, Site Vicinity Map, provided in Appendix A, illustrates the location of this facility.

Prior to landfilling activities, this site was used for agricultural purposes. Waste Management of Texas, Inc. took over the operation of this facility in August, 1993. Waste Management is currently proposing to add approximately 58 acres to the permitted acreage of the facility for a total permitted area of approximately 273 acres. The proposed permitted boundary, reflecting the 273 acres, is illustrated in Exhibits 1 through 5.

Two stock ponds once existed on this property, as shown on Exhibit 2, Topographic Map. However, these stock ponds have been filled over the years as landfill operations moved into the areas and the ponds were no longer used for cattle. One stock pond, shown in Exhibit 2 as existing just east of the central north-south landfill road and just south of the east-west central landfill road, was filled as

Mr. Wayne Lea  
Corps of Engineers  
September 3, 1998  
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recently as early 1998; however, cattle were grazed on this portion of the landfill as recently as 1997. Therefore, my understanding is that this pond would not have been jurisdictional under Section 404 of the Clean Water Act. A sedimentation pond, also used occasionally as a water source for dust suppression and cell construction, is located in the northeast corner of the facility, immediately south of the Williamson Branch floodplain.

In addition, a drainage, used for conveying stormwater runoff from the landfill facility south to the unnamed tributary of Little Elm Creek, exists in this same area of the landfill facility (east of the north-south road and south of the east-west road). This drainage traverses from northwest to southeast across the southeastern most tract of this facility. Although shown as a blue line on the 1965 USGS topographic map (Exhibit 2), this drainage is shown, and still exists, as a perfectly straight line from its origination to the point at which it flows into the unnamed tributary of Little Elm Creek at the southern boundary of the facility. This drainage is believed to have been originally excavated as a ditch for agricultural purposes and has functioned for site drainage during heavy rainfall events since landfilling operations began on this site. As a man-made drainage ditch excavated in an otherwise upland area, it is my understanding that this ditch would not typically qualify as waters of the United States. Exhibit 3, Aerial Photograph - 1972, and Exhibit 4, Infrared Aerial Photograph - 1/19/95, illustrate this ditch as it appeared in 1972 and 1995.

As shown in the attached site photographs (Appendix B), this ditch exists as a broad, flat area at the northernmost point. The ditch then becomes more defined with an approximately 6 foot bottom width and approximately 4 foot side slopes through the middle portion. Toward the lower portion, the ditch becomes narrower and shallower. As shown in the site photographs, various herbaceous plant species were observed to be growing in this ditch during the site visit; however no trees exist along the ditch.

A second smaller ditch, although not as apparent in the aerial photographs, flows east from the north-south central landfill road into the larger drainage ditch. This ditch originates at a culvert under the north south landfill road and functions to direct drainage from the closed pre-1980 landfill area located to the west of the road into the drainage ditch which flows into the unnamed tributary of Little Elm Creek.

No waters of the United States, including wetlands, were observed to exist on portions of the landfill property which will be used for landfill activities in the near future. Neither Williamson Branch, located near the northern boundary of the property, or the unnamed tributary of Little Elm Creek, located near the southern boundary of the property, will be impacted by future landfill activities. As shown in Exhibit 5, Aerial Photograph - 4/10/98, the southeastern most tract is the only remaining primarily undeveloped tract on the landfill property.

Mr. Wayne Lea  
Corps of Engineers  
September 3, 1998  
Page 3

At this time, Rust E&I would like to request a jurisdictional determination for the landfill property. If you require any additional information pertaining to the Temple RDF or this jurisdictional determination request, please phone me at (713) 953-5185, or Mr. Glenn Laird, Senior Consultant, at (713) 953-5156. Waste Management of Texas, Inc. would like to fill these drainage ditches toward the end of September, 1998; therefore, a jurisdictional determination at your earliest possible convenience would be very appreciated. As always, we sincerely appreciate your assistance with this request.

Sincerely,



Kimberly A. Chesler  
Environmental Scientist  
Life Sciences Department

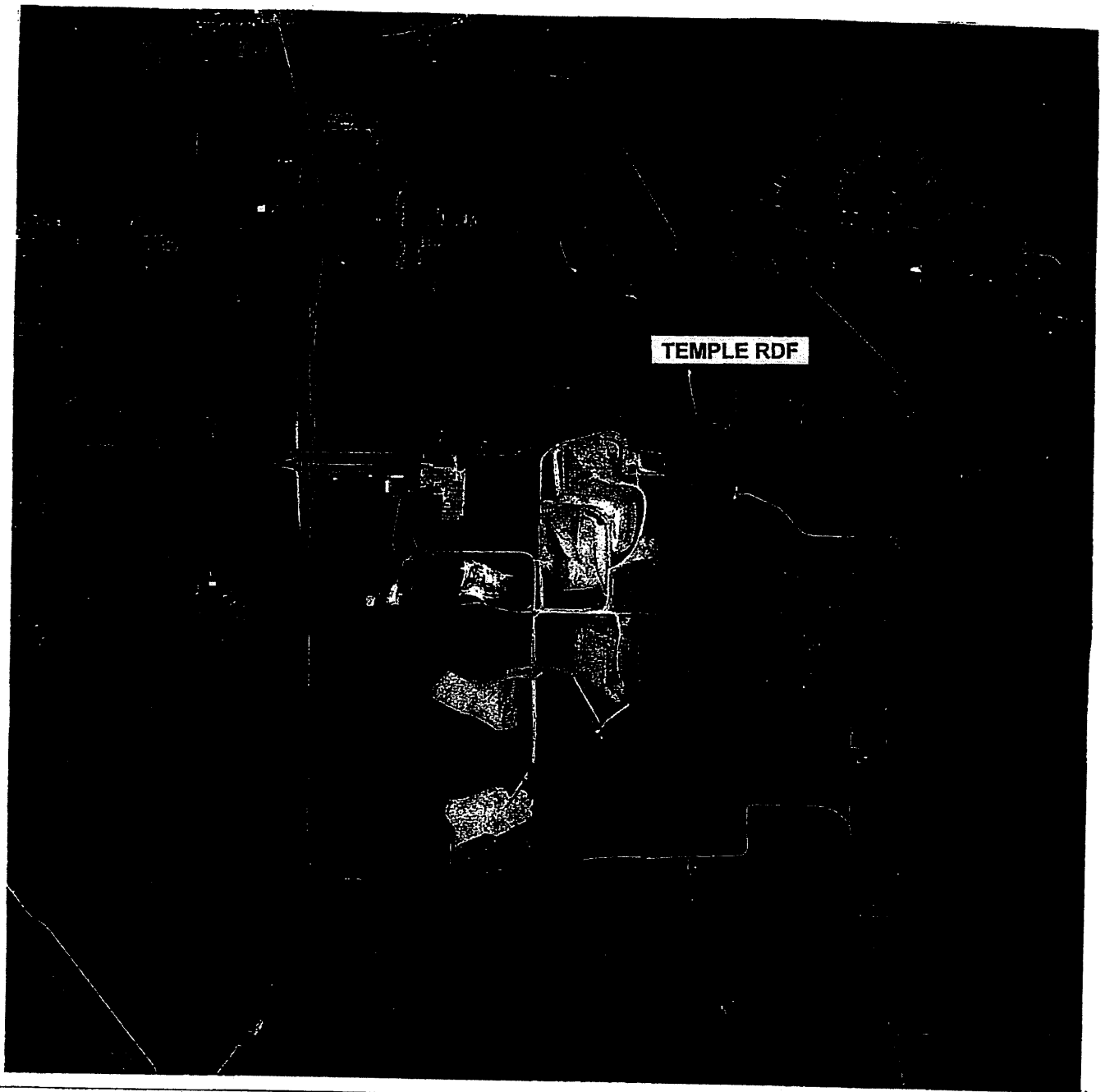
KAC/kc

Attachments: Appendix A: Exhibit 1, Site Vicinity Map  
Exhibit 2, Topographic Map  
Exhibit 3, Aerial Photograph - 1972  
Exhibit 4, Infrared Aerial Photograph - 1/19/95  
Exhibit 5, Aerial Photograph - 4/10/98  
Appendix B: Site Photographs

cc: Mr. John Hodge, Temple Recycling and Disposal Facility, Temple, Texas  
Mr. Richard Dormier, Rust Environment & Infrastructure, Dallas, Texas  
Project File # 103675

Mr. Wayne Lea  
Corps of Engineers  
September 3, 1998  
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## **APPENDIX A EXHIBITS**

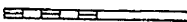


TEMPLE RDF

PHOTOGRAPH SOURCE: AIR SURVEY CORPORATION, APRIL 10, 1998.



0 1000 2000



APPROXIMATE  
SCALE IN FEET



LOCATION

**RUST** ENVIRONMENT &  
INFRASTRUCTURE

AUGUST 1998

Project: 103675

CADD File: WMTX\103675\CADD\3675AP05.DWG

WASTE MANAGEMENT OF TEXAS, INC.  
TEMPLE RECYCLING AND DISPOSAL FACILITY  
PRELIMINARY WETLANDS INVESTIGATION  
CITY OF TEMPLE, BELL COUNTY, TEXAS

AERIAL PHOTOGRAPH - 4/10/98

EXHIBIT 5

DP-44 16



BASE MAP SOURCE: NATIONAL AERIAL PHOTOGRAPHY PROGRAM, EROS DATA CENTER, SIOUX FALLS,  
SOUTH DAKOTA, JANUARY 19, 1995.

**RUST** ENVIRONMENT &  
INFRASTRUCTURE

AUGUST 1998  
Project: 103675  
CADD FILE: WMTX\103675\ CADD\ 3675A.P04.DGN

WASTE MANAGEMENT OF TEXAS, INC.  
TEMPLE RECYCLING AND DISPOSAL FACILITY  
PRELIMINARY WETLANDS INVESTIGATION  
CITY OF TEMPLE, BELL COUNTY, TEXAS  
INFRARED AERIAL  
PHOTOGRAPH - 1/19/95

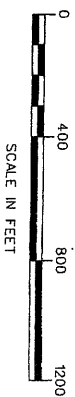


EXHIBIT 4

17-43



PHOTOGRAPH SOURCE: UNITED STATES DEPARTMENT OF AGRICULTURE, SOIL CONSERVATION SERVICE, SOIL SURVEY OF BELL COUNTY, TEXAS, MARCH 1977.



0 1666  
SCALE IN FEET



LOCATION

**RUST** ENVIRONMENT &  
INFRASTRUCTURE

AUGUST 1998

Project: 103675

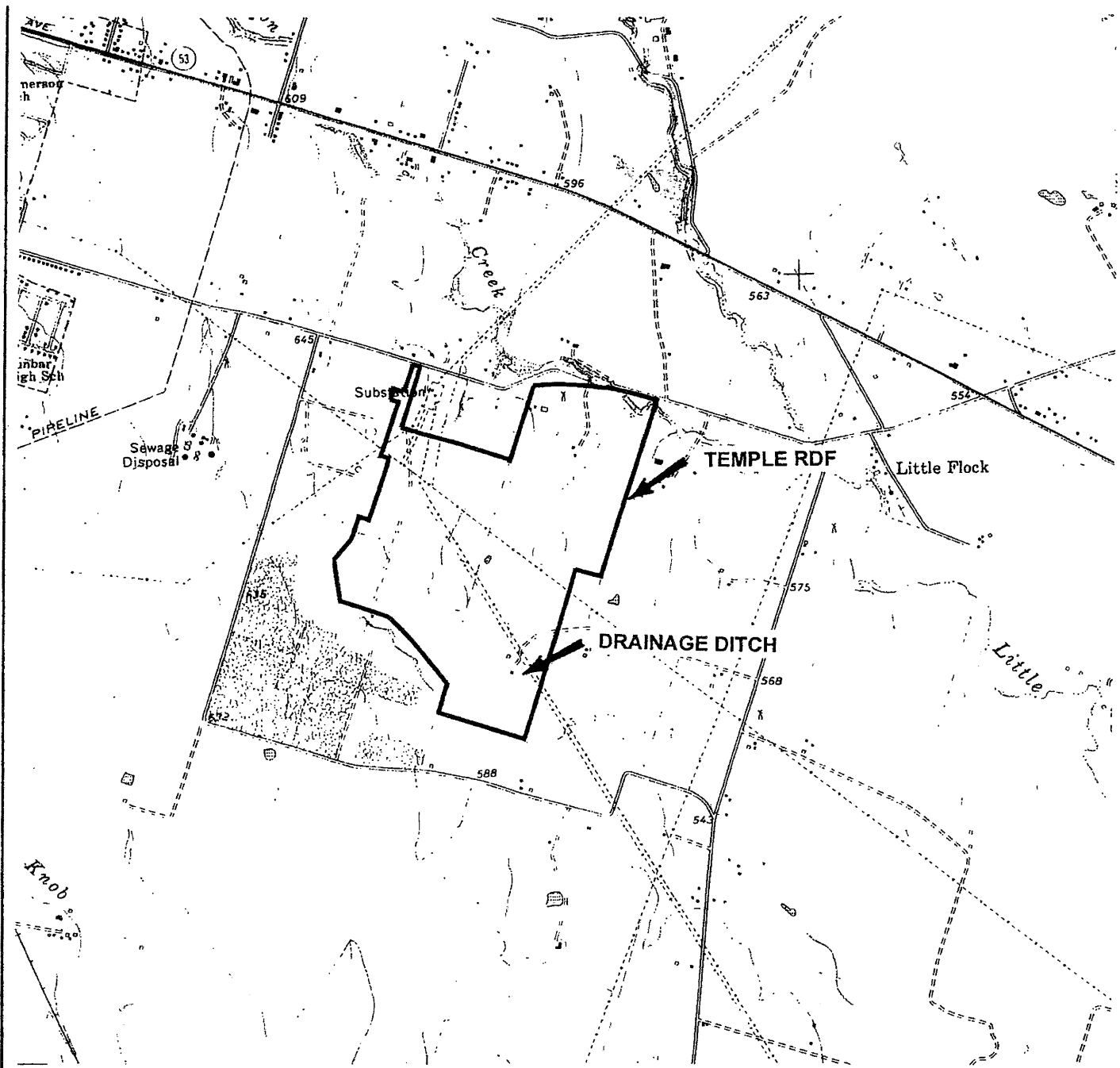
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WASTE MANAGEMENT OF TEXAS, INC.  
TEMPLE RECYCLING AND DISPOSAL FACILITY  
PRELIMINARY WETLANDS INVESTIGATION  
CITY OF TEMPLE, BELL COUNTY, TEXAS

AERIAL PHOTOGRAPH - 1972

EXHIBIT 3

DF-42



BASE MAP SOURCE: USGS 7.5 MINUTE SERIES TOPOGRAPHIC QUADRANGLE, TEMPLE, TEXAS, 1965, PHOTO-REVISED 1974.



0 1000 2000  
SCALE IN FEET



LOCATION

**RUST** ENVIRONMENT &  
INFRASTRUCTURE

AUGUST 1998

Project: 103675

CADD File: WMTX\103675\CADD\3675TM02.DWG

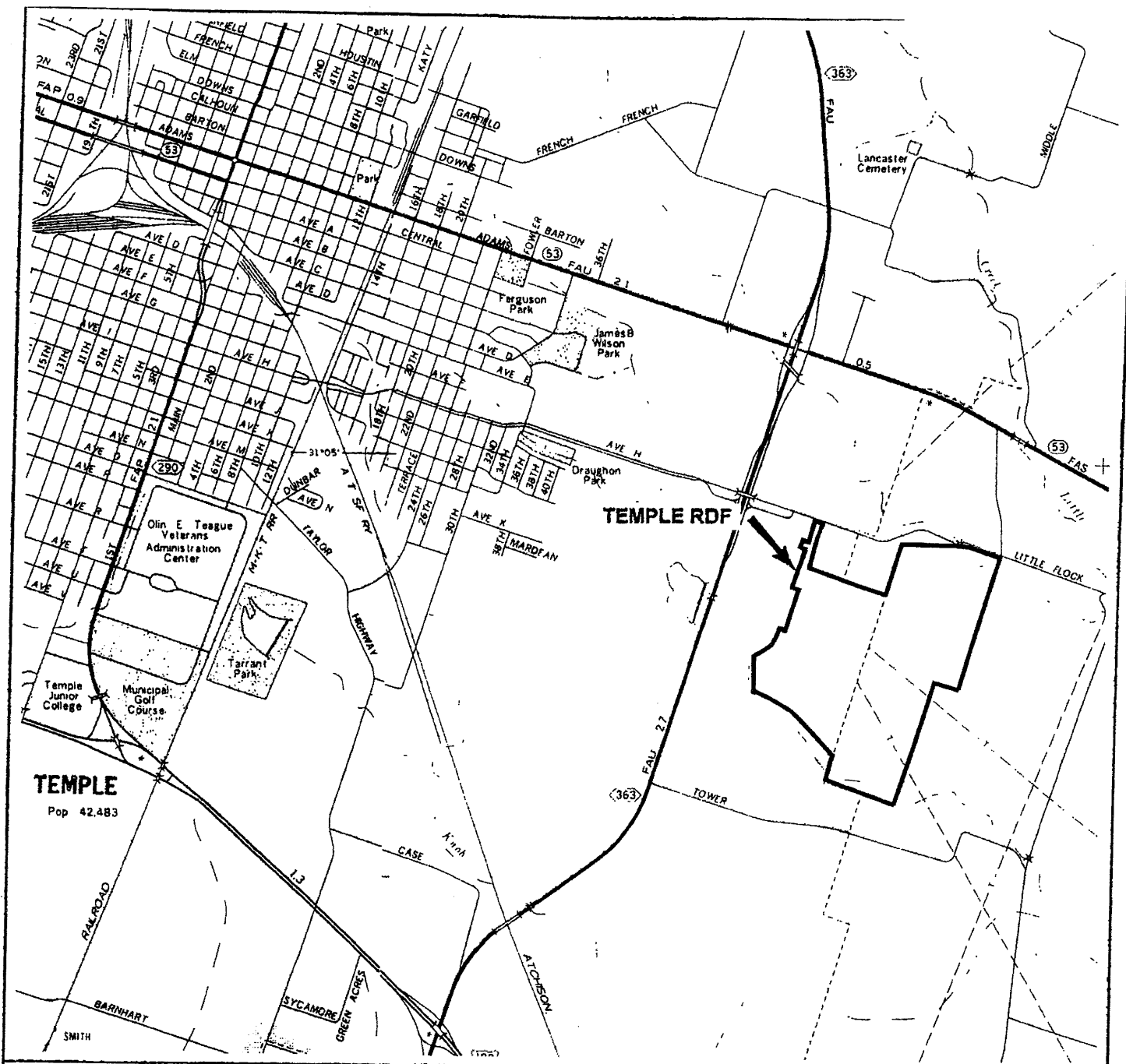
WASTE MANAGEMENT OF TEXAS, INC.  
TEMPLE RECYCLING AND DISPOSAL FACILITY  
PRELIMINARY WETLANDS INVESTIGATION  
CITY OF TEMPLE, BELL COUNTY, TEXAS

TOPOGRAPHIC MAP

EXHIBIT 2

DP-41

7



BASE MAP SOURCE: STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION, GENERAL HIGHWAY MAP, BELL COUNTY, TEXAS, 1985.



0 0.25 0.50  
SCALE IN MILES



LOCATION

**RUST** ENVIRONMENT &  
INFRASTRUCTURE

AUGUST 1998

Project: 103675

CADD File: WMTX\103675\CADD\3675SV01.DWG

WASTE MANAGEMENT OF TEXAS, INC.  
TEMPLE RECYCLING AND DISPOSAL FACILITY  
PRELIMINARY WETLANDS INVESTIGATION  
CITY OF TEMPLE, BELL COUNTY, TEXAS

SITE VICINITY MAP

EXHIBIT 1

DF-40 6

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Corps of Engineers  
September 3, 1998  
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## **APPENDIX B SITE PHOTOGRAPHS**

### LIST OF SITE PHOTOGRAPHS

- Photo 1 - View looking north-northwest at the northern portion of the drainage ditch. The northernmost portion of the drainage ditch exists as a broad, flat area which then becomes a more defined ditch with a narrower bottom width and steeper side slopes. .... 12
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- Photo 5 - View looking east at the northern portion of the sediment pond, located in the northeast corner of the landfill property. .... 15
- Photo 6 -View looking east at the southern portion of the sediment pond, located in the northeast corner of the landfill property. .... 15



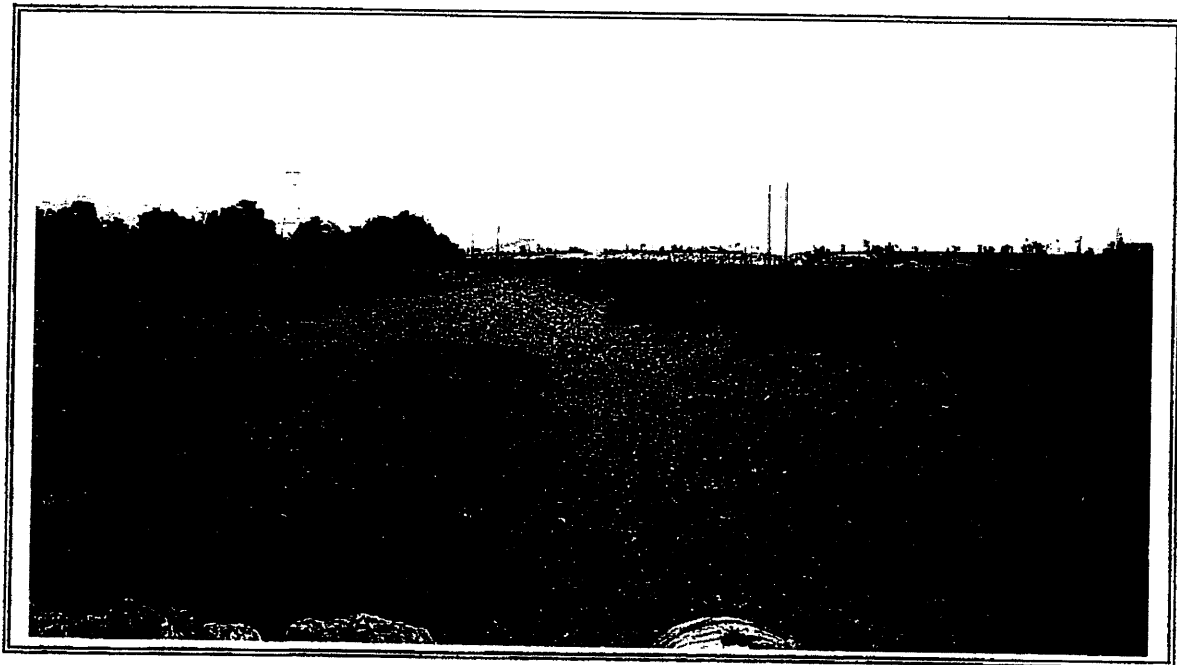
**Photo 5** - View looking east at the northern portion of the sediment pond, located in the northeast corner of the landfill property.



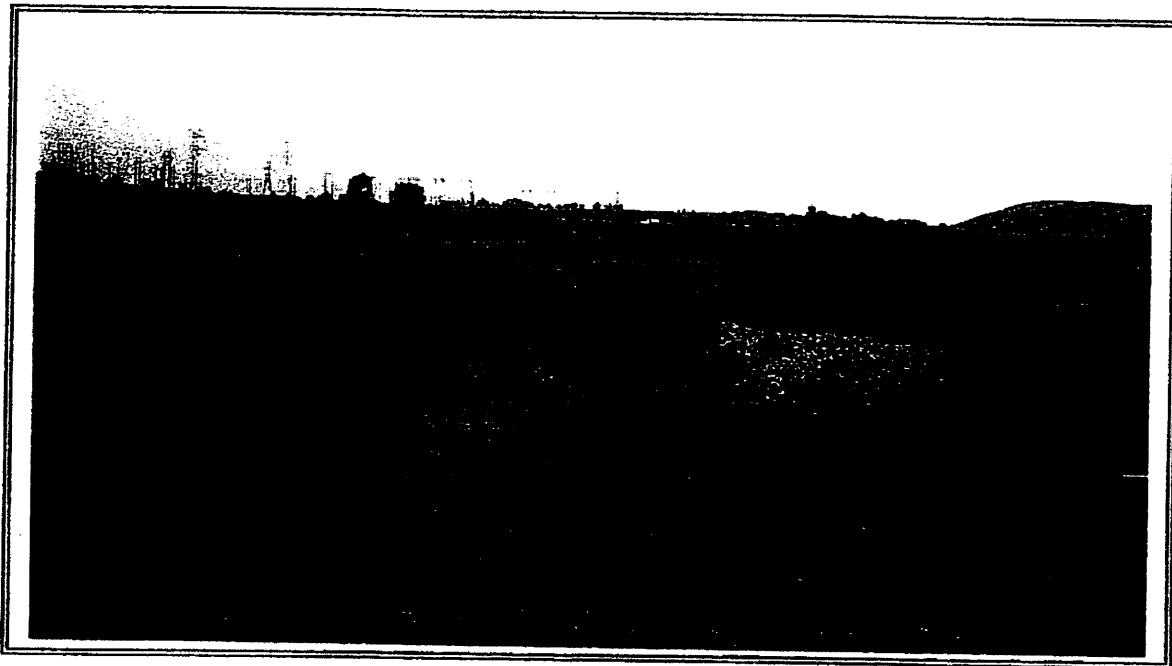
**Photo 6** -View looking east at the southern portion of the sediment pond, located in the northeast corner of the landfill property.



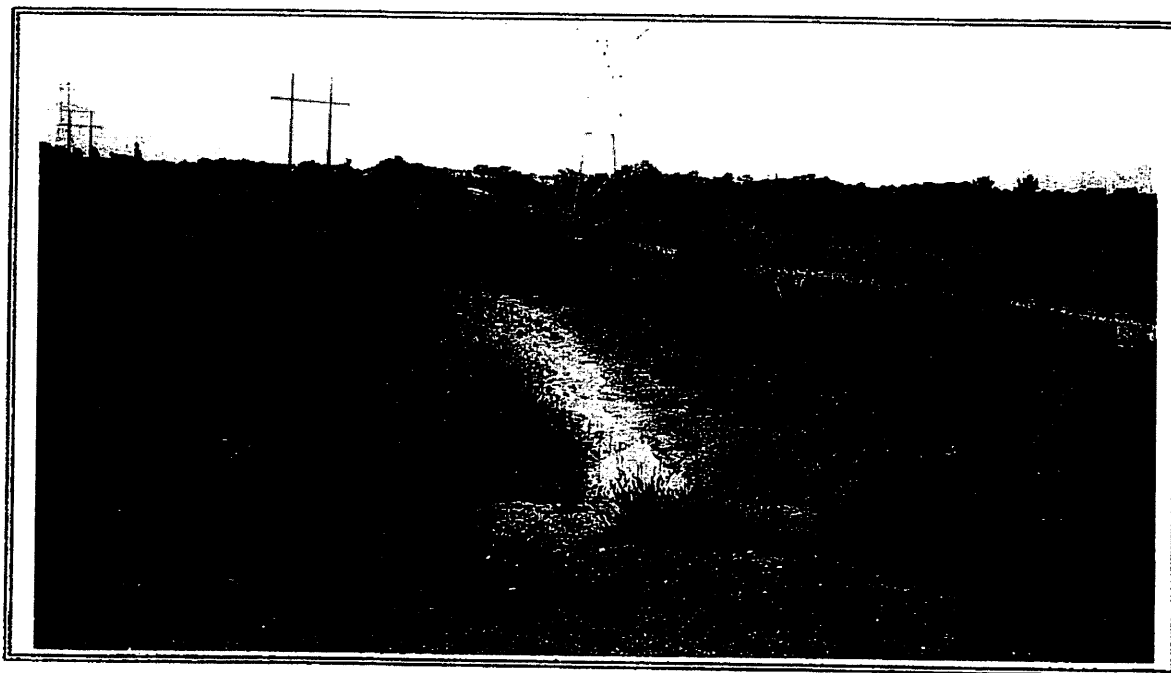
**Photo 4** - View looking west at the unnamed tributary of Little Elm Creek, located near the southern boundary of the landfill property.



**Photo 3** - View looking north-northwest at the southernmost portion of the drainage ditch, immediately before it outfalls into the unnamed tributary of Little Elm Creek.



**Photo 1** - View looking north-northwest at the northern portion of the drainage ditch. The northernmost portion of the drainage ditch exists as a broad, flat area which then becomes a more defined ditch with a narrower bottom width and steeper side slopes.



**Photo 2** - View looking south-southeast at the middle section of the drainage ditch.



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

REPLY TO  
ATTENTION OF

October 8, 1998

Environmental Division  
Regulatory Branch

**SUBJECT:** Project Number 199800688

Ms. Kimberly A. Chesler  
Rust Environment & Infrastructure Inc.  
2929 Briarpark Drive, Suite 600  
Houston, Texas 77042-3703

Dear Ms. Chesler:

This is in reference to your correspondence of September 3, 1998, on behalf of Waste Management of Texas, Inc., requesting a U.S. Army Corps of Engineers (USACE) jurisdictional determination of the Temple Recycling and Disposal Facility located southeast of the city of Temple, Bell County, Texas. This project has been assigned Project Number 199800688. Please include this number in all future correspondence concerning this project. Failure to reference the project number may result in a delay.

We have reviewed the site in question in accordance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. 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. We have determined that this site does not include navigable waters of the United States under Section 10.


Based on your submittal, and other information available to us, it appears that waters of the United States do exist on the site. Waters of the United States are limited to between the ordinary high water marks of Williamson Branch, crossing the northeast corner of the landfill, and the unnamed tributary to Little Elm Creek, located on the southern end of the landfill facility. Department of the Army authorization would be required for the discharge of dredged or fill material into any areas identified as waters of the United States.

If you anticipate a discharge, please provide us with a description of the proposed project, including information on any activities in waters of the United States, the type and amount of material (temporary or permanent), if any, to be discharged, the location of such discharges on a suitable map, and plan and cross-section views of the project.

This jurisdictional determination 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. It is incumbent upon the applicant to remain informed of changes in the Department of the Army regulations.

Thank you for your interest in our nation's water resources. If you have any questions concerning our regulatory program, please contact Mr. David Madden at the address above or telephone (817)978-4622.

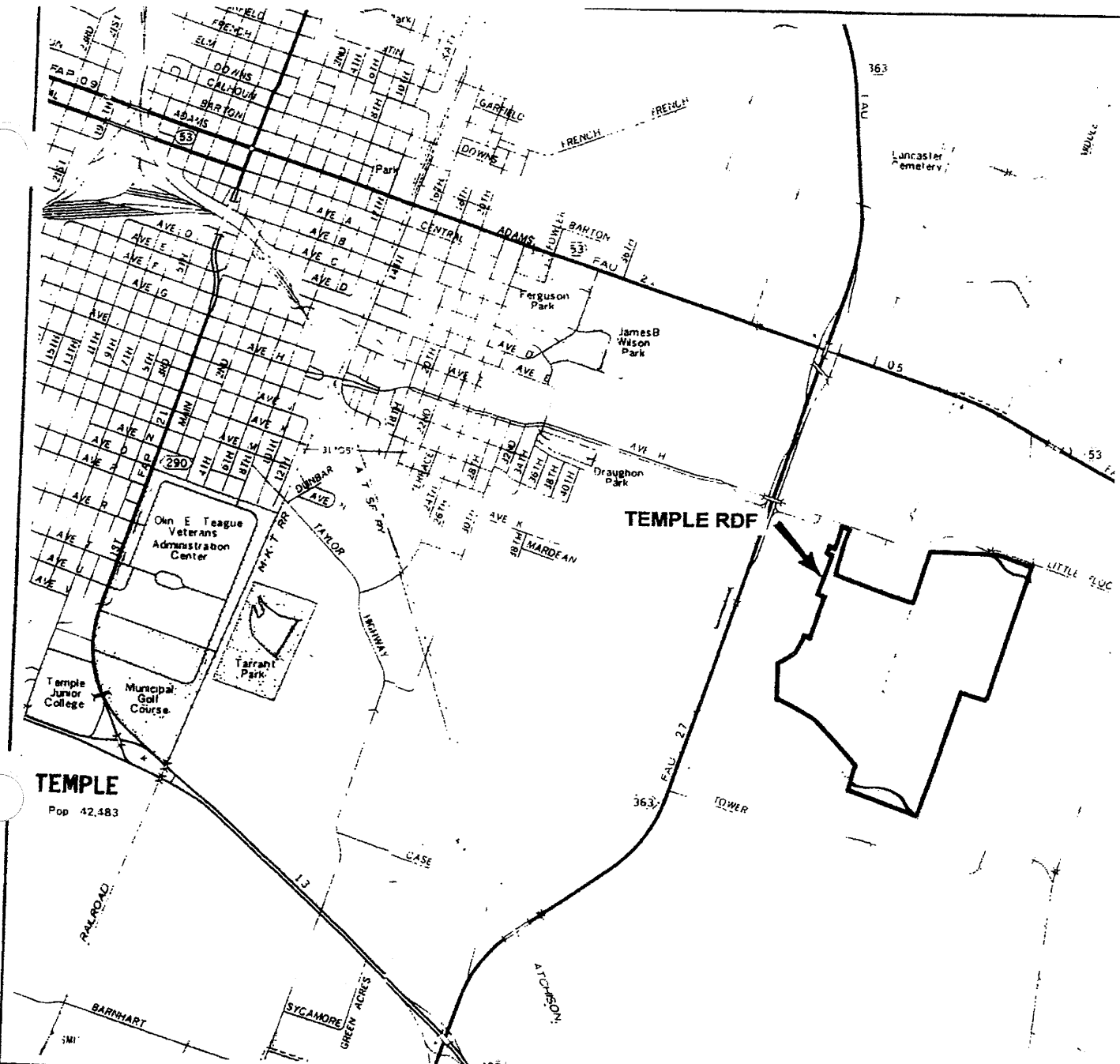
Sincerely,

  
for Wayne A. Lea  
Chief, Regulatory Branch

Enclosure

Copy Furnished:

Mr. Rollin MacRae  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744



BASE MAP SOURCE: STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION, GENERAL HIGHWAY MAP, BELL COUNTY, TEXAS, 1985.



0 1 2  
SCALE

**RUST** ENVIRONMENT & INFRASTRUCTURE

AUGUST 1998

Project: 103675



# U.S. ARMY CORPS OF ENGINEERS JURISDICTIONAL DETERMINATION

Project Number: 199800688

Effective Date: 8 October 1998

Approximate boundary of jurisdictional determination

Approximate area of "waters of the United States"

— Not to Scale —

This jurisdictional determination by the Fort Worth District, U.S. Army Corps of Engineers is valid for a period of no more than five years from the effective date, unless new information warrants revision of the determination before the expiration date. It is incumbent upon the applicant to remain informed of changes in the Department of the Army regulations.

DF-45  
19