

RESPONSE 5

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.

To assess the current wetlands information within the currently permitted area, an additional wetlands study was performed under applicable federal, state, and local laws. The wetlands assessment for the currently permitted area was also conducted by JBS and the findings are included in Appendix IIC-2. The assessment identified no jurisdictional wetlands, waters of the US, or wetlands meeting the state

criteria for wetlands within the currently permitted area that will be included in the revised permit boundary as proposed in the PAA.

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).

A total of ten open water ponds, designated as Ponds A through J, were identified and evaluated during the assessment to determine if these waterbodies meet the federal and/or state criteria for wetlands. The assessment determined that Ponds A through I are within the proposed expansion fill area and are classified as man-made, agricultural stock ponds (i.e., open water ponds) that have individual areas of less than one (1) acre. Therefore, Ponds A through I are not considered state wetlands; as provided in 30 TAC §307.3(84), the term wetland does not include a man-made wetland of less than one acre. In addition, Ponds A through I lack connectivity to any jurisdictional “waters of the U.S.” and are not situated within the 100-year floodplain. Under the applicable federal CWA § 404 regulations, Ponds A through I are classified as non-jurisdictional, isolated, open water wetlands. Therefore, Ponds A through I are not “waters of the U.S.” within the USACE’s regulatory jurisdiction under the § 404 of the CWA.

The assessment determined that Pond J is not within the proposed expansion fill area and is classified as a man-made, agricultural stock pond (i.e., open water pond) that has an area of less than one (1) acre. Therefore, Pond J is not considered a state wetland. However, Pond J is located within the 100-year floodplain of Little Elm Creek Tributary 1 and is therefore considered to have connectivity to jurisdictional “waters of the U.S.” In accordance with federal regulations under CWA § 404, Pond J is classified as a jurisdictional open water wetland. Pond J meets the definition of “waters of the U.S.” and is within the USACE’s regulatory jurisdiction under the § 404 of the CWA. However, Pond J has been avoided as part of the design process and will not be impacted by the expansion activities.

The small unnamed tributary to Williams Branch located near the northern boundary of the proposed expansion area was evaluated during the assessment. Based on observations made during the site visit and field indicators, the unnamed tributary to Williamson Branch can be classified as an ephemeral stream (E-1) with an ordinary high water mark (OHWM) of approximately 2.0 feet. In accordance with federal regulations under CWA § 404, E-1 is classified as a jurisdictional ephemeral stream. E-1 meets the definition of “waters of the U.S.” and is considered jurisdictional under the federal CWA § 404.

As a result of the assessment, it was determined that there will be no impacts to state or federal CWA § 404 wetlands/open waters from the proposed expansion of the Temple Recycling and Disposal Facility. The only impacts resulting from the proposed expansion will be limited to “waters of the U.S.”

March 29, 2017

Mr. Jayson Lang
Waste Management of Texas
9900 Giles Road
Austin, TX 78754

Re: Supplemental Review of Wetlands for Temple Recycling and Disposal Facility
Temple (Bell County), Texas

Mr. Lang:

In accordance with your request, JBS Engineering & Environmental, LLC (JBS) has conducted a site visit to the Temple Recycling and Disposal Facility (TRDF) to evaluate wetlands within the existing permit boundary. In addition, JBS has reviewed applicable sections of the Permit Amendment Application for Permit No. MSW 692A, including a response letter prepared by Mr. Wayne Lea, United States Corps of Engineers (USACE), dated October 8, 1998. The site visit of the current permitted landfill facility was conducted on February 9, 2017, by Mr. W.R. Cullen, P.E. (#65215).

As you have indicated the expansion permit boundary (MSW-692B) as compared to the existing permit boundary has:

- Removed existing permitted areas to the north which previously crossed Williamson Branch
- Removed existing permitted areas to the south which previously crossed Little Elm Tributary 1
- Added the area to the west to include the citizen's drop-off area.

These changes are indicated on the attached Figure 1 as prepared by Golder Associates, Inc.

Jurisdictional Waters of the United States

The site visit initially focused on an evaluation of water features that would meet the USACE definition of jurisdictional "waters of the United States" (WOUS). Observations made during the site visit indicate that there are no areas within the expansion permit boundary, including the existing permit areas that will remain within the expansion permit boundary, that meet the current definition of WOUS under Section 404 of the Clean Water Act.

Waters of the State

During the site visit, emphasis was also given to the classification of the existing stormwater ponds that are present throughout the existing permit area. Specifically, efforts were made to determine whether each pond meets the State definition of wetlands. The term "wetland" under the State definition does not include irrigated acreage used as farmland; a man-made wetland of less than one acre; or a man-made wetland where construction or creation commenced on or after August 28, 1989, and that was not constructed with wetland creation as a stated objective, including but not limited to an impoundment made for the purpose of soil and water conservation that has been approved or requested by soil and water conservation districts.

Supplemental Review of Wetlands
for Temple Recycling and Disposal Facility
Temple (Bell County), Texas

An assessment of the existing water features within the existing permit boundary determined that the referenced stormwater ponds *do not* meet the State definition of a wetland in 30 TAC §307.3(84) since construction of all of the existing ponds commenced after August 28, 1989, and the intent was not for the purpose of wetland creation or soil and water conservation.

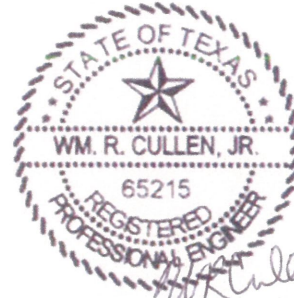
Please contact us at (979) 485-2879 if you have any questions or need additional information concerning this matter.

Sincerely,

W.R. Cullen

W. R. Cullen
Senior Engineer
TBPE Registration Number: F-15869

SAS:wrc
Via e-mail [JLang@wm.com]



W.R. Cullen
3/29/2017

FIGURES

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LEGEND

- EXISTING PERMIT BOUNDARY
- PROPOSED PERMIT BOUNDARY
- EXISTING WASTE FOOTPRINT
- PROPOSED WASTE FOOTPRINT
- PERMIT AREA ADDED/REMOVED

NOTES

- DATE OF AERIAL PHOTOGRAPH FROM GOOGLE EARTH: AUGUST 8, 2015.



PROJECT
PERMIT AMENDMENT APPLICATION MSW 692B
TEMPLE RECYCLING AND DISPOSAL FACILITY
BELL COUNTY, TEXAS

TITLE
AERIAL PHOTOGRAPH

PROJECT NO.
1400336

APPLICATION SECTION
I - APP. A

CLIENT
CITY OF
TEMPLE

CONSULTANT



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REV. 0
1 of 1
FIGURE 1

REV. YYYY-MM-DD DESCRIPTION DESIGNED PREPARED REVIEWED APPROVED