

North Central Texas
Council of Governments

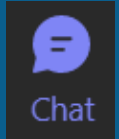
Water Rights and Green Stormwater Infrastructure Webinar

June 25, 2024

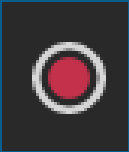
A few reminders...



Please mute your line



Please insert questions in the chat to be addressed at the end of the webinar or as time allows



This webinar will be recorded

Please take a few moments to complete the Pre-Webinar Survey

Agenda

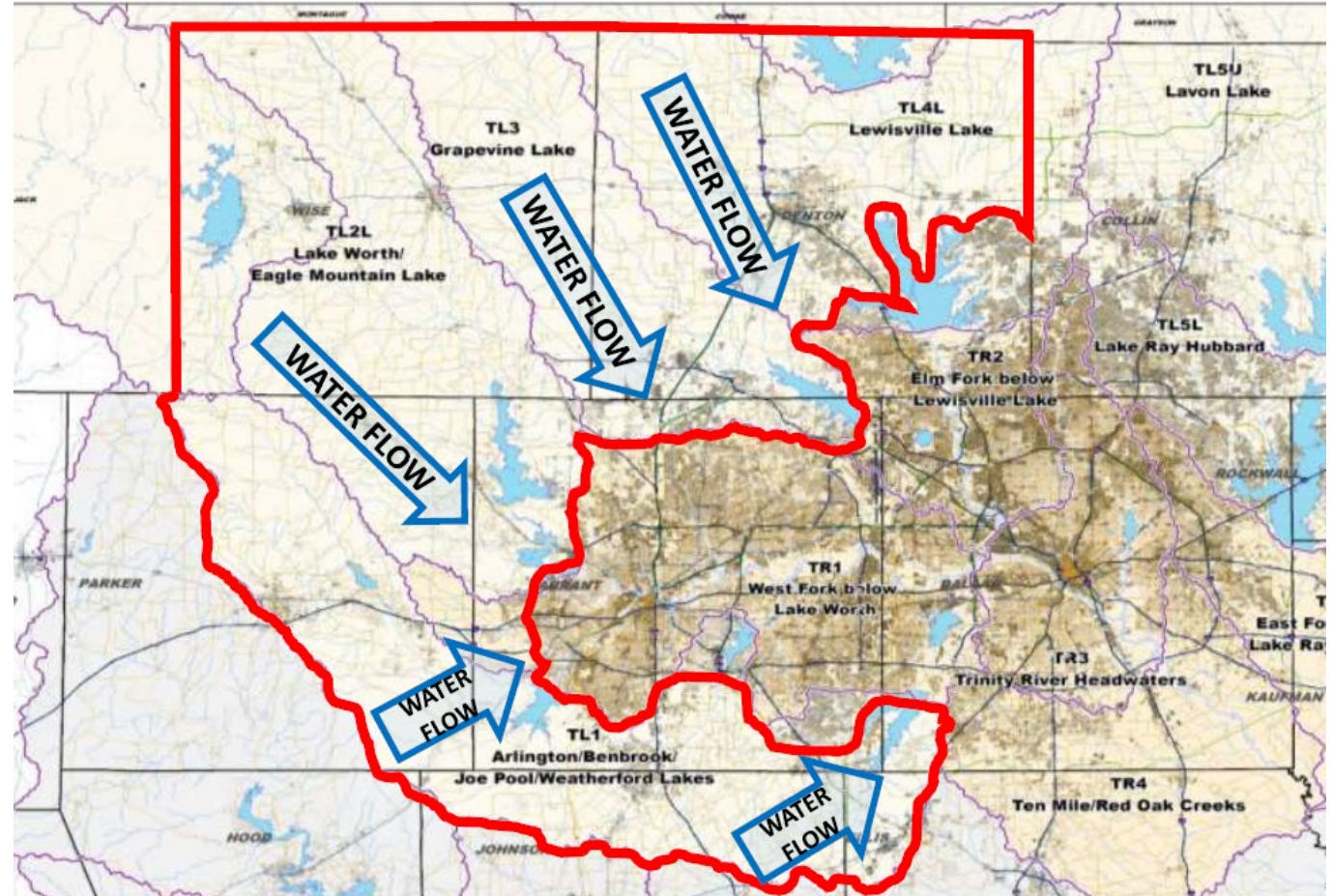
- Welcome & Purpose
Erin Blackman, NCTCOG
- Water Rights & How State Water is Regulated
Kathy Alexander, Texas Commission on Environmental Quality
- Water Rights & Stormwater Infrastructure
Brenton Dunn, Tarrant Regional Water District
- Water Rights/Environmental Due Diligence
Chris Hamilton, Westwood
- Green Stormwater Infrastructure in North Texas
Fouad Jaber, Texas A&M AgriLife Extension
- Q&A/Closing
Erin Blackman, NCTCOG

Welcome & Purpose

Erin Blackman, North Central Texas Council of Governments

Integrating Transportation and Stormwater Infrastructure (TSI) Initiative

- Integrate stormwater management, urban development, transportation, and environmental planning
- Identify impacts and alleviate risks from flooding
- Get ahead of growth
- Reduce costs



Green Stormwater Infrastructure (GSI) and Nature-Based Solutions (NBS) Can Mitigate Increased Runoff

TSI will produce:

- Menu of potential GSI and NBS mitigation strategies
- Ideal locations for GSI and NBS
- Return-on-investment analysis



What do we need to know about water rights, and will it impact the implementation of GSI/NBS strategies?



NCTCOG TSI Project Contacts



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Funding Partners

- Texas Water Development Board
- Federal Highway Administration
- Texas Department of Transportation
- Federal Emergency Management Agency

Study Partners

- North Central Texas Council of Governments
- US Army Corps of Engineers
- University of Texas at Arlington
- Texas A&M AgriLife
- Tarrant Regional Water District

Water Rights & How State Water is Regulated

Dr. Kathy Alexander, Texas Commission on Environmental Quality



Surface Water Rights Permitting

June 25, 2024

Kathy Alexander, PhD
Senior Policy and Technical Analyst
Water Availability Division

Surface Water is the Property of the State

State Water - The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state is the property of the state.



State Water is Water in a Watercourse

Watercourse--A definite channel of a stream in which water flows within a defined bed and banks, originating from a definite source or sources. The water may flow continuously or intermittently, and if the latter with some degree of regularity, depending on the characteristics of the sources



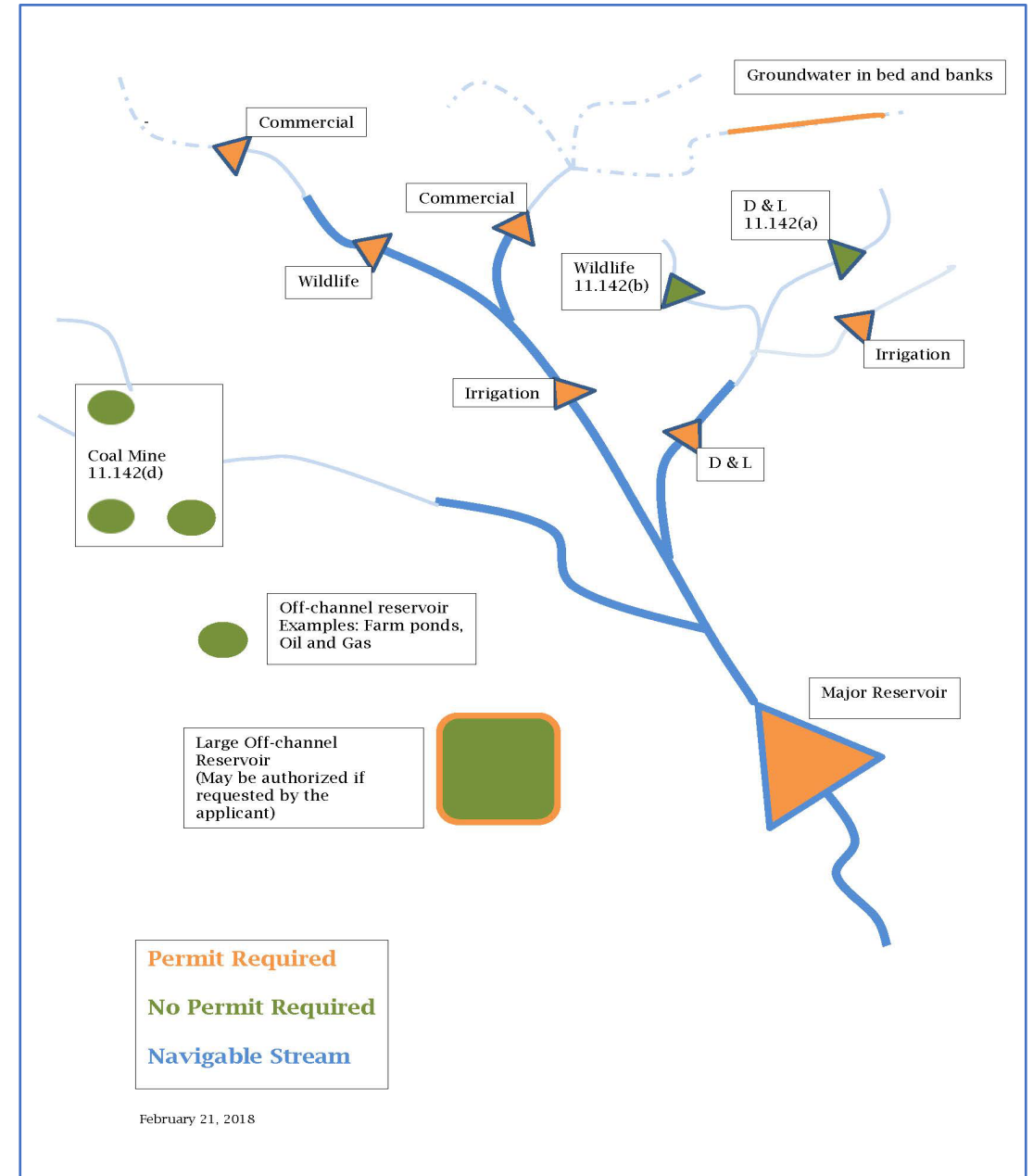
Priority Doctrine - First in Time is First in Right



Exemptions from Permitting (TWC Section 11.142)

Most Common exemptions:

- A person may construct a dam/reservoir on their property with a storage capacity of no more than 200 acre-feet of water for domestic and livestock or wildlife management use.
- The reservoir cannot be located on a navigable stream
- “Reasonable” diversions for domestic use

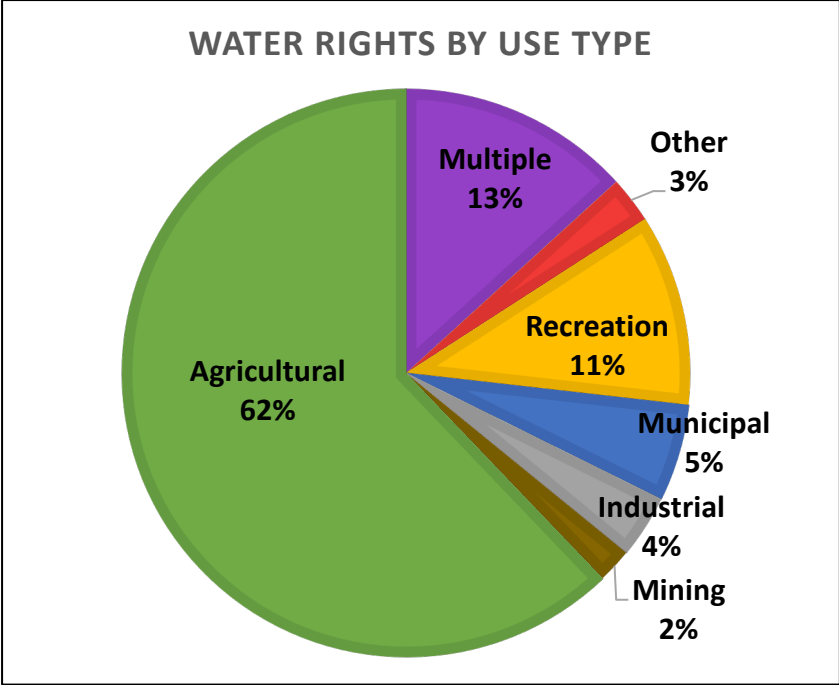


When is a Water Right Required?

- Texas Water Code Section 11.121
- No person may appropriate any state water or begin construction of any work designed for the storage, taking, or diversion of water without first obtaining a permit.



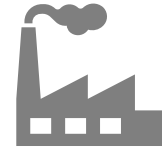
Beneficial Uses



Water Right Owners

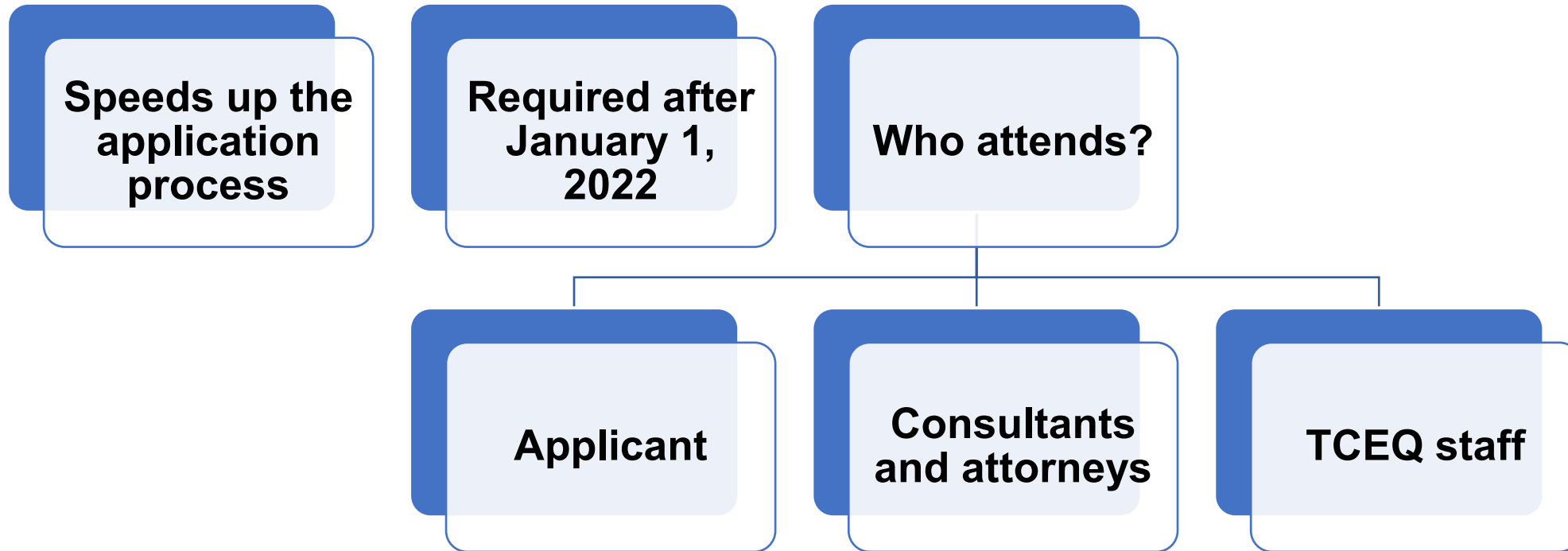
➤ Water rights can be owned by:

- individuals,
- businesses,
- municipalities,
- industries,
- mining operations,
- farmers and ranchers, and
- river authorities.



➤ A water right can have multiple owners and water right owners can sell their water rights or portions of their water right to other users.

Pre-Application Meetings



Call 512-239-4600 or email WRPT@tceq.Texas.gov to schedule a pre-application meeting.

Online Resources and Data

[Application Forms](#)

[Online Water Use Reporting](#)

[Pending Applications Webpage](#)

[Texas Water Rights Viewer](#)

Contact Information & Website

Water Availability Division
Water Rights Permitting & Availability Section
512-239-4600

https://www.tceq.texas.gov/permitting/water_rights/wawr_permits.html

Kathy.alexander@tceq.texas.gov

512-239-0778



Experience as a Major Water Rights Holder in the TSI Study Area

Brenton Dunn, Tarrant Regional Water District

Water Rights and Stormwater Infrastructure

Tarrant Regional Water District
R. Brenton Dunn, PE

www.trwd.com



WHO WE ARE WHAT WE DO BE ACTIVE WORK WITH US GET INVOLVED NEWS

Celebrating 100 years of public service.

This year, TRWD celebrates 100 years of providing the communities we serve with a reliable and sustainable water supply, vital flood protection, and outstanding recreational opportunities.

[LEARN MORE](#)



Our Purpose:

Enriching communities and improving the quality of life through water supply, flood control, and recreation.

Enriching Communities. Improving the Quality of Life.



system description

Tarrant Regional Water District provides raw water to 2.4 million people, implements vital flood control measures & creates recreational opportunities for the residents of 11 North Texas Counties.

TRWD System:

- 4 major reservoirs and 3 additional supply reservoirs

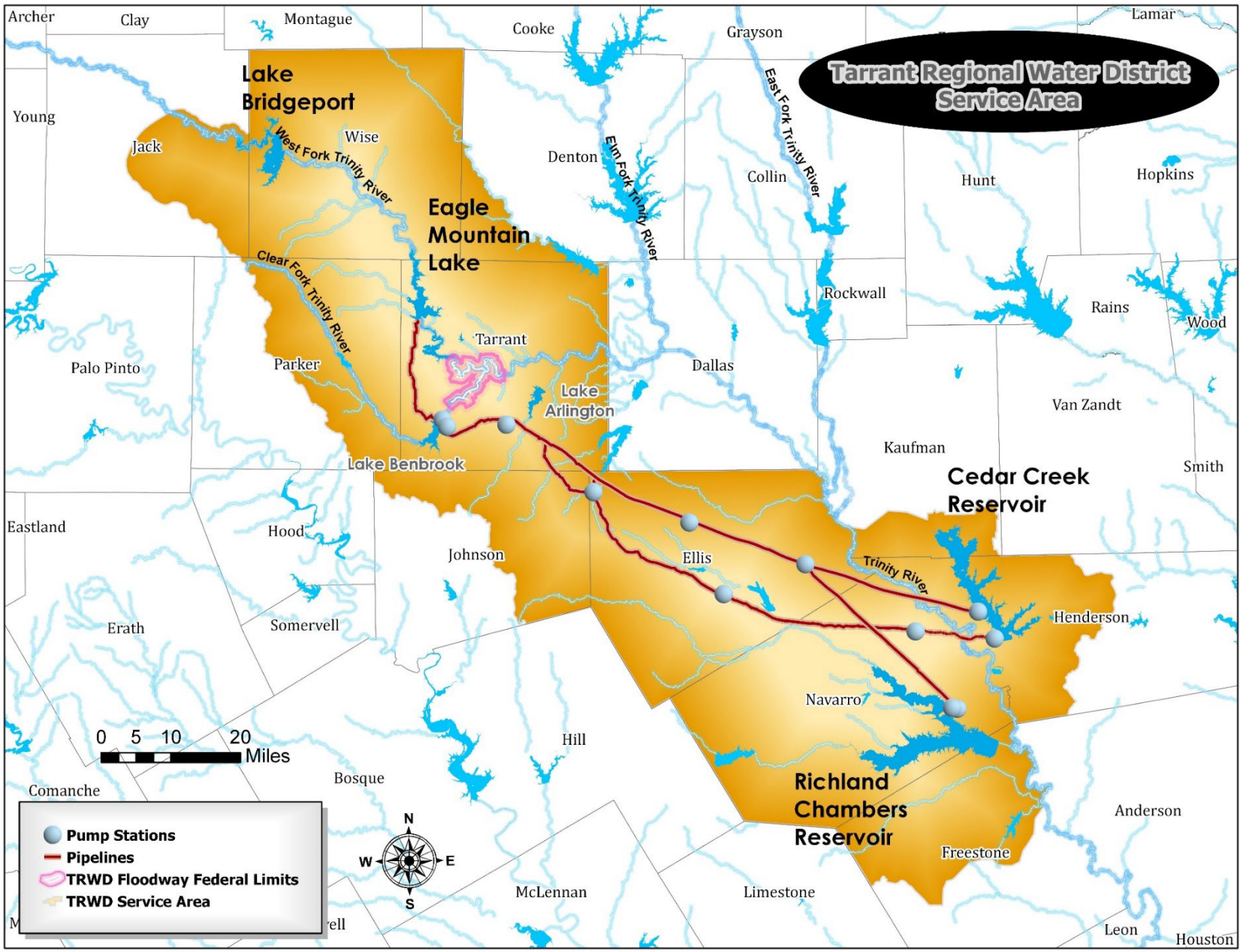
- 267 miles of water pipelines

- 2,000 acre operational wetland

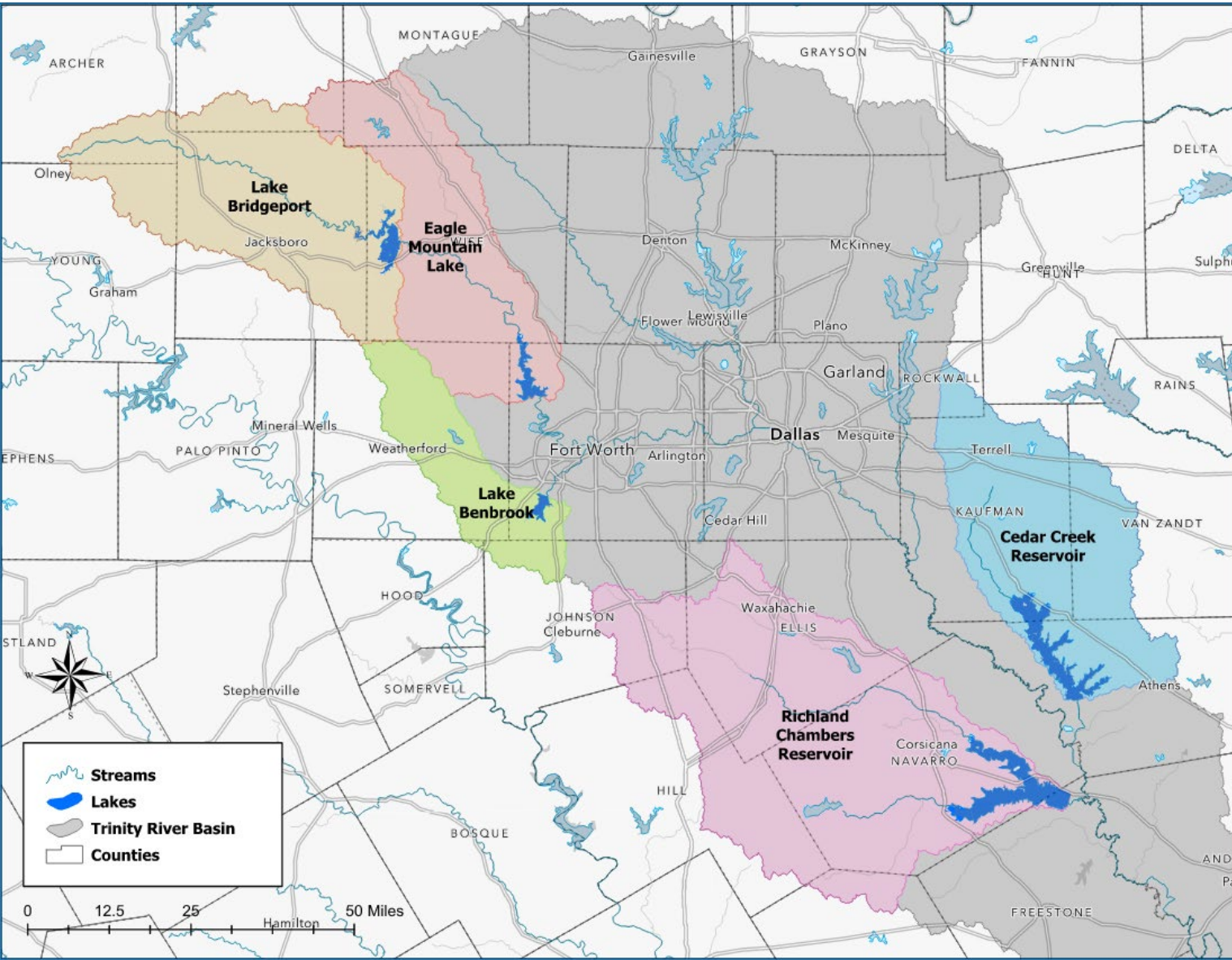
- 27 miles of floodway levees – Fort Worth

- 72 miles of Trinity River Trails – Fort Worth

System Map



Watersheds Map



www.youtube.com/watch?v=zX5KBhFGItk

PROTECTING THE TRINITY



Environmental Sustainability



Education and Outreach Programs

TRWD offers wide-ranging educational programs to support and inspire our communities to conserve and protect our water supply. Our adult education programs focus on building knowledge and skills to maximize water efficiency in our homes and promote the health of rivers and lakes in our community. Our youth programs encourage young persons to value water, understand its journey to reach our faucets, and take action to reduce water use and protect water quality. As a leader in sustainability, it is our social responsibility to educate the public and collaborate with community partners to conserve and protect the water resources that sustain us.

[GET EDUCATED](#)

Environmental Sustainability



Protecting Habitat

The district has built [Eagle Mountain Park](#), [Airfield Falls Trailhead & Conservation Park](#), the [George W. Shannon Wetlands](#), and our beautiful campus [Rainscapes](#). These projects provide important habitats for pollinators, birds, and other wildlife as well as beautiful natural spaces for North Texans to enjoy.

Environmental Sustainability

Conserving Water

Conserving our water supply is extremely important. TRWD is responsible for providing water for 2.4 million residents and that number is expected to almost double over the next 50 years. Water conservation efforts are a water supply strategy for the district and currently help save an average of 50 million gallons per day. Education efforts with our customers and regional partners are helping to change behaviors and create a sustainable future for North Texas. Learn more about our water conservation programs.

[SAVE TARRANT WATER](#)

[WATER IS AWESOME](#)



Environmental Sustainability



Monitoring

Keeping tabs on water quality is important, and we do so through an established program that allows us to track the health of our reservoirs over time. We've been monitoring our system for almost 30 years. The Trinity River and seven North Texas lakes are sampled continuously at multiple sites for various parameters, providing valuable information that can help lower treatment costs for our customers and keep our lakes and rivers thriving for wildlife and recreational uses.

LAKE SAMPLING

TRINITY RIVER MONITORING PROGRAM



Learn more about how we're protecting the health of our reservoirs

Environmental Sustainability

Modeling

To study TRWD lakes, the district utilizes the WASP model developed by the EPA. Models like this one are used to better understand our complex water systems and help manage them into the future.

Currently, the district is working to develop two additional models for the Trinity River that will simulate river flow and erosion impacts on the river as well as other parameters.



Environmental Sustainability

Stormwater Guidance

Rain must go somewhere, and it can present challenges with the toxins and litter it pulls into a water supply system. TRWD works with the City of Fort Worth to implement a [Stormwater Management Plan \(MS4 SWMP\)](#) that helps reduce the amount of pollutants flowing into the Trinity River system.

The District has developed a [Water Quality Guidance Manual](#) that outlines construction standards for all projects that occur in the floodway. The purpose of this document is to minimize soil runoff during construction as well as establish post-construction standards that will reduce erosion potential.

[STORYMAP: BEST MANAGEMENT PRACTICES ALONG THE TRINITY RIVER](#)

[WATER QUALITY RESOURCES](#)



Water Quality Guidance Manual

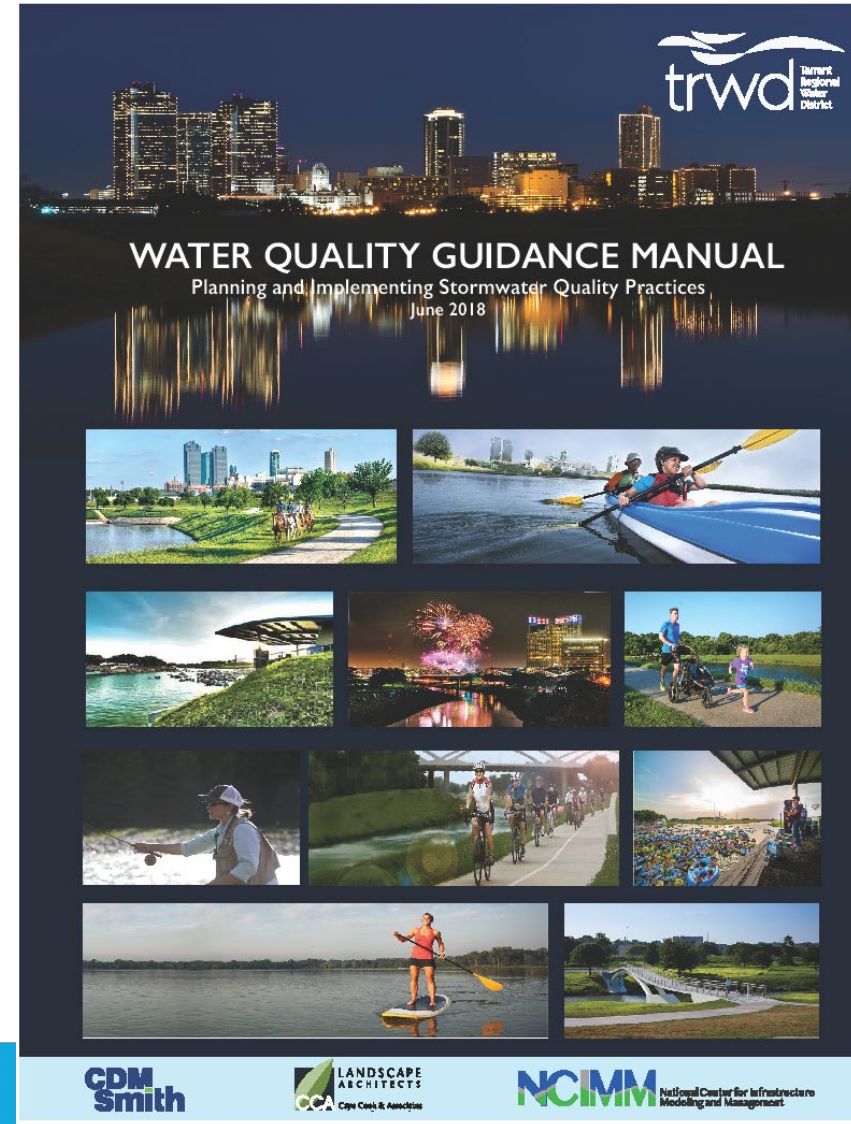
Focusing on Storm Water & Green BMPs

Consultants:

CDM Smith

Caye Cook & Associates

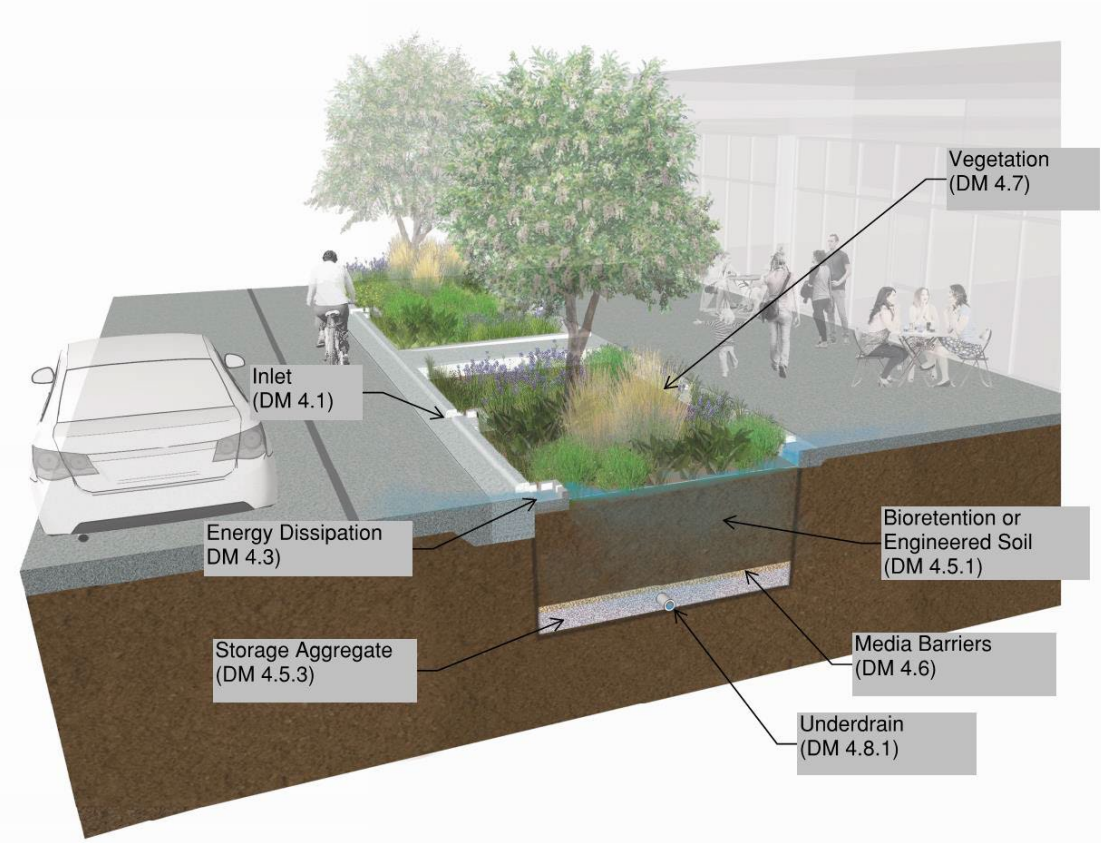
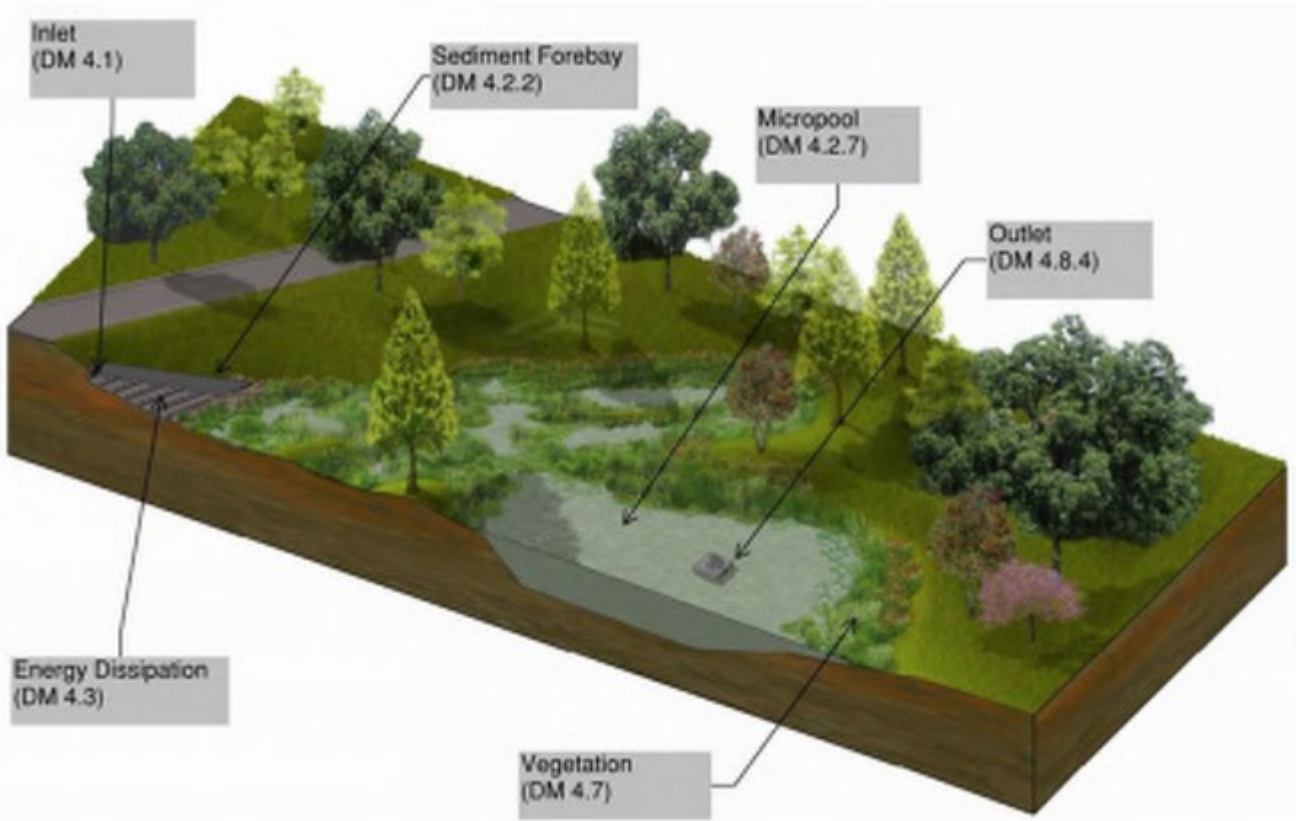
NCIMN (National Center for Infrastructure Modeling and Management)



Treating at the Source



Green BMPs



State Water Right - TCEQ



[Home](#)

[Air](#)

[Land](#)

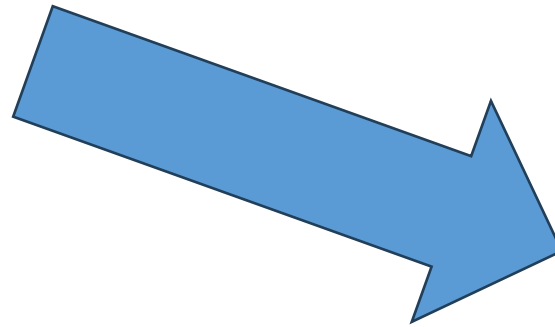
[Water](#)

[Licenses](#)

[Permits](#)

[Reporting](#)

Start Here!



Who Owns State Water?


Surface water in Texas is owned by the state and held in trust for the citizens of the state. The state grants the right to use this water to different people, such as farmers or ranchers, cities, industries, business, and other public and private interests.

How Are Water Rights Prioritized?

Water rights have priority dates which indicate the seniority of one water right over another, known as "first in time, first in right." In times of drought, those with the earliest dates have the right to get water before those with newer dates. Today, priority dates for new appropriations of water are based on the date the application is declared administratively complete.

Do I Need a Permit to Use State Water?

Anyone who wants to use surface water in Texas must first **get permission** from the state, unless they are using the water for one of several "exempt uses" in the Texas Water Code.

Some exemptions include: domestic and livestock use, wildlife management, emergencies like wildfires, and other specified uses (see [Texas Water Code Section 11.142](#) )

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION FOR A WATER USE PERMIT

APPLICATION NO. [REDACTED]

[REDACTED] requests a Water Use Permit to divert and use not to exceed [REDACTED] acre-feet of water per year for municipal, industrial, and agricultural purposes in the service area in the Trinity River Basin. [REDACTED] also requests authorization to divert water from Lake Benbrook to [REDACTED] customers, and the West Fork Trinity River to convey water to participate in the permitting process is given below.

APPLICATION NO. [REDACTED] Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code (TWC) §§ 11.042 and 11.121, and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice is being published and mailed to the water right holders in the Trinity River Basin pursuant to Title 30 TAC § 295.151.

[REDACTED] seeks authorization to divert and use not to exceed [REDACTED] acre-feet of water per year from the Clear Fork Trinity River to [REDACTED] customers, at diversion rates and points authorized in Water Use Permit No. [REDACTED] as amended, for municipal, industrial, and agricultural purposes in the [REDACTED] service area.

[REDACTED] requests that diversions be limited to times when the water surface elevation of Lake Benbrook is above 694.0 feet mean sea level (msl) and when the water surface elevation of Lake Livingston is at or above 131.0 feet msl, except upon written consent of the owners of Certificate of Adjudication Nos. [REDACTED].

[REDACTED] also seeks authorization to use the bed and banks of the Clear Fork Trinity River and the West Fork Trinity River to convey the 78,653 acre-feet of water per year from Lake Benbrook downstream to [REDACTED] customers, for subsequent diversion and use as authorized by Water Use Permit No. [REDACTED] as amended.

The application and partial fees were received on January 13, 2012. Additional information and fees were received on December 10, 2012, August 19, September 4 and November 7, 2013. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on February 20, 2014.

The Executive Director has completed the technical review of the application and prepared a draft Water Use Permit. The draft permit, if granted, would contain special conditions including, but not limited to, streamflow restrictions and maintenance of an accounting plan. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr-apps-pub-notice. Alternatively, you may request a copy of the documents by





NOTICE OF AN APPLICATION FOR A WATER USE PERMIT

APPLICATION NO. [REDACTED]

[REDACTED] requests a Water Use Permit for use of [REDACTED] acre feet of water per year for municipal, industrial use the bed and banks of the Trinity River Basin, and the water from Lake Benbrook to [REDACTED] customers. More information to participate in the permitting process is given below.

APPLICATION [REDACTED] Applicant, has applied to the Texas Commission on Water Use Permit pursuant to Texas Water Code (TWC) §§ Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. to the water right holders in the Trinity River Basin [REDACTED]

[REDACTED] seeks authorization to divert and use not to exceed [REDACTED] cfs from the Clear Fork Trinity River [REDACTED] agricultural purposes in [REDACTED] service area.

[REDACTED] requests that diversions be limited to times Benbrook is above 694.0 feet mean sea level (msl) Livingston is at or above 131.0 feet msl, and [REDACTED] Certificate of Adjudication Nos. [REDACTED]

[REDACTED] also seeks authorization to use the by West Fork Trinity River to convey the 78,65 [REDACTED] customers, for sub Use Permit No. [REDACTED] as amended.

The application and partial fees were received on December 10, 20 [REDACTED] application was declared administrative the Chief Clerk on February 20, 20 [REDACTED]

The Executive Director has completed draft Water Use Permit. The draft application, but not limited to, streamflow records application, technical memorandum viewing on the TCEQ web page permits.tceq.texas.gov

TRWD would consider all factors, including:

- Location
- Amount
- TCEQ Exemptions
- TCEQ Water Availability Model

And then may engage the landowner as necessary





Thank You

Water Rights/Environmental Due Diligence

Chris Hamilton, Westwood

Environmental & Water Rights Due Diligence

Presented by: Chris A. Hamilton

Westwood





Topics To Be Covered

- What is Environmental Due Diligence?
- Why should you Complete Environmental Due Diligence?
- Example Environmental Checklists
- Environmental Due Diligence Topics
- Water Rights Permitting Due Diligence



What is Environmental Due Diligence?

“Environmental due diligence is a systematic procedure that evaluates a property or land for possible environmental risks...”

Source: <https://corporatefinanceinstitute.com/resources/commercial-real-estate/environmental-due-diligence/>

Different Levels of Environmental Due Diligence and Examples

Desktop/Remote Sensing

Public websites, GIS maps, literature review

Field Inspections

Wetland delineation, wildlife surveys, drone surveys

Sampling and Testing

Groundwater samples, soil testing, lab analysis





Why is Environmental Due Diligence Important?

Federal Nexus Typically Requires It (FEMA/404/401/NPDES)

Other Federal and State rules

Municipalities Require Compliance with Environmental Rules

Reduce Risk

Save Time and Prevent project delays

Same Money on Possible Remediation or Mitigation

Example Environmental Due Diligence Checklists

Who completes the checklists and at what stage of the project (the sooner the better)?



Environmental Quality Assurance Steps:
<input type="checkbox"/> Determine if the location is in a FEMA floodplain area <input type="checkbox"/> Obtain floodplain permit, if required
<input type="checkbox"/> Determine if construction will impact designated Waters of the US <input type="checkbox"/> Obtain Waters of the US permit, if required
<input type="checkbox"/> Determine if construction is near any potentially environmentally sensitive areas or receptors (wetlands, creeks, etc.)
<input type="checkbox"/> Determine if there are Cultural Resources (archeological sites) present
<input type="checkbox"/> Determine if there will be an impact to designate Threatened and Endangered Species
<input type="checkbox"/> Review general site drainage conditions



ENVIRONMENTAL ISSUES CHECKLIST FOR DONATION AGREEMENTS & DRIVEWAYS
This checklist provides a first level evaluation of potential environmental issues associated with driveways and Donation Agreement (DA) project activities occurring within TxDOT right-of-way (ROW). All responses must be completed with reference to the databases provided, or, in the absence of a database, with the best knowledge of the preparer.

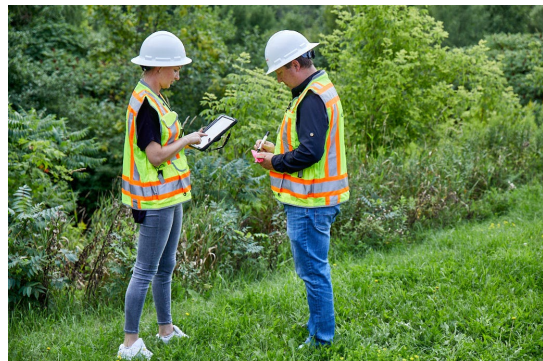
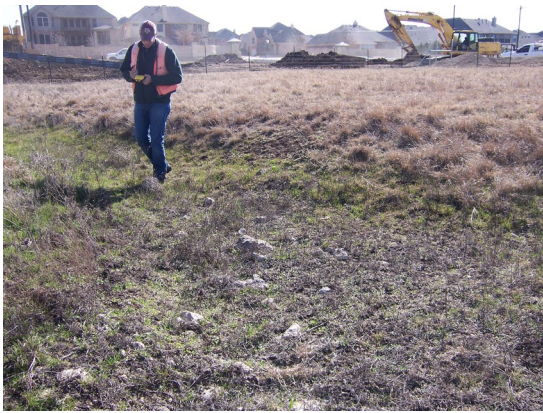
For driveway projects, only the questions marked with a "" require answers.*

Project Details

Project Name: _____
 CSI: _____ Roadway: _____
 Project Limits: from _____ to _____
 County: _____ GPS Coordinates (DD): _____
 Project Description (state if project in DA or driveway, and describe project activities):

Environmental Issues

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	1. Will new ROW or easements be required or donated for the project? If so, note the acreage: _____
<input type="checkbox"/>	<input type="checkbox"/>	2. Is the proposed action within a historic district, or adjacent to a historic property or district? See Texas Historic Sites Atlas ; and attach the figure(s) of the results to support your answer. If new ROW or easements are required or donated, further coordination is needed.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	*3. Are there known or potential hazardous material encroachments into the project area, including visual evidence of soil and groundwater contamination, dump sites, tanks, or other sources of contamination? If new ROW or easements are required or donated, please complete and attach a Hazardous Materials Initial Site Assessment (ISA) .
<input type="checkbox"/>	<input type="checkbox"/>	*4. Are cemeteries present within or adjacent to the project? See Texas Historic Sites Atlas ; if so, will any construction activities or extension of the pavement be within 15 feet of the existing ROW boundary? <input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	*5. Will the project cross or otherwise have the potential to affect possible jurisdictional waters of the U.S. (including wetlands)? See Definition of "Waters of the United States" and National Wetlands Inventory Wetlands Mapper and attach the figure(s) of the results to support your answer.



Environmental Due Diligence Best Practices


- Plan accordingly
- Involve an environmental professional at the start of the project
- Conduct environmental due diligence at the feasibility phase
- Consider the ramifications of permitting during planning
- Set expectations for possible increased mitigation and permitting
- Avoid impacts that can be avoided
- Minimize impacts that cannot be avoided



FEMA Floodplain

The Federal Emergency Management Administration (FEMA) defines a floodplain as any land area susceptible to being inundated by floodwaters from any source.

FEMA Flood Map Service Center: Welcome!

Looking for a Flood Map? 

Enter an address, a place, or longitude/latitude coordinates:

Looking for more than just a current flood map?

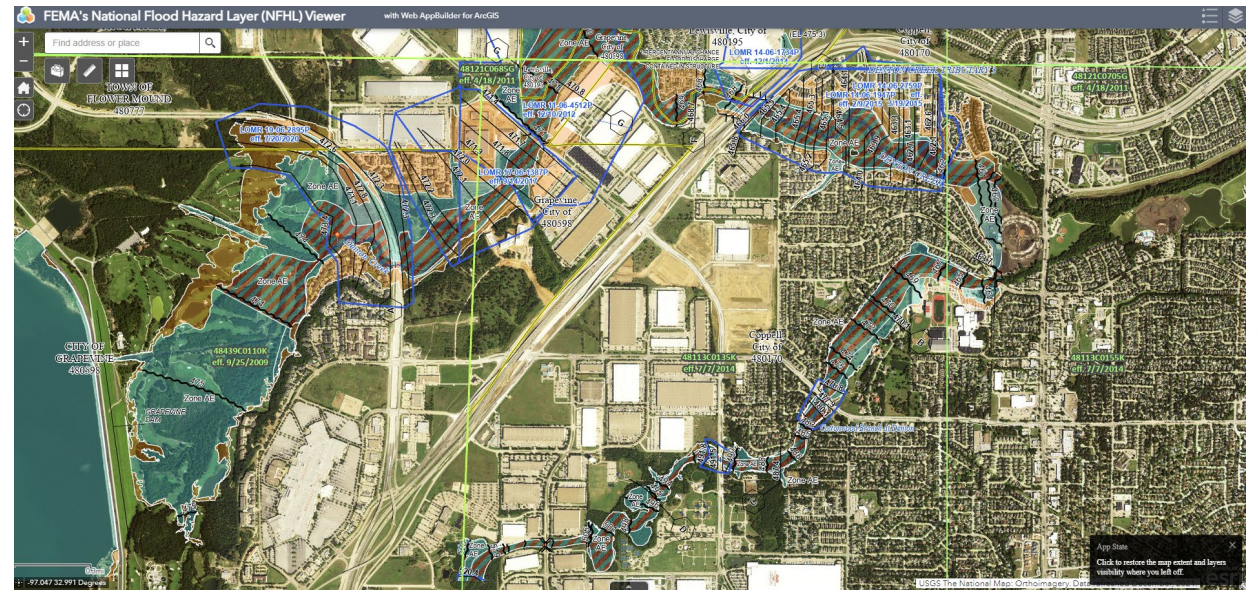
Visit [Search All Products](#) to access the full range of flood risk products for your community.



About Flood Map Service Center

The FEMA Flood Map Service Center (MSC) is the official public source for flood hazard information produced in support of the National Flood Insurance Program (NFIP). Use the MSC to find your official flood map, access a range of other flood hazard products, and take advantage of tools for better understanding flood risk.

FEMA flood maps are continually updated through a variety of processes. Effective information that you download or print from this site may change or become superseded by new maps over time. For additional information, please see the [Flood Hazard Mapping Updates Overview Fact Sheet](#)

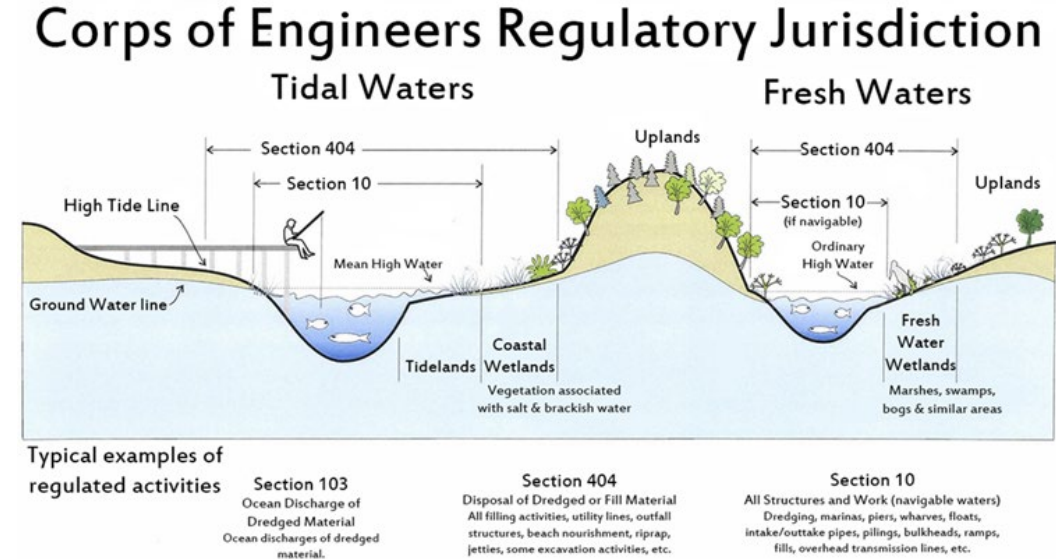


FEMA Flood Map Service Center - <https://msc.fema.gov/portal/home>

FEMA National Flood Hazard Layer Viewer - <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html>

Wetlands and other Waters of the U.S.

- Waters of the U.S.
 - Navigable and interstate waters
 - Territorial seas
 - Lakes, streams, rivers, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds
 - Tributaries
 - Some adjacent wetlands



Background: Definitions

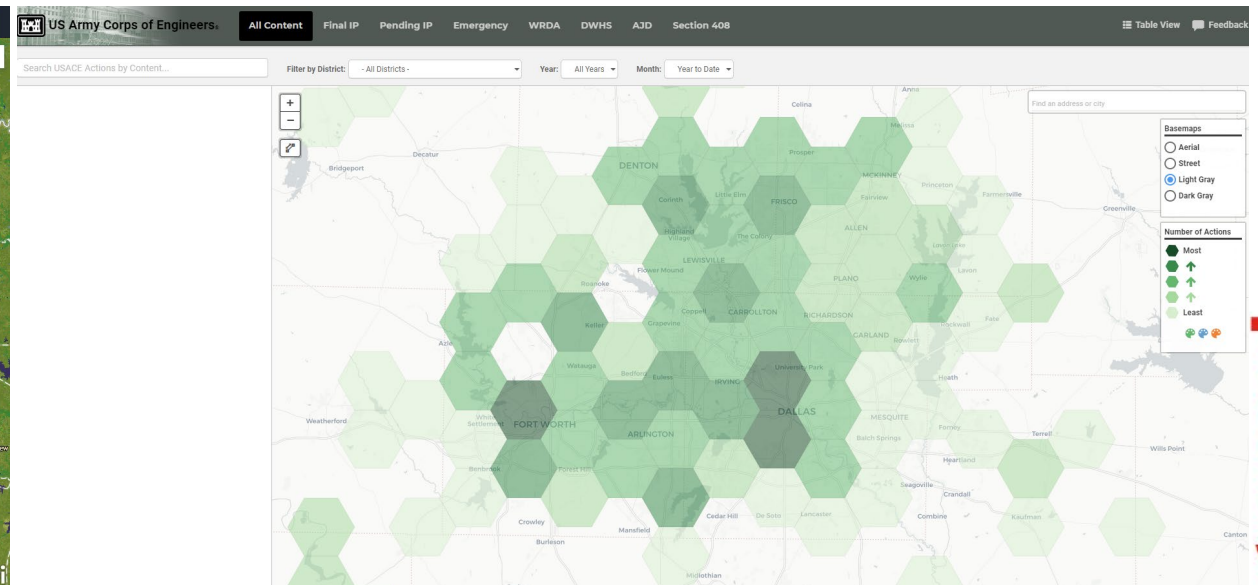
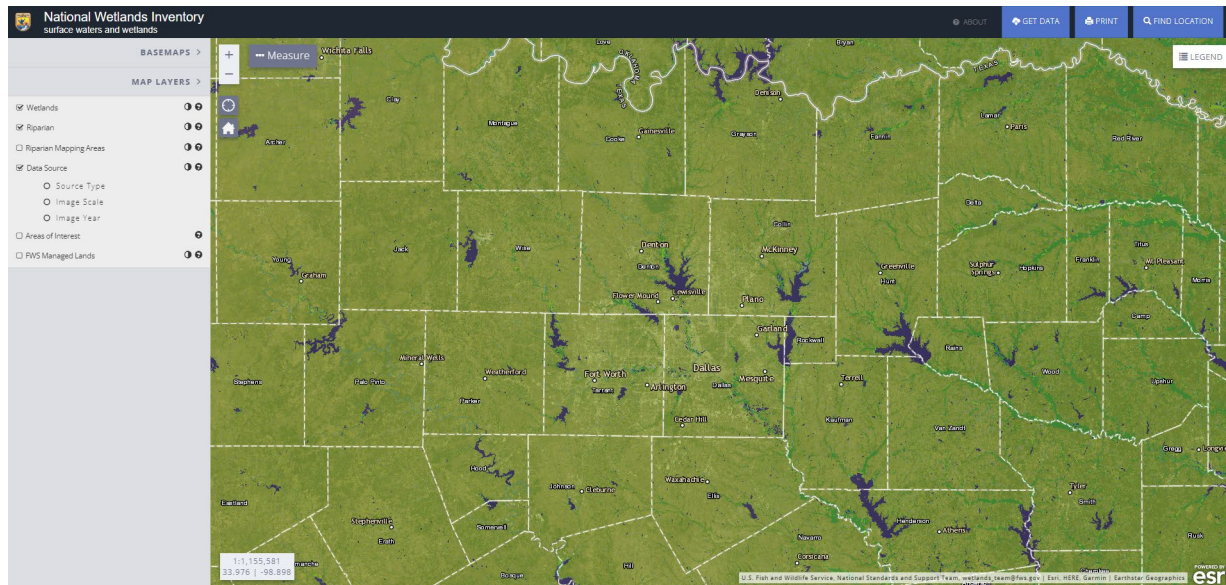
- Wetlands
 - Areas that are inundated or saturated by surface- or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
 - Includes swamps, marshes, bogs, and similar areas.
 - Wetlands have to meet three criteria: (1) hydrophytic vegetation, (2) hydric soils, and (3) hydrology.



National Wetlands Inventory & USACE Project Viewer

There is no map showing jurisdictional waters! Fieldwork required!

Only USACE/EPA can make an official determination of jurisdictional waters!



National Wetlands Inventory - <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>

USACE Project Viewer - <https://permits.ops.usace.army.mil/orm-public>

Environmentally Sensitive Areas

Typically designated by the local municipality (e.g., Denton or Austin)
It could also include endangered species/habitat or special wetlands



Cultural Resources



Cultural Resources

Corps of Engineers Nationwide Permit General Condition #21/Section 106

Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed.

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires federal (including states and cities) agencies to consider the effects on historic properties.

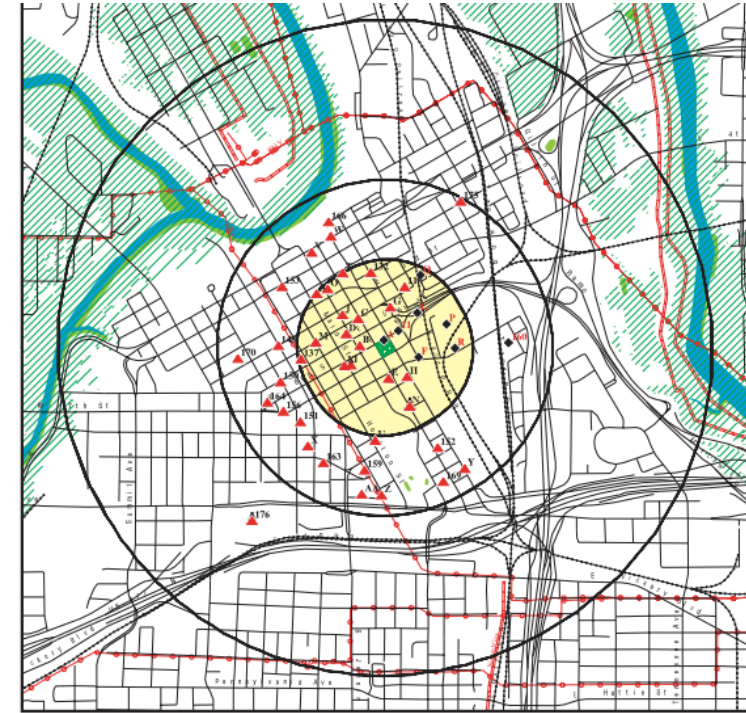
Generally, properties eligible for listing in the National Register of Historic Places are at least 50 years old ≈1974

Texas Historical Commission – Texas Historic Sites Atlas - <https://atlas.thc.state.tx.us/Map>

Hazardous Materials/Soil and Groundwater Contamination



Phase I Environmental Site Assessments



- Target Property
- Sites at elevations higher than or equal to the target property
- Sites at elevations lower than the target property
- Manufactured Gas Plants
- National Priority List Sites
- Dept. Defense Sites
- Indian Reservations BIA
- Power transmission lines
- Pipelines
- Special Flood Hazard Area (1%)
- 0.2% Annual Chance Flood Hazard
- National Wetland Inventory
- State Wetlands

This report includes Interactive Map Layers to display and/or hide map information. The legend includes only those icons for the default map view.

Phase I Environmental Site Assessments

- The EPA All Appropriate Inquiries, or AAI, is the process of evaluating a property's environmental conditions and assessing potential liability for any contamination.
- Every Phase I environmental site assessment conducted must be conducted in compliance with the AAI Final Rule at 40 CFR Part 312.
- The AAI Final Rule provides that ASTM International Standard E1527-21 (“Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process”) is consistent with the requirements of the final rule and can be used to satisfy the statutory requirements for conducting AAI.

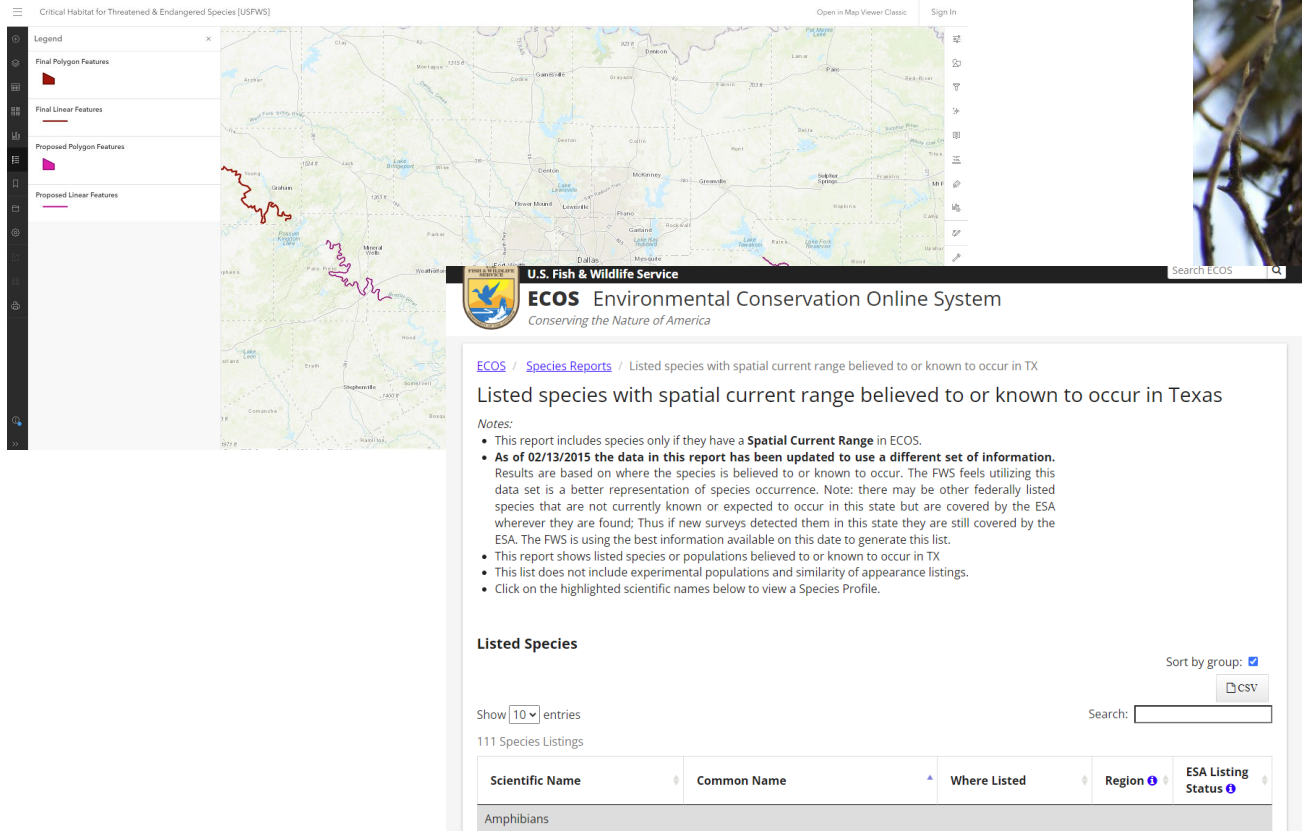
Oil and Gas



TXRRC Website mapper -<https://gis.rrc.texas.gov/GISViewer/>



Endangered Species & Critical Habitat



The image shows a screenshot of the USFWS Critical Habitat for Threatened & Endangered Species (USFWS) web application. On the left, a legend identifies 'Final Polygon Features' (red), 'Final Linear Features' (blue), 'Proposed Polygon Features' (green), and 'Proposed Linear Features' (purple). The main map displays a geographic area with these features overlaid. Below the map is the 'U.S. Fish & Wildlife Service ECOS Environmental Conservation Online System' interface. The page title is 'Listed species with spatial current range believed to or known to occur in Texas'. A 'Notes' section contains several bullet points regarding data updates and reporting. Below the notes, there is a 'Listed Species' section with a search bar and a table of species listings. The table has columns for 'Scientific Name', 'Common Name', 'Where Listed', 'Region', and 'ESA Listing Status'. The first row shows 'Amphibians' under the 'Scientific Name' column.

U.S. Fish & Wildlife Service
ECOS Environmental Conservation Online System
Conserving the Nature of America

ECOS / Species Reports / Listed species with spatial current range believed to or known to occur in TX

Listed species with spatial current range believed to or known to occur in Texas

Notes:

- This report includes species only if they have a **Spatial Current Range** in ECOS.
- As of 02/13/2015 the data in this report has been updated to use a different set of information.** Results are based on where the species is believed to or known to occur. The FWS feels utilizing this data set is a better representation of species occurrence. Note: there may be other federally listed species that are not currently known or expected to occur in this state but are covered by the ESA wherever they are found; Thus if new surveys detected them in this state they are still covered by the ESA. The FWS is using the best information available on this date to generate this list.
- This report shows listed species or populations believed to or known to occur in TX
- This list does not include experimental populations and similarity of appearance listings.
- Click on the highlighted scientific names below to view a Species Profile.

Listed Species

Sort by group: CSV

Show entries

111 Species Listings

Scientific Name	Common Name	Where Listed	Region	ESA Listing Status
Amphibians				



USFWS Critical Habitat for Threatened and Endangered Species - <https://fws.maps.arcgis.com/home/webmap/viewer.html>

Threatened and Endangered Species

Corps of Engineers Nationwide Permit General Condition #18/ESA

No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation.

The Endangered Species Act (ESA) provides a program for the conservation of threatened and endangered plants and animals and the habitats in which they are found. The law requires federal agencies, in consultation with the U.S. Fish and Wildlife Service and/or the NOAA Fisheries Service, to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of such species.

Water Rights Due Diligence



TYPES OF WATER (DEFINITIONS)

- Natural Surface Waters
 - Ordinary flow, underflow and tides of every flowing natural watercourse in the state, including flood water or storm water within natural rivers lakes and streams (watercourses have definite bed and banks)
- Diffuse Surface Waters
 - Water that is not part of a running stream or a defined water course
- Groundwater
 - Water beneath the surface of the land that fills the pore spaces of rock and soil materials and supplies wells and springs with water.
- Finished or Treated Water
 - Water from a City hydrant or other tap
- Reuse Water
 - Some advantages – heavily regulated – sourcing is not easy







Water Rights

In Texas, a stream is navigable if it is either “navigable in fact” or “navigable by statute.” Conversely, a non-navigable stream is a stream that is neither navigable in fact nor navigable by statute.

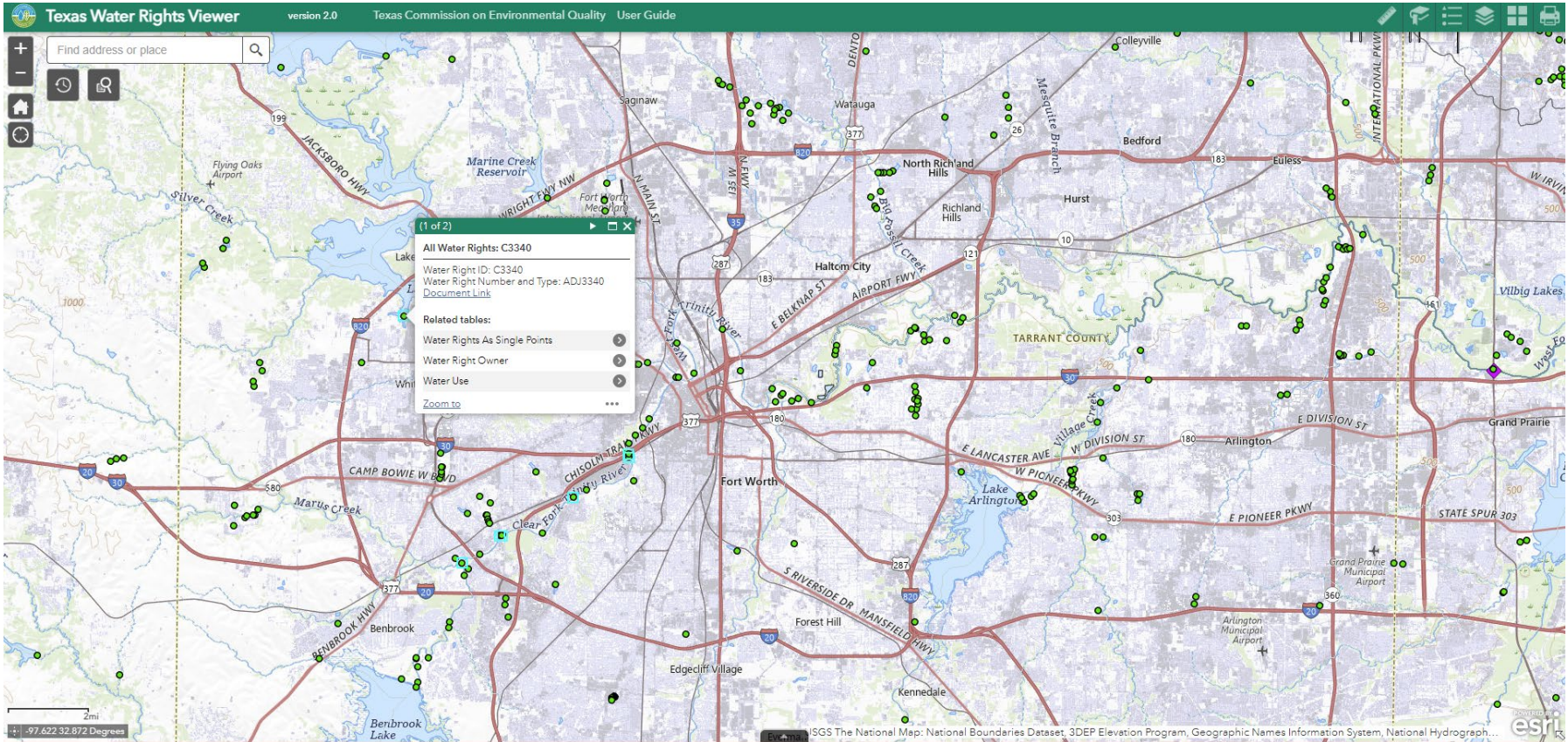
Navigable in Fact

A number of criteria have been suggested for whether a stream is navigable in fact. Some relate to passage by boats, others to the ability to float logs, and still others to its usefulness in commerce. Various courts, both state and federal, have recognized different tests. Texas courts have acknowledged a wide range of uses in support of navigability in fact.

Navigable by Statute

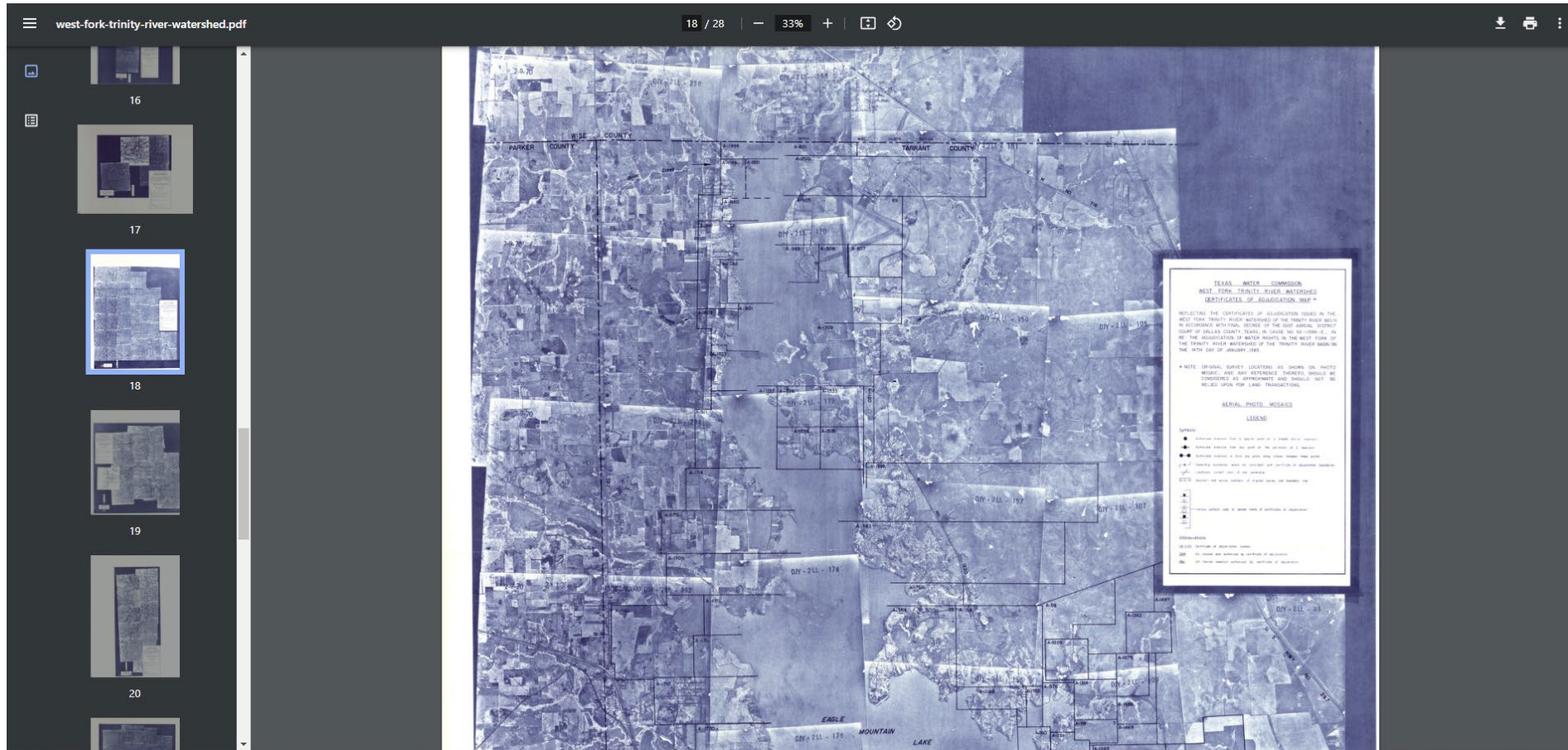
Under a law dating from 1837, a stream is navigable so far as it retains an average width of 30 feet from its mouth up. The width measured is the distance between the fast (or firmly fixed) land banks. A stream satisfying the 30-foot rule is sometimes referred to as “statutorily navigable” or “navigable by statute.” Under a court decision, the public has rights along a stream navigable by statute just as if the stream were navigable in fact.

Water Rights – Existing Water Rights



TCEQ water rights viewer - <https://www.tceq.texas.gov/gis/water-rights-viewer>

Water Rights – Adjudication Maps

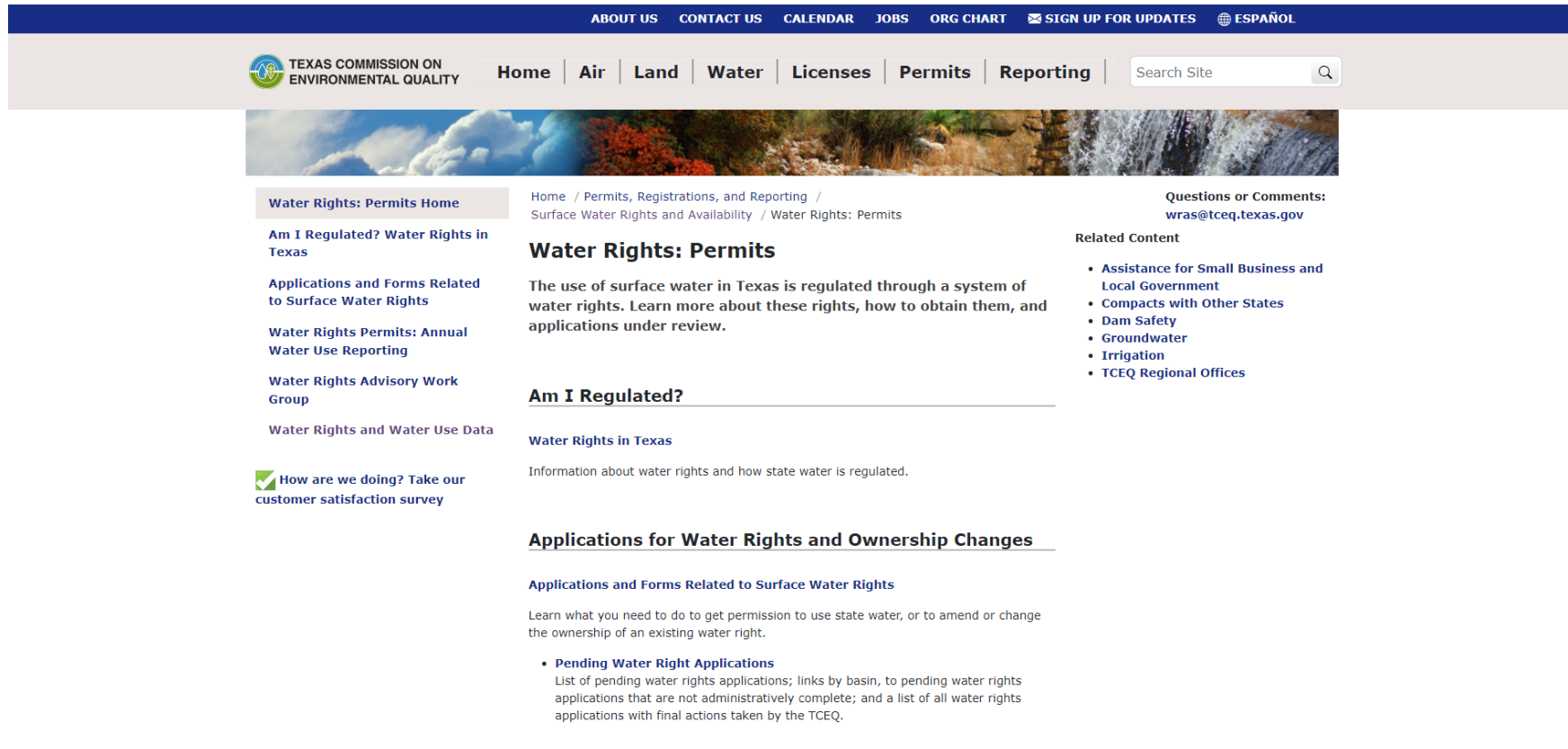


TCEQ Water Rights Adjudication Maps -
https://www.tceq.texas.gov/permitting/water_rights/wr_technical-resources/water-rights-adjudication-maps



Westwood

Water Rights – Permit Documents



The screenshot shows the TCEQ website's 'Water Rights: Permits' page. The header includes navigation links for 'ABOUT US', 'CONTACT US', 'CALENDAR', 'JOBS', 'ORG CHART', 'SIGN UP FOR UPDATES', and 'ESPAÑOL'. The main navigation bar contains 'Home', 'Air', 'Land', 'Water', 'Licenses', 'Permits', and 'Reporting', along with a search box. The page content is organized into three columns. The left column features a 'Water Rights: Permits Home' section with links to 'Am I Regulated? Water Rights in Texas', 'Applications and Forms Related to Surface Water Rights', 'Water Rights Permits: Annual Water Use Reporting', 'Water Rights Advisory Work Group', and 'Water Rights and Water Use Data'. Below these is a survey link: 'How are we doing? Take our customer satisfaction survey'. The middle column has a breadcrumb trail: 'Home / Permits, Registrations, and Reporting / Surface Water Rights and Availability / Water Rights: Permits'. The main heading is 'Water Rights: Permits', followed by a paragraph: 'The use of surface water in Texas is regulated through a system of water rights. Learn more about these rights, how to obtain them, and applications under review.' Below this are sections for 'Am I Regulated?' (with a link to 'Water Rights in Texas'), 'Applications for Water Rights and Ownership Changes' (with a link to 'Applications and Forms Related to Surface Water Rights'), and a list of 'Pending Water Right Applications' with a brief description. The right column contains 'Questions or Comments: wras@tceq.texas.gov' and a 'Related Content' section with links to 'Assistance for Small Business and Local Government', 'Compacts with Other States', 'Dam Safety', 'Groundwater', 'Irrigation', and 'TCEQ Regional Offices'.

ABOUT US CONTACT US CALENDAR JOBS ORG CHART SIGN UP FOR UPDATES ESPAÑOL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY Home Air Land Water Licenses Permits Reporting Search Site

Water Rights: Permits Home

- Am I Regulated? Water Rights in Texas
- Applications and Forms Related to Surface Water Rights
- Water Rights Permits: Annual Water Use Reporting
- Water Rights Advisory Work Group
- Water Rights and Water Use Data

How are we doing? Take our customer satisfaction survey

Home / Permits, Registrations, and Reporting / Surface Water Rights and Availability / Water Rights: Permits

Water Rights: Permits

The use of surface water in Texas is regulated through a system of water rights. Learn more about these rights, how to obtain them, and applications under review.

Am I Regulated?

[Water Rights in Texas](#)

Information about water rights and how state water is regulated.

Applications for Water Rights and Ownership Changes

[Applications and Forms Related to Surface Water Rights](#)

Learn what you need to do to get permission to use state water, or to amend or change the ownership of an existing water right.

- Pending Water Right Applications**
List of pending water rights applications; links by basin, to pending water rights applications that are not administratively complete; and a list of all water rights applications with final actions taken by the TCEQ.

Questions or Comments:
wras@tceq.texas.gov

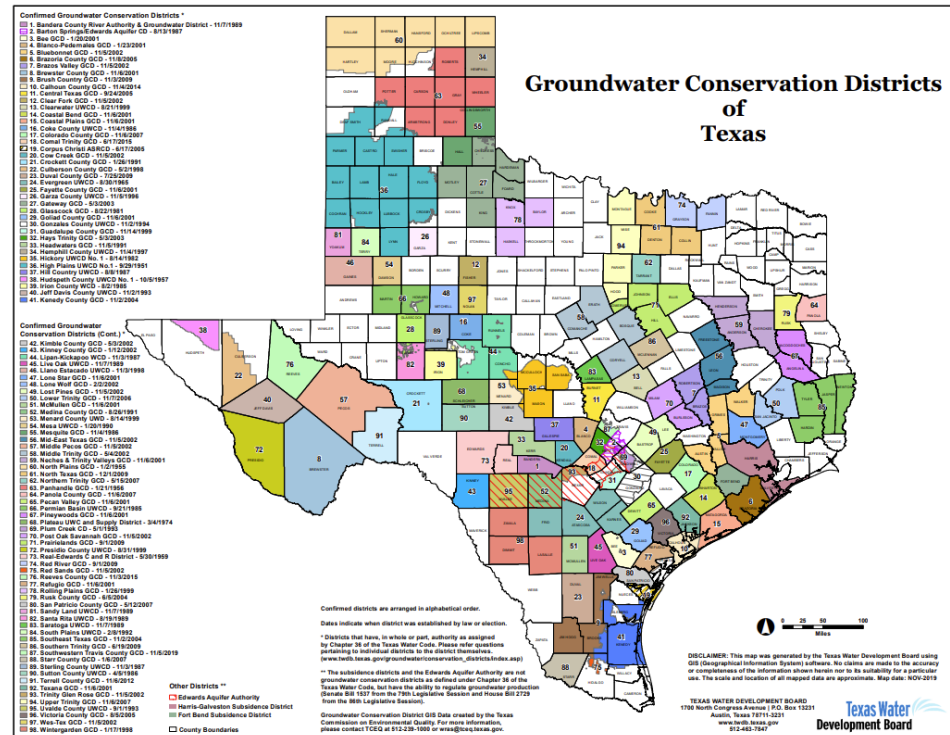
Related Content

- Assistance for Small Business and Local Government
- Compacts with Other States
- Dam Safety
- Groundwater
- Irrigation
- TCEQ Regional Offices

TCEQ Water Rights - https://www.tceq.texas.gov/permitting/water_rights/wr-permitting

Water Rights – Groundwater

- Where is your make water coming from?
- What is the quality of the water?
- What is the reliability of the water in drought conditions?
- Compliance with GCD Permits and water well restrictions?



Water Rights & Dam safety

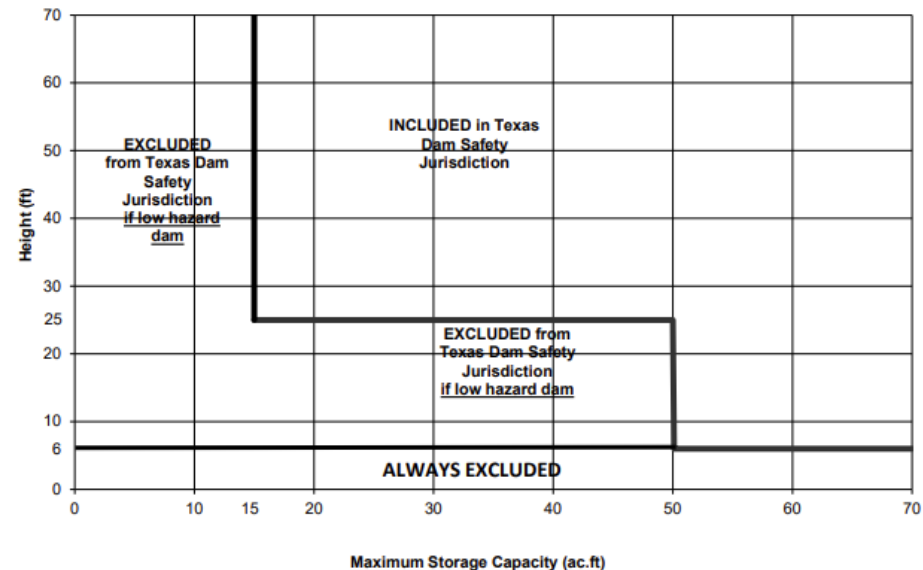


DAM SAFETY CONSIDERATIONS

- Building & owning a dam is an ultrahazardous/inherently dangerous activity.
- Strict (absolute) liability is the legal standard for damages.
- Floods are an act of God, but floods can be made worse by impounding water.
- For practical purposes - there is no level of care that can be exercised to reduce or remove liability.
- Source: American State Dam Safety Organization (ASDSO)

DAM SAFETY CONSIDERATIONS

- Standard of care set by TCEQ
 - Size (height & volume)
 - Hazard condition (what is downstream – how many lives at risk)
- When developing, think about potential future hazards



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Green Stormwater Infrastructure in North Texas

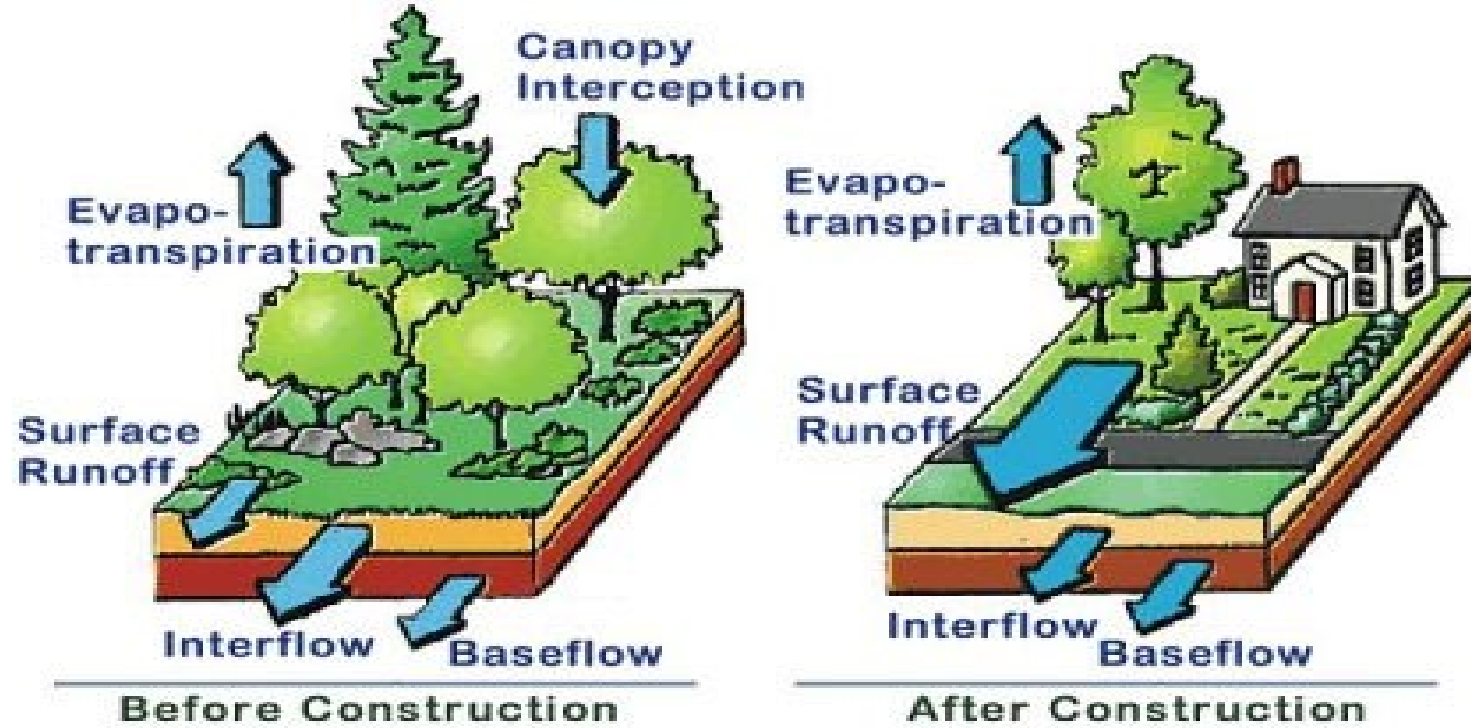
Dr. Fouad Jaber, Texas A&M AgriLife Extension

Integrated Green Stormwater Infrastructure for Water Quality and Flooding Management

Fouad H. Jaber, PhD, PE
Professor and Extension Specialist
Biological and Agricultural Engineering
Texas A&M AgriLife Extension
Dallas Research and Extension Center

Urban vs. Natural

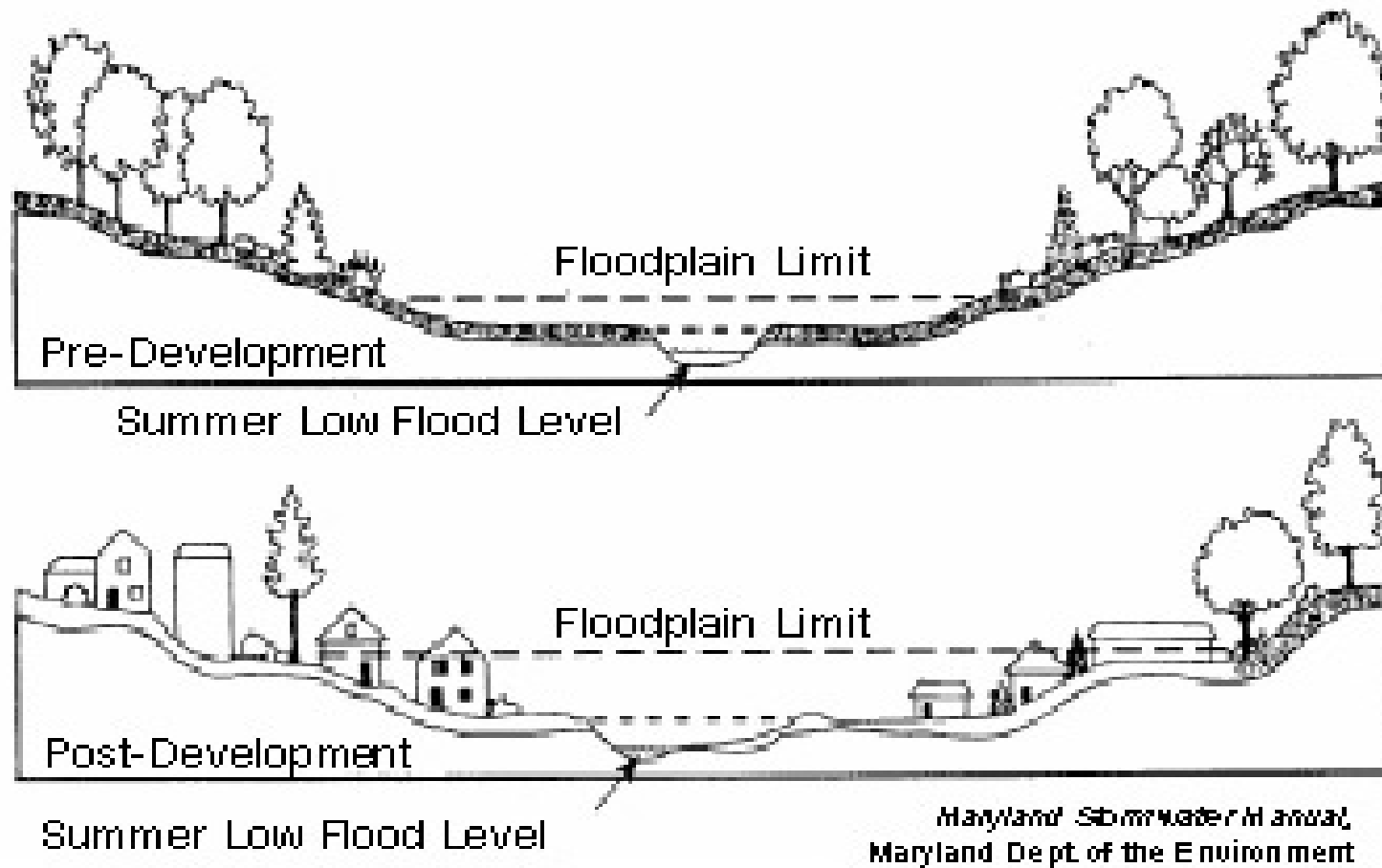
Local Hydrologic Cycle

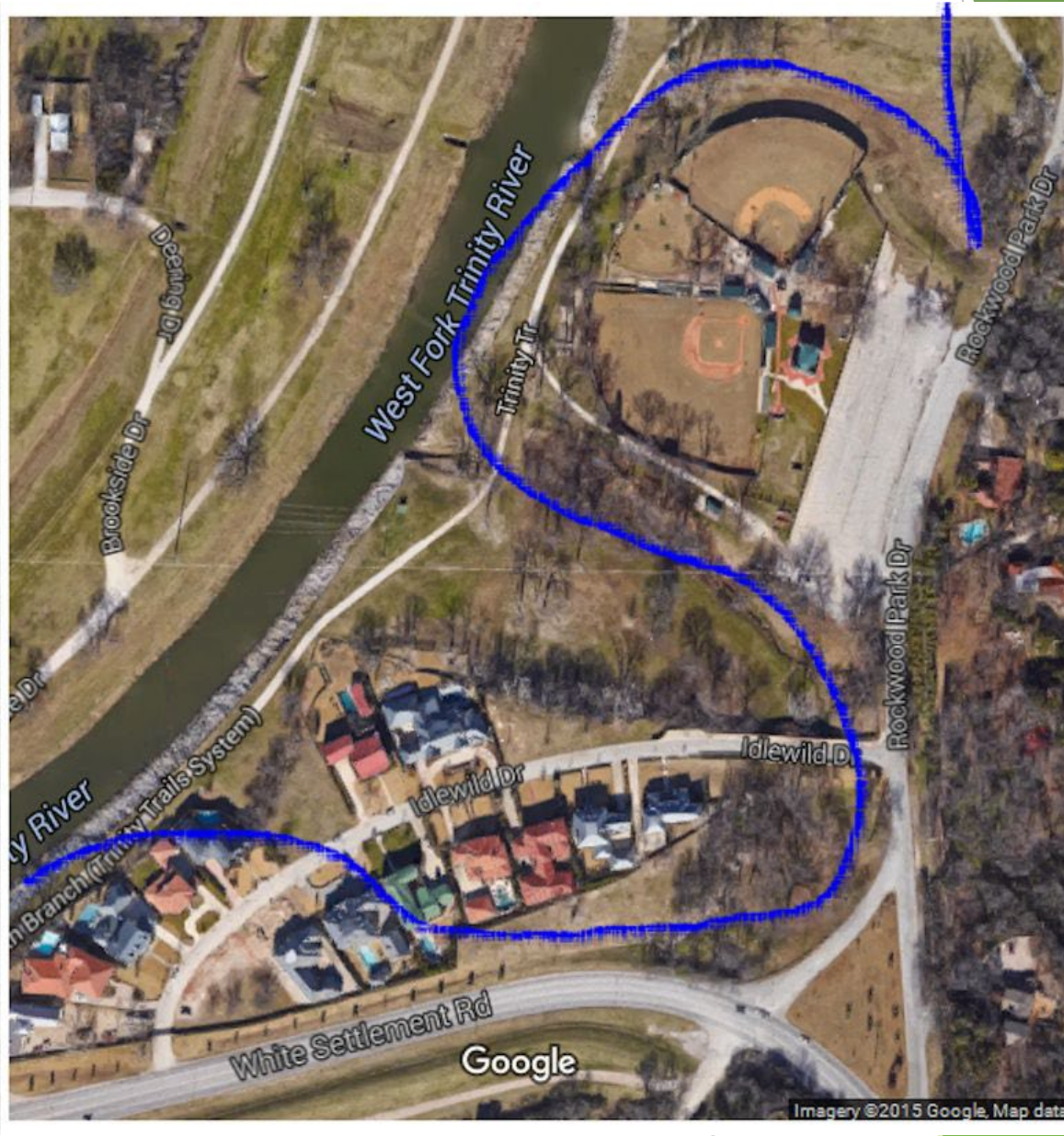


Why is Stormwater a Concern?



Why is Stormwater a Concern?





Eutrophication

► Impacts due to urbanization:

Impact to aquatic habitat:

Degradation of habitat structure, loss of pool-riffle structure, reduction in base flow, increased stream temperature, and decline in abundance and biodiversity.



Fish kill at Lake Granbury.

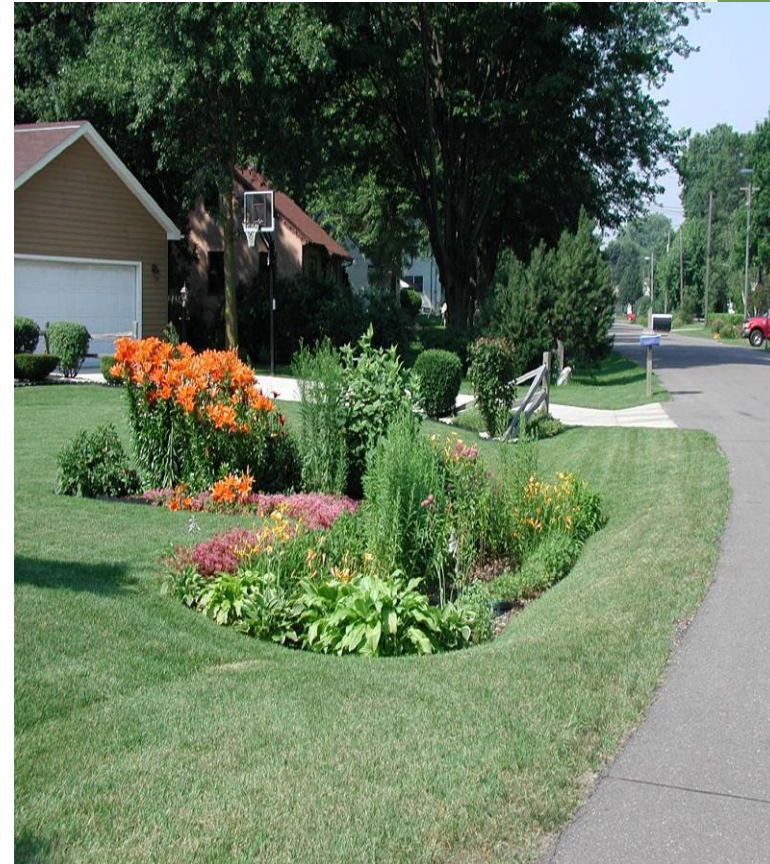
Green Stormwater Infrastructure

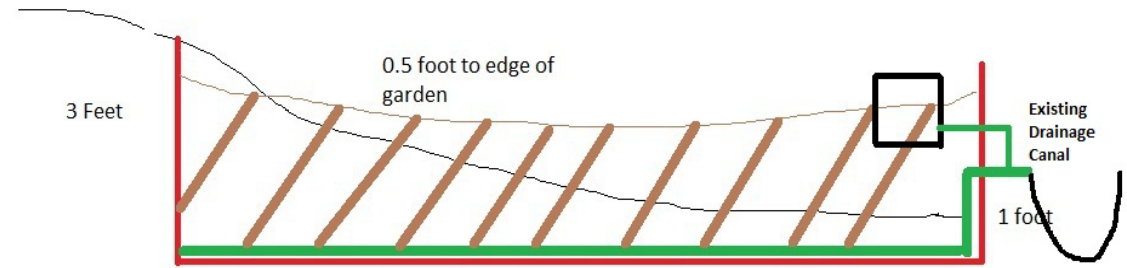
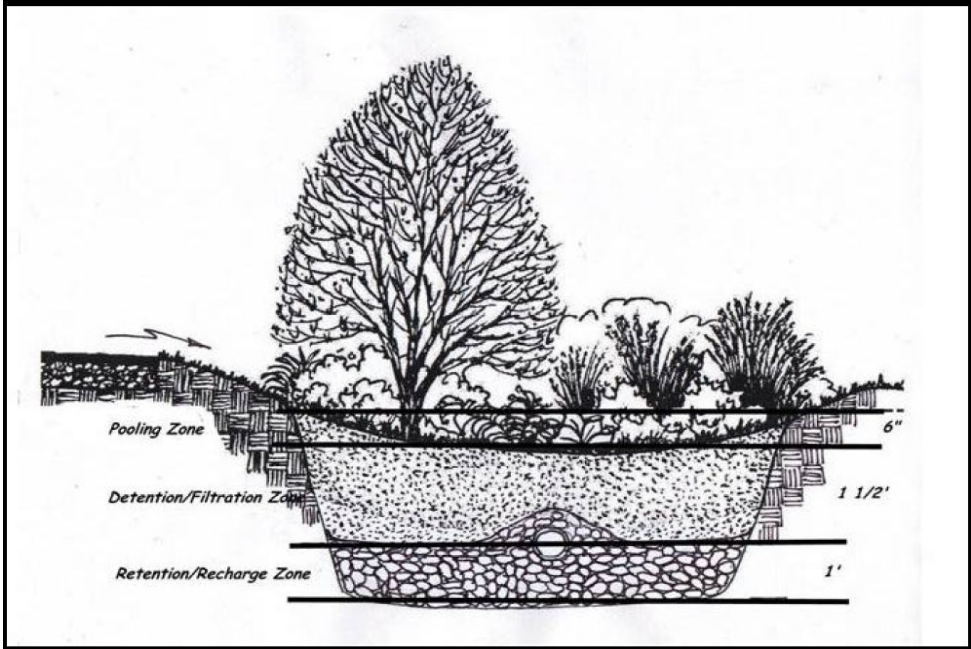
- ▶ Rain garden-bioretenention areas
- ▶ Porous pavements
- ▶ Green roofs
- ▶ Rainwater harvesting








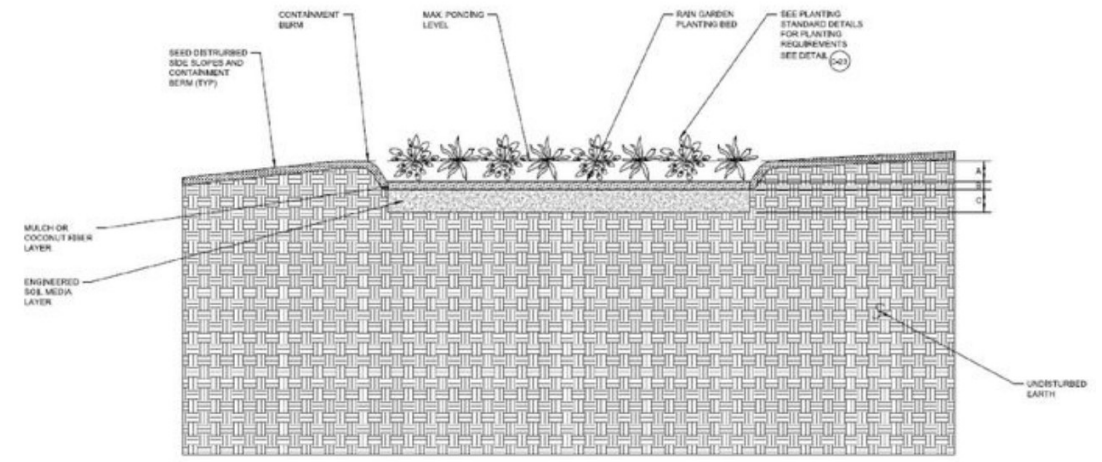
What is a Rain Garden (Bioretention)?

A rain garden is a beautiful landscape feature consisting of a planted shallow depression that collects rainwater runoff from roofs, parking lots and other impervious surfaces.





-  Original ground
-  Excavation line
-  Perforated pipe
-  Selected fill
-  Overflow box



Home Rain Garden



Bioretention in Parking Lot



Bioretention in Road Median



What is Porous Pavement?

- ▶ Porous pavement is a permeable pavement surface with a gravel reservoir underneath.
 - ▶ it temporarily stores surface runoff before infiltrating it into the subsoil
 - ▶ provides water quality treatment
 - ▶ often appears as traditional asphalt or concrete but is without "fine" materials
 - ▶ could also allow for grass growth



TAMU LID(c)



Green Roofs



Rainwater Harvesting as a Stormwater BMP

- ▶ Retains water on-site
- ▶ All water applied on high infiltration areas (yard)
- ▶ Reduces total volume and peak flow
- ▶ Conserves water



Research Project in Dallas

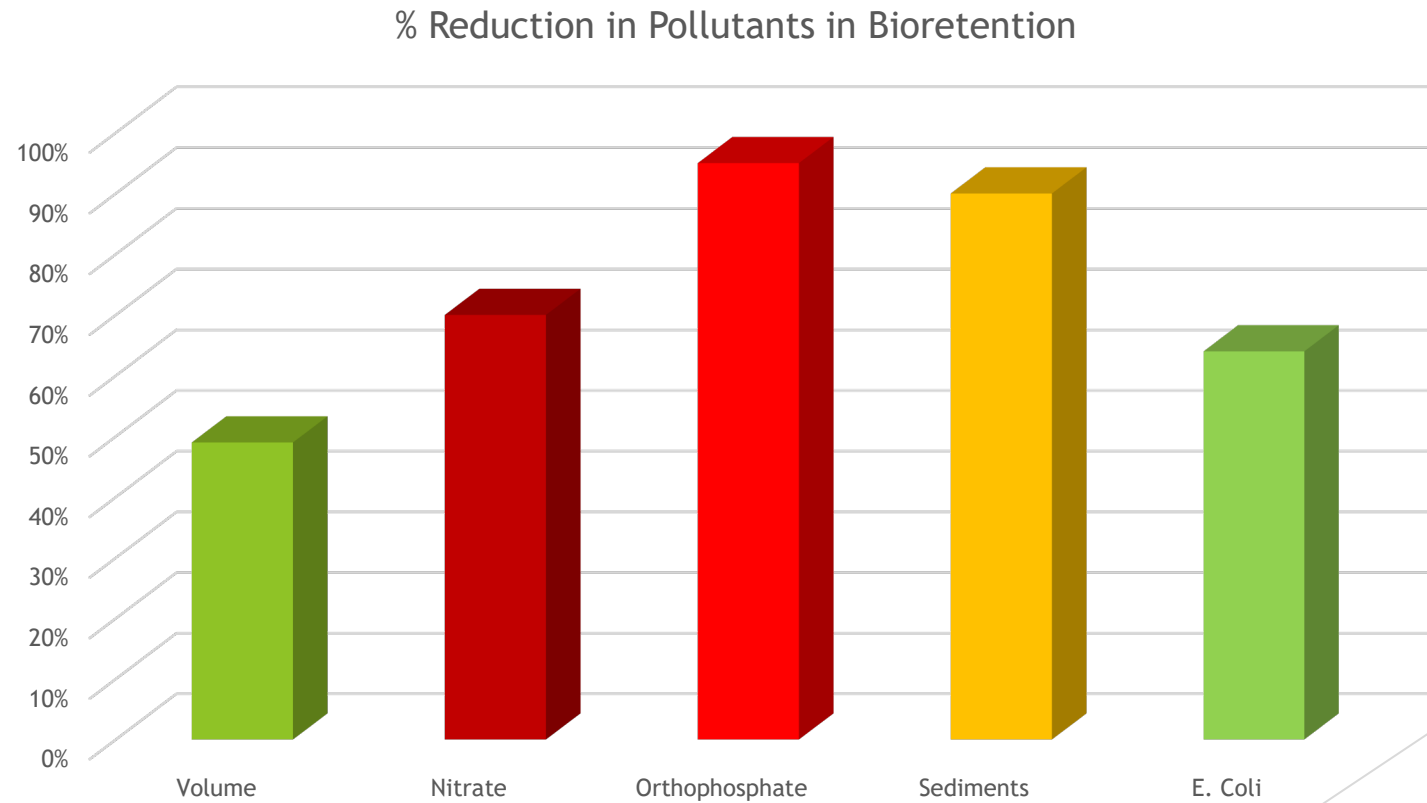


- Green Roof**
- Rain Garden**
- Permeable Pavement**
- Rainwater Harvesting**
- Detention Pond**

Bioretention cell

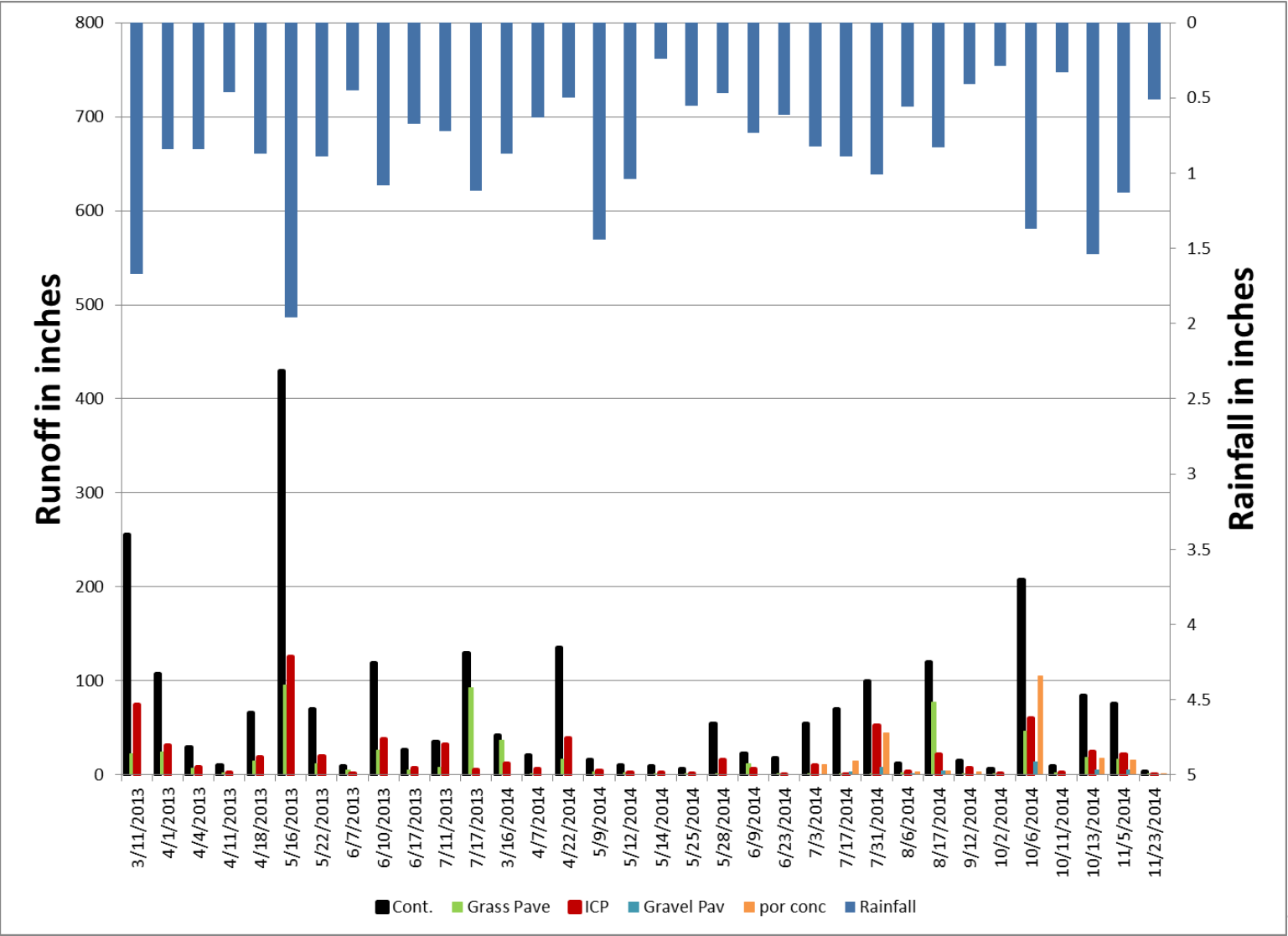


Bioretention Volume and Pollutants Reduction



Jaber, 2015

Permeable Pavement Results: Volume



Volume and total suspended solids reduction rates

Reduction Rate	PICP	Pervious Concrete	Grass Pavers	Gravel Pavers
Volume	71%	74%	78%	93%
TSS	57%	48%	84%	48%



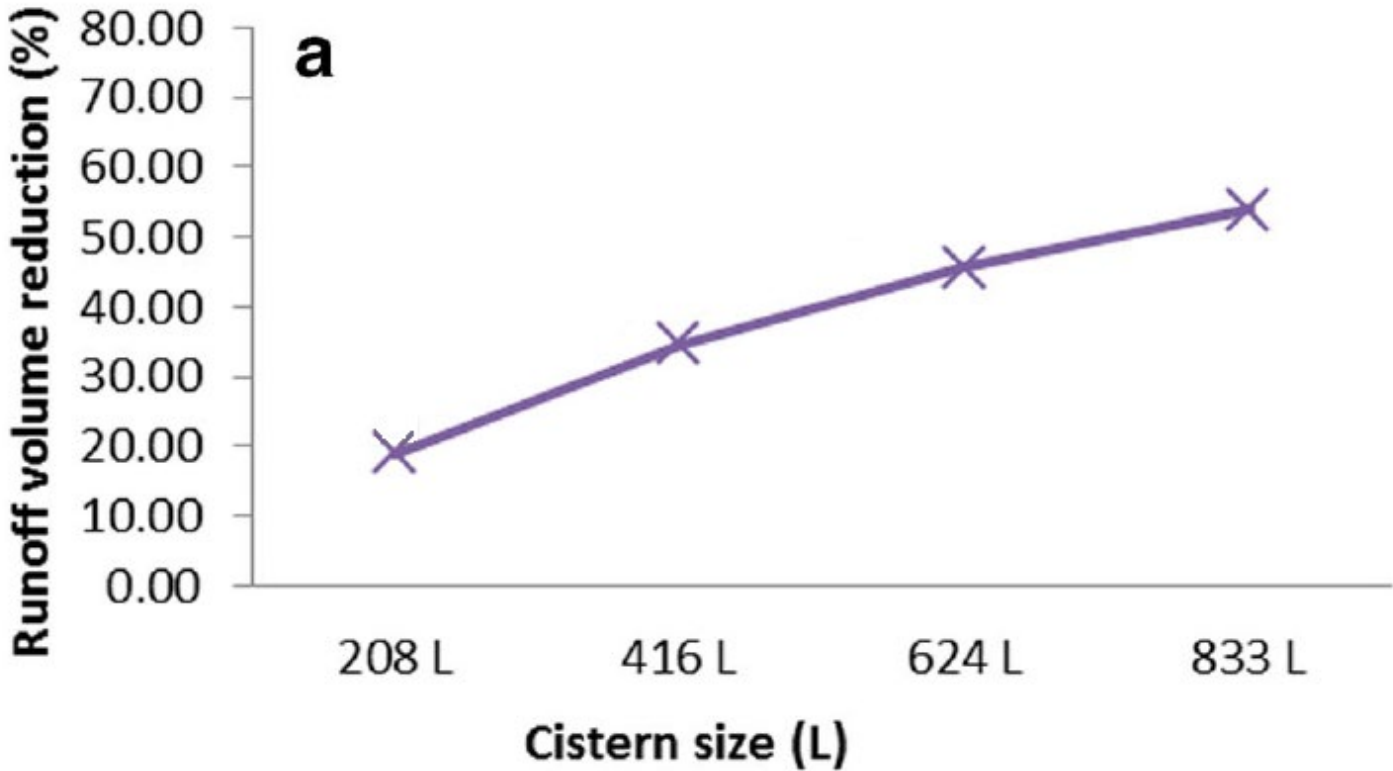
Volume Reduction

Event	Rainfall	C	H	H reduction	S	S reduction	SD	SD Reduction
Date	inches	gals	gals	%	gals	%	gals	%
05/09/14	Total Volume Reduction from C			65.39%		76.05%		75.33%
05/12/14								
06/09/14								
07/03/14								
07/17/14	0.89	6.7	1.47	0.78	0.1	0.99	2	0.70
07/31/14	1.01	7.7	6.1	0.21	0.24	0.97	1.18	0.85
08/06/14	0.56	2.7	0	1.00	0	1.00	0.29	0.89
08/17/14	0.83	4.7	1.18	0.75	0	1.00	0.29	0.94
10/06/14	1.37	15.8	5.54	0.65	2.47	0.84	4.1	0.74
10/13/14	1.54	22	11.9	0.46	8.7	0.60	9.3	0.58
10/13/14	1.54	22	11.9	0.46	8.7	0.60	9.3	0.58
11/05/14	1.13	9.02	0.17	0.98	0.35	0.96	0.29	0.97
11/23/14	0.51	2.5	0	1.00	0	1.00	0	1.00
12/23/14	0.53	3.89	0.59	0.85	0.35	0.91	0	1.00
01/12/15	0.63	4.5	0.66	0.85	2.4	0.47	0.94	0.79
01/23/15	1.17	7.58	3.56	0.53	3.63	0.52	3.28	0.57
02/02/15	0.72	35.7	25	0.30	1.12	0.97	0	1.00
02/25/15	2.22	15.58	8.63	0.45	1.36	0.91	5.66	0.64
03/06/15	1.1	2.36	0	1.00	1.35	0.43	0.17	0.93

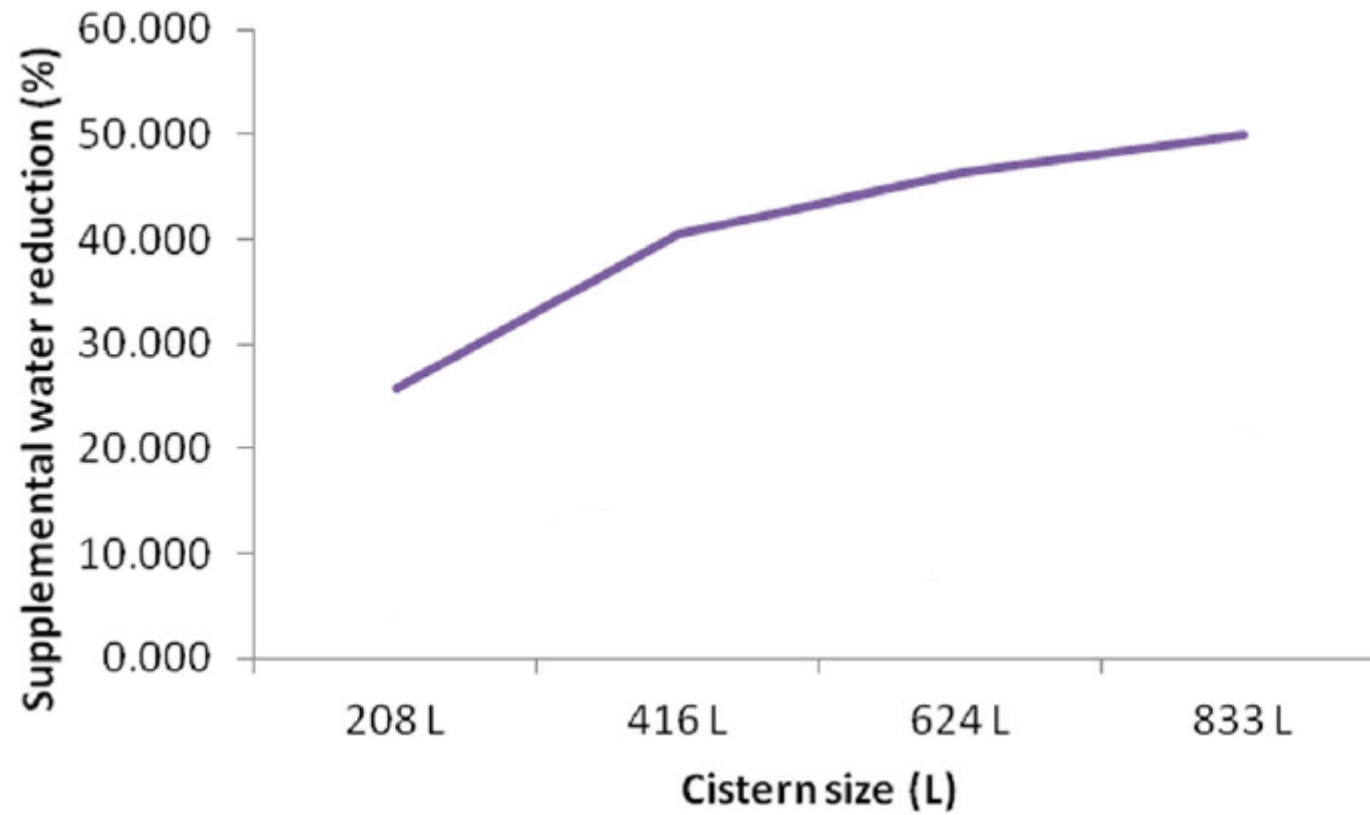


TAMU LID(c)

Runoff Reduction from RWH



Water savings from RWH

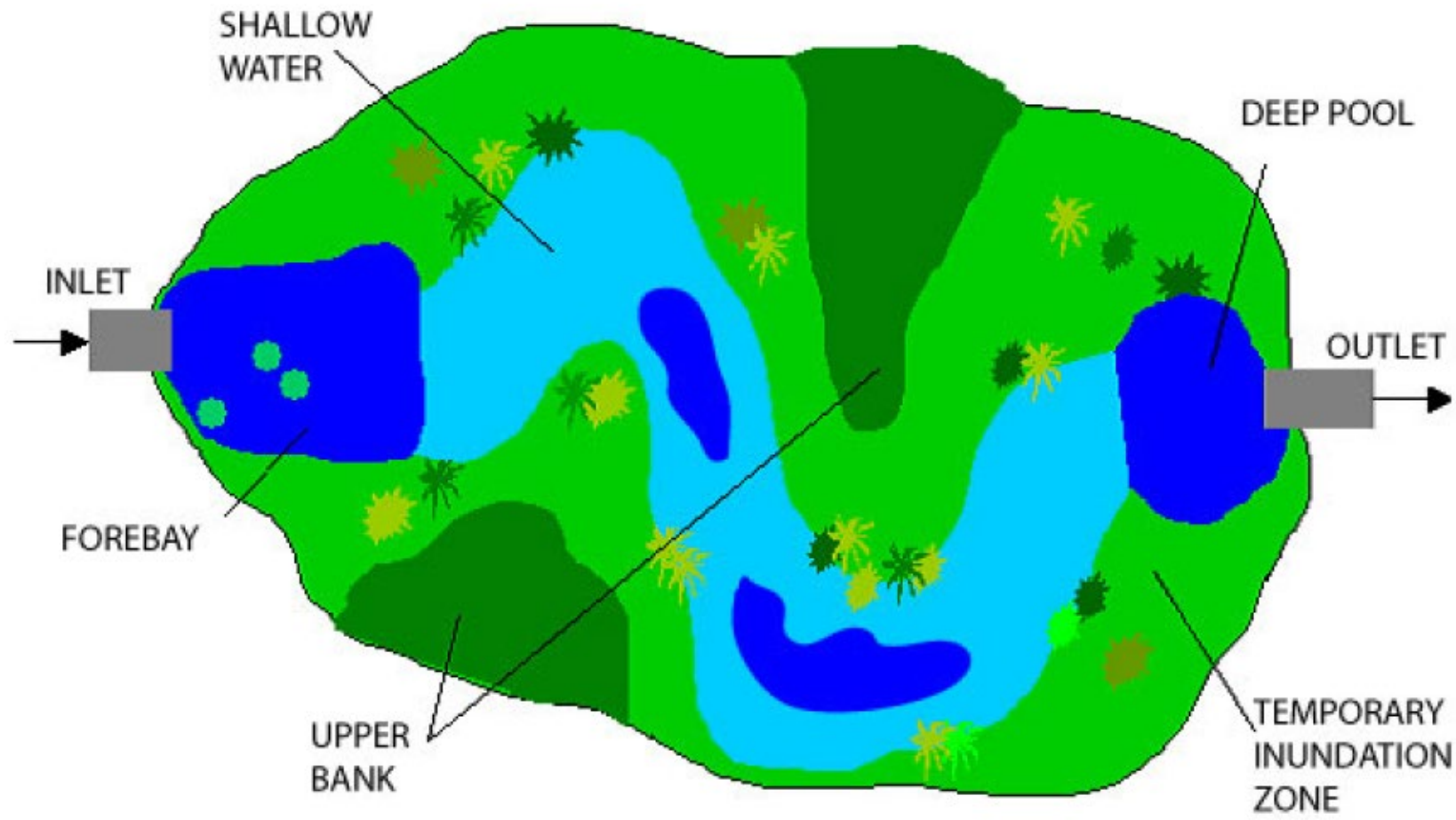


Constructed Wetlands

- ▶ Constructed wetlands are best practices to reduce effects of urbanization on stormwater
- ▶ Stormwater wetlands are designed to improve water quality, improve flood control, enhance wildlife habitat, and provide education and recreation.



Wetland Features



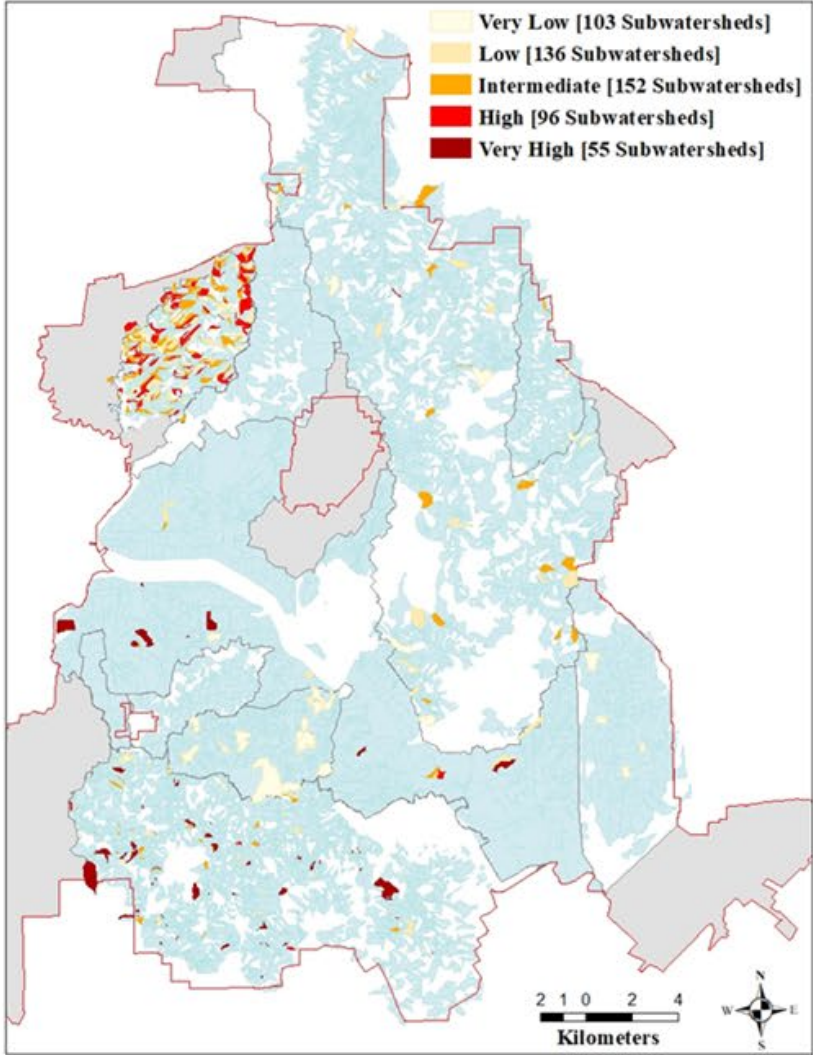
Wetland Effectiveness in Pollutant Removal

Pollutant	Number of samples	Median pollutant removal percentage	Range
Total suspended sediment	35	78%	-29% to 99.5%
Soluble phosphorus	15	40%	-34.5% to 75%
Total phosphorus	35	51%	-9% to 99.5%
Ammonia (as NH ₄)	19	43%	-55.5% to 72%
Nitrate-nitrogen	30	67%	-100% to 90%
Organic nitrogen	12	1%	-31% to 43%
Total Khedjahl nitrogen (TKN)	10	14.5%	-10.3% to 81%
Total nitrogen	22	21%	-25% to 83%
Copper	10	39.5%	2% to 84%
Lead	17	63%	23% to 94%
Zinc	16	53.5%	-73.5% to 90%

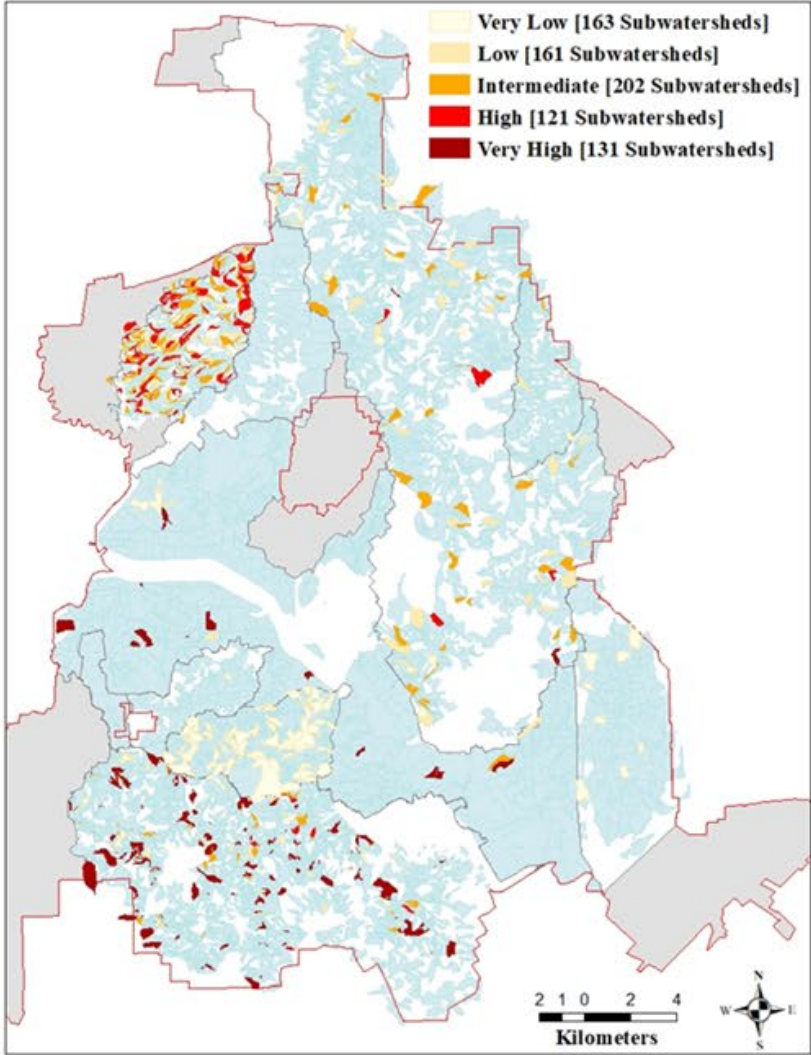
(Adapted from Brown and Schueler, 1997)

GSI Opportunity Subwatersheds for Stormwater Flooding Management, Ranked by Severity

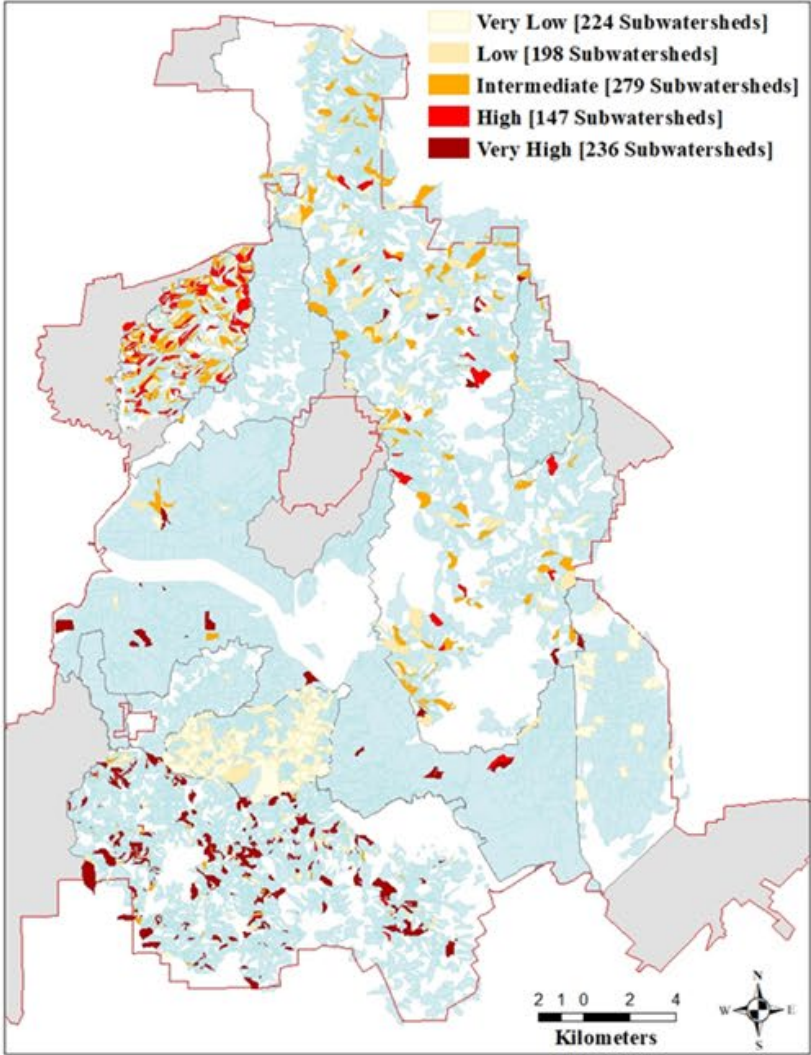
Current Conditions Pre GSI



**2-year (50%)
storm (4")**

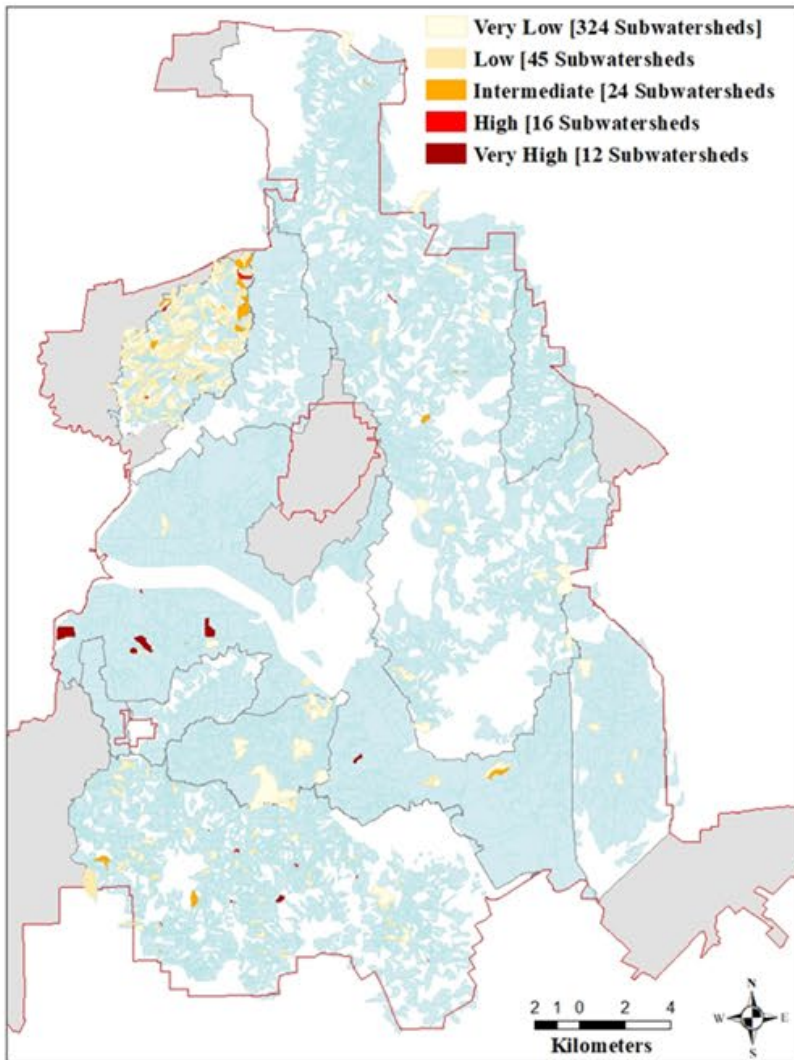


**10-year (10%)
storm (6")**

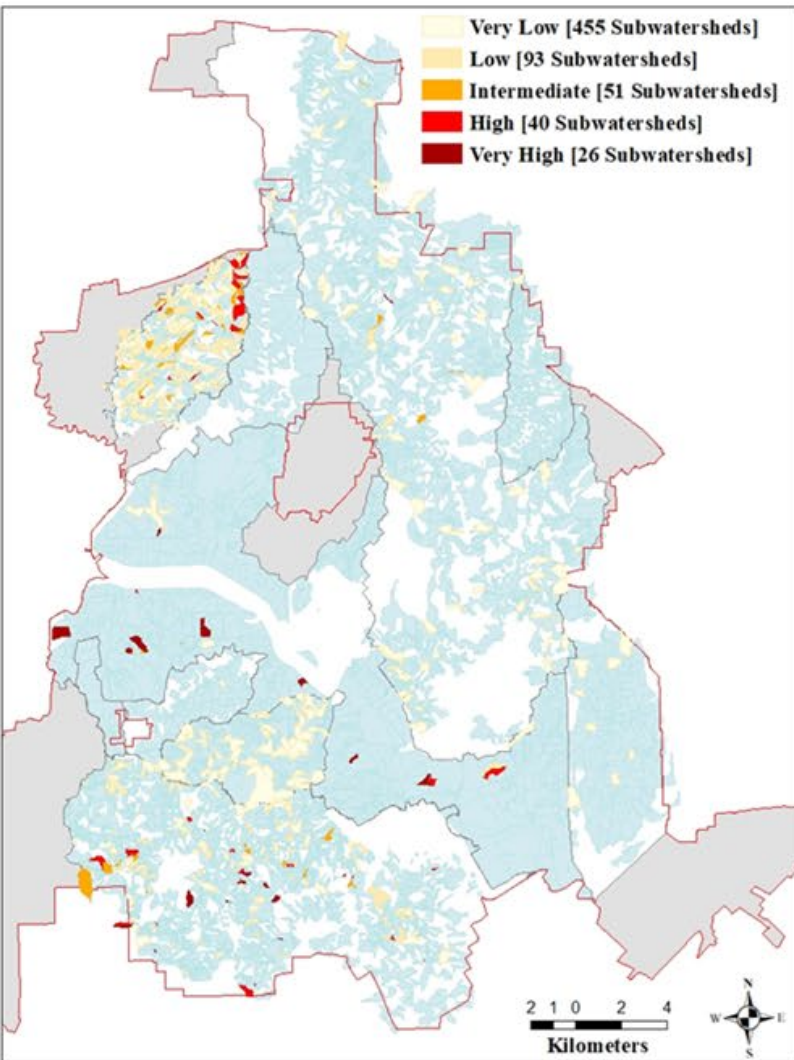


**100-year (1%)
storm (9.5")**

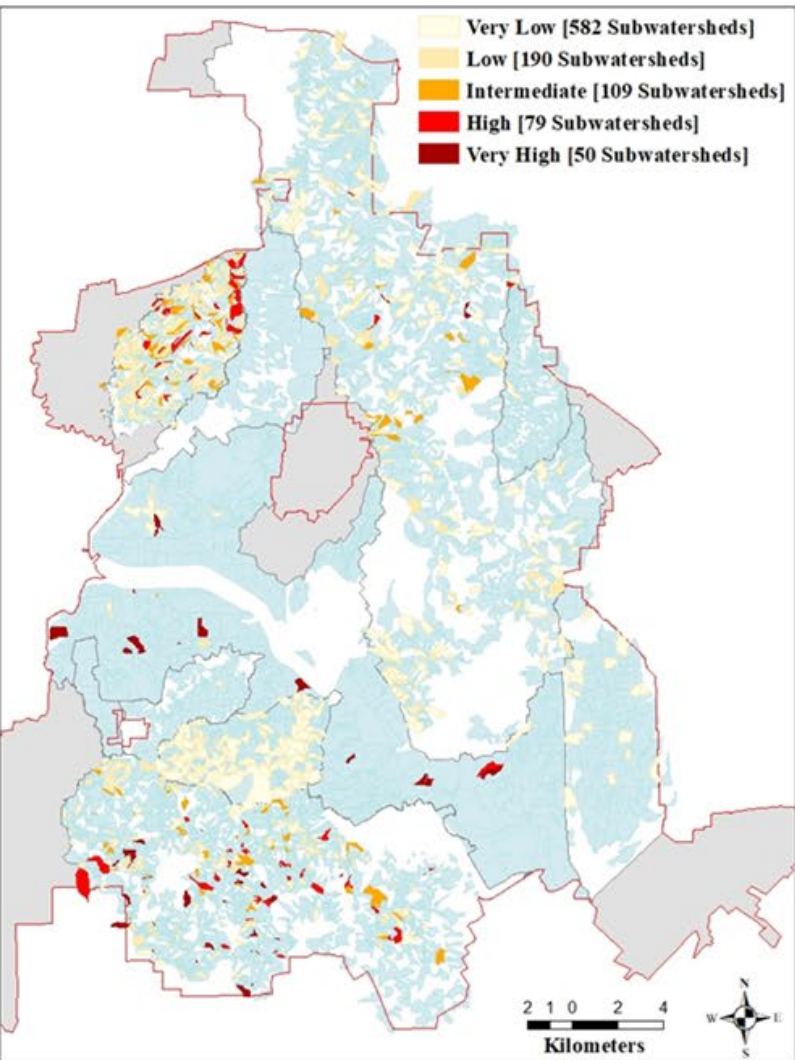
GSI Opportunity Subwatersheds for Stormwater Flooding Management, Ranked by Severity Current Conditions Post GSI



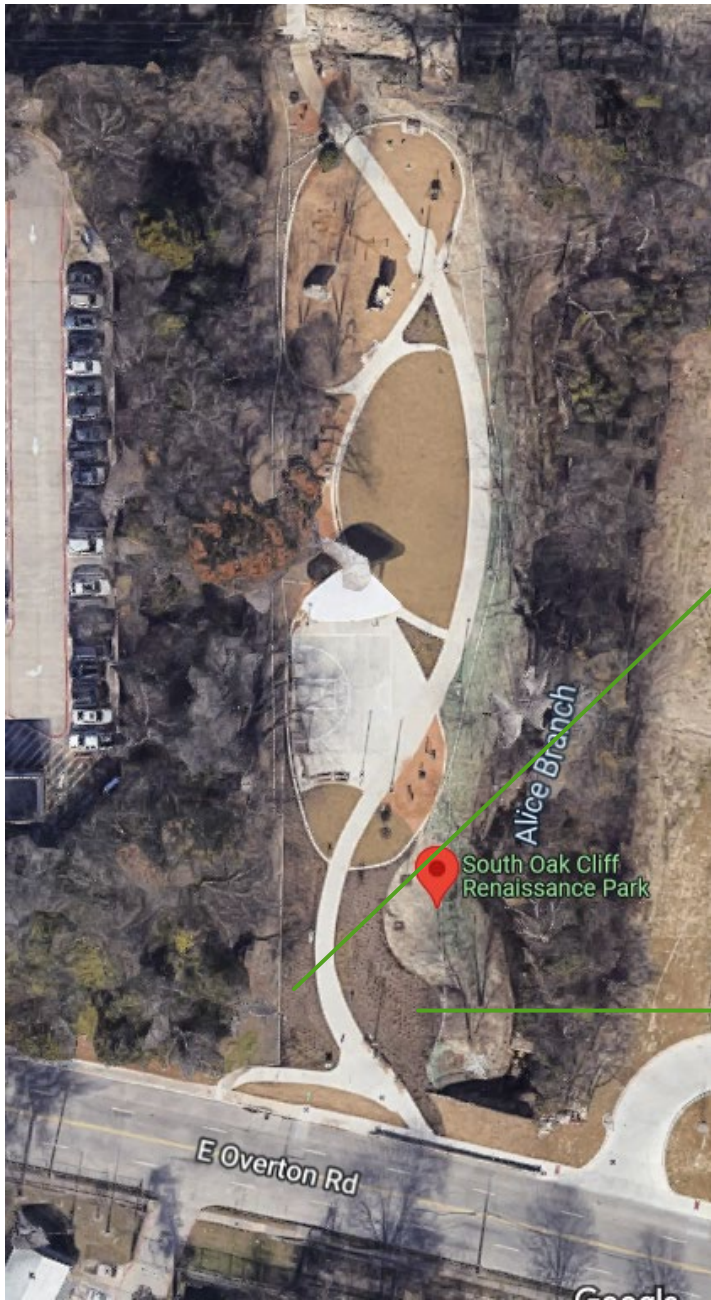
**2-year (50%)
storm (4")**



**10-year (10%)
storm (6")**



**100-year (1%)
storm (9.5")**





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www.nctcog.org/tsi

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