

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REGION VI, FORT WORTH,
TEXAS
AND
THE ENVIRONMENTAL PROTECTION AGENCY, REGION 6, DALLAS, TEXAS**

This memorandum of understanding ("MOU") is intended to memorialize an understanding between the Environmental Protection Agency ("EPA") and the Department of Housing and Urban Development ("HUD") concerning the review of proposed federal financially assisted projects located in whole or in part in the designated sole source aquifers in EPA Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma and Texas) (including any recharge zone, streamflow source area, or artesian zone, where designated), which are described and depicted on the maps in Attachment A (hereinafter "Aquifers"). This MOU is a voluntary agreement that expresses the good-faith intentions of HUD and EPA, is not intended to be legally binding, does not create any contractual obligations, and is not enforceable by any party. This MOU does not obligate and will not result in an exchange of funds, personnel, property, services, or any kind of financial commitment.

This memorandum outlines the agreed-upon procedures for determining which projects located within Aquifers should be forwarded to EPA for evaluation or formal review. It also outlines the procedures to be followed and the general criteria EPA will use in such evaluations or formal reviews.

Background

Pursuant to Section 1424(e) of the Safe Drinking Water Act (PL 93-523, 42 U.S.C. § 300h-3(e)), EPA has determined that the Aquifers are sole or principal sources of drinking water. As such, no commitment for Federal financial assistance may be entered into for any project which EPA determines may contaminate the Aquifers so as to create a significant hazard to public health. "Federal financial assistance," in 40 CFR §149.101(g), is defined in part as "any financial benefits provided directly as aid to a project ... in any form including contracts, grants, and loan guarantees."

HUD administers funds under programs subject to the Department's National Environmental Policy Act (NEPA) implementing regulations in 24 CFR Part 50 (Part 50), Protection and Enhancement of Environmental Quality. HUD is the responsible Federal official for NEPA purposes for these regulations. 24 CFR 50.4(d) of these regulations requires compliance with Section 1424(e) of the Safe Drinking Water Act and 40 CFR Part 149.

HUD regulations at 24 C.F.R. Part 58 ("Part 58"), Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities, allow the assumption of authority to perform the environmental reviews by Responsible Entities (REs), which are units of general local government, such as a town, city, or county, or a tribe, or state. The RE is responsible for the scope and content of the review and making the environmental finding. The certifying officer

of the RE, usually the mayor or governor, signs the review and takes legal responsibility for the review. Part 58 applies when legislation for a program allows States, tribes, and/or local governments to assume environmental review authority (See 24 C.F.R. 58.1(b) for a list of programs authorized under Part 58). Local governments must assume environmental review responsibility for grants made directly to the local government when legislation permits. They are encouraged to be responsible for the environmental review in cases where the grants are made to other entities, such as nonprofit organizations and public housing authorities. 24 C.F.R. § 58.5(d) of these regulations requires compliance with Section 1424(e) of the Safe Drinking Water Act.

Goals

The goals of this MOU are to (1) ensure that each project receiving federal financial assistance is designed to prevent the introduction of contaminants into the Aquifers in quantities that may create a significant hazard to public health, interfere with the public welfare, or otherwise contaminate the Aquifer to a level which would require additional treatment facilities by a public water system in order to meet the National Primary Drinking Water Regulations, and to (2) formalize the process by which review of federal financially assisted projects is to be coordinated between the EPA and HUD.

HUD Responsibilities

HUD will review projects requesting Federal Financial Assistance that are subject to the Part 50 regulation to assure that each project located in whole or in part in the Aquifers, as defined in **Attachment A**, is referred to the EPA Ground Water/UIC Section for evaluation and comment, as follows:

EPA and HUD agree that projects of the type listed in **Attachment B** (attached hereto and incorporated herein) would not normally affect water quality in the Aquifers, and generally need not be referred to EPA for evaluation and comment prior to funding.

HUD agrees to refer to EPA for evaluation and/or formal review the types of projects listed in **Attachment C** (attached hereto and incorporated herein). For any of the proposed projects which are of the types listed in Attachment C, HUD will ensure that the following information is submitted to EPA:

1. A copy of the relevant project application documents, such as plans and specifications (if appropriate).
2. Project location and its relationship to the Aquifers.
3. Description and objective of project or activity, including project design, materials to be used, and any alteration of natural topography.
4. Names/addresses/telephone numbers of any city or county, state or other

Federal Agency's personnel that are involved.

5. Responses to the "Sole Source Aquifer Project Review Information" questions in Attachment D (attached hereto and incorporated herein).

Materials furnished to EPA by HUD under this MOU will be addressed to the attention of the Sole Source Aquifer Program Coordinator, Safe Drinking Water Branch (6WDDG) in EPA's Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270.

HUD will contact the Region 6 Sole Source Aquifer Program Coordinator to allow the EPA to determine whether a review is required for any projects receiving Federal financial-assistance which are located in whole or in part in a SSA and/or its recharge zone and are not of a type not listed in either Attachment B or Attachment C.

Projects Subject to Part 58

For projects located in whole or in part within any of the Aquifers depicted in **Attachment A**, it is agreed that projects of the types listed in **Attachment B** would not normally affect water quality in the Aquifer, and generally need not be referred to EPA for review prior to funding.

HUD will inform its Part 58 REs in SSA areas of the exclusions in Attachment B and the requirement to seek EPA's review for the projects of the types listed in Attachment C which are located in whole or in part within a SSA or its recharge zone. For projects listed in Attachment C, REs will submit the same materials to EPA that are listed in the section entitled HUD Responsibilities. HUD will also inform its Part 58 REs of the requirement to contact the Region 6 Sole Source Aquifer Program Coordinator to allow the EPA to determine whether a review is required for any projects receiving Federal financial-assistance which are located in whole or in part in a SSA and/or its recharge zone and are not of a type not listed in either Attachment B or Attachment C.

EPA Responsibilities and Interagency Communication

EPA intends to evaluate and respond to all projects submitted by HUD for formal review or evaluation purposes within forty-five (45) calendar days. EPA reserves the right to seek additional information during the forty-five day review period, and may request, in writing, additional information and additional time for completing its review. However, if EPA is unable to complete its review within that timeframe, no assumption of a determination of a lack of impacts can be made. EPA acknowledges its approval is not required by law before HUD proceeds with funding.

If HUD does not receive a response within thirty (30) calendar days of submitting the project to EPA, HUD may send written notice to the designated EPA liaison officer (or its successor) explaining that HUD has not received a response and call the EPA liaison officer to alert them of the impending deadline.

If no response is received within forty-five (45) days of the initial request for consultation, HUD or a RE may advance the project after notifying in writing the EPA liaison officer that the formal review period has concluded. HUD will not commit funds to a project before notifying EPA that the formal review period has concluded. Although comments from EPA will be accepted at any time, HUD or the RE will consider to the maximum extent practicable those comments that are submitted after the review period has concluded, and will accept EPA's final determination (which will be announced after consultation with HUD or the RE) if received prior to HUD's commitment of funds.

HUD and EPA will each assign a liaison officer to serve as a central contact point and to be responsible for maintaining communications as to procedures and activities of their respective Agency. The liaison officers are:

HUD: Regional Environmental Officer
Fort Worth, Texas

EPA: Sole Source Aquifer Program Coordinator
Dallas, Texas

The liaison officers accompanied by appropriate staff will hold meetings as needed to discuss matters of concern related to the Aquifers and this MOU. Liaison officers will work together to prioritize and expeditiously resolve outstanding questions, evaluations, and reviews.

Expenses and No Financial Commitment

EPA and HUD will each bear its own expenses in connection with the preparation, negotiation, and execution of this MOU, and neither party shall be liable to the other party for such expenses. This MOU does not obligate funds, personnel, services, or other resources of any party. Each party acts as an independent party with respect to the performance of duties under this MOU and is not an employee or agent of another party to the MOU.

Publicity

The parties will coordinate all press releases, websites, or other public facing documents with regard to this MOU. Neither party may engage in any such publicity regarding the MOU unless the parties consult in advance on the form, timing, and contents of the publicity.

Modification and Duration

This MOU is to take effect upon signature and remain in effect indefinitely and may be modified at any time through the mutual written consent of EPA and HUD. Additionally, either party may terminate its participation in this MOU at any time by providing written notice to the other, at least thirty (30) days in advance of the desired termination date.

Compliance with Applicable Laws

It is understood and agreed by EPA and HUD, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this MOU and that any such changes are automatically incorporated as of the effective date of the rule, regulation or law into this MOU without written amendment hereto. EPA and HUD expressly agree to comply with all applicable federal, state, and local laws.

This MOU is a voluntary agreement that expresses the good-faith intentions of HUD and EPA, is not intended to be legally binding, does not create any contractual obligations, and is not enforceable by any party. This MOU does not create any claim, remedy, right, or benefit, substantive or procedural, enforceable by law or equity, by persons who are not a party to this agreement, against HUD or EPA, their officers or employees, or any other person. Other than the explicit provisions regarding Responsible Entities, this MOU does not apply to any person outside of HUD and EPA. This MOU only applies to the Sole Source Aquifer program requirements.

Counterparts and Electronic/Facsimile Signatures

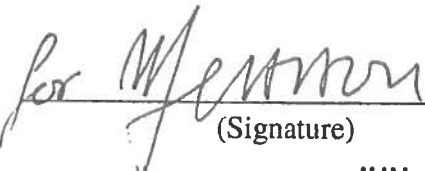
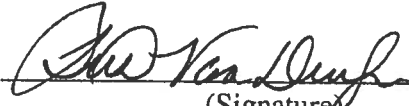
This Agreement may be executed in two or more counterparts, which together shall constitute a single agreement. This Agreement may be executed and transmitted to any other party by facsimile, which facsimile shall be deemed to be, and utilized in all respects as, an original, wet-inked manually executed document.

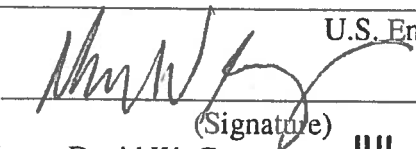
Entire MOU

This MOU constitutes the complete and entire MOU between the EPA and HUD regarding sole source aquifers within EPA Region 6 and replaces all prior agreements or understandings between HUD and EPA regarding sole source aquifers within EPA Region 6. HUD and EPA ARE NOT BOUND BY ANY STATEMENT, PROMISE, CONDITION OR STIPULATION NOT SPECIFICALLY SET FORTH IN THIS MOU. No representative of HUD or EPA has the authority to make any oral statements that modify or change the terms and conditions of this MOU.

(The rest of this page is intentionally left blank; signatures appear on the following page.)

Signature Page for Region VI HUD and Region 6 EPA Sole Source Aquifer MOU

U.S. Department of Housing and Urban Development	
 (Signature)	 (Signature)
Name: Danielle Schopp Title: Departmental Environmental Clearance Officer Date:	JUN 13 2019 Name: Beth Van Duyne Title: Region VI Administrator Date:

U.S. Environmental Protection Agency	
 (Signature)	
Name: David W. Gray Title: Acting Region 6 Administrator Date:	JUL 25 2019

ATTACHMENT A - DESIGNATED SOLE SOURCE AQUIFERS IN EPA REGION 6

Specific project locations can be checked for whether they are within the SSA area by using the EPA's interactive map at this link:

<https://www.epa.gov/dwssa>

ARKANSAS

NONE

LOUISIANA

1. Chicot Aquifer System of Southwest Louisiana. Designated sole source aquifer May 27, 1988.
2. Southern Hills Aquifer System. Designated sole source aquifer June 10, 1988.

NEW MEXICO

1. Espanola Aquifer System. Designated sole source aquifer January 22, 2008.

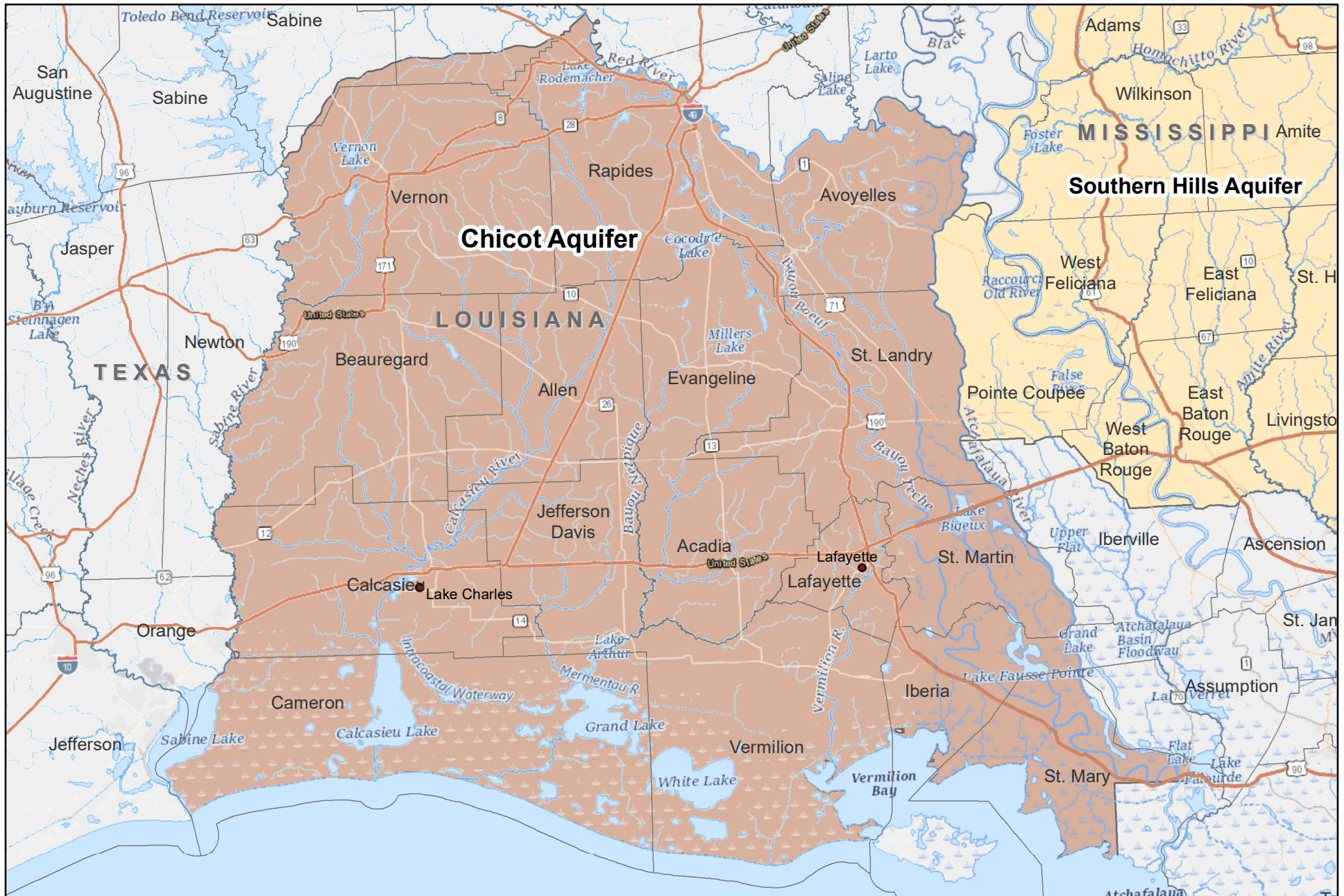
OKLAHOMA

1. Arbuckle-Simpson Aquifer of South Central Oklahoma. Designated sole source aquifer September 13, 1989.

TEXAS

1. Edwards Underground Reservoir in an area in or near San Antonio, Texas. Designated sole source aquifer December 10, 1975.
2. A portion of the Austin area Edwards Aquifer in parts of Hays and Travis Counties, Texas. Designated sole source aquifer May 27, 1988.

Following are current Region VI sole source aquifer maps as of May 2019. Ongoing accuracy and validity can be verified using the link above or subsequent link to EPA's sole source aquifer GIS layer.



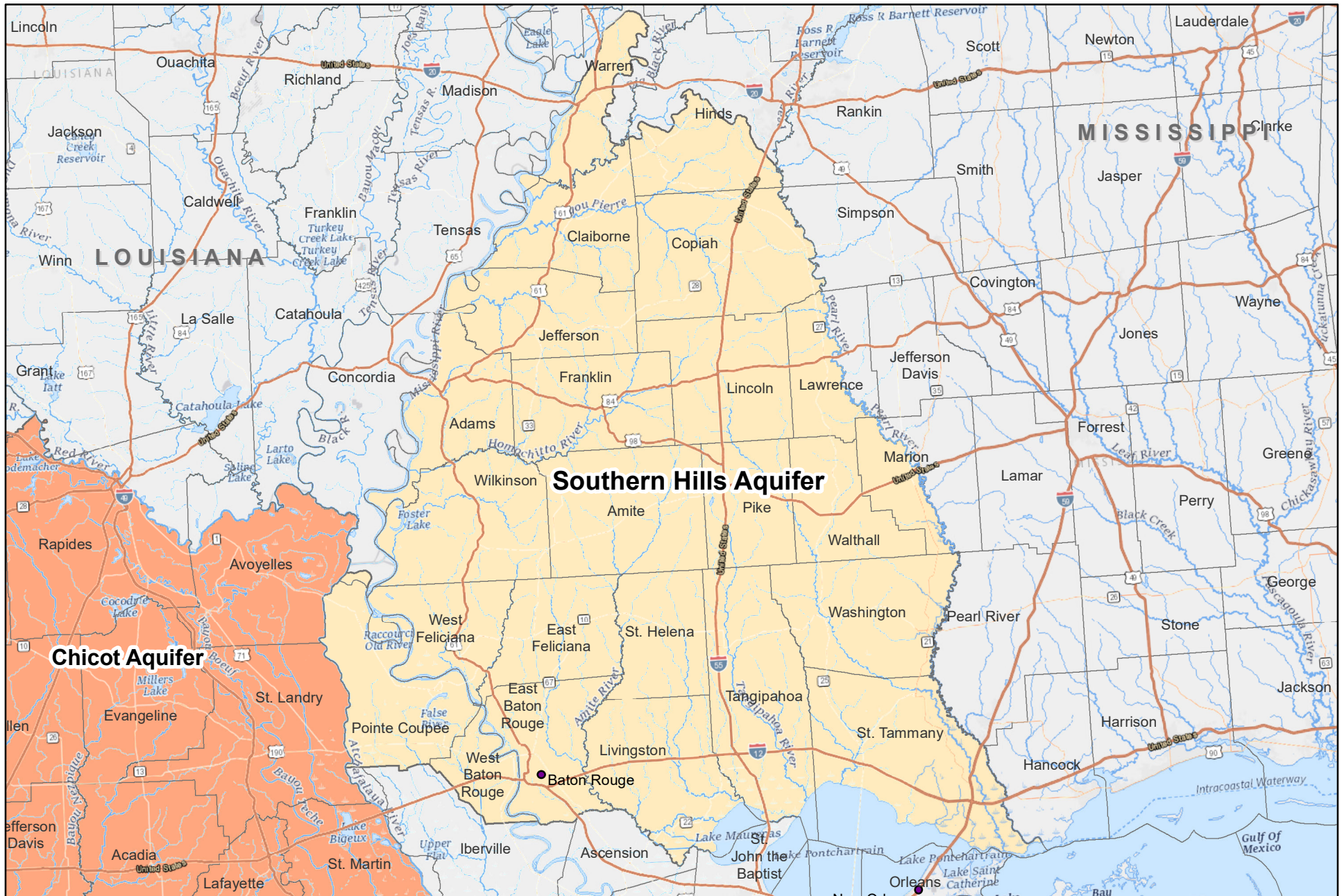
Sole Source Aquifers
Chicot Aquifer

0 10 20 40 60 Miles



Dallas, TX
February 15, 2019



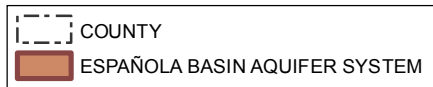
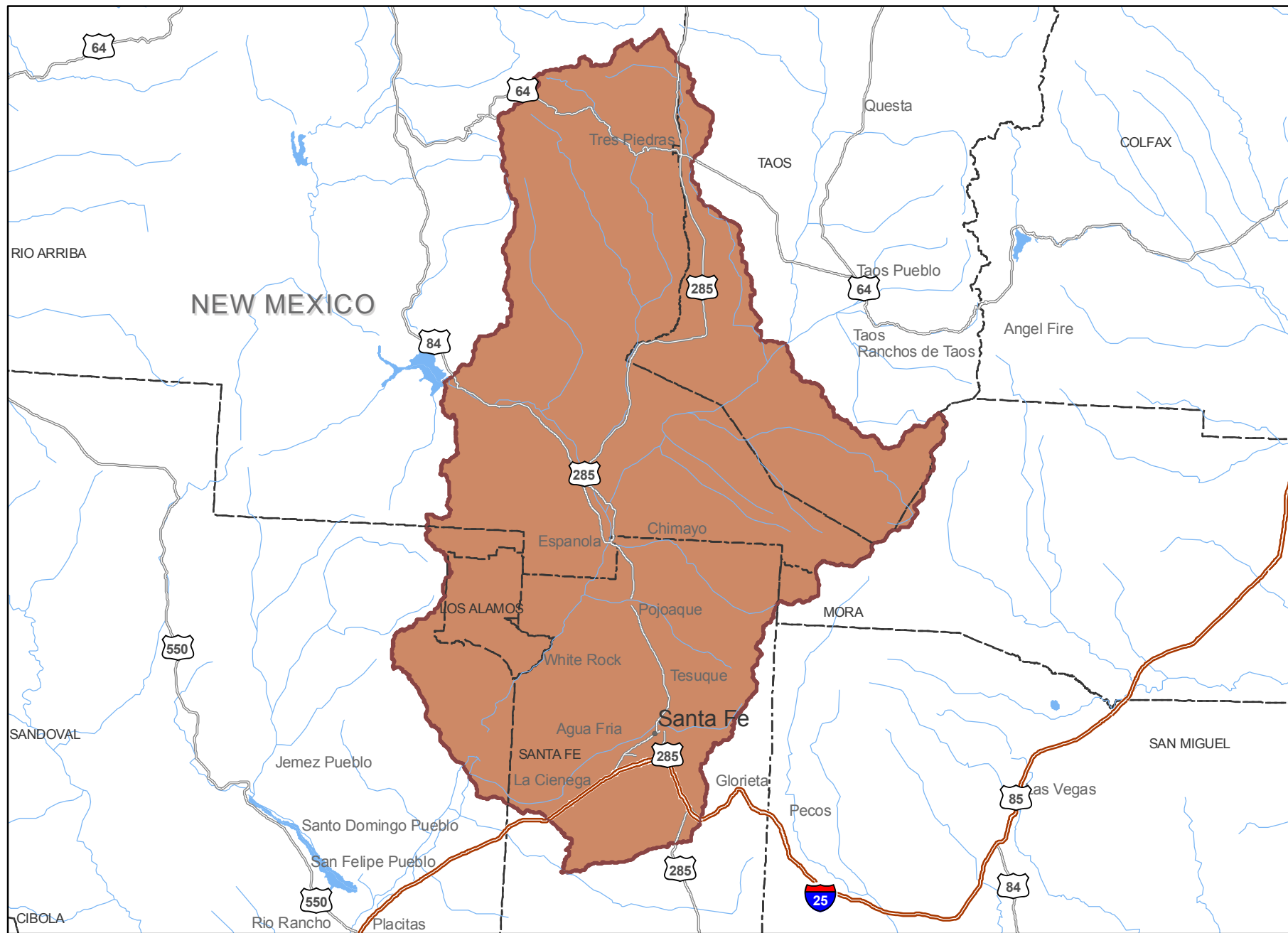


Sole Source Aquifers
Southern Hills Aquifer



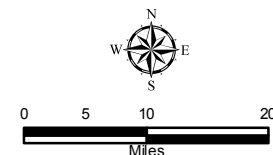
Dallas, TX
February 15, 2019

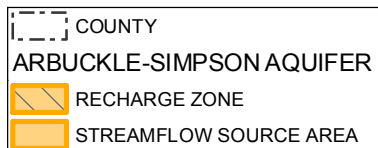
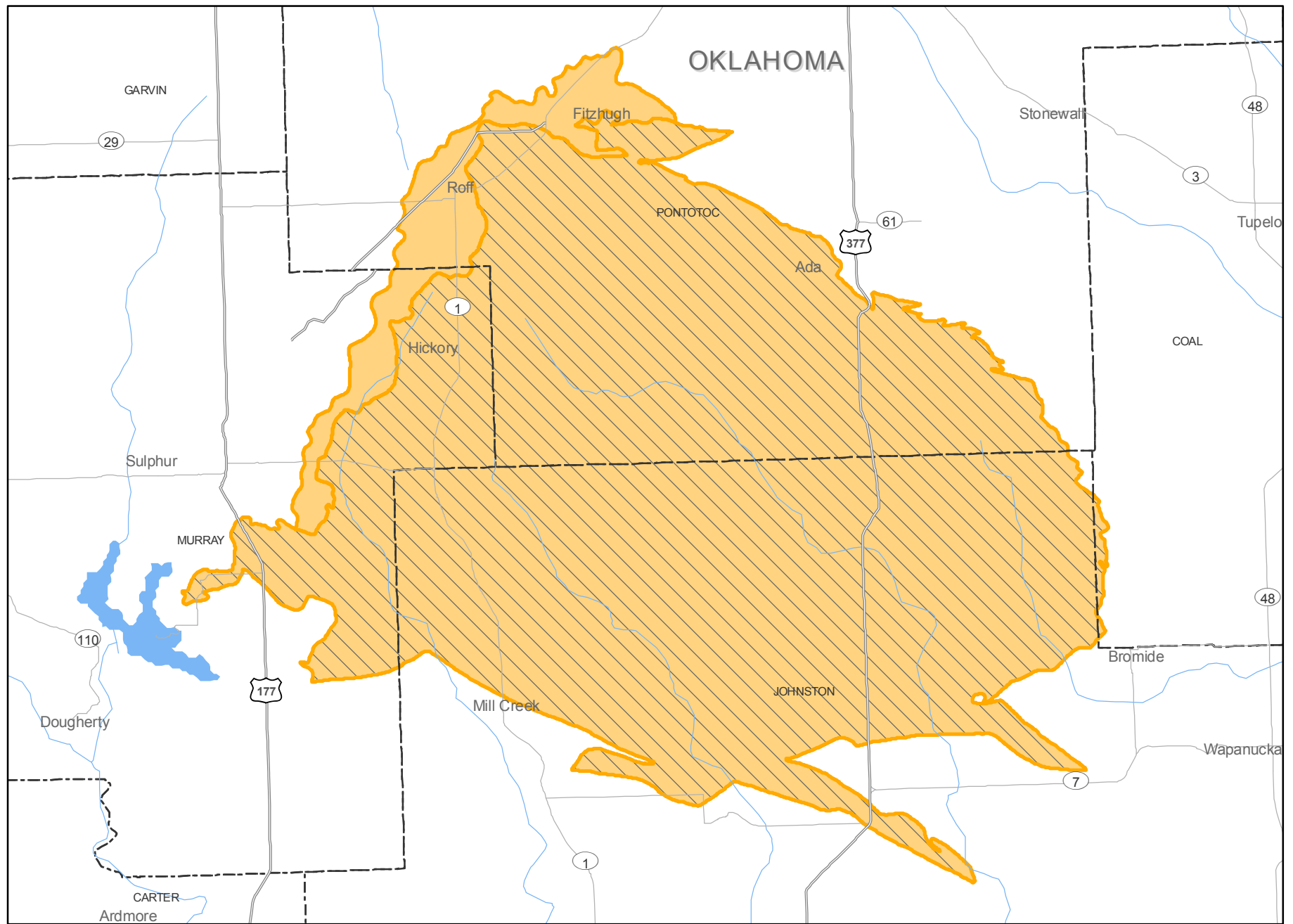




Sole Source Aquifers

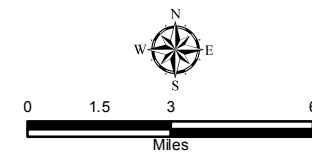
Española Basin Aquifer System





Sole Source Aquifers

Arbuckle-Simpson Aquifer

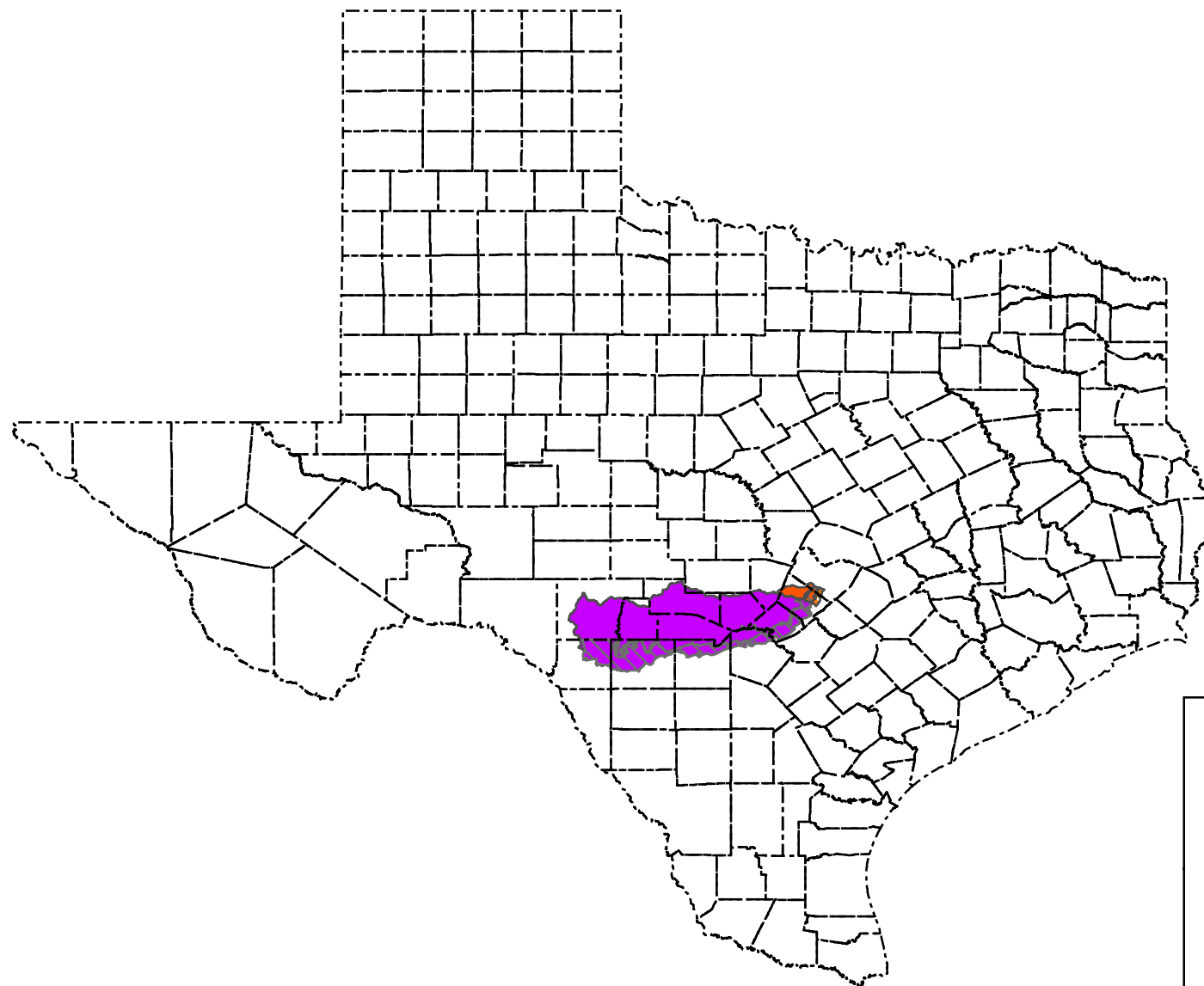


EPA Region 6
 GIS Support
 01/30/2008



LOCKHEED MARTIN

20080130ML05



Edwards Aquifer I

- RECHARGE ZONE
- STREAMFLOW SOURCE AREA

Edwards Aquifer II

- ARTESIAN ZONE
- RECHARGE ZONE
- STREAMFLOW SOURCE AREA

Sole Source Aquifers

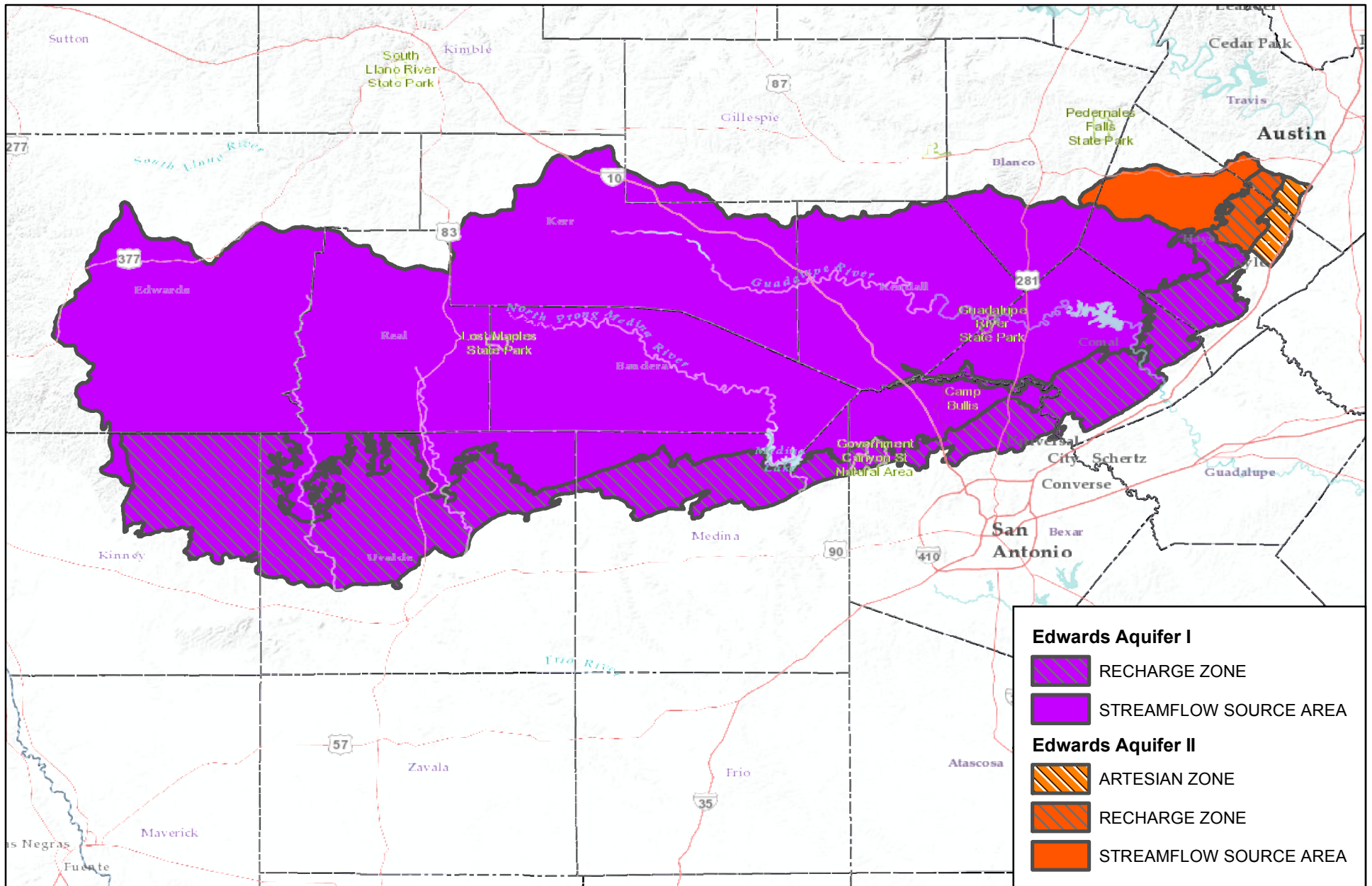
Edwards Aquifer I and II

0 30 60 120 180 240 Miles



Dallas, TX
October 2, 2017

Surface Water
EPA Region 6 Team



Sole Source Aquifers

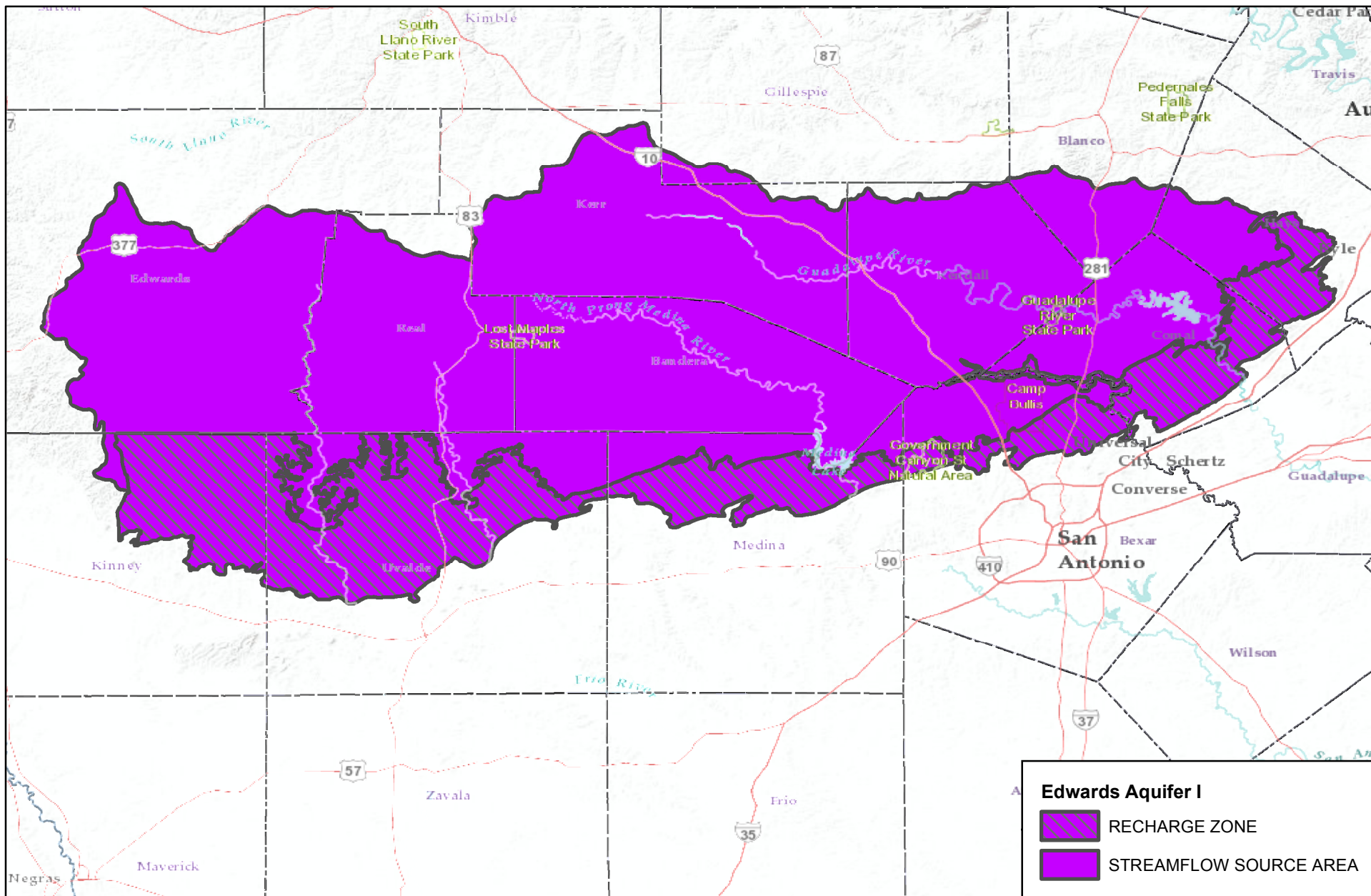
Edwards Aquifer I and II

0 5 10 20 30 40 Miles



Dallas, TX
October 2, 2017

Surface Water
EPA Region 6 Team



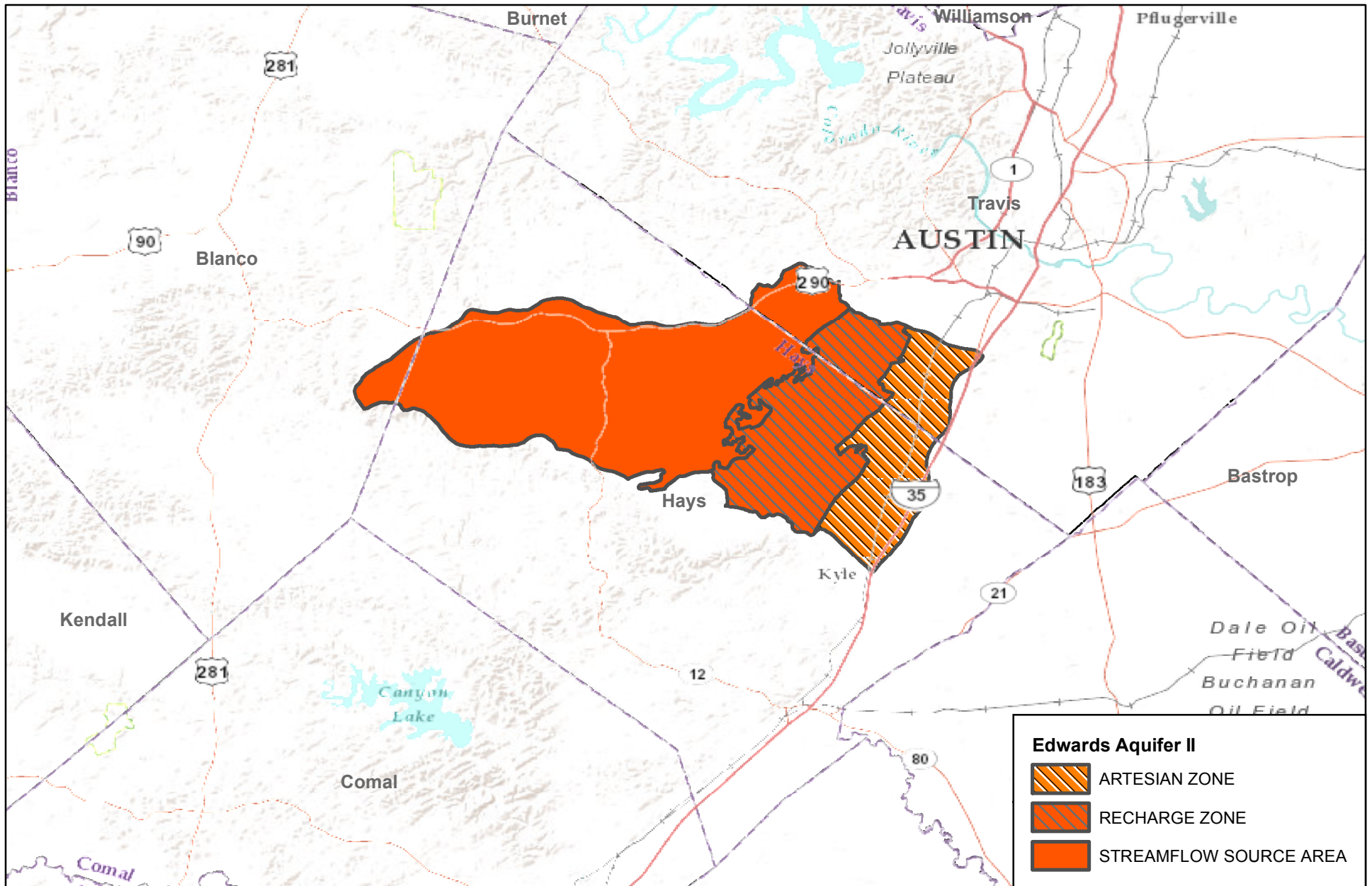
Edwards Aquifer I

0 5 10 20 30 40 Miles



Dallas, TX
October 2, 2017

Surface Water
Team
EPA Region 6



Edwards Aquifer II

0 2 4 8 12 16 Miles



Dallas, TX
October 2, 2017

Surface Water
EPA Region 6 Team

ATTACHMENT B - PROJECTS GENERALLY ASSUMED NOT TO AFFECT WATER QUALITY WHICH DO NOT REQUIRE REFERRAL TO EPA FOR REVIEW

Listed below are the types of projects which are generally assumed not to affect water quality, and which will NOT normally be referred to EPA, unless such project also involves activities listed in Attachment C, or unless EPA has notified HUD's Fort Worth Regional Environmental Officer in writing that EPA has determined that additional review of a project is necessary.

1. All projects whose legal boundaries of the subject property are located wholly outside the Aquifers.
2. New construction, acquisition, or rehabilitation of residential housing that involves no more than four dwelling units.
3. Construction of (or additions to) residential, commercial, industrial projects, public facilities or land developments that will be served by a municipally or publicly owned and operated sewage treatment plant which is operating within the capacity for which it was designed and is not subject to any local, State or EPA imposed moratorium.
4. Rehabilitation or modernization of residential structures, commercial, industrial or publicly owned buildings that are served by a municipally or publicly owned sanitary sewer system operating in compliance with its authorized permit.
5. Acquisition of or financial assistance including refinancing, provision of mortgage insurance, and rental assistance on existing projects, properties, buildings or developments where no alterations, additions or expansion is to take place, and all expenses listed as operating costs in 24 CFR 50.19(b)(13) and 24 CFR 58.35(b)(3).
6. Funding of public services, planning activities, technical assistance, training, payment/repayment or reimbursement of either loans or interest.
7. Activities that exceed 200 surface parking spaces but include concrete/lime surfacing rather than asphalt and comply with storm water permitting requirements.
8. Sites for which consultation with US Fish & Wildlife Service under the Endangered Species Act, Section 7, has yielded mitigation measures to avoid impacts to karst-dwelling species.
9. Sites that have achieved compliance with an MS4 Storm Water Pollution Prevention Plan permit or other authorization managed by San Antonio Water System, Edward Aquifer Authority, City of San Marcos, or other body with oversight authority for the aquifer.

ATTACHMENT C - PROJECTS REQUIRING REFERRAL TO EPA FOR REVIEW

- A. The following projects located in whole or in part within the Aquifers will be referred to the EPA for formal review/comment prior to any commitment of Federal Financial Assistance, unless listed in Attachment B:
1. Construction or rehabilitation of residential (with the exception of single one-to-four family structures excluded under Attachment B), commercial or industrial projects, public facilities, or land developments whose sanitation facilities will consist of individual disposal systems such as cesspools, septic tanks with leach fields or seepage areas, pit toilets, or privately-owned sewerage systems including those owned by a homeowner's association.
 2. Any project or activity for an existing or proposed industrial or recreational facility that manufactures, stores, transports, spreads or disposes of toxic, noxious or hazardous chemicals or radioactive materials, including insecticides, fungicides, and fertilizers.
 3. Any activity where due diligence has indicated the potential for a release of toxic or hazardous substances to the site, pending further investigation; where further investigation including sampling and testing has confirmed the presence of toxic or hazardous substances; or where the site is proposed for or undergoing a cleanup or remediation action with a local, state, tribal or federal agency.
 4. Acquisition, disposition, rehabilitation or new construction of a site intended as a sanitary landfill or other waste storage, transfer, disposal or treatment facility.
 5. Acquisition, disposition, rehabilitation, or new construction of any facility or operation which disposes of its waste water into dry wells, retention ponds, or methods other than a treatment plant.
 6. Acquisition, disposition, rehabilitation or new construction of parking facilities exceeding 200 vehicles with the use of asphalt paving.
 7. Acquisition, disposition, rehabilitation or new construction of storm water drainage facilities that might contaminate an SSA, significant modifications of existing wetlands or sinkholes, or significant modifications or new construction of shallow injection wells (i.e., dry wells, French drains, sumps and drain fields).
 8. Any project or activity involved in agricultural activities or related operations employed in the production, raising, processing and marketing of crops or livestock.
 9. Any project or activity which will result in placement of hazardous materials, e.g., pesticides, into direct contact with ground water or at depths below ten feet, except when in accordance with manufacturer's instructions and approved uses,

or under a workplan with the approval of a regulatory authority.

10. Any other project or activity which HUD determines could be a potential source of contamination to the Aquifers.
- B. The following projects located in whole or in part within the Aquifers will be referred to EPA for evaluation and possible formal review prior to any commitment of Federal Financial Assistance, unless listed in Attachment B:
1. Projects for which a NEPA Environmental Impact Statement (EIS) is required.
 2. Projects that involve the storage or handling of hazardous or toxic materials.
 3. Projects that involve significant domestic waste.
- C. Any project located in whole or in part within the Aquifers for which EPA makes a written request for information will be referred to EPA for evaluation and possible formal review prior to any commitment of Federal Financial Assistance.

ATTACHMENT D - SOLE SOURCE AQUIFER PROJECT REVIEW INFORMATION

HUD or the RE will provide the information below at the time of submittal of the project to EPA in order to assist the EPA's Sole Source Aquifer Program in timely evaluating whether proposed projects have the potential to contaminate an SSA. EPA may request additional information as necessary.

1. Confirm an SSA project review is needed.
 - a. Is any portion of the project or the property(ies) involved located within a designated SSA project review area? A searchable interactive map of designated SSA project review areas is available at <https://www.epa.gov/dwssa>. **If the answer to this question is no, EPA does not need to review the project under the SSA program.**
 - b. What Federal funding source is being sought or proposed? **If no Federal financial assistance is sought or proposed, EPA does not need to review the project under the SSA program.**
2. Provide the physical location, or locations, to review. Include the nearest cross street for each location(s), latitude/longitude (preferably in decimal degrees) of the project location(s), a plat, a readable street/aerial map, and the name of the SSA(s) within which the project is located. In addition, if there is a "Start Point" to "Finish Point" (e.g., a road project) for the project, include the latitude/longitude for these locations. Descriptions and/or maps with the information below would be helpful if available and applicable.
 - a. What is known about local hydrogeology in the project review area (e.g., soil types, depth to groundwater, groundwater flow direction)?
 - b. Are there any known wells in the project review area (including groundwater wells; shallow injection wells; and oil, geothermal, and mineral exploration wells) and how close are they to the project?
 - c. Are there any wetlands within the project review area? If applicable, describe any discharge to, loss of, or creation of wetlands by the project.
3. Provide project description, including, but not limited to, answers to the applicable questions below.
 - a. Will the project result in any increase of impervious surface (e.g., concrete, asphalt)? If so, what is the area (e.g., square feet or acres)?
 - b. What is the depth of excavation?
 - c. Will any wells be installed or modified as part of the project (of any use type, including groundwater wells' shallow injection wells; and oil, geothermal, and mineral exploration wells)? For new/proposed wells, indicate depth of wells, depth of casing, casing diameter, and, for water wells, the anticipated average and maximum water demand from the wells during normal operation (gallons per minute).
 - d. Are there any deep pilings or foundations (e.g., greater than 10 feet below land surface) that will be installed, modified, or disturbed during the project?

4. Describe storm water management for the project area.
 - a. Will the project require the use of shallow injection wells (i.e., dry wells, French drains, sumps, and drain fields)? **If the answer to this question is yes, please provide EPA with an explanation as to why these shallow injection wells are required.**
 - b. How will storm water be managed on this site during construction and after the project is complete, including treatment if applicable?
5. Describe chemical use and storage associated with the project.
 - a. Will quantities of hazardous chemicals or petroleum above routine household quantities be used or stored in the project review area?
 - b. Are there any aboveground storage tanks or underground storage tanks present or to be installed? Fuel tanks are often involved in projects that include generators and/or pump stations. If applicable, include details of such tanks, including spill containment and spill response plans.
6. Describe waste management related to the project, including, but not limited to, answers to the applicable questions below.
 - a. Will any liquid or solid waste be generated during construction (e.g., construction/drilling fluids, excavation dewatering fluids, or demolition debris)? If so, how will it be managed?
 - b. How will liquid or solid waste be managed after project completion, other than routine quantities of household wastes to a permitted sanitary landfill or publicly-owned treatment works (e.g., describe any on-site treatment/disposal, industrial wastewater, or other waste generation)? If applicable, provide details about any individual disposal systems such as cesspools, septic tanks with leach fields or seepage areas, pit toilets, or privately-owned sewerage systems, including those owned by a homeowners' association.
 - c. Are there any known brownfield or hazardous waste sites in close proximity to the project review area (e.g., sites listed on the EPA National Priorities List [i.e., Superfund sites], state-designated brownfield or clean-up sites)? Do any such contaminated sites have underground contamination plumes, monitoring wells, or soil contamination that may be disturbed by the project? Include details such as the name(s) and location(s) of the brownfield or hazardous waste site(s).
 - d. For agricultural projects involving animals, how will animal wastes be managed?
7. Provide any other available information (examples below) that could be helpful in determining if this project may potentially create a significant hazard to public health through contamination of a SSA.
 - a. Are Best Management Practices ("BMPs") planned to address any possible risks or concerns? If so, which BMPs will be used?
 - b. Does the project include any improvements that may be beneficial to any SSA, such as improvements to the publicly-owned treatment works?
 - c. Are any previous environmental assessments available regarding the project or project area?