



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
2000 FORT POINT ROAD
GALVESTON, TEXAS 77550

CESWG-RD-Central

23 January 2026

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime
Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322
(2023),¹ SWG-2025-00490

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court’s decision in *Sackett*. This AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in Texas due to litigation.

1. SUMMARY OF CONCLUSIONS.

¹ While the Supreme Court’s decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

Feature ID	Cowardin Classification System	Area (Acres)	Length (LF)	Latitude, Longitude	Jurisdictional Status	Description
Ditch A	N/A	0.35	2,955	29.8873745, 95.2071029	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch B	N/A	0.20	1,746	29.8881455, -95.2066875	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch C	N/A	3.94	10,960	29.8758624, -95.2081696	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch C-1	N/A	0.009	68	29.8829127, -95.2079222	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch C-2	N/A	0.011	99	29.8809626, -95.2080493	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch C-3	N/A	0.006	90	29.8762975, -95.2079878	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch C-4	N/A	0.02	87	29.8725911, -95.2079157	Non-relatively permanent, Non-Jurisdictional I	Ditch
Ditch C-5	N/A	0.016	87	29.8697593, -95.2079677	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch D	N/A	0.29	1,280	29.8888292, -95.2056714	Non-relatively permanent, Non-Jurisdictional I	Ditch
Ditch E	N/A	0.16	1,191	29.8845684, -95.2078066	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch E-1	N/A	0.003	55	29.883852, -95.207867	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch F	N/A	0.011	99	29.8827888, -95.2086115	Non-relatively permanent, Non-Jurisdictional	Ditch

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Ditch G	N/A	1.14	7,620	29.8710001, -95.2089087	Non-relatively permanent, Non-Jurisdictional I	Ditch
Ditch G-1	N/A	0.005	49	29.8698551, -95.2085179	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch G-2	N/A	0.003	52	29.86833, -95.2086868	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch G-3	N/A	0.002	39	29.8670283, -95.2088822	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch G-4	N/A	0.004	58	29.8663984, -95.2090387	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch H	N/A	1.33	5,585	29.87017, -95.2081631	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch H-1	N/A	0.003	49	29.8763524, -95.2077472	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch H-2	N/A	0.007	31	29.8725927, -95.2077001	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch H-3	N/A	0.005	30	29.8697473, -95.2077688	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch I	N/A	0.50	3,026	29.8546126, -95.2136741	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch J	N/A	1.10	2,765	29.8560656, -95.2130117	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch K	N/A	0.30	1,615	29.856725, -95.2125228	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch K-1	N/A	0.03	67	29.8548284, -95.213253	Non-relatively permanent, Non-Jurisdictional	Ditch
Ditch L	N/A	0.17	1,257	29.8521314, -95.2138655	Non-relatively permanent, Non-Jurisdictional	Ditch

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Stream A (P124-01-00)	R4SBC	0.01	30	29.8828952, -95.2087226	Non-relatively permanent, Non-Jurisdictional	Tributary
Stream B (P121-00-00)	R4SBC	0.21	336	29.8601203, -95.2109724	Relatively Permanent, Jurisdictional	Tributary
Wetland A	PFOIA	0.08	N/A	29.8901065, -95.2041054	Non-adjacent, Non-Jurisdictional	Wetland
Wetland B	PFOIA	0.64	N/A	29.8791921, -95.2079486	Non-adjacent, Non-Jurisdictional	Wetland
Wetland C	PFO1A	0.61	N/A	29.8760595, -95.2076997	Non-adjacent, Non-Jurisdictional	Wetland
Wetland D	PFO1A	1.32	N/A	29.8758258, -95.2085252	Non-adjacent, Non-Jurisdictional	Wetland
Wetland E	PFO1A	1.61	N/A	29.8710147, -95.2085245	Non-adjacent, Non-Jurisdictional	Wetlands
Wetland F	PFO1A	0.75	N/A	29.8717022, -95.2076459	Non-adjacent, Non-Jurisdictional	Wetlands
Wetland G	PFO1A	0.93	N/A	29.8652558, -95.2085147	Non-adjacent, Non-Jurisdictional	Wetland
Wetland H	PFO1A	0.33	N/A	29.8623501, -95.2094786	Non-adjacent, Non-Jurisdictional	Wetland
Wetland I	PEM1Fx	1.47	N/A	29.8573133, -95.2120975	Non-adjacent, Non-Jurisdictional	Wetland
Wetland J	PFO1A	0.24	N/A	29.854459, -95.2133758	Non-adjacent, Non-Jurisdictional	Wetland
Wetland K	PFO1A	0.39	N/A	29.8529501, -95.2136984	Non-adjacent, Non-Jurisdictional	Wetland

Total Ditches	9.67	40,960
Total Wetlands	8.37	
Total Streams	0.21	366
Total Aquatic Features	18.19	41,326

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- e. 12 March 2025 Memorandum to the Field Between the U.S. Department of Army, U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency Concerning the Proper Implementation of "Continuous Surface Connection" Under the Definition of "Waters of the United States" Under the Clean Water Act.
3. REVIEW AREA. The project area is an approximate 3 miles of right of way along CE King Parkway in Houston, Harris County, Texas. Center coordinates for the site are 29.870296°, -95.207812°.
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. Greens Bayou
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS Greens Bayou is a relatively

permanent water that becomes a Traditional Navigable River approximately 2.2 river miles south from the point of confluence between Stream B and the Bayou.

6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ N/A
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. TNWs (a)(1): N/A
 - b. Interstate Waters (a)(2): N/A
 - c. Other Waters (a)(3): N/A
 - d. Impoundments (a)(4): N/A

Tributaries (a)(5): Stream B carries relatively permanent flow according to topo maps and aerial photos. It is a tributary to Greens Bayou, a relatively permanent water that becomes a Traditional Navigable River approximately 2.2 river miles south from the point of confluence between Stream B and the Bayou. Therefore, Stream B is a

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

water of the United States subject to Section 404 of the Clean Water Act. Any discharge of dredge and/or fill material into Stream B, totaling 336 linear feet, does require a Department of the Army permit.

- e. The territorial seas (a)(6): N/A
- f. Adjacent wetlands (a)(7): N/A

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as "generally non-jurisdictional" in the preamble to the 1986 regulations (referred to as "preamble waters").⁷ Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water. N/A
- b. Describe aquatic resources and features within the review area identified as "generally not jurisdictional" in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance.

The 26 ditches (Ditches A-L) totaling 40,960 feet, are dug in uplands, drain only uplands, and do not carry relatively permanent flow. Therefore, the ditches are not waters of the United States subject to Section 404 of the Clean Water Act. Any discharge of dredge and/or fill material into these ditches, totaling 40,960 feet, does not require a Department of the Army permit.

- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. N/A
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. N/A
- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January

⁷ 51 FR 41217, November 13, 1986.

2001 Supreme Court decision in “SWANCC,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with SWANCC. N/A

- f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court’s decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

Stream A is a tributary to Greens Bayou. According to topo maps and aerial photography, Stream A does not carry relatively permanent flow. Therefore, Stream A is not a water of the United States subject to Section 404 of the Clean Water Act. Any discharge of dredge and/or fill material into the tributary, totaling 30 linear feet, does not require a Department of the Army permit.

The 11 wetlands (Wetlands A-K) do not meet the continuous surface connection standard for adjacent wetlands as they do not abut a relatively permanent water, a jurisdictional impoundment, or a traditional navigable water. Therefore, these wetlands are not waters of the United States subject to Section 404 of the Clean Water Act. Any discharge of dredge and/or fill material into these 11 wetlands, totaling approximately 8.37 acres, does not require a Department of the Army permit.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. Aerial Photographs: *Google Earth Aerials 31 December 1943 through 19 October 2025*
 - b. United States Geological Survey (USGS) Topographic Maps: *1916 Hamanstan, Texas and Fauna Texas, 1:24,000, 1920 Hamanstan, Texas and Fauna Texas, 1:131680, 1932 Fauna, Texas 1:131680, 1944 Hamanstan, Texas 1:131680, 1950 Hamanstan, Texas 1:250000, 1967 Hamanstan, Texas 1:24000, 1982 Hamanstan, Texas 1:24000, 1982 Jacinto City, Texas 1:24000, 1995 Hamanstan, Texas 1:24000, 1995 Jacinto City, Texas 1:24000, 1995 Earth Point Topo, 2019 Hamanstan, Texas 1:24000, 2019 Jacinto City, Texas 1:24000, 2022 Hamanstan, Texas 1:24000, 2022 Jacinto City, Texas 1:24000,*
 - c. United States Fish and Wildlife Service (USFWS) National Wetlands

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Inventory (NWI) Map Accessed 9 January 2026

- d. US Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) Soil Map Accessed 12 January 2026
- e. USGS National Map 3D Elevation Program (3DEP) LiDAR 2 January 2025 Accessed 12 January 2026
- f. Delineation Report submitted by Terracon on 11 September 2025

10. OTHER SUPPORTING INFORMATION. N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

PREPARED BY:



Anna Fuglaar
Regulatory Specialist

23 January 2026

Date: _____

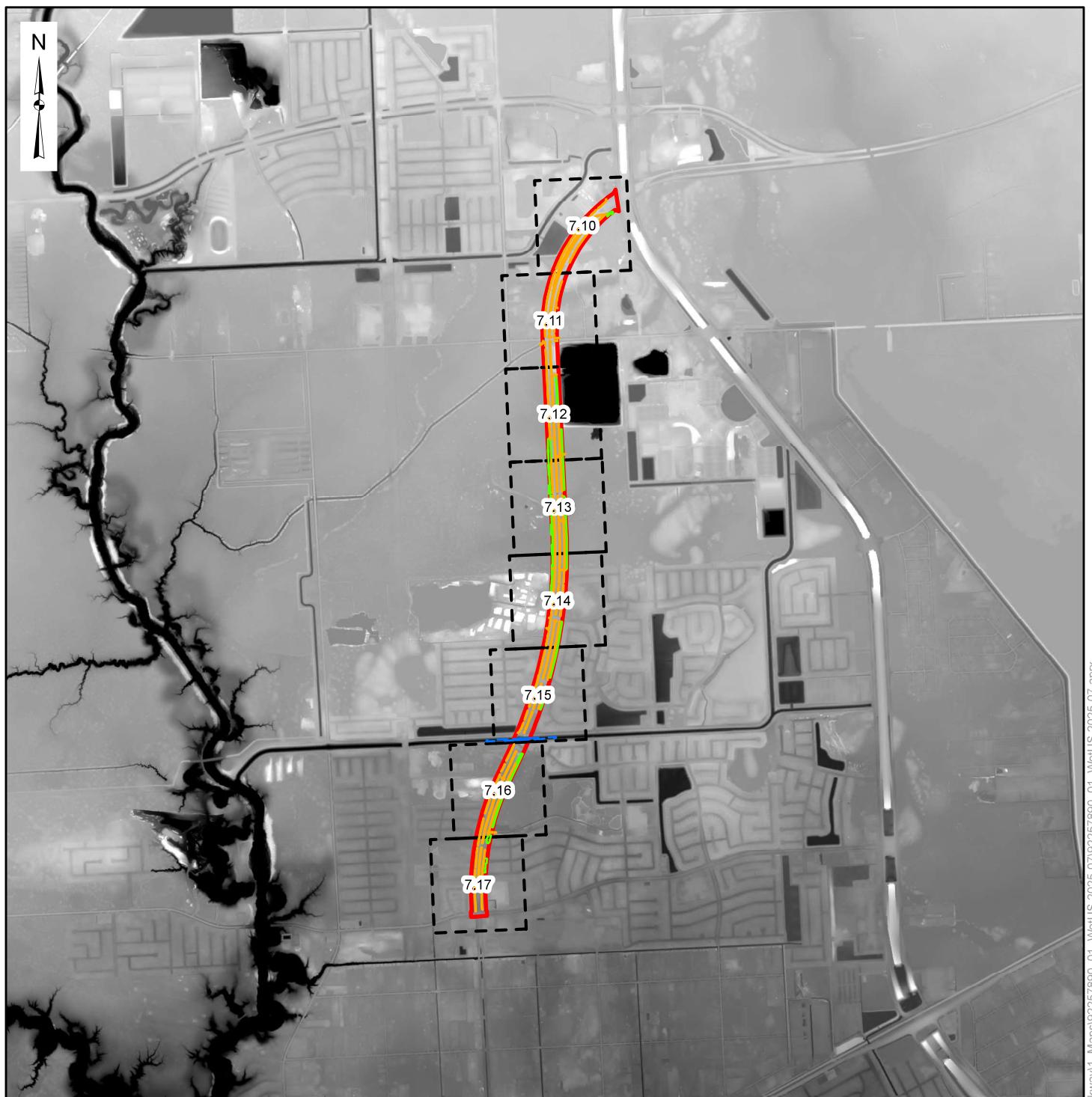
REVIEWED/APPROVED BY:



Kara Vick Clark
Team Lead
Regulatory Division, Galveston District

23 January 2026

Date: _____



Project Limits, 108.42 Acres, 3 Miles

0 1,500 3,000 6,000 Feet

LiDAR Elevation in Feet

55
28

DATA SOURCES:
TxGIO StratMap 2018 Digital Elevation Model

Project No.:	92257890
Date:	08-13-2025
Drawn By:	REW
Reviewed By:	JCL



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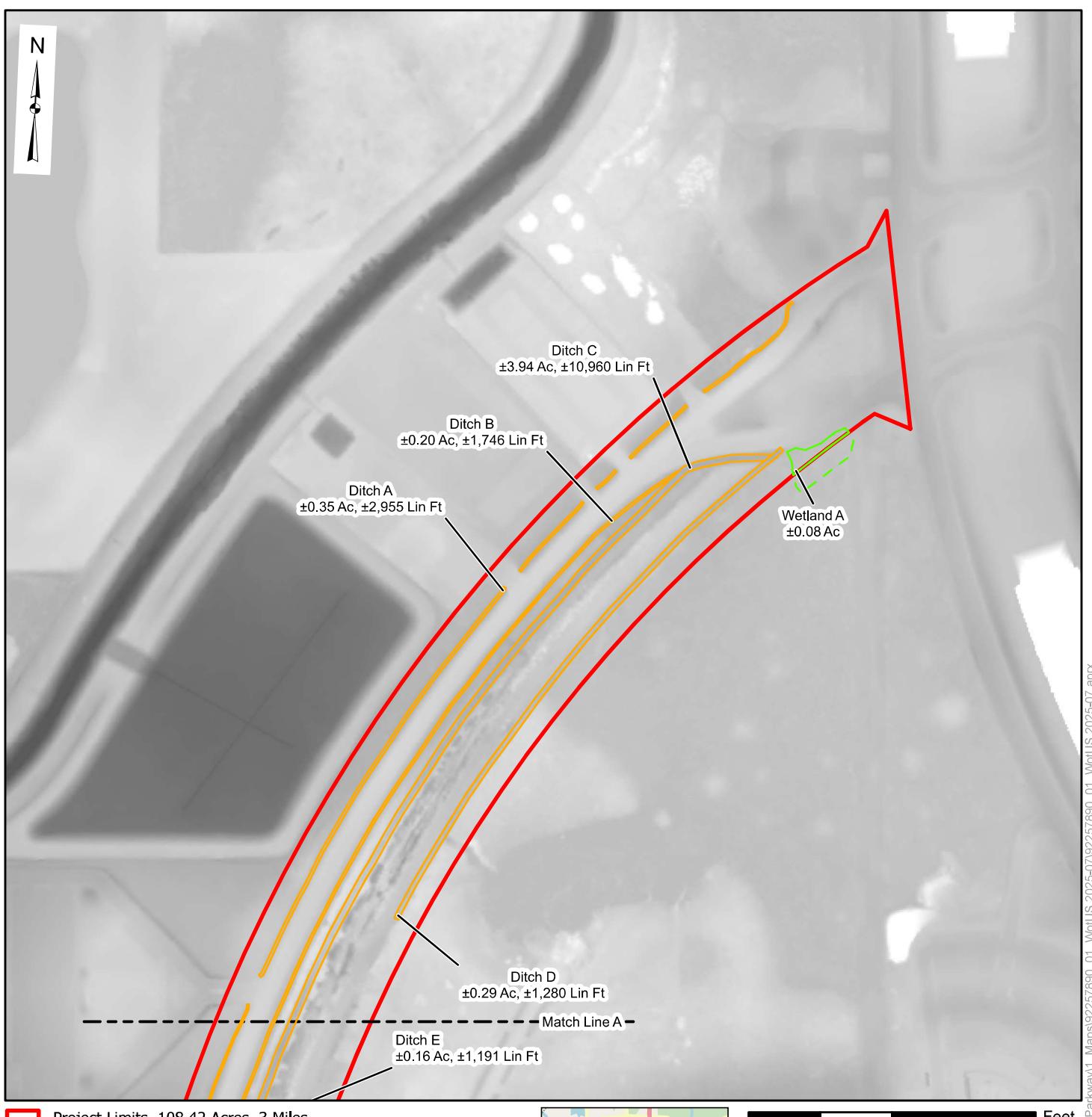
Digital Elevation Model Overview

CE King Parkway
Waters of the US Delineation

CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29 870748° -95 2090631°

Exhibit

7.9



 Project Limits, 108.42 Acres, 3 Miles

LiDAR Elevation in Feet

55
28

A green icon of a irregular shape, representing a wetland area.

Wetland

Ditch

Project No.: 92257890
Date: 08-14-2025
Drawn By: REW
Reviewed By: JCI



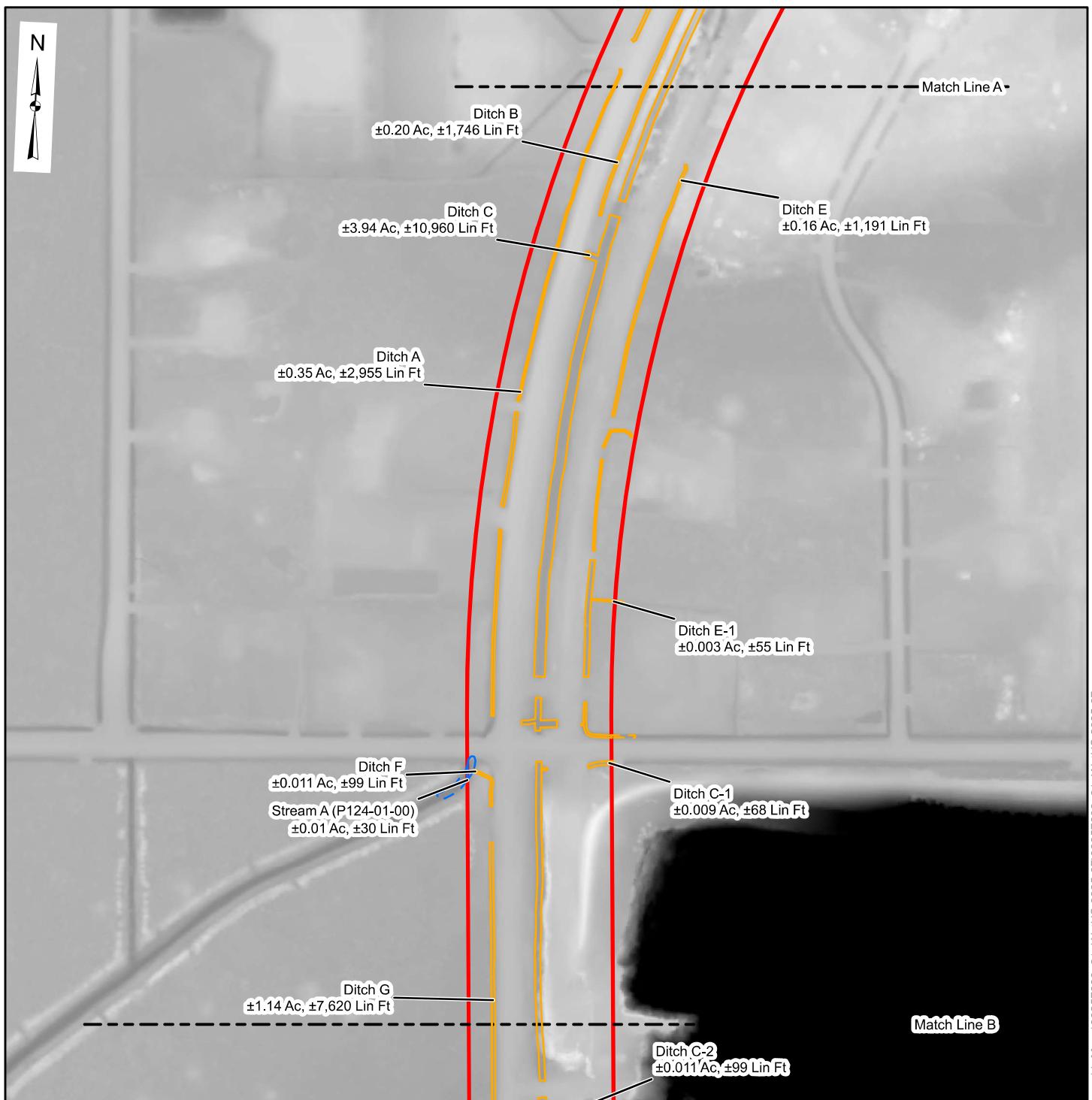
11555 Clay Road, Suite 100 Houston, TX 77043

Digital Elevation Model Detail

**CE King Parkway
Waters of the US Delineation**
CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29.8894909°, -95.2058755°

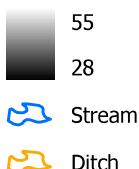
Exhibit

7.10

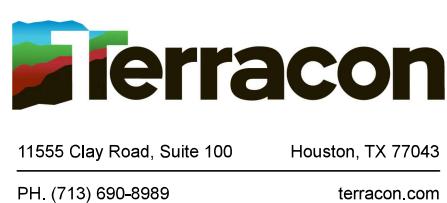


Project Limits, 108.42 Acres, 3 Miles

LiDAR Elevation in Feet



Project No.:	92257890
Date:	08-14-2025
Drawn By:	REW
Reviewed By:	JCL



0 150 300 600 Feet

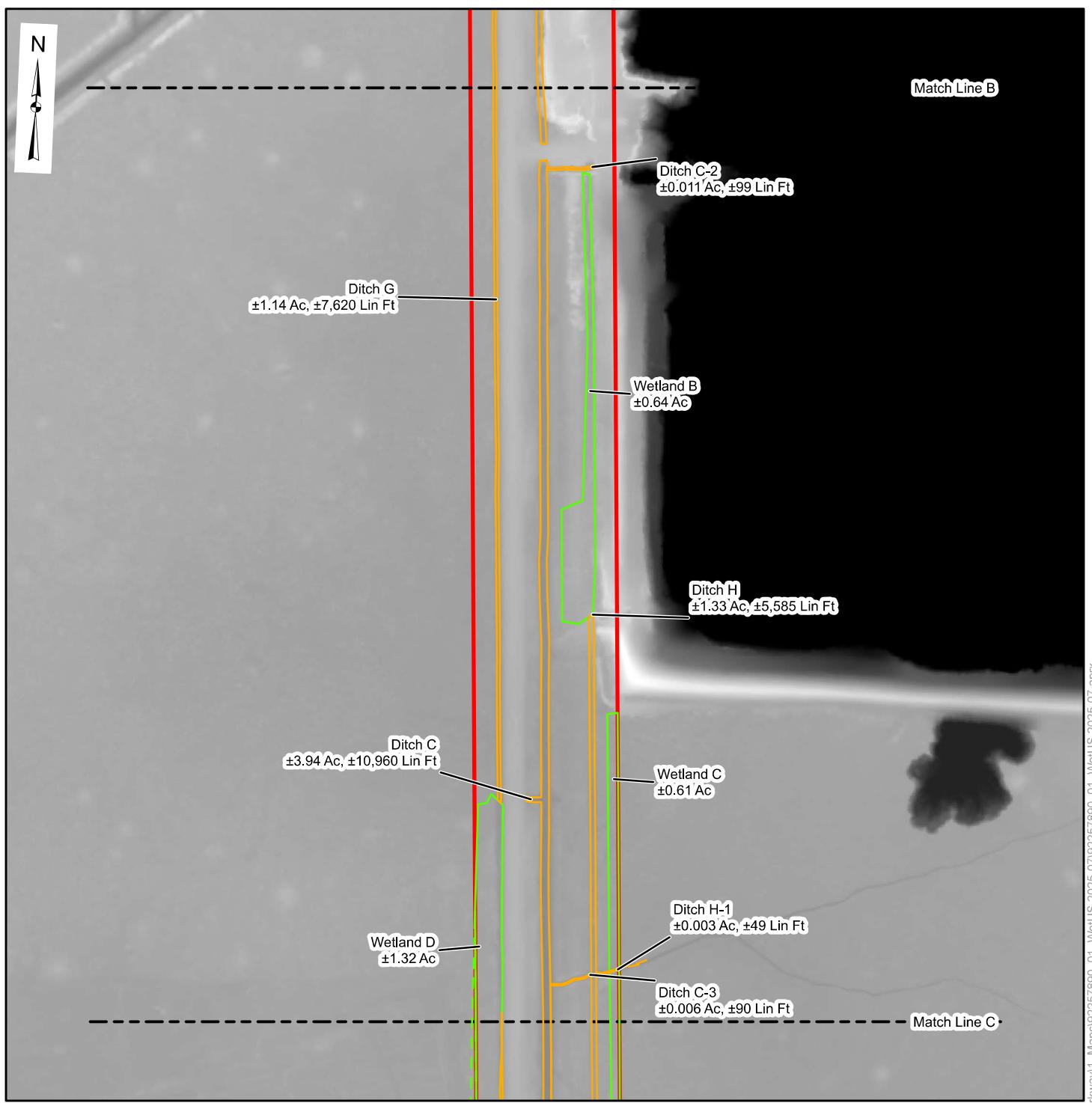
DATA SOURCES:
Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc, and its affiliates, Esri Community Maps contributors. Map layer by EsriTxGIO StratMap 2018 Digital Elevation Model

Digital Elevation Model Detail

CE King Parkway Waters of the US Delineation
CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29.884105°, -95.2082428°

Exhibit

7.11



Project Limits, 108.42 Acres, 3 Miles

LiDAR Elevation in Feet

55

28

The logo for Wetland, featuring a stylized green outline of a wetland area with a winding path or waterway.

Project No.: 92257890
Date: 08-14-2025
Drawn By: REW
Reviewed By: JCI



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DATA SOURCES:
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Digital Elevation Model Detail

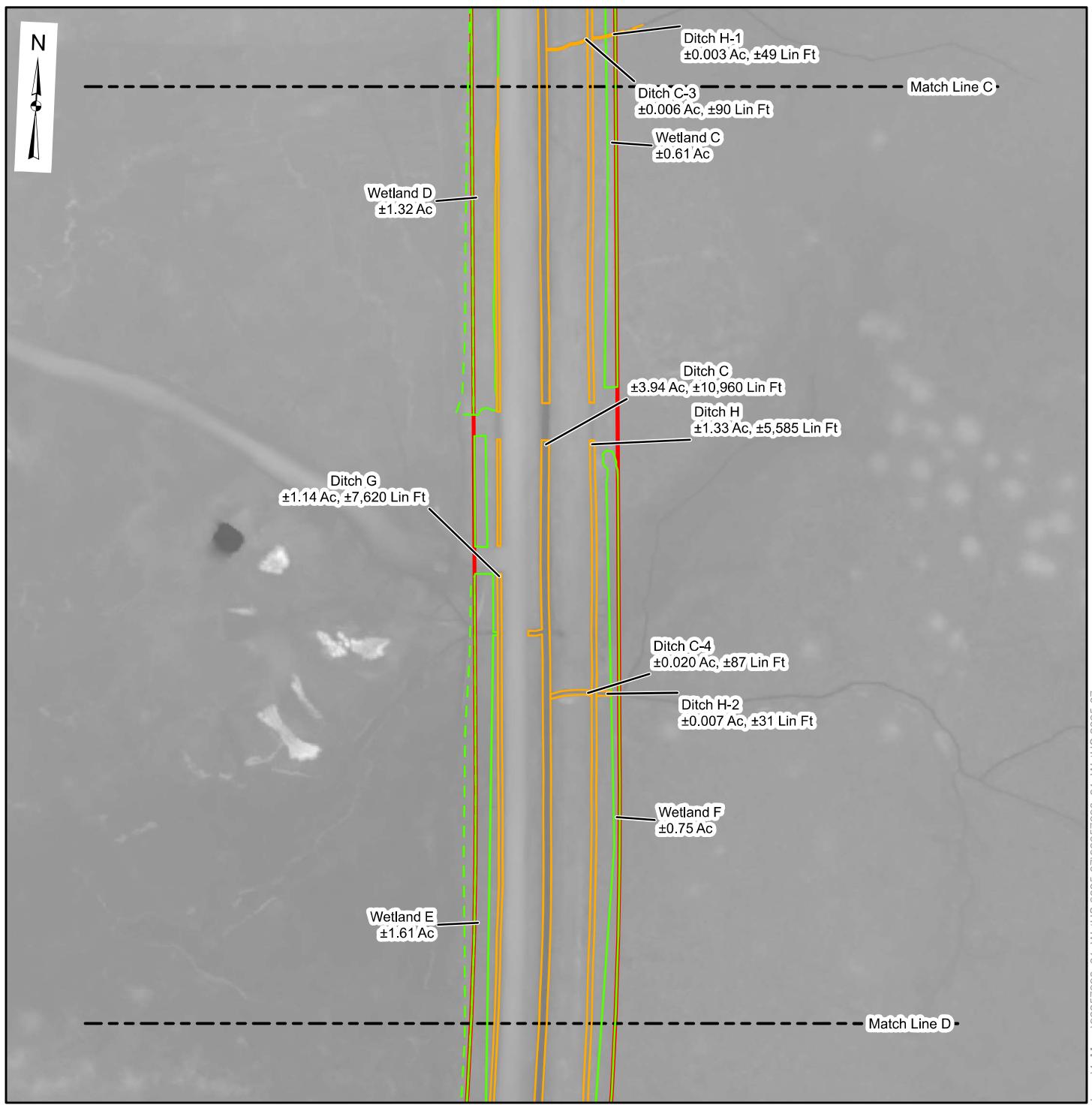
CE King Parkway

Waters of the US Delineation

CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29° 878742°, 95° 2081017°

Exhibit

7.12



Project Limits, 108.42 Acres, 3 Miles

LiDAR Elevation in Feet



Project No.: 92257890
Date: 08-14-2025
Drawn By: REW
Reviewed By: JCL



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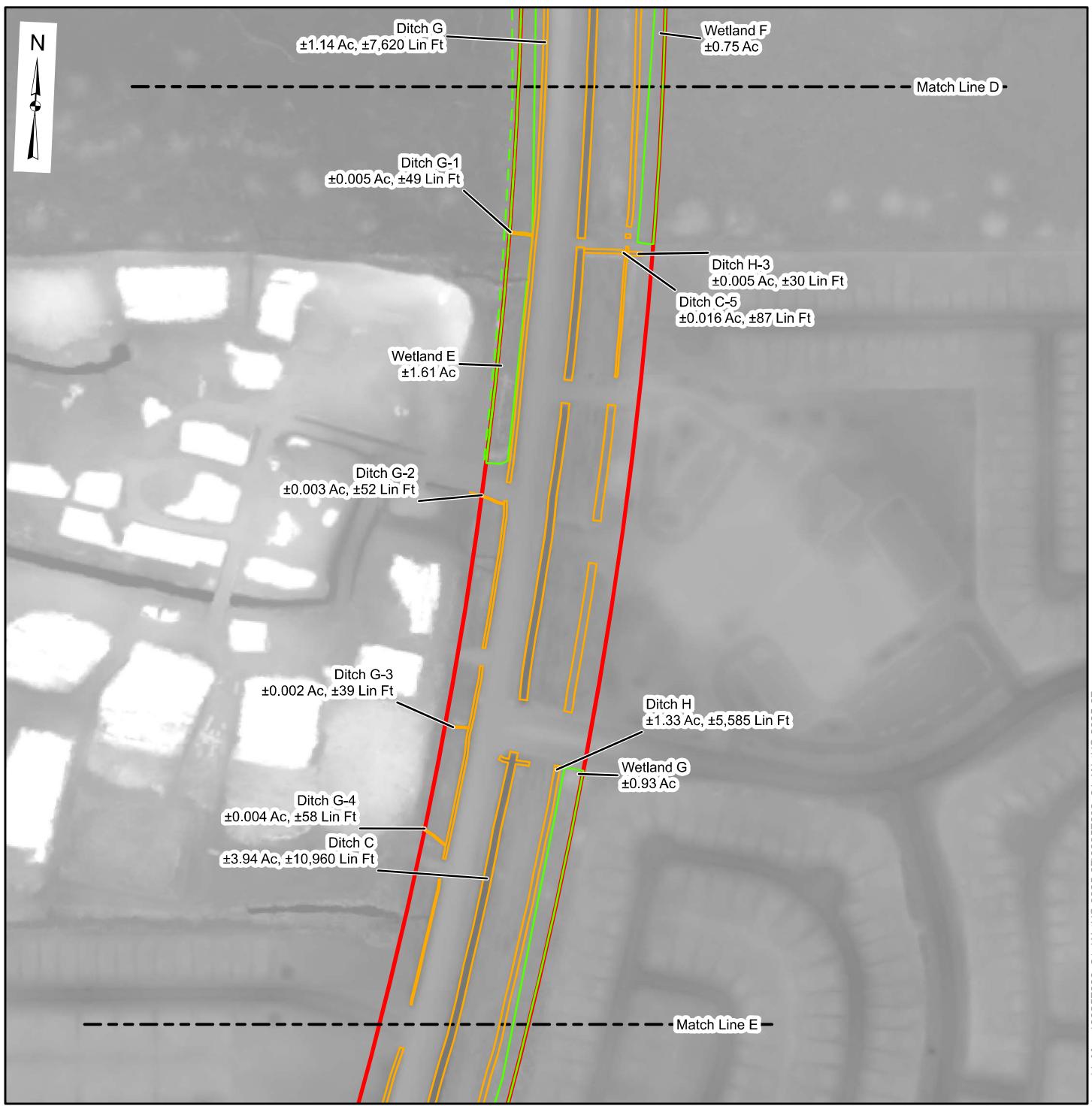
DATA SOURCES:
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Digital Elevation Model Detail

**CE King Parkway
Waters of the US Delineation**
CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29 8733813° -95 2080874°

Exhibit

7.13



 Project Limits, 108.42 Acres, 3 Miles

LiDAR Elevation in Feet



Project No.: 92257890
Date: 08-14-2025
Drawn By: REW
Reviewed By: JCL



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DATA SOURCES:
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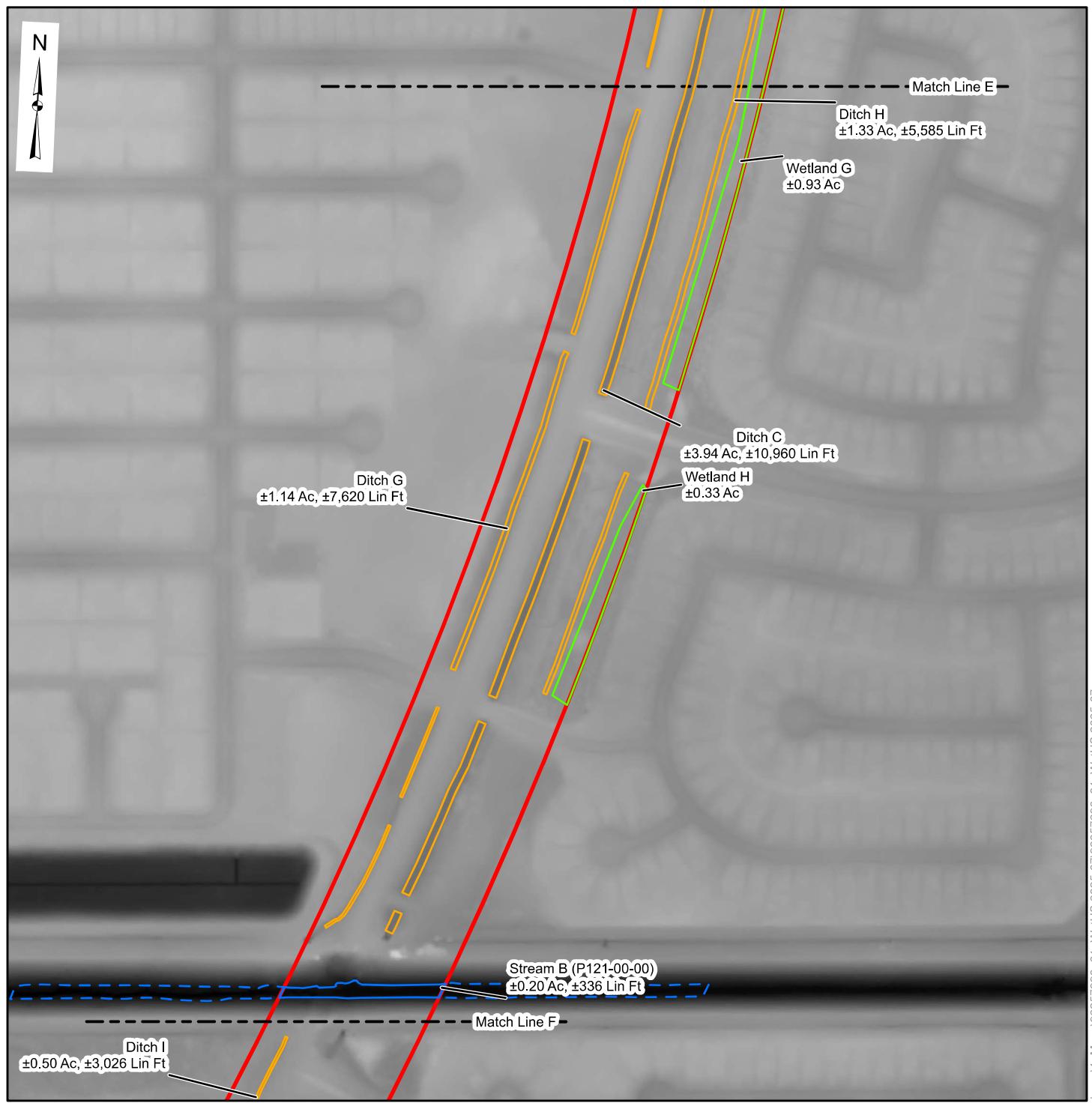
Digital Elevation Model Detail

CE King Parkway Waters of the US Delineation

CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29.8680163°, -95.2083305°

Exhibit

7.14



Project Limits, 108.42 Acres, 3 Miles

LiDAR Elevation in Feet



Wetland

Stream

Ditch

0 150 300 600 Feet

DATA SOURCES:
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Project No.:
92257890

Date:
08-14-2025

Drawn By:
REW

Reviewed By:
JCL

Terracon

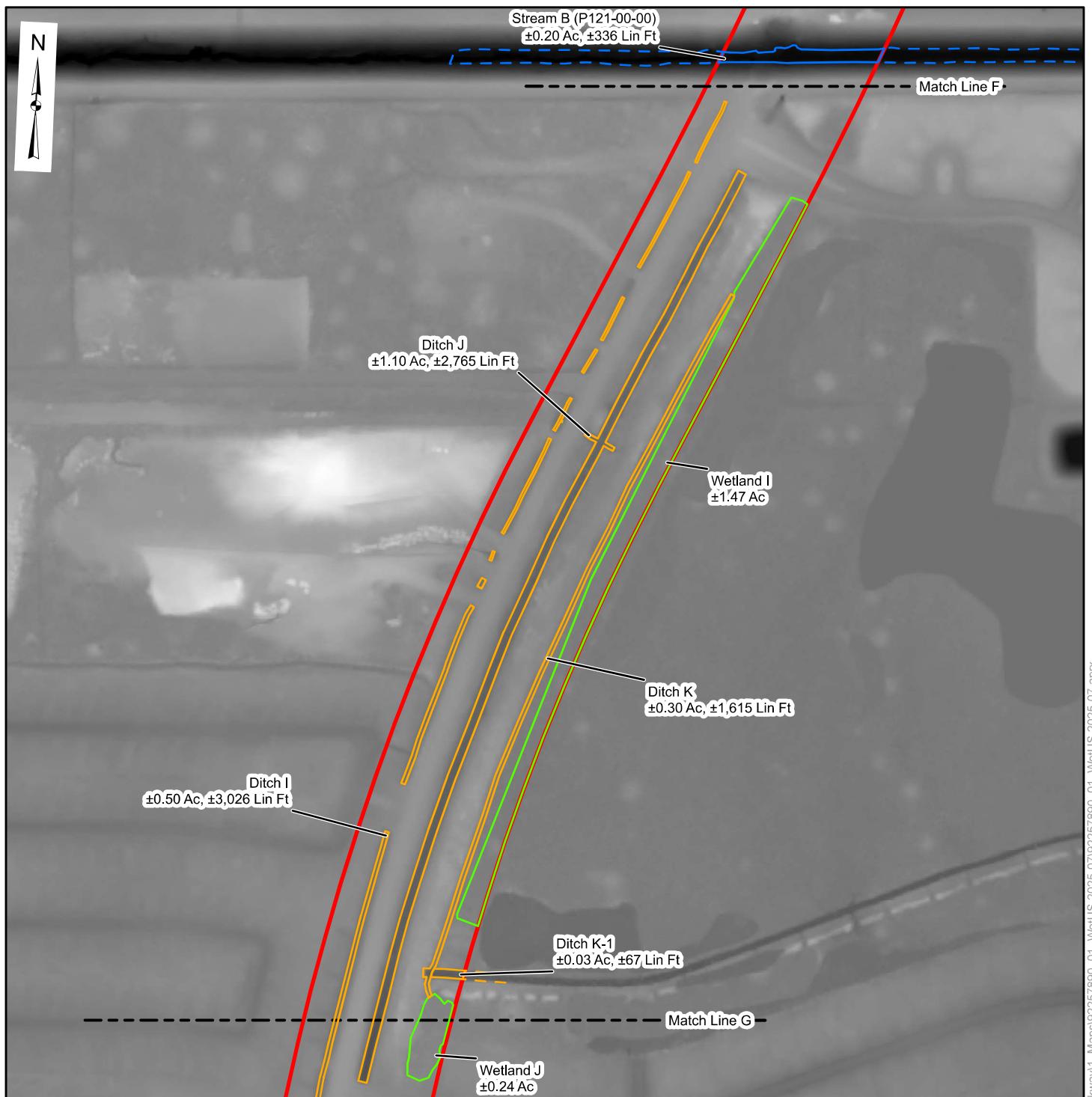
11555 Clay Road, Suite 100 Houston, TX 77043
PH. (713) 690-8989 terracon.com

Digital Elevation Model Detail

**CE King Parkway
Waters of the US Delineation**
CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29.8626392°, -95.2098106°

Exhibit

7.15



Project Limits, 108.42 Acres, 3 Miles

 Wetland

LiDAR Elevation in Feet

55
28

Stream

10

Ditch

Feet

0 150 300 600

Project No.:

Date:

08-14-2025

Drawn By:

Reviewed By:



11555 Clay Road, Suite 100

Houston, TX 77043

744-4743-000-0000

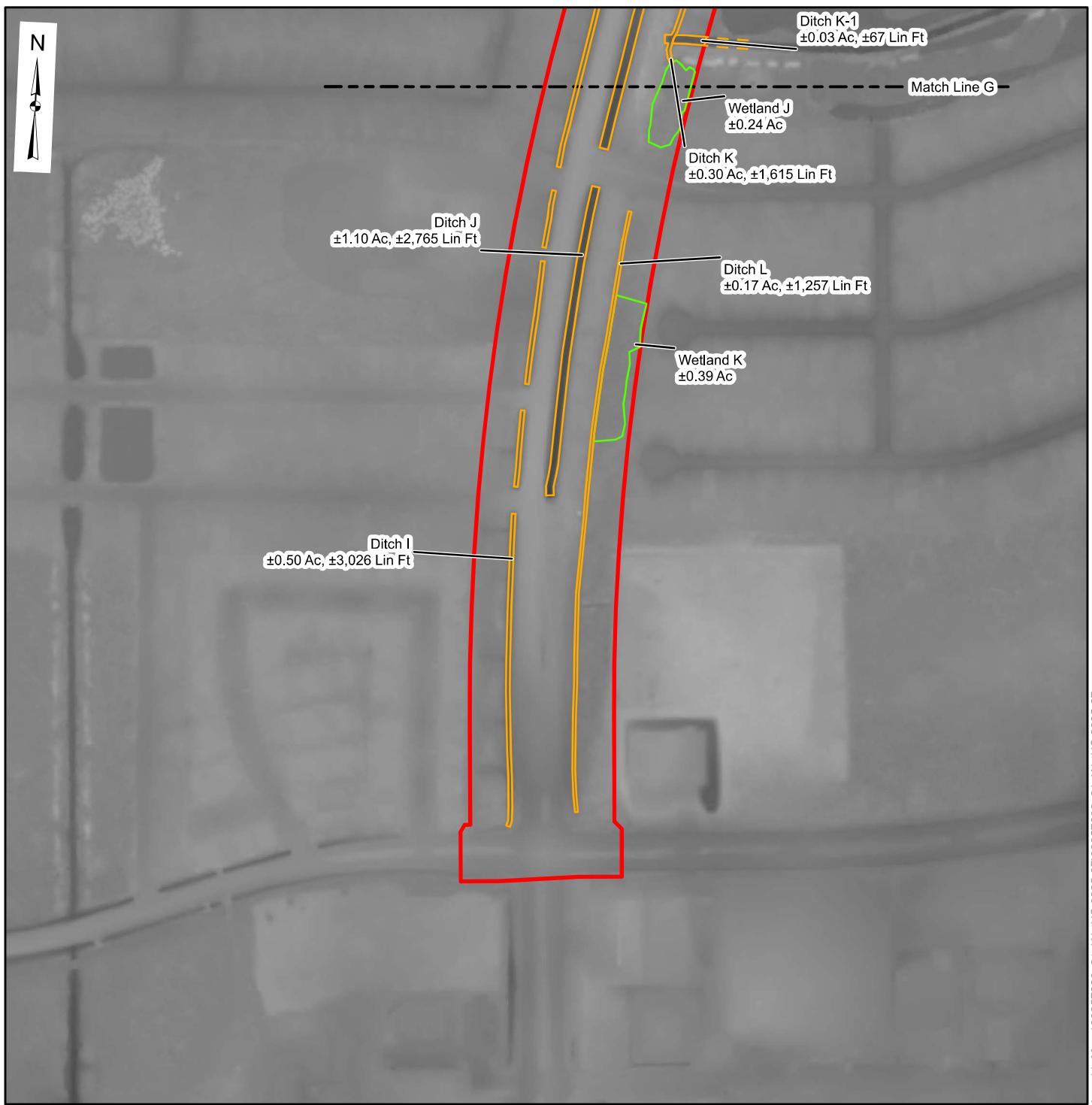
8

Digital Elevation Model Detail

**CE King Parkway
Waters of the US Delineation**
CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29 8572487° -95 2126462°

Exhibit

7.16



Project Limits, 108.42 Acres, 3 Miles

LiDAR Elevation in Feet

55
28

Wetland

Ditch

0 150 300 600 Feet

DATA SOURCES:
Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc. and its affiliates, Esri Community Maps contributors. Map layer by EsriTxGIO StratMap 2018 Digital Elevation Model



Project No.:	92257890
Date:	08-14-2025
Drawn By:	REW
Reviewed By:	JCL



Digital Elevation Model Detail
CE King Parkway
Waters of the US Delineation
CE King Parkway from Beltway 8 to Tidwell Road
Houston, Harris County, Texas
Sheet Center: 29.851871°, -95.2141545°

Exhibit
7.17