

February 9, 2024

FINDING OF NO SIGNIFICANT IMPACT

TO ALL INTERESTED AGENCIES AND PUBLIC GROUPS:

As required by the rules of the Texas Water Development Board (TWDB), 31 Texas Administrative Code (TAC) § 371.41, an environmental review consistent with the National Environmental Policy Act (NEPA), 42 United States Code § 4321 *et seq.*, has been performed on the project below. This project is proposed to be funded through the Drinking Water State Revolving Fund (DWSRF) Program, which is administered by the TWDB.

City of Newton, Newton County, Texas
TWDB DWSRF Project No. 62878
Water System Improvements
Total Financing Amount: \$2,195,000
Loan No. L1001096

The City of Newton (City) is proposing to use \$2,195,000 in financing from the DWSRF Program for the Water System Improvements project to purchase a new well site, drill a new groundwater well to produce 450-850 gallons per minute, and construct water treatment facilities.

An environmental review of the project consistent with NEPA has been completed following the guidelines provided in 31 TAC § 371.41. This environmental review is documented by the enclosed Environmental Assessment, which contains mitigative environmental conditions that will be applied to the project to avoid significant adverse environmental impacts on Waters of the United States, wetlands, floodplains, cultural or historical resources, threatened or endangered species, and protected migratory bird species. Based on a detailed environmental review of the planning information, Environmental Information Document, and other documentation, the project is environmentally sound with the following special and standard environmental conditions:

Special Environmental Conditions

- Consistent with the Migratory Bird Treaty Act and the Parks and Wildlife Code Chapter 64, vegetation clearing should be scheduled outside of the general bird nesting season, March 15 through September 15. However, if vegetation clearing must occur during nesting season, nest surveys should be conducted prior to clearing. Nest surveys should

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Jeff Walker, Executive Administrator

take place within 5 days of scheduled clearing in order to maximize the detection of active nests. If nests are observed during surveys, a vegetation buffer area 150 feet in diameter should remain around the nest until all young have fledged.

Standard Environmental Conditions

- No activity which may affect properties listed or properties eligible for listing in the National Register of Historic Places or eligible for designation as a State Archeological Landmark is authorized until the Owner has complied with the provisions of the National Historic Preservation Act and the Antiquities Code of Texas.

The Owner has previously coordinated with the appropriate agencies and impacts on known cultural or archeological deposits have been avoided or mitigated. However, the Contractor may encounter unanticipated cultural or archeological deposits during construction.

If archeological sites or historic structures which may qualify for designation as a State Archeological Landmark according to the criteria in 13 Texas Administrative Code Chapter 26, or that may be eligible for listing on the National Register of Historic Places in accordance with 36 CFR Part 800, are discovered after construction operations are begun, the Contractor shall immediately cease operations in that particular area and notify the Owner, the TWDB, and the Texas Historical Commission. The Contractor shall take reasonable steps to protect and preserve the discoveries until they have been inspected by the Owner's representative and the TWDB. The Owner will promptly coordinate with the State Historic Preservation Officer and any other appropriate agencies to obtain any necessary approvals or permits to enable the work to continue. The Contractor shall not resume work in the area of the discovery until authorized to do so by the Owner.

- No activity is authorized that is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Federal Endangered Species Act (ESA), and/or the State of Texas Parks and Wildlife Code on Endangered Species, or to destroy or adversely modify the habitat of such species.

If a threatened or endangered species is encountered during construction, the Contractor shall immediately cease work in the area of the encounter and notify the Owner, who will immediately implement actions in accordance with the ESA and applicable State statutes. These actions shall include reporting the encounter to the TWDB, the U. S. Fish and Wildlife Service, and the Texas Parks and Wildlife Department, obtaining any necessary approvals or permits to enable the work to continue, or implement other mitigation actions. The Contractor shall not resume construction in the encounter area until authorized by the Owner.

Finding of No Significant Impact
City of Newton, Newton County, Texas
TWDB DWSRF Project No. 62878
Water System Improvements
February 9, 2024
Page 3

Therefore, it is recommended that a Finding of No Significant Impact be issued.

Documentation supporting this decision is on file in the office of the Regional Water Project Development, TWDB, and is available for public review upon request. Comments supporting or disagreeing with this preliminary environmental determination may be submitted to the Director, Regional Water Project Development, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231 or via email at RWPD-Environmental@twdb.texas.gov. After evaluating the comments received, the Executive Administrator will make a final determination. However, no action regarding the provision of federal financial assistance for the project will be taken for at least thirty (30) calendar days after the release of this Finding of No Significant Impact.

Sincerely,

T. Clay Schultz

Digitally signed by T. Clay
Schultz
Date: 2024.02.13 08:36:56 -06'00'

T. Clay Schultz, Ph.D., Director
Regional Water Project Development

Enclosures

City of Newton, Newton County
Drinking Water State Revolving Fund Project No. 62878
Water System Improvement
Environmental Assessment

REVIEW PROCESS

As described below, Texas Water Development Board (TWDB) staff has performed a review consistent with the 31 Texas Administrative Code (TAC) § 371.41 and the National Environmental Policy Act (NEPA), 42 U.S. Code § 4321 *et seq.* Consistent with 31 TAC § 371.45, the Environmental Information Document (EID)¹ for the Water System Improvements project proposed by the City of Newton (City) was reviewed by TWDB staff. This project is financed through the Drinking Water State Revolving Fund (DWSRF) Program, which is administered by the TWDB.

PURPOSE AND NEED

The City provides drinking and wastewater services to a population of approximately 2,517 in Newton County, about 70 miles northeast of Beaumont, Texas. The City has also been providing water on an emergency basis to the East Newton Water Supply Corporation since May 2017.

The City's two existing wells are approximately 50 to 60 years old. Both wells have been rehabilitated twice, with the pumping capacity of the wells decreasing each time. Well No. 1 and Well No. 2 originally had capacities of 470-gallons-per-minute (gpm) and 430 gpm, respectively. Currently, Well No. 1 has a capacity of 395 gpm, and Well No. 2 has a capacity of 325 gpm.

The purpose of the proposed project is to replace capacity of both existing wells by purchasing a new well site property, drilling a new groundwater well, and constructing new water treatment facilities.

PROJECT DESCRIPTION

The project components included in this Environmental Assessment (EA) are:

- New groundwater well

¹ City of Newton (April 2023). Environmental Information Document (EID), Prepared by Goodwin-Lasiter-Strong. Received by TWDB on April 10, 2023.

- Aerator and filter treatment system
- CMU Pump building
- 15,000-gallon hydropneumatics pressure tank
- 150,000-gallon steel ground storage tank

The proposed well will be on a new, undeveloped site. The City recently acquired a 2.386-acre site for the project. The site is already cleared and was most recently used for growing hay crops. The groundwater well is expected to be approximately 170 feet deep and produce 50 acre-feet per year. Treatment and water storage facilities will also be required, as will various piping and electrical connections.

PROJECT FUNDING

The City applied to the TWDB for financing through the DWSRF Program for planning, design, and construction of the proposed project, as well as to acquire land and easements. On April 9, 2020, the TWDB committed \$2,195,000 for the project. The City closed the financing on August 24, 2020. Some of the planning funds were used to assess the potential environmental impact of the project and prepare an Environmental Information Document (EID). Preparation of the EID involved consultation with state and federal regulatory agencies and additional public participation.

The TWDB may not fund testing, remediation, removal, disposal, or related works for contaminated or potentially contaminated materials. However, the project proponent should ensure that, if found, such materials are tested, removed, and disposed of in accordance with applicable state and federal laws. If the project includes replacement of asbestos cement (AC) or lead lines, regardless of whether abandonment or removal, disposal or removal of AC or lead lines is not eligible.

EVALUATION OF ALTERNATIVES

In addition to the preferred action alternative, the City evaluated the no-action alternative and rehabilitation of existing wells. Each alternative was evaluated for its potential direct, secondary, and cumulative impacts on the existing environment.

No-Action Alternative

The no-action alternative would have less impact than the preferred alternative. However, the City's declining water supply would not be addressed, and a reliable water source would be needed in the near future to meet current and future water demands for its residents and wholesale customers.

Alternative Not Selected: Rehabilitation of Existing Wells

The first alternative considered was to rehabilitate existing wells. This has been attempted in the past with limited success. Both wells pumped approximately 430 gpm when they were first drilled in the 1960's. The direct environmental impacts of this alternative would be only slightly greater than the no-action alternative. However, the City would remain dependent on two wells that are each over 50 years old, have both been reworked multiple times, and both have decreased capacity.

Preferred Alternative: New Well Site

The preferred alternative is described above under the Project Description. The purpose of the preferred alternative is to provide a more reliable and sustainable water source for the City, which the no-action alternative would not provide. The direct environmental impacts of the preferred alternative are expected to be greater than the no-action alternative, but also minimal, temporary, and not significantly adverse.

ENVIRONMENTAL REVIEW

Consistent with the requirements of the federally funded DWSRF Program, the City defined the social and environmental contexts of the project and assessed its potential impact. This information was presented in an EID made available to the community, regulatory agencies, and other interested parties.

Adverse effects on societal and natural resources fall under the authority of various agencies. These regulatory agencies and participating area residents had the opportunity to address potential issues concerning construction practices, possible adverse effects within the project area, and the environmental conditions to be implemented during construction. The staff of the TWDB reviewed the EID, comments and other data and prepared the present EA.

ENVIRONMENTAL SETTING

Existing Conditions

The proposed project is located on a 2.386-acre property on Texas State Highway 87 near Farm-to-Market Road 2626 in the City of Newton. The project area is found in the north-central portion of the county, approximately 65 miles north of Beaumont, Texas. The property is classified as an improved pasture, and has most recently been used for hay production.

Geology and Soils

The proposed project is located within the Gulf Coast Plains Physiographic Province of Texas, which is situated parallel to the Gulf of Mexico coastline and is generally flat-to-gently sloping to the southeast and sectioned by the state's major rivers. Geologically, the proposed project is principally underlain by the Quaternary Willis Formation.

There are no faults or other pertinent geologic features mapped in the proposed project area. The proposed project is not located in a karst or pseudo-karst zone. No adverse environmental issues are expected as a result of the geologic setting. In addition, no portions of the project footprint are located on mapped soil units classified as Prime or Other Important Farmland.

Water Resources

The proposed project is located in Segment No. 0503 of the Sabine River Basin. The source of the City's water supply is groundwater from the Gulf Coast Aquifer. There are no Environmental Protection Agency (EPA-designated) sole source aquifers in the proposed project area.

The proposed project does not involve significant impacts to water quality. A temporary direct impact to surface water resources during construction will be due to soil disturbance, erosion, and sedimentation. Because less than one acre will be disturbed, a Construction General Permit does not apply.

Topography and Floodplains

Elevation across the proposed project area ranges from approximately 249 to 258 feet above mean sea level. The topography of the proposed project area is gently rolling hills with no pronounced topographic features. Dominant drainage patterns flow southeast via the Sabine River tributary of Quicksand Creek.

The proposed project is not located within a 100-year floodplain. Newton County is a participant in the National Flood Insurance Program (NFIP).

No permanent impact to the floodplain or floodway will occur because of the proposed project. Implementation of construction BMPs will minimize temporary construction impacts due to soil disturbance.

Wetlands, Streams, and Waters of the United States

No streams, wetlands, or other water features with the potential for classification as waters of the United States are present on, or adjacent to, the project site. No associated permits from the U.S. Army Corps of Engineers (USACE) will be required.

Biological Elements

The proposed project area is located within the Western Gulf Coastal Plain Ecological Region. As stated above, the entire waterline route is in previously developed public highway right-of-way. Vegetation in the area of impacts is limited to a mix of native and invasive species such as Johnson grass (*Sorghum halepense*), Bermuda grass (*Cynodon dactylon*), Grama grasses (*Bouteloua gracilis*), Chinese tallow (*Triadica sebifera*), and fire ants (*Solenopsis invicta*).

No known occurrences of or potential habitat for federally listed candidate, threatened, or endangered species is present within or adjacent to the project area. There was no designated critical habitat within the project area. Databases of sensitive species maintained by the United States Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) were reviewed to verify any state and/or federally listed threatened or endangered species that occur, or have historically occurred, in Newton County. No state or national parks, forests, wildlife refuges, wild or scenic rivers, or natural areas or similar preserves are located within the proposed project area.

Cultural Resources

There are no previously recorded significant or potentially significant archeological or historical sites within or adjacent to the proposed project footprint, according to Texas Historical Commission (THC) Archeological Sites Atlas, nor is the proposed project within the protected area surrounding a historic cemetery, structure, or district.

An archeological survey was not required by the THC staff who reviewed the project in accordance with Section 106 of the National Historic Preservation Act as well as the Antiquities Code of Texas (THC Tracking No. 202300134). Based on their review, the THC staff determined that no historic properties are present or affected by the proposed project. No further cultural resource investigations were required by the THC, and a condition was included that if buried cultural materials are uncovered during construction, work should immediately stop in that area and the Archeology Division of the Texas Historical Commission should be notified.

Hazardous Materials

Desktop investigations for potential hazardous materials using the Environmental Protection Agency (EPA) NEPAAssist Tool did not indicate potential hazardous materials sources on or near the proposed project area. There are no Superfund Sites from the EPA National Priorities List located within 15 miles of the proposed project site. A Phase I Environmental Site Assessment was not conducted. The TWDB does not fund the testing, remediation, removal, disposal, or related work for contaminated or potentially contaminated materials.

Social Implications and Environmental Justice

The project was evaluated for environmental justice (EJ) impacts using the Environmental Justice Screening and Mapping Tool (EJSCREEN), a mapping tool designed by the EPA that allows users to create maps and generate reports on factors that may affect public and environmental health. Data include population, percentage of minority residents, per capita income, and so forth, for comparison with data for the county and state.

An EJ analysis was performed on April 27, 2022, for the project area and within a 0.5-mile radius. The results are listed below with data from the United States Census for the state and county included for comparison.

Area	Population	Percent Minority	Percent Below Poverty Level	Per Capita Income
State of Texas	26,527,941	21.3%	13.4%	\$32,177
Newton County	12,241	23.3%	21.3%	\$21,386
City of Newton	2,249	31.2%	30.6%	\$19,133
Project Area (0.5-mile buffer)	69	59%	46%	\$22,365

An EJ analysis indicates that the area within 0.5 mile of the project has a portion of the population, greater than the city, county or state average, who are members of a racial/ethnic minority category or who have incomes less than or equal to the state's official poverty level. People or businesses will not be relocated as a result of the project and eminent domain will not be required.

An increase in the rates and taxes is not anticipated. The entire population of this project area will be the recipients of benefits derived from the proposed improvements. Therefore, the project will not disproportionately impact minority or low-income populations in a negative way.

Secondary and Cumulative Impacts

The proposed project would temporarily impact air quality and soil cover. Both resources will return to the state existing prior to the proposed project once construction activities are completed. Past projects including water line construction and road construction projects would have impacted the same resources. Future projects including water, sewer or road construction projects would impact the same resources.

The proposed project is not anticipated to change the projected rate, density, or type of development in the vicinity of the project area. The land use in surrounding areas will generally remain in agricultural and residential uses following the construction of the project.

There are no population changes or land use changes anticipated in the project area as a result of the construction of the proposed project. The proposed project will not result in increased air emissions. Therefore, air quality would not be adversely impacted in the project vicinity after construction is complete.

AGENCY COORDINATION AND COMPLIANCE

To ensure due consideration of the project's potential impact, the City conducted a full EA, prepared an EID describing the results of that investigation, held an open meeting to familiarize the community with the project and solicit public comment, and coordinated with all required regulatory agencies and other interested parties to define and avoid, minimize, or mitigate adverse effects. The City has provided assurance that mitigative measures will be implemented in a manner consistent with the requirements of state and federal regulatory agencies and rules of the TWDB.

“Cross-Cutter” Compliance

The project has been reviewed for potential impacts to the quality of the environment following the procedures provided in 31 Texas Administrative Code § 371.41, to ensure compliance with DWSRF program requirements and federal and state regulations, including the federal cross-cutting environmental authorities from the EPA listed below.

- (1) National Environmental Policy Act of 1969, PL 91-190
- (2) Archeological and Historic Preservation Act of 1974, PL 93-291
- (3) Clean Air Act, 42 USC 7506(c)
- (4) Coastal Barrier Resources Act, 16 USC 3501 *et seq.*
- (5) Coastal Zone Management Act of 1972, PL 92-583, as amended
- (6) Endangered Species Act, 16 USC 1531, *et seq.*
- (7) Executive Order 11593, Protection and Enhancement of the Cultural Environment
- (8) Executive Order 11988, Floodplain Management
- (9) Executive Order 11990, Protection of Wetlands
- (10) Farmland Protection Policy Act, 7 USC 4201, *et seq.*
- (11) Fish and Wildlife Coordination Act, PL 85-624, as amended
- (12) National Historic Preservation Act of 1966, PL 89-665, as amended
- (13) Safe Drinking Water Act, § 1424(e), PL 92-523, as amended
- (14) Wild and Scenic Rivers Act, PL 90-542, as amended
- (15) The Wilderness Act, 16 USC 1131, *et seq.*
- (16) Environmental Justice, Executive Order 12898
- (17) Flood Insurance Reform Act of 2004, Public Law 108-264
- (18) National Flood Insurance Reform Act of 1994, Public Law 103-325
- (19) Flood Disaster Protection Act of 1973, as amended, Public Law 93-234
- (20) Clean Water Act, PL 92-500, as amended

Agency Coordination

This environmental review included coordination with various state and federal regulatory agencies, local authorities, and other stakeholders and interested parties regarding the project's potential impact. The City submitted notifications to and requests for input from all required parties. Some entities did not require a response. The respondents are listed below, and the results of coordination are summarized in the EID and reflected in the environmental conditions listed below:

- Texas Historical Commission, State Historic Preservation Officer, Austin in accordance with Section 106 of the National Historic Preservation Act; Antiquities Code of Texas; and other applicable regulations (THC Tracking No. 202300134)
- United States Army Corps of Engineers, Regulatory Branch, Galveston District, in accordance with Section 404 of the Clean Water Act; and Section 10 of the Rivers and Harbors Act of 1899
- Texas Parks and Wildlife Department, Wildlife Habitat Assessment Program, Austin in accordance with the Endangered Species Act of 1973, as amended; Migratory Bird Treaty Act; Texas Parks and Wildlife Code; and other applicable regulations (TPWD Project No. 49171)
- United States Fish and Wildlife Service, Texas Coastal Ecological Services Field Office, in accordance with the Endangered Species Act and statutes affecting other federally protected species (USFWS Project Code 2023-0056608)
- Texas Commission on Environmental Quality in accordance with 40 CFR Part 93 and National Ambient Air Quality Standards (TCEQ NEPA Request No 2019-305) December 6, 2019

No response was required from the following entities:

- Bureau of Reclamation, Oklahoma-Texas Area Office
- Bureau of Land Management
- Local government (City Mayor and County Commissioners)

Texas Historical Commission

The THC staff concurred with City in correspondence dated October 15, 2022, that no direct impacts to cultural resources or historic properties are anticipated as a result of the project (THC Tracking No. 202300134).

United States Army Corps of Engineers

The USACE, Galveston District Office, Regulatory Division staff was given the opportunity to review the project in correspondence dated September 6, 2022. The USACE staff did not respond to the review request. As no water resources occur in or adjacent to the project area, no response from the USACE is anticipated or required.

Texas Parks and Wildlife Department

The TPWD Wildlife Habitat Assessment Program reviewed the proposed project in accordance with the Texas Parks and Wildlife Code (TPW Code), and provided a response dated September 26, 2022 (TPWD Project No. 49171). The TPWD made several recommendations and Jim Owens of Goodwin-Lasiter-Strong responded on behalf of the City regarding their commitment to the recommendations. Recommendations related to the Migratory Bird Treaty Act and the Texas Wildlife Code Chapter 64 are reflected in the environmental conditions of this environmental finding.

United States Fish and Wildlife Service

The USFWS, in accordance with the Endangered Species Act and statutes affecting other federally protected species, was given the opportunity to review the project. No formal response was received. Based on the TPWD staff recommendations and the City's response, TWDB staff did not require a formal consultation with the USFWS.

Texas Commission on Environmental Quality

In a response dated December 6, 2019, the TCEQ stated that a review of the proposed project for general conformity impact, in accordance with 40 CFR Part 93 and Title 30, TAC § 101.30, indicates that Newton County is currently unclassified or in attainment of the National Ambient Air Quality Standards for all six criteria air pollutants (TCEQ NEPA Request No. 2019-305). Therefore, general conformity rules do not apply. The proposed project is in compliance with the State Implementation Plan and the Clean Air Act. The TCEQ further noted that no long-term impacts are anticipated.

PUBLIC PARTICIPATION

The project is consistent with local, regional, and statewide planning. Coordination with the appropriate governmental agencies has been made and no adverse comments have been received.

Public participation conducted during facilities planning included a public meeting held on March 21, 2023, which was advertised in the *Newton County News*, a newspaper of general circulation in the service area. The notice was published on February 15, 2023, and contained information regarding availability of planning documents, including the EID, for public review at the Newton City Hall at 101 North Street, Newton, Texas during normal business hours (9:00 a.m. to 4:00 p.m.). The public meeting was held at Newton City Hall on March 21, 2023, at 4:30 p.m. A total of three people attended the meeting, none whom was a member of the public and not part of the project team.

ENVIRONMENTAL CONDITIONS

An environmental review of the project consistent with NEPA has been completed following the guidelines provided in 31 TAC § 371.45. Mitigation measures were defined through the agency coordination process and public participation and are listed below as applicable environmental conditions. These conditions will pertain to the project throughout construction and beyond as warranted. Based on information provided by the City, the proposed Water System Improvements project is considered environmentally sound with the following special and standard environmental conditions:

Special Environmental Conditions

- Consistent with the Migratory Bird Treaty Act and the Parks and Wildlife Code Chapter 64, vegetation clearing should be scheduled outside of the general bird nesting season, March 15 through September 15. However, if vegetation clearing must occur during nesting season, nest surveys should be conducted prior to clearing. Nest surveys should take place within 5 days of scheduled clearing in order to maximize the detection of active nests. If nests are observed during surveys, a vegetation buffer area 150 feet in diameter should remain around the nest until all young have fledged.

Standard Environmental Conditions

- No activity which may affect properties listed or properties eligible for listing in the National Register of Historic Places or eligible for designation as a State Archeological Landmark is authorized until the Owner has complied with the provisions of the National Historic Preservation Act and the Antiquities Code of Texas.

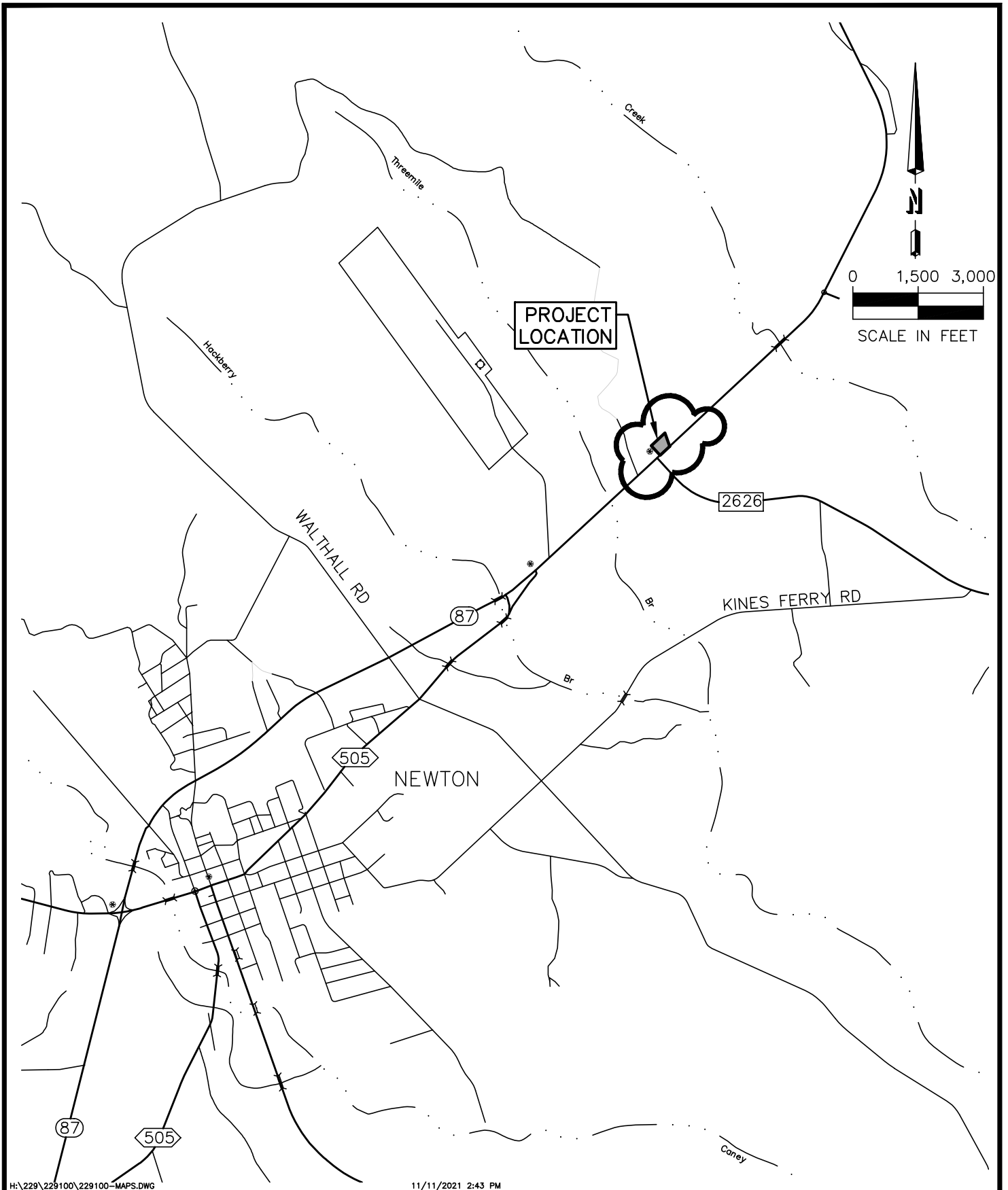
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If archeological sites or historic structures which may qualify for designation as a State Archeological Landmark according to the criteria in 13 Texas Administrative Code Chapter 26, or that may be eligible for listing on the National Register of Historic Places in accordance with 36 CFR Part 800, are discovered after construction operations are begun, the Contractor shall immediately cease operations in that particular area and notify the Owner, the TWDB, and the Texas Historical Commission. The Contractor shall take reasonable steps to protect and preserve the discoveries until they have been inspected by the Owner's representative and the TWDB. The Owner will promptly coordinate with the State Historic Preservation Officer and any other appropriate agencies to obtain any necessary approvals or permits to enable the work to continue. The Contractor shall not resume work in the area of the discovery until authorized to do so by the Owner.

- No activity is authorized that is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Federal Endangered Species Act (ESA), and/or the State of Texas Parks and Wildlife Code on Endangered Species, or to destroy or adversely modify the habitat of such species.

If a threatened or endangered species is encountered during construction, the Contractor shall immediately cease work in the area of the encounter and notify the Owner, who will immediately implement actions in accordance with the ESA and applicable State statutes. These actions shall include reporting the encounter to the TWDB, the U. S. Fish and Wildlife Service, and the Texas Parks and Wildlife Department, obtaining any necessary approvals or permits to enable the work to continue, or implement other mitigation actions. The Contractor shall not resume construction in the encounter area until authorized by the Owner.

Therefore, it is recommended that a Finding of No Significant Impact be issued.



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DATE 11/11/21	DRAWN BY: SNF	APPVD BY: JFO	SCALE 1"=3,000'	JOB NUMBER 229100
ENWSC Supply Line City of Newton Newton County, Texas Vicinity Map				SHEET NO. B
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