



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 6/14/2021

ORM Number: SWG-2020-00039 (south side)

Associated JDs: SWG-2020-00039 (PJD north side)

Review Area Location¹: State/Territory: Texas City: Hitchcock County/Parish/Borough: Galveston

Center Coordinates of Review Area: Latitude 29.354082° Longitude -95.029167°

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
N/A.	N/A.	N/A.	N/A.	

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
N/A.	N/A.	N/A.	N/A.	

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	0.1	acre(s)	(b)(1) Non-adjacent wetland.	Based on the site visit and a review of 18 aerial photos and the topo map, Wetland 1 does not abut an (a)(1) – (a)(3) water nor is separated from an (a)(1) – (a)(3) water by a barrier. Additionally, a review of the APT in combination with the aerials, show the wetland is not flooded by Highland Bayou (an (a)(1) water) in a typical year. The floodplain data and LiDAR show that the wetland is located above the 10-year floodplain and does not get inundated from Highland Bayou in a typical year.
Wetland 2	0.03	acre(s)	(b)(1) Non-adjacent wetland.	Based on the site visit and a review of 18 aerial photos and the topo map, Wetland 2 does not abut an (a)(1) – (a)(3) water nor is separated from an (a)(1) – (a)(3) water by a barrier. Additionally, a review of the APT in combination with the aerials, show the wetland is not flooded by Highland Bayou (an (a)(1) water) in a typical year. The floodplain data and LiDAR show that the wetland is located above the 10-year floodplain and does not get inundated from Highland Bayou in a typical year.
Wetland 3	0.06	acre(s)	(b)(1) Non-adjacent wetland.	Based on the site visit and a review of 18 aerial photos and the topo map, Wetland 3 does not abut an (a)(1) – (a)(3) water nor is separated from an (a)(1) – (a)(3) water by a barrier. Additionally, a review of the APT in combination with the aerials, show the wetland is not flooded by Highland Bayou (an (a)(1) water) in a typical year. The floodplain data and LiDAR show that the wetland is located above the 10-year floodplain and does not get inundated from Highland Bayou in a typical year.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☐ Information submitted by, or on behalf of, the applicant/consultant: **Title(s) and date(s)**

This information **Select.** sufficient for purposes of this AJD.

Rationale: **N/A.**

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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- ☒ Data sheets prepared by the Corps: [SP1-SP6](#)
- ☒ Photographs: [Aerial: Google Earth Aerials \(see APT table below\)](#)
- ☒ Corps site visit(s) conducted on: [1 October 2020](#)
- ☒ Previous Jurisdictional Determinations (AJDs or PJDs): [SWG-2020-0039 \(PJD north side\)](#)
- ☒ Antecedent Precipitation Tool: [*provide detailed discussion in Section III.B.*](#)
- ☒ USDA NRCS Soil Survey: NRCS National Cooperative Soil Survey (NCSS) Google Earth Layer (http://casoilresource.lawr.ucdavis.edu/soil_web/kml/mapunits.kml), accessed 20 October 2020
- ☒ USFWS NWI maps: [Hitchcock US GS Quad FWS NWI Online Mapper.](#) (<http://www.fws.gov/wetlands/data/mapper.HTML>), accessed 20 October 2020.
- ☒ USGS topographic maps: [Hitchcock USGS map Earth Point Topographic Map Google Earth Layer:](#)
[Accessed 20 October 2020](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	FEMA map 48167C0385G

B. Typical year assessment(s): We ran the Antecedent Precipitation Tool (APT) for the site visit date and eighteen Google Earth aerial photos from 1995 to 2019. See the table below:

Date	Preceding 72 Hours	WETS (3 Months) Score	PDSI
10/1/2020 Site visit	0.01-inch	14- Normal Conditions	N/A
1/3/2019 aerial	0.48-inch	14- Normal Conditions	Severe Wetness
3/21/2018 aerial	0.01-inch	11- Normal Conditions	Moderate Wetness
4/5/2017 aerial	0.01-inch	8- Drier than Normal	Incipient Wetness
1/22/2017 aerial	0.16-inch	13- Normal Conditions	Mild Wetness
2/7/2016 aerial	0.02-inch	12- Normal Conditions	Mild Wetness



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12/3/2015	0.32-inch	13- Normal Conditions	Moderate Wetness
aerial			
11/21/2015	0.00-inch	14- Normal Conditions	Severe Wetness
aerial			
3/27/2015	0.01-inch	14- Normal Conditions	Mild Wetness
aerial			
5/15/2014	0.40-inch	9- Drier than Normal	Incipient Wetness
aerial			
10/28/2012	0.00-inch	10- Normal Conditions	Moderate Drought
aerial			
11/28/2011	0.28-inch	11- Normal Conditions	Extreme Drought
aerial			
2/15/2010	0.15-inch	16- Wetter than Normal	Moderate Wetness
aerial			
1/8/2010	0.34-inch	13- Normal Conditions	Mild Wetness
Aerial			
12/31/2008	0.20-inch	11- Normal Conditions	Mild Drought
aerial			
1/8/2008	0.00-inch	11- Normal Conditions	Normal
Aerial			
3/31/2006	1.22 inches	13- Normal Conditions	Extreme Drought
aerial			
1/31/2004	0.90-inch	11-Normal Conditions	Mild Wetness
Aerial			
1/14/1994	Unknown	15- Wetter than Normal	Moderate Wetness
aerial			

The APT is a tool that affords the user the capability to look at rainfall in the recent past, cumulative for the last 3 months as well and climatological review for the past 30 years. It uses climatic data collected from numerous nearby weather stations and produces the most reliable



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source with a full 30 years of precipitation data. The site visit conditions were normal precipitation for the previous 3 months and the aerial photos ranged from drier than normal to wetter than normal for the previous 3 months with two being wetter than normal, two being drier than normal and the remaining 14 being normal precipitation. None of the aerial photos show water from Highland Bayou flooding the wetlands. We also reviewed the Galveston County FEMA Coastal Transect #24, which is closest to the project site and the FEMA Galveston County Flood Profile P-P on Lower Highland Bayou, which crosses the project site. Coastal Transect #24 extends from the Gulf of Mexico, east of Pirates Beach, to past FM 1764, west of Gulf Greyhound Park. The 10-year flood stillwater elevations on Coastal Transect #24 range from +6.0 feet NAVD 88 at the Gulf of Mexico to +8.3 feet NAVD 88 at the northwestern end. FEMA Galveston County Flood Profile P-P shows the 10-year floodplain elevation to be approximately +8.75 feet NAVD 88. Based on the 2018 StratMap LiDAR data, the wetlands are above +10 feet NAVD 88. Therefore, the review area, including the wetlands, is above the 10% annual chance flood and does not get inundated from Highland Bayou or any other water of the United States in a typical year.

C. Additional comments to support AJD: [Put in comments on previous PJD.](#)