



**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): 7/6/2021

ORM Number: SWF-2020-00105

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Texas City: Elgin County/Parish/Borough: Travis

Center Coordinates of Review Area: Latitude N 30.36091 Longitude W -97.45031

**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)<sup>2</sup>**

§ 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): <sup>3</sup>			
(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.

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

<sup>2</sup> 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.

<sup>3</sup> 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)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
SWF-2020-00105 (Pond 1)	~5.75	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Topographic maps identify pond 1 constructed within stream; however, additional project information provided by the consultant, USACE site visit, and other supporting data indicate that pond 1 was constructed within a vegetated swale (i.e., a defined channel, bed, or bank and ordinary high-water mark was not observed on site or visible on aerial imagery). It was observed during the site visit that the channel of the on-site tributary begins at a lower elevation in the drainage to Willow Creek (i.e., "below" pond 1). Also, a defined channel does not exist at a higher elevation in the drainage "above" pond 1. This indicates that pond 1 is not merely a break in a stream channel, but was originally constructed within a vegetated swale. The Corps has determined that the pond meets the criteria of a (b)(8) excluded water feature.
SWF-2020-00105 (Pond 2)	~0.30	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Topographic maps identify pond 2 constructed up gradient from a stream; additional project information provided by the consultant, USACE site visit, and other supporting data indicate that pond 2 was constructed wholly within uplands. It was observed during the site visit that the channel of the on-site tributary begins at a lower elevation in the drainage to Willow Creek (i.e., "below" pond 1). Also, a defined channel does not exist at a higher elevation in the drainage "above" pond 1 or 2. This indicates that pond 2 is not merely a break in a stream channel, but was originally constructed within uplands. The Corps has determined that the pond meets the criteria of a (b)(8) excluded water feature.
SWF-2020-00105 (Pond 3)	~0.60	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an	Topographic maps identify pond 3 constructed wholly within uplands. Information provided by the consultant, USACE site visit, and other supporting data indicate that pond 3 was constructed in uplands. The Corps has determined that the pond meets the criteria of a (b)(8) excluded water feature.

<sup>4</sup> 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.

<sup>5</sup> 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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
		impoundment of a jurisdictional water that meets (c)(6).	

**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: [Reference documents within the electronic project file provided by Horizon Environmental Services, Inc., and property owner.](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: [Required site visit from USACE](#)

Data sheets prepared by the Corps: [N/A](#)

Photographs: [Aerial and Other: Google Earth Imagery, Historic Aerials.com - numerous years. Photographs provided by Horizon \(within electronic file\) \(enclosed\).](#)

Corps site visit(s) conducted on: [February 10, 2021](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [1982](#)

USFWS NWI maps: [ESRI managed imagery – SWF Regulatory Viewer – July 6, 2020](#)

USGS topographic maps: [Coupland, TX/Elgin West, 1982, 1950, 1910](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">National Hydrography Dataset – SWF Regulatory Viewer – July 6, 2020</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Location and topographic maps provided by Horizon</a>

**B. Typical year assessment(s):** [N/A](#)

**C. Additional comments to support AJD:** [N/A](#)

### 2.3 Contemporary and Historical Aerial Photography

The 2016 true-color aerial shows three ponds. As will be seen in later discussion, the ponds were created one at a time with the northernmost pond excavated first, before 1967, the small middle pond was excavated between 1973 and 1988, then the nine-acre pond is estimated to have been excavated sometime between 1988 and 1990. The aerial maps span a period of forty-nine (49) years.

No stream courses or tributaries are evident on the 2016 aerial, which would connect the ponds or connect the ponds to areas south and west of the nine-acre pond that would lead to Willow Creek.

