



**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): 3/2/2021
 ORM Number: SWF-2020-00438
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Texas City: Simms County/Parish/Borough: Bowie
 Center Coordinates of Review Area: Latitude 33.360848 Longitude -94.504683

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
SWF-2020-00438-1 (EW1)	0.031	acre(s)	(b)(1) Non-adjacent wetland.	Project information provided by the consultant, USACE site visit, and supporting data indicate that the wetland (EW1) exists within upland. The consultant's delineation determined, and USACE site visit confirmed, that the wetland is isolated. The wetland is within an eroded portion of a former unimproved roadway. NWI mapping does not identify the wetland. Topography maps do not identify the wetland. See sections IIIB for typical year assessment to support our determination. The wetland is not hydrologically connected to a (b)(3) ephemeral water feature or jurisdictional water of the U.S. Thus, the Corps has determined that the wetland meets the criteria of a (b)(1) non-adjacent wetland.
SWF-2020-00438-2 (EW2)	0.29	acre(s)	(b)(1) Non-adjacent wetland.	Same rationale as above.
SWF-2020-00438-3 (EW3)	0.803	acre(s)	(b)(1) Non-adjacent wetland.	Project information provided by the consultant, USACE site visit, and supporting data indicate that the wetland (EW3) exists within upland. The consultant's delineation determined, and USACE site visit confirmed, that the wetland is isolated (i.e., not adjacent, or abutting ES1) and exists within upland. NWI mapping does not identify the wetland. Topography maps do not identify the wetland. See sections IIIB for typical year assessment to support our determination. The wetland is not hydrologically connected to a (b)(3) ephemeral water feature or jurisdictional water of the U.S. Thus, the Corps has determined that the wetland meets the criteria of a (b)(1) non-adjacent wetland.
SWF-2020-00438-4 (ES1)	79	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Project information provided by the consultant, USACE site visit, and supporting data indicate that the water feature (ES1) is an ephemeral stream. The stream begins within the project boundary and is the uppermost reach of an unnamed tributary to Brooks Creek. The landscape use of the project area is cultivated loblolly pine stand that within the previous year was harvested. The project area at the time of the USACE site visit was early successional

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			growth. NHD and NWI mapping does not identify the stream. Topography maps do not identify the stream with a blue line, dashed blue line, etc. The drainage area is less than 50 acres. See sections IIIB for typical year assessment to support our determination. Thus, the Corps has determined that the stream meets the criteria of a (b)(3) excluded water feature.

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: Preliminary Waters of the U.S. Delineation prepared and provided by Terracon (project #9419P104) was referenced throughout the AJD. Available within the electronic project file, SWF-2020-00438
This information is sufficient for purposes of this AJD.
Rationale: N/A
- Data sheets prepared by the Corps: N/A
- Photographs: Aerial and Other: Imagery from Google Earth, HistoricAerials.com, and Digital Globe – all available years. Photographs provided by Brian C. Bartels, 2021-01-06, (enclosed)
- Corps site visit(s) conducted on: 2021-01-06
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Map provided by consultant
- USFWS NWI maps: ESRI managed imagery, SWF Regulatory Viewer, 2021-03-02; NWI map provided by consultant
- USGS topographic maps: Bassett, TX - 1:24,000; SWF Regulatory Viewer, 2021-03-02 and map provided by consultant (enclosed)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset, SWF Regulatory Viewer, 2021-03-02
USDA Sources	N/A.
NOAA Sources	Climate Data Online (https://www.ncdc.noaa.gov/cdo-web/): Monthly Climatological Observations
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): Typical year assessment was made by using APT for the date of the Corps' site visit, 2021-01-06, conditions were normal during the wet season. A combined 4.67 inches of precipitation was recorded at Maud, approximately 9.5 miles from the project site, 4 and 5 days prior to the site visit. Flow of water was observed during the site visit (reference enclosed mapped photo log). Small amounts of pooling of water was observed. Precipitation on site occurred the day of the site visit (reference



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enclosed mapped photo log). Climatological data referenced shows that over 2 inches of rain was received at Maud and New Boston on 2020-01-07, the day after the site visit, but none was recorded at these locations on 2020-01-06. However, these sites are nearly 10 miles from the project location. Site conditions at the project site on 2020-01-06 exhibited heavy rainfall (e.g., pooled water in every low spot and soil saturation to the point that a vehicle would not pass through without becoming stuck) the day of and likely the evening prior. Thus, the flow and pooling of water observed the day of the site visit likely was in direct response to the heavy rainfall received at the project site.

Typical year assessment was made by using APT for the date of the consultant's site visit, 2020-06-24, conditions were normal during the dry season. Nealy 0.6 inches of precipitation was recorded at Maud, 2 days prior to the site visit. The consultant states that flow and/or pooling of water was not observed.

Aerial imagery was evaluated by using available sources and years (e.g., Google Earth, HistoricAerials.com, and Digital Globe); however, water was not observed in any of the images evaluated because the stream channel was not visible because of vegetative cover. It is the Corps' determination through an assessment of all available information that flow within ES1 does not occur more than in direct response to precipitation in a typical year and is at present classified as having ephemeral flow.

- C. Additional comments to support AJD:** Enclosures: Vicinity Map (Exhibit 1), Topographic Map (Exhibit 2), Preliminary Delineation Map (Exhibit 3), APT Data Forms (2020-06-24, 2021-01-06), and site visit photos from 2021-01-06.