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): 3/17/2021
ORM Number: SWF-2021-00067
Associated JDs: N/A
Review Area Location[1]: State/Territory: TX City: Leon Valley County/Parish/Borough: Bexar
Center Coordinates of Review Area: Latitude 29.487125 Longitude -98.615734

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: There are no water features in the evaluation area/parcel that meet the definition of waters of the US.
- ☐ 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]

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

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Huebner Creek	752	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Although no water was observed within Huebner Creek during the site visit, Huebner Creek provides surface flow to a TNW (Leon Creek then to the Medina River) in a typical year and not just after rain fall. Huebner Creek has been determined to be intermittent in the past by the USACE.

[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.

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.	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.	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Unnamed tributary of Huebner Creek	1982	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Four pools of water were observed within the unnamed tributary of Huebner Creek. The observed pools were small in size and had no flow. The water appeared to be dark and stagnant and no aquatic species or vegetation was observed in the water indicating that the water was no present for long periods. Although the APT indicates that the October 2020 and November 2020 were dryer than normal compared to the last 30 years, December 2020 was determined to be a normal month. This tributary only have surface flow after rain events. The observed small pools within the unnamed tributary of Huebner Creek are remnants of recent rain events and the water collected in the lowest areas of the tributary. The lack of aquatic species and vegetation in the pools provide further evidence that the tributaries are ephemeral. There were no signs of inundation by flooding such as the presence of water marks and sediment and drift deposits. This tributary is not flooded by another WOTUS in a typical year. The project area is adjacent to Huebner Creek, a jurisdictional WOTUS, but due to improvements to Huebner Creek including making the floodway over 350 feet wide and the construction of high banks on each side of the creek, it is unlikely the project area would be flooded by Huebner Creek in a typical year. Also, the project area is five to forty-five feet higher in elevation than Huebner Creek indicating that the project area does not get flooded by Huebner Creek in a typical year. Review of aerial photography dating from 1995 to 2020 does not

[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.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				indicate any flooding of the property. Therefore, since the unnamed tributary of Huebner Creek is not a tributary under (a)(2), exclusion (b)(3) applies
Tributary	143	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	No water was observed within this tributary. The tributary had a steep slope from its start to its confluence with the unnamed tributary of Huebner Creek. Although the APT indicates that the October 2020 and November 2020 were dryer than normal compared to the last 30 years, December 2020 was determined to be a normal month. This tributary only has surface flow after rain events. There were no signs of inundation by flooding such as the presence of water marks and sediment and drift deposits. This tributary is not flooded by another WOTUS in a typical year. The project area is adjacent to Huebner Creek, a potential jurisdictional WOTUS, but due to improvements to Huebner Creek including making the floodway over 350 feet wide and the construction of high banks on each side of the creek, it is unlikely the project area would be flooded by Huebner Creek in a typical year. Also, the project area is five to forty - five feet higher in elevation than Huebner Creek indicating that the project area does not get flooded by Huebner Creek in a typical year. Review of aerial photography dating from 1995 to 2020 does not indicate any flooding of the property. Therefore, since the unnamed tributary of Huebner Creek is not a tributary under (a)(2), exclusion (b)(3) applies.
Ditch #1	222	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The feature appears to be a man-dug roadside ditch that was constructed to drain water from Grass Hill Drive into the unnamed tributary of Huebner Creek. The ditch occurs in uplands and does not transect or drain any wetlands. The ditch does not appear to modify or relocate a natural channel. This ditch does not have any OHWM indictors. The ditch did not relocate a tributary, was not constructed in a tributary, and no part was constructed in adjacent wetlands or any other water types. Therefore, since Ditch #1 is not a tributary under (a)(2), exclusion (b)(5) applies
Ditch #2	42	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and	The feature appears to be a man-dug roadside ditch that was constructed to drain water from Grass Hill Drive into the unnamed tributary of

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
			those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Huebner Creek. The ditch occurs in uplands and does not transect or drain any wetlands. The ditch does not appear to modify or relocate a natural channel. This ditch does not have any OHWM indictors. The ditch did not relocate a tributary, was not constructed in a tributary, and no part was constructed in adjacent wetlands or any other water types. Therefore, since Ditch #2 is not a tributary under (a)(2), exclusion (b)(5) applies.
Ditch #3	900	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The feature appears to be a man-dug roadside ditch that was constructed to drain water from Aids Drive into the unnamed tributary of Huebner Creek. The ditch occurs in uplands and does not transect or drain any wetlands. The ditch does not appear to modify or relocate a natural channel. The ditch did not relocate a tributary, was not constructed in a tributary, and no part was constructed in adjacent wetlands or any other water types. Therefore, since Ditch # 3 is not a tributary under (a)(2), exclusion (b)(5) applies.
Sheet Surface Flow Area	1.1	acres	(b)(4) Diffuse stormwater run-off over upland or directional sheet flow over upland.	A sheet surface flow area exists in between where the OHWM of the unnamed tributary of Huebner Creek ends and Ditch #3 along Aids Drive. No OHWM exists within this area. The entire area was slightly scoured and consisted of clay with no herbaceous vegetation. This area occurs in an upland. Therefore, since this sheet surface flow area is not a tributary under (a)(2), exclusion (b)(4) applies.

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: See the file.
  This information is sufficient for purposes of this AJD.
  Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).
- ☐ Data sheets prepared by the Corps: Title(s) and/or date(s).
- ☒ Photographs: Select. Title(s) and/or date(s).
- ☐ Corps site visit(s) conducted on: Date(s).
- ☒ Previous Jurisdictional Determinations (AJDs or PJDs): 2011-00144
- ☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.
- ☒ USDA NRCS Soil Survey: Title(s) and/or date(s).
- ☒ USFWS NWI maps: Title(s) and/or date(s).

☒ USGS topographic maps: Title(s) and/or date(s).

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	N/A.

B. Typical year assessment(s): APT output indicates the period as drier than normal (9) while 30 day rolling total indicates that conditions are solidly in the typical year range.

C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.

Figure 8. Results of the delineation.