



**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): 4/13/2021

ORM Number: SWF-2021-00076

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas City: Longview County/Parish/Borough: Gregg County

Center Coordinates of Review Area: Latitude 32.585849° Longitude -94.764900°

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-2021-00076-1 (S1)	994	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The consultant's delineation determined and USACE confirmed that S1 is an unnamed ephemeral stream that connects hydrologically to Ray Creek. The consultant reported that flowing and pooling water was not observed on 2020-11-13. NHD, NWI, and topography mapping does identify the stream. The stream flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is approximately 80 acres. See section IIIB for typical year assessment for the date of consultant's visit on 2020-11-13. The Corps has determined based on project information provided by the consultant and the supporting data that S1 meets (b)(3) exclusion criteria.
SWF-2021-00076-2 (S2)	484	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The consultant's delineation determined and USACE confirmed that S2 is an unnamed ephemeral stream that does not connect hydrologically to S1. However, historically, S1 and S2 were the same stream as indicated by aerial imagery. Presently, S2 terminates into P1 and does not flow from that point but becomes diffuse overland sheet flow. Thus, S2 is isolated, i.e., not hydrologically connected to S1. The Corps has determined based on project information provided by the consultant and the supporting data that S2 meets (b)(3) exclusion criteria.
SWF-2021-00076-3 (P1)	0.15	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	The consultant's delineation determined and USACE confirmed that P1 was excavated within a continuous stream that no longer exists (i.e., S1 and S2 presently are not connected, with S2 terminating into P1). Google Earth aerial imagery, 1995 and later, indicates and was confirmed by the consultant, that P1 does not have an outflow that connects hydrologically to S1. Wetlands are not present between P1 and S1. P1 is isolated (not hydrologically connected to S1). Topography and LiDAR indicates that water flows from P1 towards S1; however, as

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
		water that meets (c)(6).	overland sheet flow. Stream characteristics are not observable between P1 and S1. The Corps has determined based on project information provided by the consultant and the supporting data that P1 meets (b)(8) exclusion criteria.
SWF-2021-00076-4 (W1)	0.016	acre(s)	(b)(1) Non-adjacent wetland. Project information provided by the consultant and supporting data indicate that the wetland (W1) exists within upland. The consultant's delineation determined that the depressional wetland is isolated. NWI mapping does not identify the wetland. Topography maps do not identify the wetland. The wetland is not hydrologically connected to a (b)(3) ephemeral water feature or jurisdictional water of the U.S. The Corps has determined based on project information provided by the consultant and the supporting data that W1 meets (b)(1) exclusion criteria.
SWF-2021-00076-5 (S3)	587	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. The consultant's delineation determined and USACE confirmed that S3 is an unnamed ephemeral stream that connects hydrologically to Ray Creek. The consultant reported that two areas of pooling water was observed on 2020-11-13; however, water was not observed to be flowing. NHD, NWI, and topography mapping do not identify the stream. The stream flows only in direct response to a precipitation event and does not support sustained flows for any duration after the precipitation event has ended. The drainage area is approximately 50 acres. See section IIIB for typical year assessment for the date of consultant's visit on 2020-11-13. The Corps has determined based on project information provided by the consultant and the supporting data that S3 meets (b)(3) exclusion criteria.

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: [WOTUS and T&E Evaluation for Project Double in the Longview North Business Park in Longview, Texas](#), prepared and submitted by Titanium Environmental Services, LLC, was referenced throughout the AJD; available within electronic project file, SWF-2021-00076

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

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



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- Photographs: [Aerial and Other: Aerial and Other: Imagery from Google Earth, HistoricAerials.com, and Digital Globe –all available years. Photographs submitted by the consultant \(2020-10-12/13, 2020-11-13\), available within the electronic project file, SWF-2021-00076](#)
- Corps site visit(s) conducted on: [N/A](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- Antecedent Precipitation Tool: [See detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Information/Map provided by the consultant, available within the electronic project file, SWF-2021-00076](#)
- USFWS NWI maps: [ESRI managed imagery, SWF Regulatory Viewer, 2021-04-12; NWI map provided by consultant](#)
- USGS topographic maps: [White Oak, TX - 1:24,000; SWF Regulatory Viewer, 2021-04-12 and map provided by consultant](#)

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, 2021-04-12
USDA Sources	N/A.
NOAA Sources	Climate Data Online (https://www.ncdc.noaa.gov/cdo-web/): Daily Climatological Observations; Record of Climatological Observations: 11/2020
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 consultant's site visit, 2020-11-13, conditions were normal with mild wetness during the wet season. It is the Corps' determination through an assessment of all available information that flow within S1 and S3 does not occur more than in direct response to precipitation in a typical year and are at present classified as having ephemeral flow.

C. Additional comments to support AJD: [Enclosure: Project Boundary and Water Features Map \(Figure 1\)](#)