



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): 22-APR-2021
 ORM Number: SWF-2021-00092, Fuse 512 Project
 Associated JDs: N/A
 Review Area Location¹: State/Territory: TX City: San Marcos County/Parish/Borough: Hays County
 Center Coordinates of Review Area: 29.84215, -97.94018

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 or describe rationale.
- 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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
SWF-2021-00092 Ephemeral 1	2,090 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Project information provided by the consultant and supporting data confirmed by USACE that Ephemeral 1 is an ephemeral stream that now bisects the property. Aerial imagery shows the linear channel has moved from a north to south drainage to a northeast to southwest drainage over time as the surrounding agricultural fields sheet flow into the drainage. The Corps has determined that Ephemeral 1 meets (b)(3) exclusion criteria.

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 independent 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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SWF-2021-00092 Stock Pond 1	0.458 acres	(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)	The consultant's delineation determined and USACE confirmed that Stock Pond 1 is an on-channel pond, excavated within Ephemeral 1, a (b)(3) excluded feature. Thus, Stock Pond 1 also meets (b)(3) exclusion criteria.
SWF-2021-00092 Upland Pond 1	0.214 acres	(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)	The consultant's delineation determined and USACE confirmed that Upland Pond 1 was once on-channel to Ephemeral 1, but as the stream moved further east in the landscape, the pond remained in its original location and would be classified "in-the-now" as a pond in uplands. Either way, the pond meets (b)(3) exclusions as its only connection is Ephemeral 1.

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 WOTUS Delineation Report, dated 01/19/2021.](#)

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

Rationale: *N/A*

Data sheets prepared by the Corps: *N/A*

Photographs: [Aerial: Geosearch Historical Aerial Photographs, retrieval date of 12/21/2020 1940 – 2018; Appendix B, Photo Log, photos taken on 12/15/2020, photos 1 – 37.](#)

Corps Site visit(s) conducted on: *N/A*

Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*

Antecedent Precipitation Tool: *N/A*

USDA NRCS Soil Survey: [Exhibit 5, Soils Map, dated Dec 2020](#)

USFWS NWI maps: [Exhibit 4, National Wetlands Inventory Map, dated Dec 2020.](#)

USGS topographic maps: [Exhibit 3, Topographic Map, dated Dec 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	Rainfall data was obtained from the San Marcos, TX weather station for the site visit conducted in December 2020; the nearest weather station to the study area with the range of historic data available necessary to calculate the DAREM.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): [The findings from the APT for the month of December 2020, in which a site visit was conducted, were "Normal Hydrologic Conditions".](#)

C. Additional comments to support AJD: [Ephemeral stream bisects the entire site, with one upland pond located off channel and one on-channel stock pond.](#)

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.