



**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): 6/3/2021

ORM Number: SWF-2021-00126

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas City: Buda, Austin County/Parish/Borough: Hays, Travis

Center Coordinates of Review Area: Latitude 30.114542 Longitude -97.843207

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
Garlic Creek (T-1)	3,830.6 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Pools of standing water from seeps were observed along the channel w/ algae and hydrophytes on banks. Stream exhibited an OHWM. Garlic Creek was determined to be intermittent.
Unnamed tributary of	1,616.2 linear feet	(a)(2) Intermittent tributary contributes	Pools of standing water from seeps were observed along the channel w/ algae and hydrophytes on

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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Garlic Creek (T-2)		surface water flow directly or indirectly to an (a)(1) water in a typical year.	banks. Stream exhibited an OHWM. Garlic Creek was determined to be intermittent.

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
Swale (S-1)	297.3 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Swale did not exhibit an OHWM. The ephemeral channel flows briefly during and following a period of heavy rainfall in the immediate locality. However, no flowing water, water pooling, or aquatic life was observed within the tributary.
Unnamed ephemeral tributary of Garlic Creek (T-2)	402.0 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary exhibited an OHWM. Pooling was observed within the channel during Horizon's site visit due to the previous rainfall. The ephemeral channel flows briefly during and following a period of heavy rainfall in the immediate locality. However, no indicators of flowing water, aquatic life, hydrophytes, etc. were observed within the tributary.
Unnamed ephemeral tributary of Little Bear Creek (T-3)	1,001.8 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary exhibited an OHWM and a dry stream bed. No flowing water or pooling was observed within the channel during Horizon's site visit. However, no indicators of aquatic life, hydrophytes, etc. were observed within the tributary. The ephemeral channel flows briefly during and following a period of heavy rainfall in the immediate locality.
Unnamed ephemeral tributary of Little Bear Creek (T-4)	454.9 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary exhibited an OHWM. Pooling was observed within the channel during Horizon's site visit due to the previous rainfall. The ephemeral channel flows briefly during and following a period of heavy rainfall in the immediate locality. However, no flowing water or aquatic life However, no indicators

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
				of flowing water, aquatic life, hydrophytes, etc. were observed within the tributary.
Unnamed ephemeral tributary of Little Bear Creek (T-5)	301.4	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary exhibited an OHWM and a dry stream bed. No flowing water or pooling, aquatic life, hydrophytes, etc. were observed within the channel during Horizon’s site visit. The ephemeral channel flows briefly during and following a period of heavy rainfall in the immediate locality.
N/A.	N/A.	N/A.	N/A.	N/A.

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: [Section 404 Jurisdictional Delineation Bailey Property Project; February 2021](#)

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: [4/7/2021](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)

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

USDA NRCS Soil Survey: [Website accessed 19 January 2021](#)

USFWS NWI maps: [Website accessed 19 January 2021](#)

USGS topographic maps: [Buda, Texas 1994](#)

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): The consultant’s field visit was conducted 1 day after an approximate 0.13-inch rain event, 10 days after an approximate 1.01-inch rain event, and 14 days after a 0.35-inch rain event in the Buda and Austin area. The APT was executed for the Corps site visit 4/7/2021. 30-day precipitation rolling total well below 30 year normal range. Field indicators for intermittent stream determinations viewed during such a condition allows for greater reliance on their relevance.

C. Additional comments to support AJD: [Please see provided Jurisdictional Delineation Report](#)