



**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): 7/6/2021  
 ORM Number: SWF-2021-00277  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Texas City: Midland County/Parish/Borough: Midland  
 Center Coordinates of Review Area: Latitude 32.020179 Longitude -102.046473

**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)<sup>2</sup>**

| 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): <sup>3</sup> |             |      |                 |                                    |
|---|-------------|------|-----------------|------------------------------------|
| (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 |
| N/A.                         | 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.            | 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.                               |

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

|                                    |             |                 |                                    |
|------------------------------------|-------------|-----------------|------------------------------------|
| 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)): <sup>4</sup> |                |         |                              |   |
|--|----------------|---------|------------------------------|---|
| Exclusion Name                                   | Exclusion Size |         | Exclusion <sup>5</sup>       | Rationale for Exclusion Determination   |
| Wetland 1  | 0.01           | acre(s) | (b)(1) Non-adjacent wetland. | Wetland isolated within an artificial stormwater channel that itself would classify as a b3 excluded swale – no OHWM. Consultant tracked mileage downslope as a vegetated swale and the nearest OHWM forms 18 miles downstream. |
| Wetland 2  | 0.84           | acre(s) | (b)(1) Non-adjacent wetland. | Wetland isolated within an artificial stormwater channel that itself would classify as a b3 excluded swale – no OHWM. Consultant tracked mileage downslope as a vegetated swale and the nearest OHWM forms 18 miles downstream. |

**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 **not** sufficient for purposes of this AJD.  
Rationale: [A site visit was necessary to ensure the proposed status of waters was accurate.](#)
- 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: [6/25/2021](#)
- 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: [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:**

<sup>4</sup> 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.

<sup>5</sup> 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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

| Data Source (select)                       | Name and/or date and other relevant information |
|--|---|
| <a href="#">USGS Sources</a>               | N/A.  |
| <a href="#">USDA Sources</a>               | N/A.  |
| <a href="#">NOAA Sources</a>               | N/A.  |
| <a href="#">USACE Sources</a>              | N/A.  |
| <a href="#">State/Local/Tribal Sources</a> | N/A.  |
| <a href="#">Other Sources</a>              | N/A.  |

**B. Typical year assessment(s):** [APT output for date of consultant site visit shows 30-day running precipitation well in excess of 70% typical year conditions \(although dry season\). Review of aerial photographs available in Google Earth and Digital Globe confirm no periods of OHWM being present in the flood control channel.](#)

**C. Additional comments to support AJD:** [N/A or provide additional discussion as appropriate.](#)