

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 26 NOV 2019

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Fort Worth District, SWF-2019-00214

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Texas County/parish/borough: Panola City: Carthage
Center coordinates of site (lat/long in degree decimal format): Lat. 32.048629° **N**, Long. -94.060868° **W**.
Universal Transverse Mercator: NAD83

Name of nearest waterbody: Tributary to Sabine River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Sabine River

Name of watershed or Hydrologic Unit Code (HUC): 12010002

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: 26 November 2019

Field Determination. Date(s): 28 August 2019, 5-6 November 2019

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 24,674 linear feet: width (ft) and/or 5.28 acres.

Wetlands: 3.88 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known): Unknown and varies.

2. Non-regulated waters/wetlands (check if applicable):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: **Isolated, non-interstate waters as PFO, PEM, and POW, without a surface hydrologic connection exist on the project site.**

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: **Sabine River.**

Summarize rationale supporting determination: The nearest relatively permanent water is Tributary to Sabine River. The wetlands present on the subject property are detailed in the table below, along with their distances to Tributary to Sabine River.

Feature	Status	Area(ac)	Distance to Tributary to Sabine River (ft)
Wetland A	Non-Jurisdictional	1.32	2,478
Wetland B	Non-Jurisdictional	0.01	1,596
Wetland C	Non-Jurisdictional	0.03	1,896
Wetland D	Non-Jurisdictional	0.29	1,055
Wetland E	Non-Jurisdictional	0.23	838
Wetland F	Non-Jurisdictional	0.01	410
Wetland I	Non-Jurisdictional	1.79	2,246
Wetland J	Non-Jurisdictional	0.07	1,653
Wetland K	Non-Jurisdictional	0.84	904
Wetland L	Non-Jurisdictional	0.22	1,642
Wetland M	Non-Jurisdictional	0.18	1,973
Wetland N	Non-Jurisdictional	3.06	2,352
Wetland O	Non-Jurisdictional	0.03	2,081
Wetland P	Non-Jurisdictional	0.14	2,040
Wetland Q	Non-Jurisdictional	0.09	1,372
Wetland R	Non-Jurisdictional	0.07	1,196
Wetland S	Non-Jurisdictional	0.16	769
Wetland T	Non-Jurisdictional	0.77	2,205
Wetland U	Non-Jurisdictional	0.14	980
Wetland V	Non-Jurisdictional	0.07	695
Wetland W	Non-Jurisdictional	0.02	705
Wetland X	Non-Jurisdictional	0.01	588
Wetland Y	Non-Jurisdictional	0.58	2,422
Wetland Z	Non-Jurisdictional	0.79	1,631
Wetland AA	Non-Jurisdictional	0.05	1,409
Wetland AB	Non-Jurisdictional	0.24	1,247
Wetland AD	Non-Jurisdictional	0.05	3,142
Wetland AE	Non-Jurisdictional	1.70	2,284
Wetland AF	Non-Jurisdictional	0.03	2,263
Wetland AG	Non-Jurisdictional	0.08	1,977
Wetland AH	Non-Jurisdictional	1.32	1,588
Wetland AI	Non-Jurisdictional	0.17	3,139
Wetland AM	Non-Jurisdictional	0.05	2,448
Wetland AO	Non-Jurisdictional	0.07	2,212
Wetland AP	Non-Jurisdictional	1.26	2,027
Wetland AQ	Non-Jurisdictional	0.76	1,685
Wetland AR	Non-Jurisdictional	0.10	1,662
Wetland AS	Non-Jurisdictional	0.49	2,119
Wetland AT	Non-Jurisdictional	1.22	3,189

All of the wetlands listed above are not impoundments of jurisdictional waters, are not in the floodplain of the nearest TNW or RPW, have no surface hydrological connection to jurisdictional waters or wetlands in the area, and they have been determined to be "ISOLATED" as defined at 33 CFR 330.2(e).

Based on the topography and aerial imagery, the majority of the site is slopes gradually downward sloping to the southeast towards a Tributary to Sabine River along the eastern portion of the project site. The wetlands were identified using the 1987 Manual and the Atlantic and Gulf Coastal Plain Regional Regional, which requires that all three wetland criteria be present under normal circumstances for an area to be determined a wetland. All wetlands are depression areas that experience seasonal hydrology during and after rain events, providing the conditions necessary for wetlands to establish.

Impacts to any of the above wetlands would not affect interstate or foreign travelers for recreational or other purposes, would not affect fish or shellfish that could be taken and sold in interstate or foreign commerce, and would not affect the current use or potential use for industrial purposes by industries in interstate commerce. Therefore, these areas are considered not waters of the US.

"Adjacent" as per Federal regulations 33 CFR 328.3 is defined: "bordering, contiguous, or neighboring. Wetlands separated from other Waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are 'adjacent wetlands'." The nearest RPW to the wetlands listed above is a Tributary to Sabine River. These wetlands do not share surface hydrology with Tributary to Sabine River, including during high flow (e.g., the 100-year floodplain), as they are located outside of the 100-year floodplain and separated from Tributary to Sabine River by upland areas. These wetlands are separated from other Waters of the U.S. by uplands that do not allow the exchange of waters via a confined surface hydrology connection during normal conditions and these wetlands are not inseparably bound with the Tributary to Sabine River. Therefore, these wetlands are not considered "adjacent."

"Isolated" waters as defined in 33 CFR 330.2 (e) is: "those non-tidal Waters of the U.S. that are: (1) not part of a surface tributary system to interstate or navigable Waters of the U.S.; and (2) not adjacent to such tributary waterbodies." These wetlands have been identified as aquatic resources and have been determined to be isolated.

"Waters of the U.S." are defined in 33 CFR 328.3 (a) 1 through 7 which is addressed in the following. Due to the fact that these aquatic resources: (1) are not currently used, or were used in the past, nor susceptible to be used for interstate or foreign commerce nor subject to the ebb and flow of the daily tide; (2) do not cross interstate or tribal boundaries; (3) the destruction of these wetlands are not expected to affect (i) interstate or foreign travelers for recreational purposes or other purposes or (ii) fish or shellfish that could be taken and sold in interstate or foreign commerce or (iii) current use or potential use for industrial purposes by industries in interstate commerce; (4) are not impoundments of Waters of the U.S.; (5) are not part of a surface tributary system of (a) (1) through (4); (6) are not part of the territorial seas; and (7) are not adjacent to Waters of the U.S. identified in (a) (1) through (6).

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": N/A.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 20,874.86 acres

Drainage area: 4,846 square miles

Average annual rainfall: 52 inches

Average annual snowfall: 0 inches

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

(ii) **Physical Characteristics:**

(a) Relationship with TNW:

- Tributary flows directly into TNW.
 Tributary flows through **2** tributaries before entering TNW.

Project waters are **1-2** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **1-2** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵: Intermittent Stream A and B, Ephemeral Stream A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, and V, and Oxbows A and B flow into a Tributary to Sabine River. Ephemeral Stream W, X, and Y flow into a man-made drainage, but rerouted stream, before flowing into Tributary to Sabine River. An unnamed Tributary to the Sabine River flows into Sabine River. Sabine River flows into Toledo Bend Reservoir, then continues and flows into Sabine Lake. Sabine Lake flows into the Gulf of Mexico.

Tributary stream order, if known: Varies.

(b) General Tributary Characteristics (check all that apply):

- Tributary is:** Natural
 Artificial (man-made). Explain:
 Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):

Average width: 5 feet
Average depth: 2 feet
Average side slopes: **4:1 (or greater)**.

Primary tributary substrate composition (check all that apply):

- | | | |
|---|--|-----------------------------------|
| <input checked="" type="checkbox"/> Silts | <input checked="" type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input checked="" type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input type="checkbox"/> Vegetation. Type/% cover: | |
| <input type="checkbox"/> Other. Explain: | | |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Tributary to Sabine River's banks are highly eroding.

Presence of run/riffle/pool complexes. Explain: Multiple pools and riffles were present in Tributary to Sabine River.

Tributary geometry: **Meandering**

Tributary gradient (approximate average slope): 2 %

(c) Flow:

Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: Perennial, Intermittent, Ephemeral.

Other information on duration and volume: Perennial.

Surface flow is: **Discrete and confined**. Characteristics: Surface flow increases or decreases according to precipitation.

Subsurface flow: **Yes**. Explain findings: Project soils are sandy and these soils have obvious subsurface flow.

Dye (or other) test performed:

Tributary has (check all that apply):

- | | |
|--|--|
| <input checked="" type="checkbox"/> Bed and banks | |
| <input checked="" type="checkbox"/> OHWM ⁶ (check all indicators that apply): | |
| <input checked="" type="checkbox"/> clear, natural line impressed on the bank | <input checked="" type="checkbox"/> the presence of litter and debris |
| <input checked="" type="checkbox"/> changes in the character of soil | <input checked="" type="checkbox"/> destruction of terrestrial vegetation |
| <input checked="" type="checkbox"/> shelving | <input checked="" type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input checked="" type="checkbox"/> sediment sorting |
| <input checked="" type="checkbox"/> leaf litter disturbed or washed away | <input checked="" type="checkbox"/> scour |
| <input checked="" type="checkbox"/> sediment deposition | <input checked="" type="checkbox"/> multiple observed or predicted flow events |
| <input checked="" type="checkbox"/> water staining | <input checked="" type="checkbox"/> abrupt change in plant community |

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

⁶ A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

other (list):

Discontinuous OHWM.⁷ Explain: The OHWM on ephemeral tributaries may be disrupted for very short distances and where excavation on rerouted stream has occurred. OHWM off-site and down stream appears to be disrupted by impoundments but these impoundments are either leaky or flow over.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

High Tide Line indicated by:

oil or scum line along shore objects

fine shell or debris deposits (foreshore)

physical markings/characteristics

tidal gauges

other (list):

Mean High Water Mark indicated by:

survey to available datum;

physical markings;

vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain:

Water color is tannic to muddy brown, remaining relatively shallow throughout in dry periods with a silt, sand, and gravel stream bed.

Identify specific pollutants, if known: N/A.

⁷Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings: At the time of the site visit, aquatic life including small fish, reptiles,

and amphibians were observed.

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: 1.29 acres

Wetland type. Explain: Palustrine Forested (PFO).

Wetland quality. Explain: High.

Project wetlands cross or serve as state boundaries. Explain: No.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain:

Surface flow is: **Discrete**

Characteristics: The wetlands are generally abutting the ephemeral stream and perennial rerouted stream.

Subsurface flow: **Yes**. Explain findings: Soils are sandy and obvious subsurface flow exists.

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: wetlands are a mosaic within relatively large mounds and depressions but a depression consistent with the wetland connects directly to an ephemeral stream.

Ecological connection. Explain: Physical, chemical, and biological connections directly and indirectly exist.

Separated by berm/barrier. Explain: Where Ephemeral Stream W connects to off-site rerouted stream, a man made berm separates direct flow but the soils are sandy and wetland start creating a direct connection.

(d) Proximity (Relationship) to TNW

Project wetlands are **1-2** river miles from TNW.

Project waters are **1 (or less)** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters**.

Estimate approximate location of wetland as within the **100 - 500-year** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Where there was water, it was typically pooled and clear. Surface and soil saturation with sediment deposits in PFO.

Identify specific pollutants, if known:

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain: PFO has greater than 75% cover in most places. PEM has greater than 75% cover in most places.

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings: Multiple species of frogs and toads seen on site as well tadpoles in most pools.

Aquatic/wildlife diversity. Explain findings: Plant diversity was high in PEM and relatively low in PFO, multiple species of snakes, frogs, toads, birds, insects, small to large mammal tracks (deer, pig, skunk, armadillo, racoon, and others), crayfish, fish, and other species.

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **8**

Approximately (>500) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Wetland G N	0.08	Wetland AK Y	0.03
Wetland H N	1.02	Wetland AL Y	0.05
Wetland AC Y	0.19	Wetland AU Y	0.08
Wetland AJ Y	1.64		

Summarize overall biological, chemical and physical functions being performed: These wetlands intercept overland sheetflow, direct rainfall, and ground water which is filtered by the wetlands as it makes its way into the Tributary to Sabine River, thereby reducing its velocity and erosional potential. The wetlands may also sequester chemical pollutants, regulate water temperature, reduce siltation, and provide adequate spawning areas for aquatic animal species.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

Ephemeral Stream A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, and V carry water after rain events and drain directly into the RPW, Tributary to Sabine River. Thus they share surface hydrology with Tributary to Sabine River. In addition, all of the ephemeral streams are located within the 100-year floodplain of the RPW. Therefore, Ephemeral Stream A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, and V demonstrate a significant nexus to the RPW.

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Ephemeral Stream W, X, and Y flow into a man-made drainage before eventually flowing into Tributary to Sabine River. Therefore, they have a discrete surface hydrological connection to the RPW, Tributary to Sabine River. There are 2.59 acres of wetlands adjacent to these streams. Wetlands AJ, AL, and AN are adjacent to Ephemeral Stream W. Wetland AU is adjacent to Ephemeral Stream Y. Wetland AK is adjacent to Ephemeral Stream X. Ephemeral Streams W, X, and Y share a surface hydrologic connection with the Tributary to Sabine River. Therefore, these adjacent wetlands possess a significant nexus to downstream WOTUS. This significant nexus may be demonstrated by the wetlands feeding surface water runoff into the ephemeral streams during rain, their sequestering of chemical pollutants, and their support of aquatic habitat for small reptiles, amphibians, and insects.
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

- TNWs: linear feet width (ft), Or, acres.
 Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:

Tributary to Sabine River and Oxbows A and B were carrying 1-3 feet of water at the time of the site visits. The site visits were conducted during different seasons, and the flow of water was observed to be not dependent on recent rain events.

- Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Intermittent Streams A and B were carrying shallow water at the time of the site visits. There are various dry spots within the streams' channel where water ceases to flow. During site visits that were conducted immediately after rain events, the streams were carrying higher levels of water.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: **14,835** linear feet **5** width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters: .

3. Non-RPWs⁸ that flow directly or indirectly into TNWs.

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: **9,595** linear feet **1.5** width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

- Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **1.29** acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

⁸See Footnote # 3.

Provide estimates for jurisdictional wetlands in the review area: **2.59** acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: .
- Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters: .
- Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - Prior to the Jan 2001 Supreme Court decision in “*SWANCC*,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: .
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name:

Historical and Modern USGS Topographic Maps

Date	Scale	Quadrangle	Name
1983	1:24,000		7.5' Galloway, Texas
2016	1:24,000		7.5' Galloway, Texas

- USDA Natural Resources Conservation Service Soil Survey. Citation: Soil Survey of Panola County, TX (August 1976).
- National wetlands inventory map(s). Cite name: Galloway, TX Quadrangle.
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
- or Other (Name & Date):

Historic and Modern Aerial Orthoimagery

Date	Imagery Type	Source
1995	Infrared	Google Earth
2004	Infrared	Google Earth
2008	Color	Google Earth
2012	Color	Google Earth
2018	Color	Google Earth

- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): The site falls within an unincorporated area on the FEMA Flood Rate Insurance Map. To identify the 100-year floodplain, a base floodplain elevation survey was conducted by JG Rodriguez Engineering, LLC.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

The USACE visited the site twice and extensively viewed nearly the entire site greater than 500 acres. There are WOUS connected to the surface tributary system and other aquatic features that are isolated from a surface connection by their landscape position. See Attached.