



**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): 1/15/2021
 ORM Number: SWF-2020-00439
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Texas City: N/A County/Parish/Borough: Houston
 Center Coordinates of Review Area: Latitude N 31.239493° Longitude W 95.581585°

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-2020-00439 (isolated depressional emergent wetland)	0.023	acre(s)	(b)(1) Non-adjacent wetland.	Project information provided by the consultant and supporting data indicate that the depressional emergent wetland is isolated and exists within upland. The wetland is not hydrologically connected to the nearest stream (unnamed tributary to Big Creek, approximately 300 feet away), i.e., the wetland is not inundated from flooding from the tributary to Big Creek and a channel connecting the wetland to the tributary to Big Creek does not exist. The Corps has determined that the impoundment meets the criteria of a (b)(1) excluded, non-adjacent wetland.

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: [Reference documents within the electronic project file provided by Terracon Consultants, Inc.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Google Earth Imagery and HistoricAerials.com, Numerous Years. Photographs provided by Terracon \(attached and within electronic file\).](#)
- Corps site visit(s) conducted on: [Date\(s\)](#).
- 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: [ESRI Managed Imagery \(SWF Regulatory Viewer\), January 15, 2021](#)
- USGS topographic maps: [Pearsons Chapel, TX 1:24,000](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	SWF Regulatory Viewer, January 15, 2021
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.

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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Data Source (select)	Name and/or date and other relevant information
FEMA/FIRM maps	SWF Regulatory Viewer, January 15, 2021

B. Typical year assessment(s): [N/A](#)

C. Additional comments to support AJD: [Enclosures include location map and photographs provided by Terracon.](#)

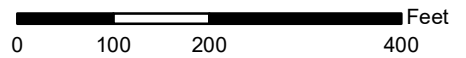


Legend

- Study Area
- DATA POINT
- REFERENCE PHOTO POINT

EMERGENT WETLAND

0.0226-ACRE



DATA SOURCES: Hecate Energy, LLC, Mustang Prairie, LLC, TNRI, ESRI WMS - World Aerial Imagery, OpenStreetMap, FEMA NFHL 48 effective 1/26/2019, Service Layer Credits: © 2020 Microsoft Corporation ©

Project No.:	9419P104
Date:	Jun 2020
Drawn By:	NRM
Reviewed By:	TVC



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Delineation Map
<p>Hecate Energy Mustang Prairie, LLC East Texas Electric Cooperative Portfolio State Highway 21 Crockett, Houston County, Texas (31.238742 N, -95.581068 W)</p>

Exhibit
3



DP3 looking north.



DP3 looking east.



DP3 looking south.



DP3 looking west.



DP3 soil profile.