



**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): 11/10/2020

ORM Number: SWF-2020-00474

Associated JDs: NA

Review Area Location<sup>1</sup>: State/Territory: Texas City: Ennis County/Parish/Borough: Ellis

Center Coordinates of Review Area: Latitude 32.314586 Longitude -96.598178

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

§ 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): <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.

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.

<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.



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**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 A	0.02	acre(s)	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	Wetland A appears to lack an apparent hydrologic connection to Walker Creek, a Water of the United States (WOTUS). This area appears to have been created as excavated pits presumably for soil/clay removal, which appeared on aerial photographs between 1953 and 1960.
Wetland B	0.01	acre(s)	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	Wetland B appears to lack an apparent hydrologic connection to Walker Creek, a Water of the United States (WOTUS). This area appears to have been created as excavated pits presumably for soil/clay removal, which appeared on aerial photographs between 1953 and 1960.
Wetland C	0.02	acre(s)	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This water-filled depression appears to have been created as excavated pits presumably for soil/clay removal, which appeared on aerial photographs between 1953 and 1960. Between 1995 and 2005, the surface impoundment that contains Wetland C was filled in, which is evident in the soil profile.

**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.

<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.



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- Information submitted by, or on behalf of, the applicant/consultant: [Braun Intertec Corporation submitting Wetland Delineation Report on behalf of Michaels Development on October 30, 2020](#)  
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: [Aerial: Agriculture and Soil Conservation Service, 1942. Army Mapping Service, 1953. US Geological Survey, 1960. US Department of Agriculture, 1964. Texas Department of Transportation, 1976. National High Altitude Photography, 1981. US Geological Survey, 1995. National Agriculture Information Program, 2004-2006, 2008, 2010, 2012, 2014, 2016, and 2018-2019.](#)
- 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: [United State Department of Agriculture, Natural Resources Coservation Service, Web Soil Survey – Ellis County, Texas: <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>. Accessed on September 15, 2020.](#)
- USFWS NWI maps: [USFWS, NWI, 2019. Accessed on September 15, 2020.](#)
- USGS topographic maps: [Ennis, 1956. Ennis East, 1962, 1978, and 2016.](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">Natural Resources Conservation Service (NRCS). 2020. WETS data. Accessed on September 15, 2020.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Federal Emergency Management Agency (FEMA). 2020. Federal Insurance Rate Maps (FIRMs) – Map # 48139C0380F. Accessed October 15, 2020.</a>

**B. Typical year assessment(s):** Board of Water & Soil Resources (BWSR) methodology and data from the NRCS National Water and Climate Center – Bardwell Dam, TX weather station, which was the closest station to obtain WETS data, were used to evaluate precipitation during the preceding months of the field investigation. A precipitation accumulation curve for the preceding six months shows that Bardwell Dam has experienced higher than normal precipitation during this time. Precipitation curves are attached for additional review.

**C. Additional comments to support AJD:** A wetland delineation was conducted within the project area for Michaels Development in the city of Ennis, Ellis County, Texas. The wetland delineation resulted in identification of three aquatic features, which did not meet the definition of waters of the U.S. (Wetland A, Wetland B, and Wetland C). These three areas meet the definition of (b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel. Additionally, the excavated areas associated with Wetland A and Wetland B were off-Site and were not visible on aerial imagery until 1960 and topographic maps until 1956. Wetland C was also not visible on aerial imagery until 1960 and topographic maps until 1956. Excavated areas have since been back-filled between 1995 and 2005.