



**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): 7/14/2021

ORM Number: SWG-2007-01623

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas City: Port Aransas County/Parish/Borough: Nueces

Center Coordinates of Review Area: Latitude 27.795093 Longitude -97.090651

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
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
WET01	0.18	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET02	0.19	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET03	0.02	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET04	1.06	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET05	0.47	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET06	0.75	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.

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	
WET07	0.25	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET08	2.24	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET09	0.73	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET10	0.18	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WET11	0.24	acre(s)	(b)(1) Non-adjacent wetland.	It is a palustrine emergent wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
WB01	1.05	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature is an artificial pond that was constructed or excavated wholly in uplands and functions to store water. This feature does not contribute flow to jurisdictional waters in a typical year. This feature was observed to be a man-made excavated pond coincident with the construction of a golf course in the Review Area.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WB02	3.58	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature is an artificial pond that was constructed or excavated wholly in uplands and functions to store water. This feature does not contribute flow to jurisdictional waters in a typical year. This feature was observed to be a man-made excavated pond coincident with the construction of a golf course in the Review Area.
WB03	3.91	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature is an artificial pond that was constructed or excavated wholly in uplands and functions to store water. This feature does not contribute flow to jurisdictional waters in a typical year. This feature was observed to be a man-made excavated pond coincident with the construction of a golf course in the Review Area.
WB04	2.92	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature is an artificial pond that was constructed or excavated wholly in uplands and functions to store water. This feature does not contribute flow to jurisdictional waters in a typical year. This feature was observed to be a man-made excavated pond coincident with the construction of a golf course in the Review Area.
WB05	1.31	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an	This feature is an artificial pond that was constructed or excavated wholly in uplands and functions to store water. This feature does not contribute flow to jurisdictional waters in a typical year. This feature was observed to be a man-made excavated pond coincident with the construction of a golf course in the Review Area.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
		impoundment of a jurisdictional water that meets (c)(6).		
WB06	1.14	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature is an artificial pond that was constructed or excavated wholly in uplands and functions to store water. This feature does not contribute flow to jurisdictional waters in a typical year. This feature was observed to be a man-made excavated pond coincident with the construction of a golf course in the Review Area.
WB07	2.20	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature is an artificial pond that was constructed or excavated wholly in uplands and functions to store water. This feature does not contribute flow to jurisdictional waters in a typical year. This feature was observed to be a man-made excavated lake coincident with the construction of a neighboring canal subdivision.

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: [SWCA Environmental Consultants, 11 Dec 2020](#)

This information **is and is not** sufficient for purposes of this AJD.

Rationale: [Site visit needed to verify delineation](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- ☒ Photographs: [Aerial: Google Earth, 03/31/2006, 04/27/2008, 01/31/2020](#)
- ☒ Corps site visit(s) conducted on: [05/05/2021](#)
- ☒ Previous Jurisdictional Determinations (AJDs or PJDs): [SWG-2007-01623, 15 April 2008](#)
- ☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- ☒ USDA NRCS Soil Survey: [Soil Survey Nueces County, Texas. Series 1960, No. 9A](#)
- ☒ USFWS NWI maps: [Wetland Mapper accessed 13 July 2021](#)



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☒ USGS topographic maps: [Port Aransas, Texas; 2016](#)

Other data sources used to aid in this determination:

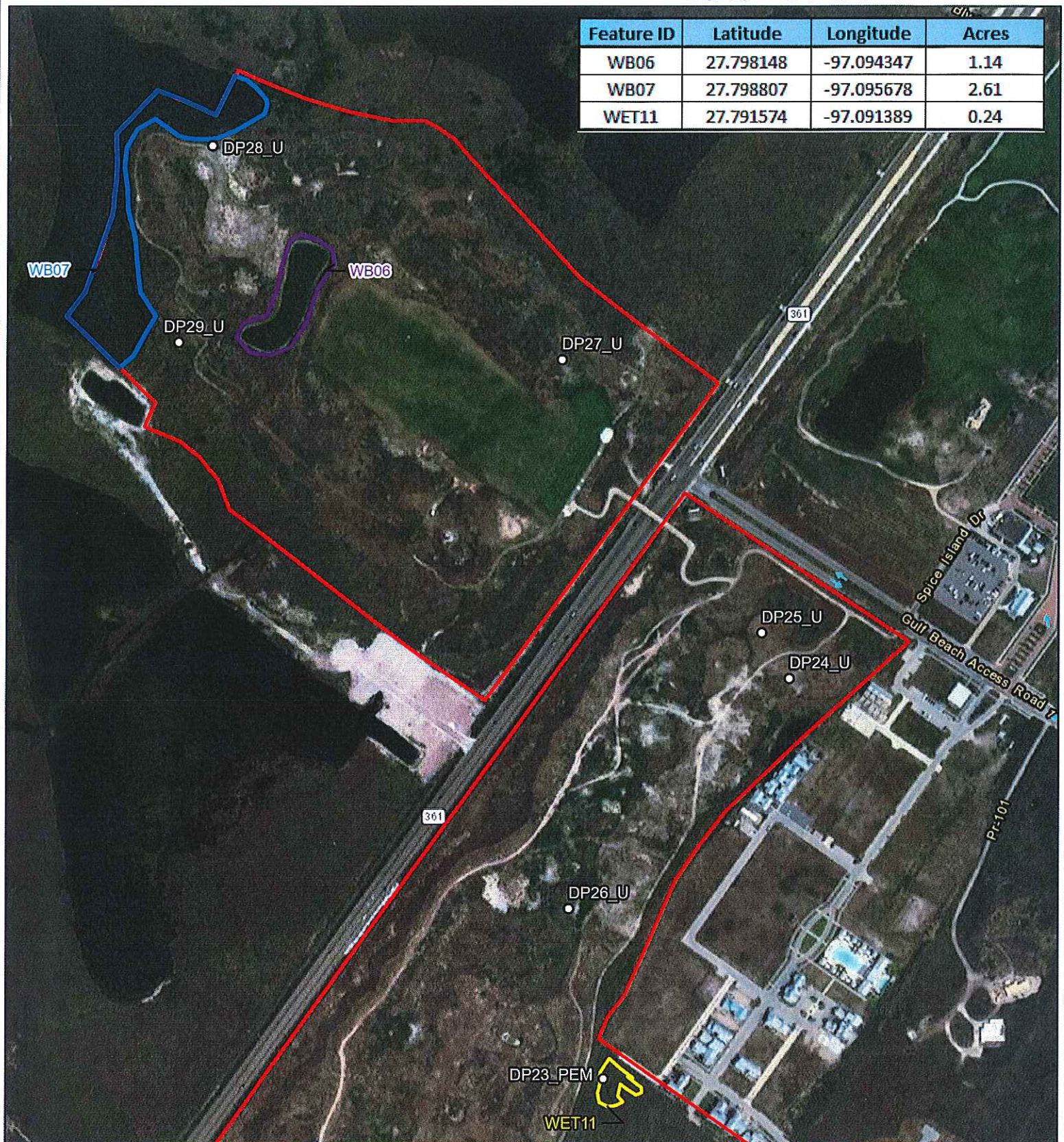
Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A
USDA Sources	N/A
Other NOAA data (specify)	NOAA Packery Channel Tidal Gauge (8775792), ref. 25 March 2021 for maximum monthly tidal readings available from 2012 to 2020 (extent of available data). Elevation in meters (NAVD88), approximately 0.65 mile east of the review area.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
FEMA/FIRM maps	No. 4854980005F, 09/30/1992

B. Typical year assessment(s): Per NOAA's closest tidal gauge at Packery Channel (an inlet to Corpus Christi Bay), the Mean Monthly Maximum Tide (October receiving the highest reading) measured at Packery Channel Tidal Gauge (8775792) between 2012 and 2020 (range of available data), is 0.777 meter (2.55 feet) NAVD88, approximately 2.50 feet lower than the lowest portion of the delineated wetlands in the review area. Therefore, the wetlands on the project site are at a minimum of 2.50 feet above the average highest tides of the year and do not get inundated from the Gulf of Mexico in a typical year.

The results of the review of the NOAA tidal data aided in reaching the conclusion needed to verify if the subject wetland features were not adjacent to a (a)1-(a)3 water in a typical year. Non-adjacency was verified based on field observations, current and historical data (aerial photography and USGS topographic maps), ORM data, and NWI maps.

C. Additional comments to support AJD: Per the available Google Earth elevation data, the lowest portion of the 218-acre review area within a wetland sits at an elevation of 5.0 feet, which is higher than the Mean Monthly Maximum Tide (October receiving the highest reading) measured at NOAA's Packery Channel Tidal Gauge (8775792) using all data from the last 18.5 years (readings from 2012 – 2020 were all that were available). The source of hydrology for these wetlands appears to be precipitation runoff from the surrounding area and/or from percolated groundwater associated with a high water table.

Feature ID	Latitude	Longitude	Acres
WB06	27.798148	-97.094347	1.14
WB07	27.798807	-97.095678	2.61
WET11	27.791574	-97.091389	0.24



PALMILLA BEACH
**Aquatic Resources
Delineation Map**
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- Data Point
- Lake
- Pond
- Emergent Wetland
- Jurisdictional Review Area

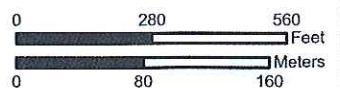
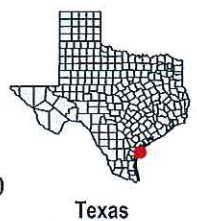
Nueces County, TX
USGS 7.5' Quadrangle:
Port Aransas, TX, 27097-G1

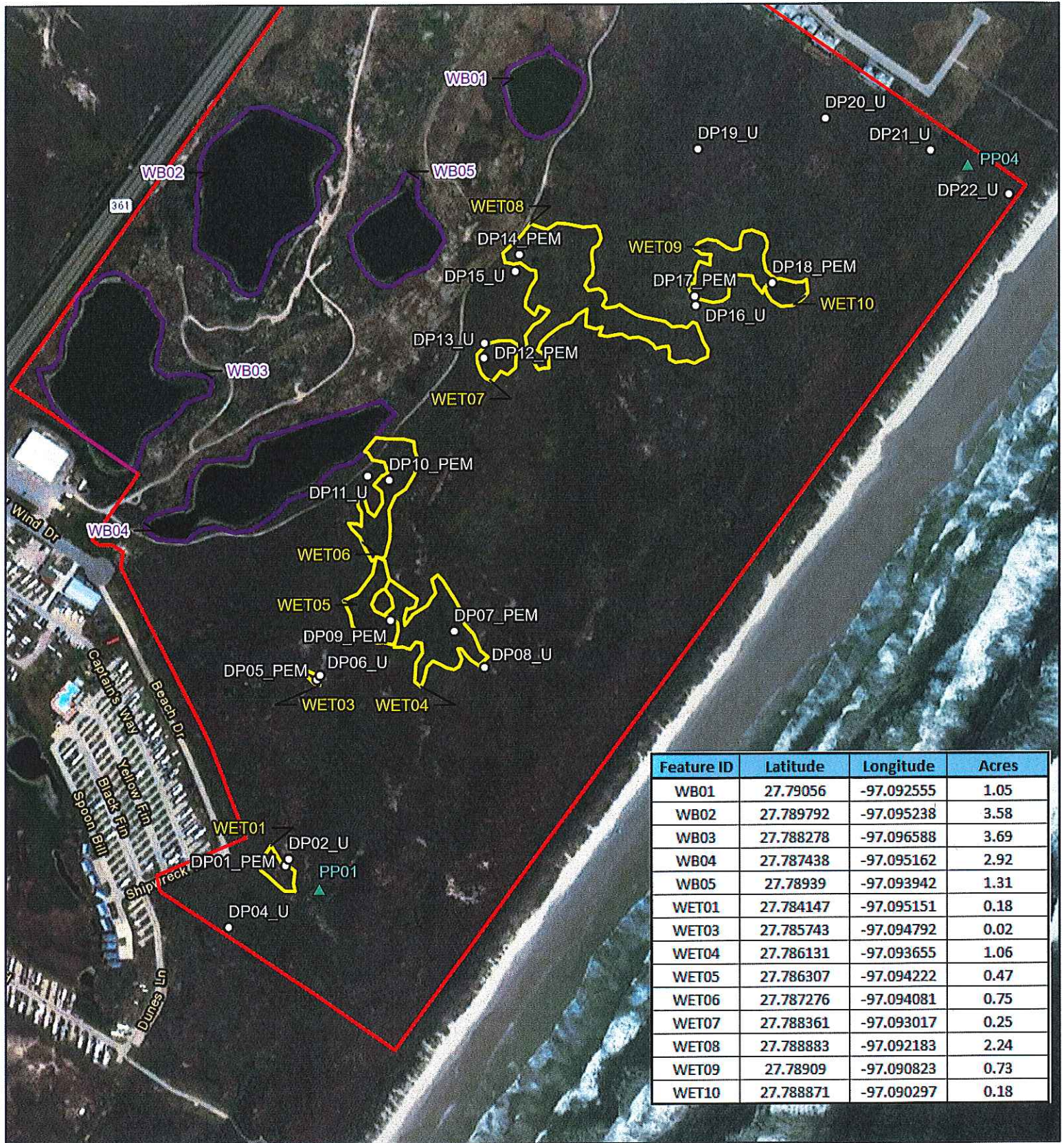
NAD 1983 UTM Zone 14N
97.0921°W 27.7958°N

Base Map: ESRI ArcGIS Online,
accessed May 2021

Updated: 5/13/2021
Project No. 63014
File: 63014 Aquatic Results page 1

N
1:6,000





Feature ID	Latitude	Longitude	Acres
WB01	27.79056	-97.092555	1.05
WB02	27.789792	-97.095238	3.58
WB03	27.788278	-97.096588	3.69
WB04	27.787438	-97.095162	2.92
WB05	27.78939	-97.093942	1.31
WET01	27.784147	-97.095151	0.18
WET03	27.785743	-97.094792	0.02
WET04	27.786131	-97.093655	1.06
WET05	27.786307	-97.094222	0.47
WET06	27.787276	-97.094081	0.75
WET07	27.788361	-97.093017	0.25
WET08	27.788883	-97.092183	2.24
WET09	27.78909	-97.090823	0.73
WET10	27.788871	-97.090297	0.18

PALMILLA BEACH
**Aquatic Resources
Delineation Map**
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- Data Point
- ▲ Photo Point
- ▭ Pond
- ▭ Emergent Wetland
- ▭ Jurisdictional Review Area

Nueces County, TX
USGS 7.5' Quadrangle:
Port Aransas, TX, 27097-G1

NAD 1983 UTM Zone 14N
97.0927°W 27.7866°N

Base Map: ESRI ArcGIS Online,
accessed May 2021

Updated: 5/13/2021
Project No. 63014
File: 63014 Aquatic Results page 2

N
1:6,000

