

**DRY LAND APPROVED JURISDICTIONAL DETERMINATION FORM<sup>1</sup>**  
**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): January 25, 2018**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Galveston District, SWG-2017-00740, Robert Guerra**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Texas County/parish/borough: Starr City: New Falcon  
Center coordinates of site (lat/long in degree decimal format): Lat. 26.610055 °, Long. 99.110444 °  
Universal Transverse Mercator: 14 N, 2943251.19N, 489004.73 E

Name of nearest waterbody: Falcon Reservoir

Name of watershed or Hydrologic Unit Code (HUC): 13080003, International Falcon Reservoir watershed

- Check if map/diagram of review area is 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: January 25, 2018
- Field Determination. Date(s): [Click here to enter a date.](#)

**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.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There are **no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**SECTION III: 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: Submitted by Energy Renewal Partners on 4 Dec 2017
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: [Click here to enter text.](#)
- U.S. Geological Survey Hydrologic Atlas: [Click here to enter text.](#)
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000; Salineno, TX
- USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS Web Soil Survey
- National wetlands inventory map(s). Cite name: USFWS NWI Web Mapper
- State/Local wetland inventory map(s): [Click here to enter text.](#)
- FEMA/FIRM maps: [Click here to enter text.](#)
- 100-year Floodplain Elevation is: [Click here to enter text.](#) (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Google Earth Aerial Imagery Dated 20 Jan 2017
- or  Other (Name & Date): Photographs taken by ERP
- Previous determination(s). File no. and date of response letter: [Click here to enter text.](#)
- Applicable/supporting case law: [Click here to enter text.](#)
- Applicable/supporting scientific literature: [Click here to enter text.](#)
- Other information (please specify): [Click here to enter text.](#)

**B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD. EXPLAIN RATIONALE FOR DETERMINATION THAT THE REVIEW AREA ONLY INCLUDES DRY LAND:**

The review area is located outside of the FEMA 100-year floodplain and does not have a confined hydrological surface connection to any water of the United States. There are no stream features observed by the agent in the field such as an ordinary high water mark or bed and bank features within the review area. According to the Jurisdiction Determination Form Instructional Guidebook (Guidebook) on page 16, swale or erosional features are characterized by low volume, infrequent, or short duration flow. There is a slight dip in the gradient and evidence of a washout area which indicates a swale. There are no indications that this area has flow year-round or continuous flow at least "seasonally." This area would carry overland sheet flow during a rain event and not have flow that is confined to a

<sup>1</sup> This form is for use only in recording approved JDs involving dry land. It extracts the relevant elements of the longer approved JD form in use since 2007 for aquatic areas and adds no new fields.

channel. The review area is likely a headwater/swale where overland sheet flow begins to accumulate, but not enough to exhibit features of a stream. The gradient of the review area is less than 1%, resulting in this area being very flat. The Guidebook supports the above statements by stating on page 38, "Swales are generally shallow features in the landscape that may convey water across upland areas during and following storm events. Swales usually occur on nearly flat slopes and typically have grass or other low-lying vegetation throughout the swale." This headwater/swale has no adjacent wetlands and would not have a significant effect on the chemical, physical, and biological integrity of the lower elevation traditional navigable waters.

Outside of the review area, further downslope towards Falcon reservoir, OHWM features and bed and bank features were observed. The nearest year-round flowing stream is 1.6 miles southwest. There is an existing dirt road that transects part of the review area that has created a man-made disturbance to this portion of the review area. As such, the review area is not a jurisdictional water of the United States subject to Section 404 of the Clean Water Act.