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): 5/11/2021
ORM Number: SWG-2018-00899
Associated JDs: N/A
Review Area Location[1]: State/Territory: Texas City: Freeport County/Parish/Borough: Brazoria
Center Coordinates of Review Area: Latitude 29.044269 Longitude -95.162457

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.	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.	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.	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.	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.	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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Wetland 1	0.143	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 neither abuts an (a)(1 - 3) water, nor is located in a landscape position that would be flooded/inundated by an (a)(1 - 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 (0.25 meter higher than highest tide and fore/primary dunes).
Wetland 2	0.014	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 neither abuts an (a)(1 - 3) water, nor is located in a landscape position that would be flooded/inundated by an (a)(1 - 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 (0.25 meter higher than highest tide and fore/primary dunes).
Wetland 3	0.019	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 3 neither abuts an (a)(1 - 3) water, nor is located in a landscape position that would be flooded/inundated by an (a)(1 - 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 (0.24 meter higher than highest tide and fore/primary dunes).

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: Title(s) and date(s)
This information Select. sufficient for purposes of this AJD.
Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

☐ Data sheets prepared by the Corps: 23 February 2021 site visit.

☒ Photographs: Aerial and Other: 23 February 2021 site visit photos; Google Earth aerial imagery (1974-2018); National Geospatial-Intelligence Agency (NGA), Global Enhanced Geographic Intelligence (GEOINT) Delivery (G-EGD), Digital Globe High Resolution Near Color Aerial Imagery (5 October 2018, 14 December 2019, 8 February 2020, 28 February 2020).

☒ Corps site visit(s) conducted on: 23 February 2021

☐ 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: Title(s) and/or date(s).

☐ USGS topographic maps: Title(s) and/or date(s).

[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.

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.
NOAA Sources	Center for Operational Oceanographic Products and Services (CO-OPS), National Water Level Observation Network (NWLON) - https://tidesandcurrents.noaa.gov/map/index.html
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Texas Water Development Board (TWDB), Texas Strategic Mapping (StratMap), 2018 Light Detection and Ranging (LiDAR), 0.5-Meter Bare Earth Digital Elevation Model (DEM).

B. Typical year assessment(s): The five closest NOAA tide stations to the subject site are San Luis Pass (8771972), Galveston Railroad Bridge (8771486), Pier 21 (8771450), Freeport SPIP - Freeport Harbor (8772471), and Sargent (8772985). Data from each station was collected for the contemporary tidal epoch (18.6 years) between 2001 and 2020. All stations were active, however only Pier 21 has data data for the full tidal epoch.
- The San Luis Pass tide station, located at the southwest end of Galveston Island, has been active since 2015.
- The The Galveston Railroad Bridge tide station, located at the Galveston Causeway, has been active since 2013.
- The Pier 21 tide station, located in the Galveston Ship Channel, was out of service in September 2008 from Hurricane Ike.
- The Freeport SPIP – Freeport Harbor tide station, located at the Freeport North Jetty, has been active since 2016.
- The Sargent tide station, located located near the west bank of the Intracoastal Water Way (ICWW) at the Sargent Beach bridge, has been active since 2016.

The monthly high (maximum) tides were averaged to obtain the highest water levels to determine areas that would be inundated by flooding by a nearby tidal water in a typical year. At all tide stations the highest tide elevation, based on the monthly average, occurred in October which normally does not have many tropical storm systems. The October average high tide elevation in meters (NAVD88) for each station are as follows: San Luis Pass +1.03; Galveston Railroad Bridge +0.94; Freeport SPIP +0.967; Sargent +0.967; and Pier 21 +0.869. The range of high tide elevations is 0.162 meters [0.53 feet (6.36 inches)]. According to the latest LiDAR data, the lowest elevation within the subject site is 1.275 meters NAVD88, which is 0.172 meters (0.56 feet) above the highest high tide average. In addition, the subject site wetland is separated from the Gulf of Mexico by a series of two tidal dunes. Therefore, the subject site wetland is separated from the Gulf of Mexico by two barriers (elevation and dunes) and is not subject to inundation in a typical year.

C. Additional comments to support AJD: We verified three (3) depressional herbaceous wetlands within the subject site. The subject site wetland neither abuts a navigable water, a jurisdictional tributary, or a jurisdictional lake, pond or impoundment; nor is inundated by flooding from a navigable water, a jurisdictional tributary, or a jurisdictional lake, pond or impoundment in a typical year; nor is physically separated from a navigable water, a jurisdictional tributary, or a jurisdictional lake, pond or impoundment by

a single natural berm, dune or similar feature; nor is physically separated from a navigable water, a jurisdictional tributary, or a jurisdictional lake, pond or impoundment by an artificial structure that allows direct surface hydrologic flow between the wetlands and the Gulf of Mexico.