



**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): 6/22/2021

ORM Number: SWG 2019-00263

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 29.032546 Longitude -95.297871

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

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
Open Water 1	0.003	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Open Water 1 is part of Salt Bayou. Salt Bayou has a surface water connection to and is a tributary of Salt Lake, Nick's Lake, Nick's Bayou, and the Gulf Intracoastal Waterway, all navigable waters on the District's Section 10 list. Salt bayou is lined with saltwater cord grass ( <i>Spartina alterniflora</i> – OBL) which is a perennial grass found in intertidal (area of seashore covered at high tide and uncovered at low tide) wetlands. Therefore, Open Water 1 is subject to the daily tide and is a navigable water.
Open Water 2	1.730	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Open Water 2 is part of Salt Bayou. Salt Bayou has a surface water connection to and is a tributary of Salt Lake, Nick's Lake, Nick's Bayou, and the Gulf Intracoastal Waterway, all navigable waters on the District's Section 10 list. Salt bayou is lined with saltwater cord grass ( <i>Spartina alterniflora</i> – OBL) which is a perennial grass found in intertidal (area of seashore covered at high tide and uncovered at low tide) wetlands. Therefore, Open Water 2 is subject to the daily tide and is a navigable water.
Open Water 3	0.182	acre(s)	RHA Tidal water is subject to the	Open Water 3 is part of Salt Bayou. Salt Bayou has a surface water connection to and is a tributary of Salt Lake, Nick's Lake, Nick's Bayou, and the Gulf

<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.



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§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
			ebb and flow of the tide	Intracoastal Waterway, all navigable waters on the District's Section 10 list. Salt bayou is lined with saltwater cord grass ( <i>Spartina alterniflora</i> – OBL) which is a perennial grass found in intertidal (area of seashore covered at high tide and uncovered at low tide) wetlands. Therefore, Open Water 3 is subject to the daily tide and is a navigable water.
Open Water 4	6.119	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Open Water 4 is part of Salt Bayou. Salt Bayou has a surface water connection to and is a tributary of Salt Lake, Nick's Lake, Nick's Bayou, and the Gulf Intracoastal Waterway, all navigable waters on the District's Section 10 list. Salt bayou is lined with saltwater cord grass ( <i>Spartina alterniflora</i> – OBL) which is a perennial grass found in intertidal (area of seashore covered at high tide and uncovered at low tide) wetlands. Therefore, Open Water 4 is subject to the daily tide and is a navigable water.

**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
Open Water 1	0.003	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Open Water 1 is part of Salt Bayou. Salt Bayou has a surface water connection to and is a tributary of Salt Lake, Nick's Lake, Nick's Bayou, and the Gulf Intracoastal Waterway, all navigable waters on the District's Section 10 list. Salt bayou is lined with saltwater cord grass ( <i>Spartina alterniflora</i> – OBL) which is a perennial grass found in intertidal (area of seashore covered at high tide and uncovered at low tide) wetlands. Therefore, Open Water 1 is subject to the daily tide and is a navigable water.
Open Water 2	1.730	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Open Water 2 is part of Salt Bayou. Salt Bayou has a surface water connection to and is a tributary of Salt Lake, Nick's Lake, Nick's Bayou, and the Gulf Intracoastal Waterway, all navigable waters on the District's Section 10 list. Salt bayou is lined with saltwater cord grass ( <i>Spartina alterniflora</i> – OBL) which is a perennial grass found in intertidal (area of seashore

<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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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	
			covered at high tide and uncovered at low tide) wetlands. Therefore, Open Water 2 is subject to the daily tide and is a navigable water.	
Open Water 3	0.182	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Open Water 3 is part of Salt Bayou. Salt Bayou has a surface water connection to and is a tributary of Salt Lake, Nick's Lake, Nick's Bayou, and the Gulf Intracoastal Waterway, all navigable waters on the District's Section 10 list. Salt bayou is lined with saltwater cord grass (Spartina alterniflora – OBL) which is a perennial grass found in intertidal (area of seashore covered at high tide and uncovered at low tide) wetlands. Therefore, Open Water 3 is subject to the daily tide and is a navigable water.
Open Water 4	6.119	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Open Water 4 is part of Salt Bayou. Salt Bayou has a surface water connection to and is a tributary of Salt Lake, Nick's Lake, Nick's Bayou, and the Gulf Intracoastal Waterway, all navigable waters on the District's Section 10 list. Salt bayou is lined with saltwater cord grass (Spartina alterniflora – OBL) which is a perennial grass found in intertidal (area of seashore covered at high tide and uncovered at low tide) wetlands. Therefore, Open Water 4 is subject to the daily tide and is a navigable water.

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.	

**D. Excluded Waters or Features**



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Excluded waters ((b)(1) – (b)(12)). <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
Wetland 1	48.51	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying.
Wetland 2	18.64	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying.
Wetland 3	1.31	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying.
Wetland 4	0.003	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying.
Wetland 5	0.47	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying.
Wetland 6	0.45	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying.
Wetland 7	1.60	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying.
Wetland 8	3.61	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying.

### III. SUPPORTING INFORMATION

<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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**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: [Alluvion Resource Company, LLC.](#)  
[31 January 2019](#)

This information [is](#) sufficient for purposes of this AJD.

Rationale:

- ☒ Data sheets prepared by the Corps: [Data Sheet 1, 3 December 2019](#)  
☒ Photographs: [Aerial: Google Earth Aerial Images 1995-2018](#)  
☒ Corps site visit(s) conducted on: [3 December 2019](#)  
☐ 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: [Brazoria County SoilWeb](#)  
☒ USFWS NWI maps: [Brazoria County](#)  
☒ USGS topographic maps: [Oyster Creek, Texas 1943, 2010; and 2019](#)

**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="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">NOAA Tides and Currents Website</a>
<a href="#">USACE Sources</a>	<a href="#">ORM for Historical Review</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">FEMA/FIRM maps</a>	<a href="#">FEMA Flood Map Panel 48039C0645K, Effective 12/30/2020</a>

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

**C. Additional comments to support AJD:** [N/A.](#)