



**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): 4/13/2021

ORM Number: SWG-2020-00633

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 30.021884 Longitude -95.487402

**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	
Stream 2 Cypress Creek	5,367 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 2 is Cypress Creek as a naturally occurring surface water channel that contributes surface water flow to an (a)(1) water in a typical year, is perennial, and flows as such in a typical year. Cypress Creek (a)(2) flows into Spring Creek (a)(2), then San Jacinto River (a)(1) water. Flow regimes were determined based on review of referenced resources listed in sections IIIA and IIIB.	

<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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

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.

**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
Stream 1	465	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	This feature is a shallow ephemeral swale that is only subject to water flow in direct response to precipitation. This feature does not meet the definition of an (a)(1) or (a)(2) water and is not located within an (a)(4) water. This feature does not relocate a tributary nor is it within a tributary. Flow regimes were determined based on review of referenced resources listed in sections IIIA and IIIB.
Wetland 1	0.33	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 is a PEM wetland adjacent to a man-made freshwater pond (Pond 1). The wetland does not exhibit a high-water table and appears to have been excavated in association with nearby construction activities for the creation of Pond 1. This wetland does not abut an (a)(1) – (a)(3) water; is not inundated by flooding from an (a)(1) – (a)(3) water in a typical year; is not physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature; or is not physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure. See the typical year discussion for information on flooding/inundation in a typical year.
Pond 1	0.299	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	Pond 1 was constructed or excavated wholly in upland or in non-jurisdictional waters and it is not an impoundment that meets the conditions of (c) (6). Based on historical topographic maps there is no evidence that the water is an impoundment of a jurisdictional water meeting the conditions of paragraph (c) (6).

<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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
		impoundment of a jurisdictional water that meets (c)(6).		
Pond 2	0.096	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).	Pond 2 was constructed or excavated wholly in upland or in non-jurisdictional waters and it is not an impoundment that meets the conditions of (c) (6). Based on historical topographic maps there is no evidence that the water is an impoundment of a jurisdictional water meeting the conditions of paragraph (c) (6).

### 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: [HCFCD Project ID K500-23-00-E002, July 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

☒ Photographs: [Aerial and Other: Aerials: Ortho 2018, USDA \(2016, 2014, 2012, 2010, 2006, 2005, 2004, 2004\), TXDOT 10-10-1989, USGS 01-23-1995. Site visit photos 06-30-20.](#)

☐ 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: [Lists of Hydric Soils. National List; all states. United States Department of Agriculture. National Resource Conservation Service. Accessed June 2020.](#)

☒ USFWS NWI maps: [Spring, Tx.](#)

☒ USGS topographic maps: [Spring, Texas USGS quadrangle maps, 2013, 1995, 1982, 1960, 1920, 1916](#)

**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="#">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="#">N/A.</a>



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**B. Typical year assessment(s):** In an effort to determine adjacency (as it pertains to hydrologic trends and the subject aquatic resources verified by SWG) an analysis was done using the APT tool, elevation data, aerial imagery & other relevant site-specific information. The APT is a tool that affords the user the capability to look at rainfall at a specific location in the recent past compared to long term precipitation. It provides results for short term precipitation (last 72 hours), the last 3 months (WETS score) and the APT result comparing the last 30 years from numerous nearby gages. It also reports the PDSI (drought index) rainfall & WebWimp water balance/hydrologic seasons information. WETS analysis produces a score between 6 and 18 noting a score of 6-9 is drier than normal, 10-14 is normal & 15-18 is wetter than normal. The APT uses climatic data collected from numerous nearby weather stations and produces the most reliable source for a full 30 years of precipitation data). Here are the long term and short term response for the APT test for aerials & site visit.

Water features were analyzed using APT calculating for agent's site visit date of 30 JUN 2020. The WETS score (last 3 mths) totaled 13 on a scale of 6-18, which indicates that the measurements or observations made are reflective of normal climatic conditions. It uses climatic data collected from numerous nearby weather stations and produces the most reliable source with a full 30 years of precipitation data. The site coordinates are located at an approx. 17.71 ft elevation. Below is the result of numerous dates run for this site.

Date	Rain prior 72 hours	WETS (3 mth) score:	APT	Season	PDSI
30JUN2020 (site visit)	0"	13 (N)	Normal	Dry	Normal
16NOV2019 (google earth)	<1	13 (N)	Normal	Dry	Normal
23FEB2019 (google earth)	0	12 (N)	Normal	Wet	Moderate wet
03DEC2018 (google earth)	<1	12 (N)	Normal	Wet	Moderate wet
30DEC2016	0	9 (D)	Drier than norm	Wet	Mild wetness

The results of the review of the APT analysis aiding in reaching the conclusion needed to determine if the subject feature have more than ephemeral flow and/or are inundated by flooding from a (a)1-(a)3 water in a typical year. Flow regimes were verified based on field observations, current and historical data (aerial photography and USGS topographic maps), ORM data and past actions, and NWI maps.

**C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.