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): 2/12/2021
ORM Number: SWG-2020-00443
Associated JDs: N/A
Review Area Location[1]: State/Territory: Texas City: Beaumont County/Parish/Borough: Jefferson
Center Coordinates of Review Area: Latitude 30.154775 Longitude -94.175687

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)[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	0.17	acre(s)	(b)(1) Non-adjacent wetland.	It is a 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 not separated from an (a)(1)-(a)(3) water by a single natural barrier or a man-made barrier with a culvert or similar structure that allows typical year inundation from Intermittent Tributary 1.
Wetland 2	0.16	acre(s)	(b)(1) Non-adjacent wetland.	It is a 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 not separated from an (a)(1)-(a)(3) water by a single natural barrier or a man-made barrier with a culvert or similar structure that allows typical year inundation from Intermittent Tributary 1.
Wetland 3	5.38	acre(s)	(b)(1) Non-adjacent wetland.	It is a 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 not separated from an (a)(1)-(a)(3) water by a single natural barrier or a man-made barrier with a culvert or similar structure that allows typical year inundation from Intermittent Tributary 1.
Wetland 4	0.005	acre(s)	(b)(1) Non-adjacent wetland.	It is a 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 not separated from an (a)(1)-(a)(3) water by a single natural barrier or a man-made barrier with a culvert or similar structure that allows typical year inundation from Intermittent Tributary 1.

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: Kimley-Horn Associates, Inc. 12 November 2020

This information is sufficient for purposes of this AJD.

Rationale: N/A

[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.

- ☐ Data sheets prepared by the Corps: Title(s) and/or date(s).
- ☒ Photographs: Aerial: Google Earth 1938-2020
- ☐ Corps site visit(s) conducted on: N/A
- ☐ 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: Jefferson County WebSoil Survey
- ☒ USFWS NWI maps: Jefferson County USFWS NWI Map
- ☒ USGS topographic maps: Voth & Beaumont USGS

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Voth (1960 and 1993) and Beaumont (1954 and 1984), Texas Quadrangle Maps
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	ORM for Historical review
State/Local/Tribal Sources	N/A.
FEMA/FIRM maps	FEMA NFHL Panel 48199C0550F Eff 10/6/2010

B. Typical year assessment(s): Kimley-Horn Associates, Inc. conducted a delineation on 19 November 2019. According to the Antecedent Precipitation Tool (APT), the hydrologic conditions on the day of Kimley-Horn's, site visit were wetter than normal (16). Per the USGS maps the site is located at an elevation between 10' & 15'. The parcel is located on Flood plain map 48199C0550F. The entire parcel is located above any mapped flood plain. The NWI does indicated some PFO1A wetlands on a small portion of the subject parcel. The USGS map indicated that there was a historic headwater (non-perrenial flowing) tributary that connects to Pine Island bayou that runs thorugh the site. Per historic aerial review we have noted that this non-perrenial headwater feature was channelized between 1960 & 1984.

None of the identified subject aquatic features are in a contiguous landscape position that would be anticipated to be inundated by flooding by the nearest waters of the U.S. (intermittent trib)Pine Island Bayou) in a typical year. Pine Island Bayou is located appx 1+mile away. The determination regarding potential inundation due to flooding by the nearest waterway is based largely upon site specific information and scientific studies regarding flood plain correlation and elevation information for bankfull and floodplains (e.g. study entitled: Hydrogeomorphological differentiation between floodplains and terraces by: Qina Yan, Toshiki Iwasaki, Andrew Stumpf, Patrick Belmont, Gary Parker & Praveen Kuma.) as well as review of historic site information (including precipitation data) and aerial photos of the site . The study referenced previously revealed that the 10-year flood plain elevation is located in a slightly higher elevation than bank full elevation in riverine systems. Noting per NWPR regulation, that bank full is anticipated to be located within the area that floods in a typical year and as such jurisdictional. Regulation also states that it does not extend to the boundary of the 100-year flood plain. The aquatic resources on this site are located above bank full and the projected 10-year flood plain elevation for this area.

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). Historic and recent aerial photographs do not show that the wetlands being inundated by surface water associated with flooding from any (a)1- (a)3 waters; even when conditions were recorded as wetter than normal. Here are the long term and short term response for the APT test for aerials & site visit.

Date	WETS	APT	Season	PDSI	Preceding 72 hr Rainfall
11 October 1938	10	Below	Wet	Mild drought	<1”
21 February 1989	10	Normal	Wet	Severe drought	<1”
31 October 2006	14	Above	Wet	Moderate Wetness	~9”
13 May 2011	7	Normal	Dry	Severe drought	0
19 November 2019 (Agent Site Visit)	16	Above	Wet	Normal	0
23 November 2019	15	Normal	Wet	Normal	0
15 May 2020	7	Below	Wet	Mild drought	<1”

In review of the aerials, we did not find any photographs depicting indicating any flood waters from the closest (a)1-(a)3 waters would flood the subject site. This included those photos that were taken during Wetter than Normal precipation events. Therefore, using the APT tool in conjunction with review of the historic aerials and data provided, it was determined that the delineated wetlands would not be inundated by flooding from an (a)(1) – (a)(3) water in a typical year.

C. Additional comments to support AJD: N/A

SWG-2020-00443

Entergy Texas, Inc.
Approved Jurisdictional Determination (Wetlands)
Prelimanary Determination (Intermittent Stream)
Beaumont, Jefferson County, Texas

Exhibit

Wetland 1
Wetland 2
Intermittent Stream
Project Boundary
Wetland 3
Project Boundary
Wetland 4
Stanford Dr
Piney Point Ln
Bamboo Ln
Acadia Ln
Postoak Ln
Old Voth Rd
Jody Ln
NE Hwy 69
69
Eastex Fwy
Chinn Ln
Homer Dr
Park N Dr
Springdale Ln
Roadrunner St
Seagull Ln
N
1000 ft
Google Earth
©2021 Google