



**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): 8/20/2021

ORM Number: SWG-2020-00467

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 30.226142 Longitude -94.690777

**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
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.	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.

<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.



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**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
SP2004	1199	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	SP2004 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of SP2004. The ditch is constructed between February and August 2017 based on the Google Earth aerial photos.
SP2005	5954	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	SP2005 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of SP2005. The ditch is visible in the 1995 Google Earth aerial photo.
SP2007	2051	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	SP2007 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of SP2007. The ditch was constructed between June 2005 and May 2008 based on the Google Earth aerial photos.
SP2008	2060	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	SP2008 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of SP2008. The ditch was constructed between June 2005 and May 2008 based on the Google Earth aerial photos.
SP2009	1086	linear feet	(b)(5) Ditch that is not an (a)(1) or	SP2009 is a constructed or excavated channel used to convey water. The ditch does not meet

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			(a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of SP2009. The ditch is visible in the 1995 Google Earth aerial photo.
SP2010	1404	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	SP2010 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of SP2010. The ditch is visible in the 1995 Google Earth aerial photo.
SP1006	2637	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	SP1006 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of SP1006. The ditch is visible in the 1995 Google Earth aerial photo.
SP1007	354	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	SP1007 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of SP1007. The ditch is visible in the 1995 Google Earth aerial photo.
Man-Made Ditch 9	1015	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Man-made Ditch 9 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of Man-made Ditch 9. The ditch is visible in the 1995 Google Earth aerial photo.



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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
Man-Made Ditch 10	463	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Man-Made Ditch 10 is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The ditch does not relocate a tributary nor is it constructed in a tributary. The historic topos do not show any tributaries in the location of Man-Made Ditch 10. The ditch was constructed between October 2014 and December 2015 based on the Google Earth aerial photos.
OWP2001	0.405	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).	This feature is a constructed, or excavated stock pond used for watering cattle on the property. The man-made pond does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The pond is not an impoundment of a jurisdictional water and therefore (c)(6) is irrelevant. Based on the Google Earth aerial photos, the pond was constructed between 1995 and 2005. .

### 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: [TransCanada Keystone Pipeline, LP. 2 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: Google Earth 1995-2018](#)

☐ 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: [Liberty County WebSoil Survey](#)

☒ USFWS NWI maps: [Liberty County USFWS NWI Map](#)

☒ USGS topographic maps: [USGS](#)

**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="#">Liberty 1943 and Hardin (1984, 2010, and 2019), Texas Quadrangle Maps</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>



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Data Source (select)	Name and/or date and other relevant information
<a href="#">NOAA Sources</a>	<a href="#">N/A.</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 NFHL Panel 48199C0450F Eff 10/6/2010</a>

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

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