



**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-2020-00515

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas City: Mont Belvieu County/Parish/Borough: Chambers

Center Coordinates of Review Area: Latitude 29.836091 Longitude -94.912678

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

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.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1A	0.0842	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 separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wetland 1B	0.0204	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 separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wetland 2	0.1086	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 separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wetland 3	0.0898	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 separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wetland 4	0.0478	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 separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wetland 5A	0.0144	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 separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wetland 5B	0.0297	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 separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier

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.



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Ephemeral Stream 1	293	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on a review of the information submitted this is a depressional feature noted in the field however it is not a stream as labeled, but a swale, and only has water present for short duration after rain event. This feature is not depicted on the USGS maps, nor readily seen on any historic aerial photographs (even those pre forest).
Ephemeral Stream 2	110	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on a review of the information submitted this is a depressional feature noted in the field however it is not a stream as labeled, but a swale, and only has water present for short duration after rain event. This feature is not depicted on the USGS maps, nor readily seen on any historic aerial photographs (even those pre forest).

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: [Targa Downstream, LLC., \(Rudy Salazar\), Lloyd Engineering, Inc. 21 July 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

☐ Data sheets prepared by the Corps:

☒ Photographs: [Aerial: Google Earth 1944-2019](#)

☐ Corps site visit(s) conducted on:

☐ Previous Jurisdictional Determinations (AJDs or PJDs):

☒ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

☒ USDA NRCS Soil Survey: [Chambers County WebSoil Survey](#)

☒ USFWS NWI maps: [Mont Belvieu Quad USFWS NWI Map](#)

☒ USGS topographic maps: [Mont Belvieu Quadrangle 1:24,000 Scale, 1961, 1982, 2010, and 2019.](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	
USDA Sources	
NOAA Sources	
USACE Sources	ORM for Historical review
State/Local/Tribal Sources	
FEMA/FIRM maps	FEMA NFHL Panel 48071C0160F Eff 1/19/2018



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B. Typical year assessment(s): None of the subject aquatic features are located in a contiguous landscape position that would be anticipated to be inundated by flooding by the nearest waters of the U.S. (Cedar Bayou) in a typical year. The determination regarding potential inundation due to flooding by the nearest waterway is based largely upon site-specific information and scientific studies regarding floodplain correlation and elevation information for bankfull and floodplains, (Yan, Q., Iwasaki, T., Stumpf, A., Belmont, P., Parker, G., & Kumar, P. (2018). Hydrogeomorphological differentiation between floodplains and terraces. *Earth Surface Processes and Landforms*, 43(1), 218-228.), 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 floodplain 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. NWPR regulation also states that it does not extend to the boundary of the 100-year floodplain. The aquatic resources on this site are all located above the elevation of the 100-year floodplain 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 aeriels & site visit.

Lloyd Engineering, Inc. conducted a wetland delineation on behalf of Targa Downstream, LLC., on 11 October and 17 October 2017. According to the Antecedent Precipitation Tool (APT), the hydrologic conditions on the days of Lloyd Engineering, Inc., site visits were normal (15). In addition, the APT calculated the hydrologic conditions which correlate with the aeriels included in the document review. The results are listed in Table 1.

Date	WETS	APT (30 yr)	Season	PDSI	Preceding 72 hr Rainfall
12 Dec 1943	13	Normal	Wet	Mild wetness	<1"
31 Dec 1952	13	Normal	Wet	Mild drought	<2"
31 Dec 1969	11	Normal	Wet	Mild drought	<1"
1 January 1995	14	Above	Wet	Moderate Wetness	< 3"
18 May 2008	12	Normal	Dry	Mild Drought	~1.5"
3 October 2014	13	Above	Wet	Incipient Drought	<2"
11 October 2017 (Agent Site Visit)	15	Normal	Wet	Extreme Wetness	0
17 October 2017 (Agent Site Visit)	15	Normal	Wet	Extreme Wetness	0
2 October 2019	16	Above	Wet	Severe Wetness	<1"

Therefore, using the APT tool in conjunction with review of the historic aeriels and data provided, it was determined that these subject aquatic resources would not be inundated by flooding from an (a)(1) – (a)(3) water (Cedar Bayou)



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in a typical year. These depressional wetlands are non-jurisdictional waters (b)(1) waters. This is based on site-specific information, federal regulation, scientific and flood plain studies, and a review of aerials. These aquatic features do NOT abut an a)1-a)3 water, NOR would they be inundated by flooding of an a)1-a)3 water in a typical year, NOR are they physically separated from an a)1-a)3 water by a single natural barrier, NOR are they physically separated by an artificial barrier that allows direct surface hydrologic connection between the aquatic feature(s) in review and an a)1-a)3 water in a typical year.

C. Additional comments to support AJD:

SWG-2020-00515

Targa Downstream, LLC.
Approved Jurisdictional Determination
1.43 Miles Northwest of Interstate 10 and State Highway 146
Mont Belvieu, Chambers County, Texas

Exhibit
Google Earth Aerial Image
22 December 2018

