



**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): 3/10/2021

ORM Number: SWG-2020-00710

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas City: Port Aransas County/Parish/Borough: Nueces

Center Coordinates of Review Area: Latitude 27.827264 Longitude -97.056706

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)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.	

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	
EW-1	0.196	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3)	Wetland EW-1 is an interdunal swale that meets all wetland criteria, and that is only separated from the GOM by the primary dune ridge.

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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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
		water only by a natural feature.	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	N/A.	N/A.
EW-2	0.059	acre(s)	(b)(1) Non-adjacent wetland.	EW-2 does not abut an (a)(1)-(a)(3) water, 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. The aerial photos, the USGS Topo Map and the NWI show that EW-8 does not abut the Gulf of Mexico, and also that it is not separated from the Gulf of Mexico by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in a typical year.
EW-3	0.001	acre(s)	(b)(1) Non-adjacent wetland.	EW-3 does not abut an (a)(1)-(a)(3) water, 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. The aerial photos, the USGS Topo Map and the NWI show that EW-8 does not abut the Gulf of Mexico, and also that it is not separated from the Gulf of Mexico by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in a typical year.
EW-4	0.002	acre(s)	(b)(1) Non-adjacent wetland.	EW-4 does not abut an (a)(1)-(a)(3) water, 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. The aerial photos, the USGS Topo Map and the NWI show that EW-8 does not abut the Gulf of Mexico, and also that it is not separated from the Gulf of Mexico by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in a typical year.

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
EW-5	0.006	acre(s)	(b)(1) Non-adjacent wetland.	EW-5 does not abut an (a)(1)-(a)(3) water, 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. The aerial photos, the USGS Topo Map and the NWI show that EW-8 does not abut the Gulf of Mexico, and also that it is not separated from the Gulf of Mexico by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in a typical year.
EW-6	0.002	acre(s)	(b)(1) Non-adjacent wetland.	EW-6 does not abut an (a)(1)-(a)(3) water, 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. The aerial photos, the USGS Topo Map and the NWI show that EW-8 does not abut the Gulf of Mexico, and also that it is not separated from the Gulf of Mexico by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in a typical year.
EW-7	0.050	acre(s)	(b)(1) Non-adjacent wetland.	EW-7 does not abut an (a)(1)-(a)(3) water, 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. The aerial photos, the USGS Topo Map and the NWI show that EW-8 does not abut the Gulf of Mexico, and also that it is not separated from the Gulf of Mexico by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in a typical year.
EW-8	0.013	acre(s)	(b)(1) Non-adjacent wetland.	EW-8 does not abut an (a)(1)-(a)(3) water, 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. The aerial photos, the USGS Topo Map and the NWI show that EW-8 does not abut the Gulf of Mexico, and also that it is not separated from the Gulf of Mexico by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in a typical year.



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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: [Belaire Environmental, Inc., 24 Sep 2020](#)

This information [is and is not](#) sufficient for purposes of this AJD.

Rationale: [site visit required for verification of delineation](#)

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

☒ Photographs: [Aerial and Other: Google Earth 31 Jan 2020; USDA IR aerial 1 Jan 1995; Corps Site Visit 2 Nov 2020; BEI site visit 3 Sep 2020](#)

☒ Corps site visit(s) conducted on: [2 Nov 2020](#)

☐ 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: [Custom Soil Resource Report for Nueces County, Texas, accessed 1 Sep 2020](#)

☒ USFWS NWI maps: [Wetland Mapper, accessed 3 Nov 2020](#)

☒ USGS topographic maps: [Port Aransas, Texas, 2016](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Port Aransas, TX topo map
USDA Sources	Infra-red aerial 8281-72, 1 Jan 1995
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	Texas Coastal Ocean Observation Network (TCOON) Aransas, Aransas Pass Tidal Gauge (8775241), ref. 4 NOV 2020. Elevation in Meters (NAVD88)
Other Sources	N/A.

B. Typical year assessment(s): The wetlands are located on Mustang Island, which is surrounded by tidal waters, specifically, the Gulf of Mexico (GOM), Corpus Christi Bay, and the Corpus Christi Ship Channel (CCSC). The closest TCOON tidal gauge to the review area is at Aransas, Aransas Pass (CCSC entrance from the GOM) on Mustang Island. The monthly high tides were averaged to obtain the highest water levels of the four years of available data to determine areas that would be inundated by flooding by the nearby GOM in a typical year. The highest tide elevation, based on the monthly average, occurred in October, which normally does not have many tropical storm systems, at the tide station. The October average for the Aransas, Aransas Pass station was +0.689 meter (2.26-foot) NAVD88, approximately 0.625 meter (2.05-foot) lower than the lowest portion of the non-adjacent wetlands; and therefore, the GOM is not a source for inundation in a typical year.

C. Additional comments to support AJD: Google Earth aerial photography from 31 Jan 2020 shows the Review Area (RA) enclosed by residential development acting as artificial barriers on the north, south, and west sides of the RA. The south side is separated from the GOM by an unbroken primary dune ridge and stabilized secondary ridges. EW-1 is located between the primary and secondary dune ridges, while EW-2 through EW-8 are behind the primary and secondary dune ridges. Google Earth indicates that the



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elevations of the depressional areas EW-2 through EW-8 within the Review Area are above the highest annual high tide elevation of the GOM