



**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): 8/24/2021

ORM Number: SWG-2021-00206

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 28.720574 Longitude -96.458495

**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.	

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	
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
Water 1	0.08	acre(s)	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Water 1 flows into Water 2. Water 2 does not exhibit a bed and bank nor an ordinary high water mark south of the confluence of Water 1 and Water 2; therefore, Water 2 does not contribute surface water flow to a paragraph (a)(1) water, Keller's Creek, either directly or through one or more paragraph (a)(2) through (a)(4) waters in a typical year, and as such, does not meet the paragraph (a)(2) tributary definition.
Water 2	0.30	acre(s)	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Water 2 does not exhibit a bed and bank nor an ordinary high water mark south of the confluence of Water 1 and Water 2; therefore, Water 2 does not contribute surface water flow to a paragraph (a)(1) water, Keller's Creek, either directly or through one or more paragraph (a)(2) through (a)(4) waters in a typical year, and as such, does not meet the definition of a tributary.
Wetland 1	0.03	acre(s)	(b)(1) Non-adjacent wetland.	This wetland 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", nor is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier. The aerial photos and the Topo Maps show that this wetland does not abut Keller's Creek. The aerials and topo also show that this wetland is not separated from Keller's Creek by a single natural or artificial barrier. The FEMA FIRM shows the wetland is above the 100-year floodplain of Keller's Creek.
Wetland 2	0.64	acre(s)	(b)(1) Non-adjacent wetland.	This wetland 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", nor is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier. The aerial photos and the Topo Maps show that this wetland does not abut Keller's Creek. The aerials and topo also show that this wetland is not separated from Keller's Creek by a single natural or artificial barrier. The FEMA FIRM shows the wetland is above the 100-year floodplain of Keller's Creek.

<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	
Wetland 3	0.61	acre(s)	(b)(1) Non-adjacent wetland.	This wetland 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”, nor is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier. The aerial photos and the Topo Maps show that this wetland does not abut Keller’s Creek. The aerials and topo also show that this wetland is not separated from Keller’s Creek by a single natural or artificial barrier. The FEMA FIRM shows the wetland is above the 100-year floodplain of Keller’s Creek.
Wetland 4	0.23	acre(s)	(b)(1) Non-adjacent wetland.	This wetland 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”, nor is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier. The aerial photos and the Topo Maps show that this wetland does not abut Keller’s Creek. The aerials and topo also show that this wetland is not separated from Keller’s Creek by a single natural or artificial barrier. The FEMA FIRM shows the wetland is above the 100-year floodplain of Keller’s Creek.
Wetland 5	0.05	acre(s)	(b)(1) Non-adjacent wetland.	This wetland 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”, nor is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier. The aerial photos and the Topo Maps show that this wetland does not abut Keller’s Creek. The aerials and topo also show that this wetland is not separated from Keller’s Creek by a single natural or artificial barrier. The FEMA FIRM shows the wetland is above the 100-year floodplain of Keller’s Creek.

**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: [Wetland Delineation Report dated March 18, 2021 submitted by Texas Department of Transportation](#)

This information [Select.](#) sufficient for purposes of this AJD.

Rationale: [N/A](#)

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



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- ☒ Photographs: Aerial: Google Earth 2011, 2013, 2017; and National Geospatial-Intelligence Agency (NGA), Global Enhanced Geographic Intelligence (GEOINT) Delivery (G-EGD), Digital Globe High Resolution Near Color Aerial Imagery - 12/26/2020
- ☐ 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: Soil Survey of Jackson County, Texas.
- ☐ USFWS NWI maps: Title(s) and/or date(s).
- ☒ USGS topographic maps: 7.5-minute topographic quadrangle map - Olivia, Texas 1995.

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<u>USGS Sources</u>	<u>N/A.</u>
<u>USDA Sources</u>	<u>N/A.</u>
<u>NOAA Sources</u>	<u>N/A.</u>
<u>USACE Sources</u>	<u>N/A.</u>
<u>State/Local/Tribal Sources</u>	<u>N/A.</u>
<u>Other Sources</u>	<u>Federal Emergency Management Agency (FEMA), Flood Insurance Rate Map (FIRM) Panel 48239C0575D (9/17/2014), Jackson County, Texas and Incorporated Areas.</u>

**B. Typical year assessment(s):** Based on a review of available information the subject site is located above the Keller Creek 1% annual chance flood zone (100-year floodplain). As such the subject site is neither subject to Keller Creek overbank flooding, nor contributes surface water flow to Keller Creek within a typical year.

**C. Additional comments to support AJD:** N/A