



**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): 8/2/2021

ORM Number: SWG-2021-00337

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas City: Houston County/Parish/Borough: Harris

Center Coordinates of Review Area: Latitude 29.889646 Longitude -95.787519

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
Bear Creek	0.02 acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Bear Creek is a naturally occurring surface water channel that contributes surface water flow to an (a)(1) water in a typical year, is perennial, and flows as such in a typical year. Bear Creek flows into Langham Creek another (a)(2) then into Buffalo Bayou an (a)(1) water. Flow regimes were determined based on review of referenced resources listed in sections IIIA and IIIB.

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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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.	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch 1	15450	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).	The feature 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.
Ditch 2	15450	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).	The feature 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.

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: [Waters of the U.S. \(WOUS\) Delineation Report Asphalt Package 2021-1; Precinct 3 UPIN 21103N3047130001 – Longenbaugh Road Katy, Texas 77493](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: [Revised report required, revised dated July 30, 2021, Revised Waters of the U.S. \(WOUS\) Delineation Report Asphalt Package 2021-1; Precinct 3 UPIN 21103N3047130001 – Longenbaugh Road, Katy, Texas 77493.](#)

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

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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- ☒ Photographs: Aerial and Other: Site Photos 04/18/221, Google Earth Pro 2021, 2019. Houston - Galveston Aera Council aerial 2010, USGS Aerial 2001 and 1995, TXGLO 1977,
- ☐ 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: USDA, NRCS, Web Soil Survey Version 5, Sep 12, 2019
- ☐ USFWS NWI maps: Title(s) and/or date(s).
- ☒ USGS topographic maps: 2013, 7.5 min Quad, Addicks, Cypress Warren Lake, Katy, Texas

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
FEMA/FIRM maps	(FIRM Panel 48201C0395N, effective November 15, 2019)

B. Typical year assessment(s): 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). Here are the long term and short term response for the APT test for aeriels & site visit. Water features where analyzed using APT calculating for agent site visit 04/18/2021. The WET's score (last 3 mths) for that site visit totaled 6 on a scale of 6-18 with a score of 15-18 being wetter than normal precipitation for the previous 3 months, which indicates that the measurements or observations made are reflective of drier than normal climatic conditions. It uses climatic data collected from numerous nearby weather stations and produces the most reliable source with a full 30 years of precipitation data. The site coridnates are located at an appx 16.76 ft elevation. Below is the result of numerous dates run for this site.

Date	Rain prior 72 hours	WETS (3 mth) score:	APT	Season	PDSI
18 APR 2021 (Agent site visit)	0"	6 (D)	Drier than Normal	Dry	Mild Drought
14 JUL 2016 (Google earth)	<1"	11 (N)	Normal	Dry	Severe Wetness
01 Jan 2019 (Google Earth)	<1"	13(N)	Normal	Wet	Sereve Wetness
14 JUL 2017 (Google Earth)	0"	11(N)	Normal	Dry	Sereve Wetness
30 Dec 16	~1	14(N)	Normal	Wet	Mild wetness



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The results of the review of the APT analysis aiding in reaching the conclusion needed to determine if the subject feature have more than ephemeral flow and/or are inundated by flooding from a (a)1 - (a)3 water in a typical year. This was determined based on a review of site-specific information including, elevation data, aerial photos, and USGS topo maps. Average WETS score over point source references was 10.8, within the scale of normal climatic conditions.

Bear Creek is a naturally occurring surface water channels that contribute surface water flow to an (a) (1) water in a typical year, is perennial, and flows as such in a typical year. Bear Creek flows into Langham Creek another (a)(2) then into Buffalo Bayou an (a)(1) water. Bear Creek is a jurisdictional stream pursuant to 33 CFR 328.3(a)(2).

Ditch 1 and 2 are features constructed or excavated in uplands 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.

C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.