



**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): 6/21/2021

ORM Number: SWG-2021-00391

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas City: New Caney County/Parish/Borough: Montgomery

Center Coordinates of Review Area: Latitude 30.171280 Longitude -95.264781

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 A	0.054	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A neither abuts an (a)(1) – (a)(3) water, nor is inundated by flooding from an (a)(1) – (a)(3) water in a typical year, nor is physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature, nor is physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure. Therefore this feature meets the 33 CFR 328.3(b)(1) non-adjacent wetland exclusion.
Wetland B	1.465	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B neither abuts an (a)(1) – (a)(3) water, nor is inundated by flooding from an (a)(1) – (a)(3) water in a typical year, nor is physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature, nor is physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure. Therefore this feature meets the 33 CFR 328.3(b)(1) non-adjacent wetland exclusion.
Wetland C	0.198	acre(s)	(b)(1) Non-adjacent wetland.	Wetland C neither abuts an (a)(1) – (a)(3) water, nor is inundated by flooding from an (a)(1) – (a)(3) water in a typical year, nor is physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature, nor is physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure. Therefore this feature meets the 33 CFR 328.3(b)(1) non-adjacent wetland exclusion.
Wetland PUB A	0.397	acre(s)	(b)(1) Non-adjacent wetland.	Wetland PUB A neither abuts an (a)(1) – (a)(3) water, nor is inundated by flooding from an (a)(1) – (a)(3) water in a typical year, nor is physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature, nor is physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure. Therefore this feature meets the 33 CFR 328.3(b)(1) non-adjacent wetland exclusion.
Ditch	0.058	acre(s)	(b)(5) Ditch that is not an (a)(1) or	The subject site ditch is a constructed or excavated channel used to convey water. This

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
		(a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	ditch at the time of constructed neither relocated a tributary, nor was constructed in a tributary, nor was constructed in an adjacent wetland. Therefore, this feature meets the 33 CFR 328.3(b)(5) ditch exclusion.

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: [Crouch Environmental Services, Inc. wetland delineation report, April 2019](#)

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 and Other: Google Earth aerial imagery \(1995-2020\); USDA National Agriculture Imagery Program \(NAIP\), 0.6-meter near color and color infrared, 2018 and 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: [Web Soil Survey, National Cooperative Soil Survey \(NCSS\) – Montgomery County, Texas](#)

☐ USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)

☒ USGS topographic maps: [7.5-minute topographic quadrangle map, Outlaw Pond, TX \(1959, 1985, and 2010\).](#)

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	U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), Flood Insurance Rate Map (FIRM), Montgomery County, Texas and Unincorporated Areas, Panel Number 48339C0575G (08/18/2014). Flood Zone: Unshaded Zone X; Areas determined to be outside the 0.2% annual chance flood (500-year floodplain).
Other Sources	Texas Water Development Board (TWDB), Strategic Mapping Program (StratMap): 2018 Texas Upper Coast, Light Detection and Ranging (LiDAR) 1.0-Meter Bare Earth Digital Elevation Model (DEM), North American Vertical Datum 1988 (meters).



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B. Typical year assessment(s): [N/A. Subject site lies above the 500-year floodplain.](#)

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