APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 07/25/2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Galveston District, SWG-2021-00710, Cypress Park

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Texas County/parish/borough: Harris City: Houston
Center coordinates of site (lat/long in degree decimal format): Lat. 29.964647°, Long. -95.617893°
Universal Transverse Mercator: NAD83
Name of nearest waterbody: Little Cypress Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Cypress Creek
Name of watershed or Hydrologic Unit Code (HUC): 12040102
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 06/14/2022
☒ Field Determination. Date(s): February 6, 2019

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **are and are not** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply): [1]
☐ TNWs, including territorial seas
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☒ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: 7.82 acres

c. Limits (boundaries) of jurisdiction based on: **1987 Delineation Manual**
Elevation of established OHWM (if known): .

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

2. **Non-regulated waters/wetlands (check if applicable):**[3]

☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

There are two non-jurisdictional ponds (Pond H and Pond J), one non-jurisdictional ditch (Ditch C), two non-jurisdictional swales (Swale A and Swale B), and one non-jurisdictional stormwater control feature (Stormwater Control Feature A) within the project site.

Pond J appears to be an artificial stock pond that was constructed within uplands. At the time of the site visit, Pond J was holding several feet of water. Hydrophytic vegetation was observed within and around its OHWM. Aquatic reptiles and amphibians were utilizing the feature for habitat. There is no surface hydrologic connection between Pond J and other on-site or off-site aquatic features. Pond H appears to be a natural pond subject to flooding from nearby Cypress Creek. Hydrophytic vegetation was observed within and around its OHWM. Aquatic reptiles and amphibians were utilizing the feature for habitat.

Ditch C appears to be an ephemeral, man-made feature that was constructed within uplands and that drains surface water runoff from surrounding undeveloped property into Little Cypress Creek. Ditch C does not extend the OHWM of Little Cypress Creek. At the time of the site visit, Ditch C was not carrying water, and there was no hydrophytic vegetation within its OHWM. There is no surface hydrologic connection between Ditch C and other features within the project site, and it does not drain wetlands.

Swale A appears to have formed as a result of surface water runoff flowing into an off-site tributary to Little Cypress Creek. At the time of the site visit, Swale A was not holding or conveying water, there was no hydrophytic vegetation within or around its OHWM, and there was no established bed or bank. There is no surface hydrologic connection between Swale A and other on-site aquatic features, and it does not drain wetlands. Swale B appears to have formed as a result of surface water runoff flowing into Little Cypress Creek. At the time of the site visit, Swale B was not holding or conveying water, there was no hydrophytic vegetation within or around its OHWM, and there was no established bed or bank. There is no surface hydrologic connection between Swale A and other on-site aquatic features, and it does not drain wetlands.

Stormwater Control Feature A was constructed sometime prior to 2006. It appears to drain water that overflows the banks of the large detention basin in the central portion of the site into an off-site tributary to Little Cypress Creek. Stormwater Control Feature A does not extend the OHWM of the off-site tributary. At the time of the site visit, the feature was carrying less than one foot of water. Its bed and bank are reinforced with concrete rip rap, and its slopes are highly incised. Hydrophytic vegetation was not observed within the OHWM of the feature, and aquatic fauna were not using the feature for habitat. Stormwater Control feature A does not drain wetlands.

"Waters of the U.S." are defined in 33 CFR 328.3 (a) 1 thru 7 which is addressed in the following. Due to the fact that these : (1) are not currently used, or were used in the past, nor susceptible to use for interstate or foreign commerce nor subject to the ebb and flow of the daily tide; (2) do not cross interstate or tribal boundaries; (3) the destruction of these wetlands is not expected to affect (i) interstate or foreign travelers for recreational purposes or other purposes or, (ii) fish or shellfish that could be taken and sold in interstate or foreign commerce or (iii) current use or potential use for industrial purposes by industries in interstate commerce; (4) are not impoundments of Waters of the U.S.; (5) are not part of a surface tributary system of (a) (1) through (4); (6) are not part of the territorial seas; and (7) are not adjacent to Waters of the U.S. identified in (a) (1) through (6). Therefore, Pond H and J, Ditch C, Swales A and B, and Stormwater Control Feature A are considered "isolated" and lack a nexus to interstate commerce and are not Waters of the U.S. subject to Section 404 of the Clean Water Act.

[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: 33,537 **acres**
Drainage area: 3,088 **acres**
Average annual rainfall: 481 inches
Average annual snowfall:

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **1** tributaries before entering TNW.

Project waters are **10-15** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **5-10** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: N/A.

Identify flow route to TNW[5]: Little Cypress Creek flows into Cypress Creek which becomes a TNW at 30.005980, -95.512422.

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary stream order, if known: 2.

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):
Average width: Little Cypress Creek - 100 feet
Cypress Creek – 100 feet
Average depth: Little Cypress Creek – 4 feet
Cypress Creek – 4 feet
Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

☒ Silts	☒ Sands	☐ Concrete
☐ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover:	

☒ Other. Explain: Portions of the stream contain crushed concrete rip rap.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Little Cypress Creek's and Cypress Creek's banks are severely eroded. Large portions of their reach are sloughing.
Presence of run/riffle/pool complexes. Explain: There are several runs, riffles, and pools throughout Little Cypress Creek's and Cypress Creek's reach.
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): 1-2 %

(c) Flow:

Tributary provides for: **Perennial**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime Little Cypress Creek and Cypress Creek are perennial streams.
Other information on duration and volume: Little Cypress Creek and Cypress Creek flow year-round and at various rates depending on precipitation.

Surface flow is: **Confined.** Characteristics: Little Cypress Creek and Cypress Creek rarely overflows their banks.

Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☒ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☒ sediment sorting
☐ leaf litter disturbed or washed away	☒ scour
☒ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community
☐ other (list):	

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:	☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects	☐ survey to available datum;
☐ fine shell or debris deposits (foreshore)	☐ physical markings;
☐ physical markings/characteristics	☐ vegetation lines/changes in vegetation types.
☐ tidal gauges	
☐ other (list):	

[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7]Ibid.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Water is relatively clear in shallow areas but murky brown in deeper areas. Sub-urban and urban surface water enter the streams through several interconnected drainages. According to the Texas Commission on Environmental Quality, Little Cypress Creek and Cypress Creek are Category 5 303(d) impaired waters.

Identify specific pollutants, if known: Bacteria, depressed dissolved oxygen.

(iv) Biological Characteristics. Channel supports (check all that apply):

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☒ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☒ Fish/spawn areas. Explain findings: Fish likely spawn in areas with vegetated banks and/or accumulated debris.
  - ☒ Other environmentally-sensitive species. Explain findings: Various mussel species were observed within Little Cypress Creek.
  - ☒ Aquatic/wildlife diversity. Explain findings: Several fish, amphibian, reptile, and bird species utilize Little Cypress Creek and Cypress Creek for aquatic habitat.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: 7.82 acres

Wetland type. PFO.

Wetland quality. PFO.

Project wetlands cross or serve as state boundaries. N/A Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **No Flow** . Explain: There is no surface hydrologic connection between the wetlands and Little Cypress Creek, the nearest non-TNW.

Surface flow is**: Overland sheetflow**

Characteristics: The wetlands hydrologic source is overland sheetflow that collects within topographic depressions.

Subsurface flow: **Unknown** . Explain findings: .

- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Directly abutting
- ☒ Not directly abutting
  - ☒ Discrete wetland hydrologic connection. Explain: The wetlands are located within the 100-year floodplain of Little Cypress Creek.
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **30 (or more)** river miles from TNW.

Project waters are **15-20** aerial (straight) miles from TNW.

Flow is from: **No Flow.**

Estimate approximate location of wetland as within the **5 - 10-year** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Wetlands are forested with saturated soils and tea colored water. Water flows generally westward into Little Cypress Creek via sheet flow.

Identify specific pollutants, if known: Unknown.

(iii) Biological Characteristics. Wetland supports (check all that apply):

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☒ Vegetation type/percent cover. Explain: Wetlands are mostly forested with a mix of shrub and trees.
- ☒ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .
☒ Aquatic/wildlife diversity. Explain findings: The wetlands provide aquatic habitat for a variety of reptile, amphibian, and avian species.

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **30 (or more)**
Approximately (11,718.36) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
See Attached Tables	See Attached Tables	See Attached Tables	See Attached Tables

Summarize overall biological, chemical and physical functions being performed: Collectively, the wetlands within the relevant reach of Little Cypress Creek and Cypress Creek serve a significant physical, chemical, and biological function to downstream WOTUS. See Section III.C

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

The NWI map identifies a total of 3,015.70 acres of wetlands which are considered abutting wetlands within the relevant reach. The wetland types include: 31.54 acres of Open Water/Lake, 2,145.96 acres of Other/Farmed Wetlands, 824.20 acres of Forested/Shrub wetlands and 14.00 acres of Ponds. In addition, the NWI map identifies a total of 8,182.04 acres of wetlands which are considered adjacent wetlands within the relevant reach. The wetland types include: 391.91 acres of Open Water/Lake, 4.01 acres of Semipermanently Flooded Emergent Wetlands, 348.06 acres of Emergent Wetlands, 6,223.11 acres of Other/Farmed Wetlands, 714.77 acres of Forested Wetlands, 261.71 acres of Scrub-Shrub Wetlands, and 239.48 acres of Ponds.

Additionally, field investigations within the project study area identified 0.28 acres of Ponds, 0.09 acres of Ditch, 7.82 acres of Forested Wetlands, 0.11 acres of Swales, and 0.04 acres of Stormwater Control Feature within this relevant reach. The USACE Galveston District's interpretation of "adjacent" under 2008 post-Rapanos guidance generally begins with wetlands located within the 100-year floodplain. All of the wetlands noted above fall at least partially within the 100-year floodplain or are part of a complex that partially falls within the 100-year floodplain.

Wetland features Wetland J, Wetland K, Wetland L, Wetland M, and Wetland N comprise 7.82 acres of forested wetlands adjacent to the relevant reach of L100-00-00-E001 being evaluated. These wetlands are approximately 17 stream miles from the nearest TNW (Cypress Creek) and maintain a direct hydrologic connection via L100-00-00-E001 (Cypress Creek), a relatively permanent tributary. Through this connection, these wetlands serve to aid in the reduction of chemical pollutants from adjacent land uses (agriculture, petrochemical, industrial, and transportation) flowing into Cypress Creek. Therefore, the wetlands within this relevant reach provide more than a speculative or insubstantial effect on the chemical integrity of the TNW portion of Cypress Creek located approximately 17 river miles downstream of the project site.

The on-site wetlands, and the almost 8,200 acres of similarly situated (mostly forested/shrub wetlands) off-site wetlands within the relevant reach provide benefits to the physical integrity of Cypress Creek (L100-00-00-E001) by retaining floodwaters, reducing velocities during overbank events, and stabilizing soils. Removing these wetlands from the system would result in increased sediment load within the Cypress Creek channel, as well as increased volume and velocity. These increases would contribute to erosion and sedimentation within Cypress Creek which would constitute alteration/degradation to the physical attributes of a TNW. Therefore, the wetlands identified in this relevant reach provide more than a speculative or insubstantial effect on the physical integrity of the downstream TNW (Cypress Creek, L100-00-00). During the field investigation, observations of various aquatic fauna were made within the Cypress Creek channel. This included fish, aquatic macroinvertebrates, and amphibians. Additionally, evidence suggesting aquatic life use of the adjacent on-site wetland areas including aquatic macroinvertebrates (crayfish burrows) and amphibians (frogs, toads, and tadpoles in standing pools) was observed. Additionally, the on-site and off-site adjacent wetlands aid in providing habitat for terrestrial species that rely on aquatic fauna as a food source (e.g. birds, racoons, etc.). While there is insufficient evidence to identify aquatic species that require this relevant reach to fulfill their lifecycle requirements, observations of aquatic fauna and proximity to the TNW portion of Cypress Creek (approximately 17 stream miles downstream) suggest that there is a regular interplay of aquatic wildlife between Cypress Creek, and it's adjacent wetlands. This demonstrates more than a speculative or insubstantial effect on the biological integrity of the TNW portion of Cypress Creek. In conclusion, there is sufficient evidence to support the statement that the on-site wetlands, in combination with off-site similarly situated wetlands identified within this relative reach of Cypress Creek, a relatively permanent tributary, provide a significant nexus (more than a speculative or insubstantial effect) to the chemical, physical, and/or biological integrity of the downstream TNW (Cypress Creek, L100-00-00). As such, these wetlands would be considered WOTUS and subject to USACE jurisdiction under Section 404.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:
- ☐ TNWs: linear feet width (ft), Or, acres.
- ☐ Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.
- ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
- ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

  Provide estimates for jurisdictional waters in the review area (check all that apply):
  - ☐ Tributary waters: linear feet width (ft).
  - ☐ Other non-wetland waters: acres.

    Identify type(s) of waters: .

3. Non-RPWs[8] that flow directly or indirectly into TNWs.
- ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):
- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters:

  Identify type(s) of waters:

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
- ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
  - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

[8]See Footnote # 3.

☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **7.82** acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.[9]

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
☒ Other: (explain, if not covered above): Pond J, Ditch C, and Stormwater Control Feature A are man-made features that were excavated in uplands and do not drain wetlands; Pond H is a natural pond that is subject to flooding from nearby Cypress creek; therefore, they do not need a significant nexus analysis and are considered non-jurisdictional. Swales A and B are erosional swales; therefore, they do not need a significant nexus analysis and are considered non-jurisdictional

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.

---

[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: List type of aquatic resource:
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  ☐ Office concurs with data sheets/delineation report.
  ☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps: .
☐ Corps navigable waters' study: .
☐ U.S. Geological Survey Hydrologic Atlas: .
  ☐ USGS NHD data.
  ☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: **7.5 Minute Satsuma and Cypress, TX**
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **USGS Soil Survey GIS Data Layer**
☒ National wetlands inventory map(s). Cite name: **NWI GIS Data Layer**
☐ State/Local wetland inventory map(s): .
☒ FEMA/FIRM maps: **48201C0410M, 48201C0430M**
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): **TNRIS Imagery: 943, 1977, 1988, 1995, 2006, 2010, and 2019**
  or ☐ Other (Name & Date): .
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Non-Jurisdictional Features

Name	Area within Project Site (ac)	Length within Project Site (ln ft)	Type	Latitude, Longitude	Jurisdiction
Pond J	0.17	-	Artificial	29.9696063, -95.620365	Non-Jurisdictional
Pond H	0.11	-	Natural	29.964209, -95.619021	Non-Jurisdictional
Ditch C	0.18	1093	Ephemeral	29.968123, -95.61934	Non-Jurisdictional
Swale A	0.03	373	Erosional	29.965191, -95.608144	Non-Jurisdictional
Swale B	0.08	227	Erosional	29.962044, -95.61666	Non-Jurisdictional
Stormwater Control Feature A	0.04	138	Intermittent	29.963405, -95.609756	Non-Jurisdictional
Total	**0.62**	**1,830**			

Jurisdictional Features

Name	Area within Project Site (ac)	Length within Project Site (ln ft)	Type	Latitude, Longitude	Jurisdiction
Wetland J	2.13	-	PFO	29.967561, -95.618752	Jurisdictional
Wetland K	4.60	-	PFO	29.965674, -95.615959	Jurisdictional
Wetland L	0.18	-	PFO	29.961159, -95.614392	Jurisdictional
Wetland M	0.79	-	PFO	29.966533, -95.608657	Jurisdictional
Wetland N	0.11	-	PFO	29.964363, -95.619299	Jurisdictional
Total	**7.82**	**-**			