



DEPARTMENT OF THE ARMY
U. S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
2000 FORT POINT ROAD
GALVESTON, TEXAS 77550

January 9, 2024

Compliance Branch

SUBJECT: **SWG-2023-00794**; [REDACTED], Approved Jurisdictional Determination,
Approximate 41.25-Acre Site, Orange County, Texas

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]:

This letter is in response to your June 20, 2023, request for an Approved Jurisdictional Determination for three review sites, specifically the approximate 41.25-acre island property [REDACTED] near Beaumont, Orange County, Texas, (map enclosed).

Based on our November 9, 2023, desk review and November 16, 2023, site visit, we determined that the property contains waters of the United States, specifically wetlands adjacent to Bairds Bayou and the Neches River. Both Bairds Bayou and the Neches River are Traditionally Navigable Waters subject to Section 10 of the Rivers and Harbors Act of 1899 (Section 10). The wetlands identified on the property are abutting, have continuous surface connections to Bairds Bayou and the Neches River and, therefore, are adjacent. Therefore, these wetlands are waters of the United States (WOUS) subject to Section 404. Any discharge of dredged and/or fill material into these wetlands requires a Department of the Army (DA) permit. The aquatic resources acreage and boundaries on the property were estimated as a delineation was not done for the property. We recommend that you hire a consultant to delineate the wetland on the property should you decide to discharge dredged and/or fill material into the wetland. In addition, any work or structures in Bairds Bayou or the Neches River requires a DA permit. Please see the website (<http://www.swg.usace.army.mil/Business-With-Us/Regulatory/Environmental-Consultants/>) for a list of consultants. Be aware that a wetland delineation is not official until approved by the United States Corps of Engineers.

Areas of Federal Interests (federal projects, and/or work areas) may be located within this proposed project area. Any activities in these federal interest areas would also be subject to federal regulations under the authority of Section 14 of the Rivers and Harbors Act (aka Section 408). Section 408 makes it unlawful for anyone to alter in any manner, in whole or in part, any work (ship channel, flood control channels, seawalls, bulkhead, jetty,

piers, etc.) built by the United States unless it is authorized by the Corps of Engineers (i.e., Navigation and Operations Division).

This jurisdictional determination included herein has been conducted to identify the presence of aquatic resources and/or the jurisdictional status of aquatic resources for the purpose of the Clean Water Act for the particular site identified in this request. This determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985 as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

This letter constitutes an AJD for your subject site. The AJD is valid for five years from the date of this letter unless new information warrants a revision prior to the expiration date. For the purposes of this AJD, we have relied on Pre-2015 Regulatory Regime implemented consistent with Sackett v. EPA in evaluating jurisdiction. If you object to the AJD portion determination, you may request an administrative appeal under USACE regulations at 33 CFR Part 331. You will find an enclosed Notification of Appeals Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Southwest Division Office at the following address:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete; that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP; noting the letter date is considered day 1. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This approved jurisdictional determination is valid for 5 years from the date of this letter unless new information warrants a revision prior to the expiration date. If you have any questions concerning this jurisdictional determination, please reference file number **SWG-2023-00794** and contact [REDACTED].

To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html> and/or if you would prefer a hard copy of the survey form, please let us know, and one will be mailed to you.

[Redacted Signature]

Sincerely,

[Redacted Name]


[Redacted Title], Compliance Branch



SWG-2023-00794 Map

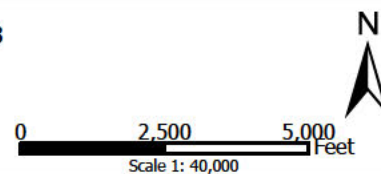
Approximate 41.25-acre Site

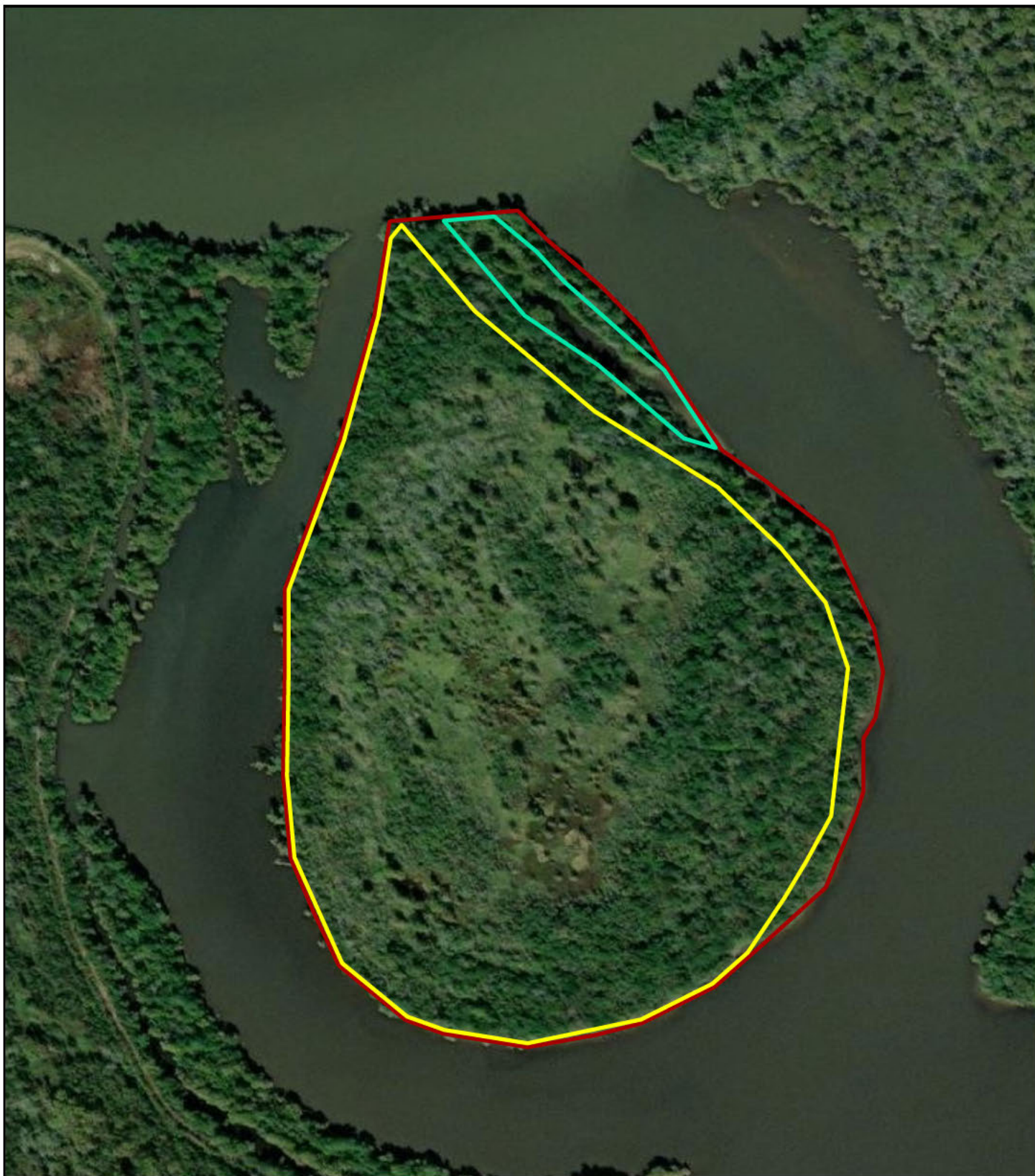
Legend

 Review Area

Prepared 14 December 2023

Coordinate System
GCS North American 1983





SWG-2023-00794 Delineation

Legend

- Review Area ~ 41.25 acres Wetland 2 ~ 1.70 acres
 Wetland 1 ~ 36.08 acres

Prepared 14 December 2023

Coordinate System
GCS North American 1983

