



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

January 27, 2026

North Branch

SUBJECT: SWG-2007-00255: Orion Marine Construction Group, Inc.; Approved Jurisdictional Determination, Approximate 220-Acre Tract, East & West Jones Dredge Material Placement Area (DMPA), Pasadena, Harris County, Texas

Jene Adler
Orion
2940 Riverby Rd., Suite 400
Houston, Texas 77020
Sent Via Email to: jadler@orn.net

Dear Ms. Adler:

This is in reference to your request, dated September 12, 2025, submitted on your behalf by Orion, for an Approved Jurisdictional Determination for an approximate 220-acre tract referenced as East and West Jones DMPA. These 2 tracts are located adjacent to the Houston Ship Channel in Pasadena, Harris County, Texas (map enclosed). The East Jones tract is approximately 94 acres in size and the West Jones Tract is approximately 126 acres in size. Specifically, the project site is located at Latitude: 29.73142°, Longitude: -95.18938°.

The Corps of Engineers has the regulatory responsibility over two primarily federal laws, Section 10 of the Rivers and Harbors Act (Section 10) which regulates work and/or structures in/or affecting navigable waters of the United States (U.S.) and Section 404 of the Clean Water Act (Section 404) which regulates the discharge of dredged and/or fill material into waters of the U.S., including adjacent wetlands. If activities involved trigger either of these aforementioned federal regulations, a Department of the Army (DA) permit is required prior those activities occurring.

Based on our desk review conducted on December 14, 2025, and as described in the enclosed Memorandum for Record, we have determined that the entire review area are uplands and do not contain waters of the United States. Therefore, the review area is not subject to Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, and a DA permit is not required for the discharge of dredged and/or fill material or work and/or structures within the review area. This determination remains valid as long as the site is not abandoned and its historical use as an active DMPA continues. Should the use of the site change or cease, this determination would no longer be valid and a new evaluation would be required.

This letter does not obviate the need to obtain Federal, state or local authorization(s) required by law, nor does it grant property rights and/or exclusive privileges, nor authorize any injury to property or rights of others. It is recommended that you visit <https://www.swq.usace.army.mil/Missions/Operations-Division/Land-Use/> and coordinate with the appropriate offices.

The jurisdictional determination included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This jurisdictional 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 U.S. Department of Agriculture (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 contains an AJD for the subject site. For the purposes of this AJD, we have relied on the pre-2015 regime post-Sackett and the 12 March 2025 Memorandum to the Field Between the U.S. Department of Army, U.S. Army Corps of Engineers (USACE), and the U.S. Environmental Protection Agency Concerning the Proper Implementation of "Continuous Surface Connection" Under the Definition of "Waters of the United States" Under the Clean Water Act to determine 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:

Mr. Jamie Hyslop
Administrative Appeals Review Officer (CESWD-PD-O)
Southwest Division
U.S. Army Corps of Engineers
1100 Commerce Street, Room 831
Dallas, Texas 75242-1317
Telephone: 469-216-8324
Email: Jamie.r.Hyslop@usace.army.mil

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.

The AJD 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 questions concerning this matter, please reference file number **SWG-2007-00255** and contact Broc Adams at the letterhead address, by e-mail at Sterling.B.Adams@USACE.ARMY.MIL or by telephone at 409-766-

3171. To assist us in improving our service to you, please complete the survey found at <https://regulatory.ops.usace.army.mil/customer-service-survey> and/or if you would prefer a hard copy of the survey form, please let us know, and one will be mailed to you.

FOR THE DISTRICT COMMANDER:

Broc Adams

Broc Adams
Regulatory Specialist, North Branch
Regulatory Division, Galveston District

cc w/Encl.

Gabrielle Bonuz, Orion, 2940 Riverby Rd., Suite 400, Houston, Texas 77020
Sent via Email to: gbonuz@orn.net



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
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CESWG - RDE

27 January 2026

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime
Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322
(2023),¹ SWG-2007-00255

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court’s decision in *Sackett*. This AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in this state due to litigation.

¹ While the Supreme Court’s decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SWG-2007-00255]

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
 - i. East and West Jones dredge material placement areas (DMPAs) (interior features), non-jurisdictional

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- e. Previous Approved Jurisdictional Determination File No. SWG-2007-00255

3. REVIEW AREA. The review area consists of approximately 220 acres comprising the East and West Jones Dredge Material Placement Areas (DMPAs). The site is located near, but not connected to the Houston Ship Channel in Harris County, Texas, at approximately 29.7314222° N, 095.1893878° W. This determination is a renewal of a previous AJD (SWG-2007-00255). The review area encompasses the entirety of the DMPAs, including all internal containment berms, cells, and other features that are actively managed and modified during placement operations.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. N/A

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6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ N/A
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. TNWs (a)(1): N/A
 - b. Interstate Waters (a)(2): N/A
 - c. Other Waters (a)(3): N/A
 - d. Impoundments (a)(4): N/A
 - e. Tributaries (a)(5): N/A
 - f. The territorial seas (a)(6): [N/A
 - g. Adjacent wetlands (a)(7): N/A

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SWG-2007-00255]

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as “generally non-jurisdictional” in the preamble to the 1986 regulations (referred to as “preamble waters”).⁷ Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water. The aquatic resources within the review are waterfilled depressions created in dry land incidental to construction activities and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the operation is abandoned and the resulting body of water meets the definition of waters of the United States (see 33 CFR 328.3(a)).
- b. Describe aquatic resources and features within the review area identified as “generally not jurisdictional” in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance. N/A
- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. N/A
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. N/A
- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “*SWANCC*,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with *SWANCC*. N/A.
- f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime

⁷ 51 FR 41217, November 13, 1986.

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SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SWG-2007-00255]

consistent with the Supreme Court's decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water). N/A

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. Virtual Site Visit: 14 December 2025.
 - b. Previous Jurisdictional Determination File, SWG-2007-00255.
 - c. Aerial Photos: Google Earth Aerial Photos (2007-2025).
 - d. Maps, plans, plots, and data submitted by or on behalf of the applicant consultant received 3 January 2026.
 - e. USGS 7.5 Minute Quadrangle Map, Pasadena, TX.
 - f. United States Department of the Interior (DOI), Fish and Wildlife Service (FWS) National Wetlands Inventory (NWI) Maps.
 - g. USGS National Map 3D Elevation Program (3DEP) LiDAR. July 14, 2025, Texas Regulatory Viewer.
10. OTHER SUPPORTING INFORMATION. This AJD renews the previous determination for file SWG-2007-00255, reaffirming the original finding that the interior of the DMPAs are not 'waters of the U.S. due to the lack of a direct surface connection to the Houston Ship Channel.

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SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SWG-2007-00255]

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

PREPARED BY:

Broc Adams

Broc Adams
Regulatory Specialist

Date: 27 January 2026

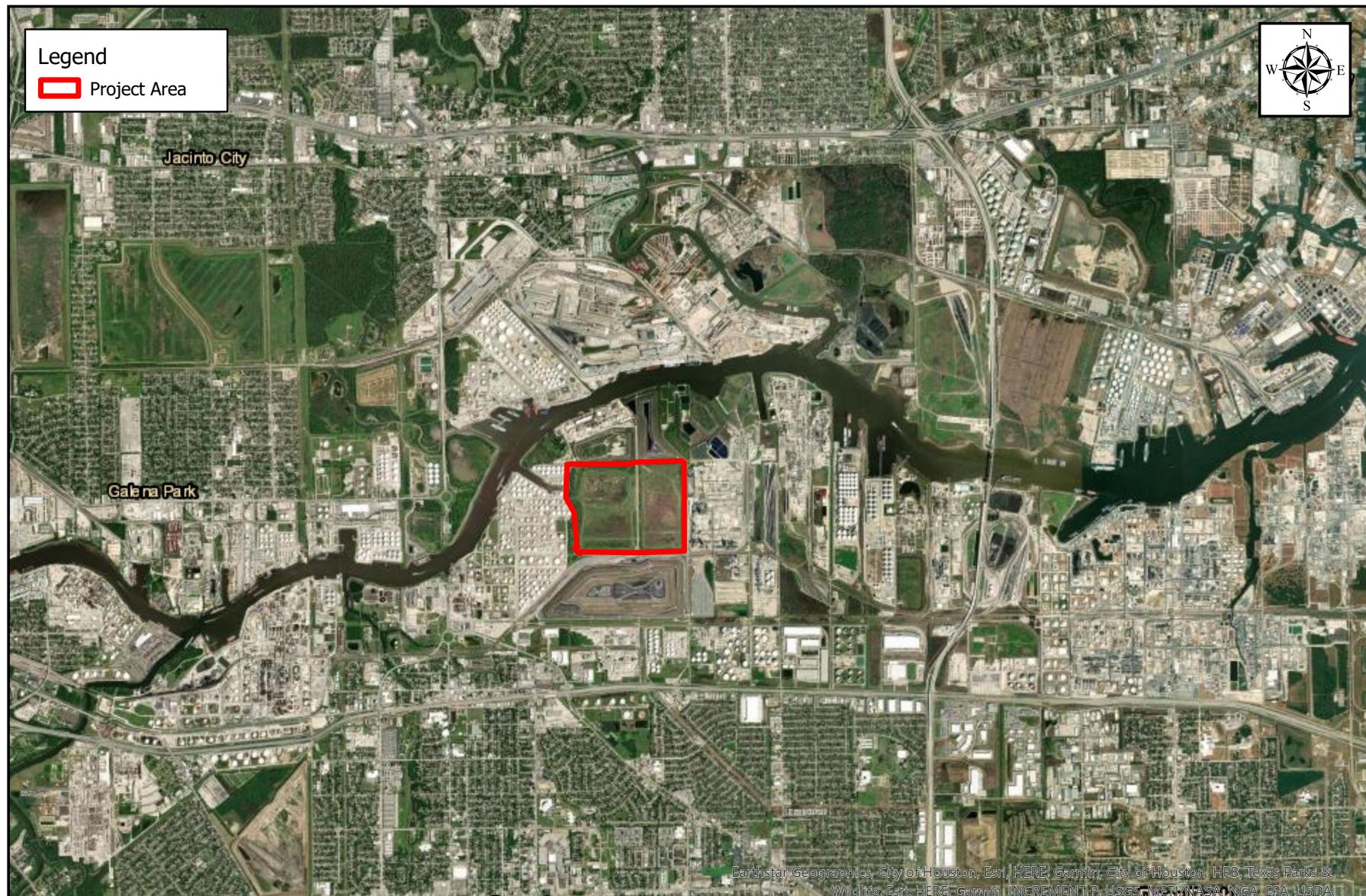
REVIEWED/APPROVED BY:

FOR

K. Marie Jayh

Andria Davis
North Unit Team Lead
Regulatory Division, Galveston District

Date: 27 January 2026



SWG-2007-00255

0 0.5 1 2
mi

Map Center: 95.182488°W 29.735931°N

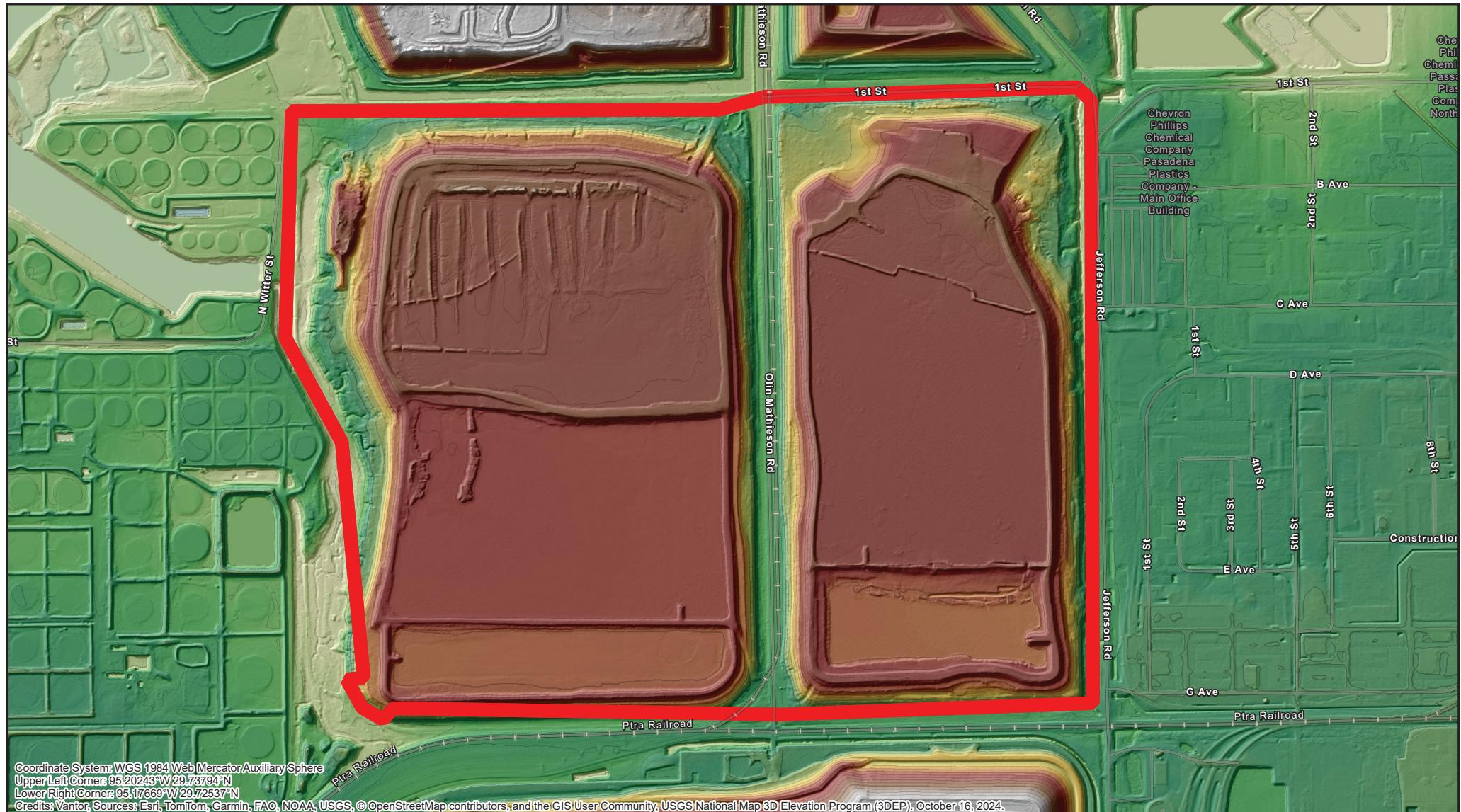
Map Created by: Broc Adams

Date: 1/20/2026

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere



	<u>TITLE</u>	Project Area	<u>LEGEND</u>	Author	Figure	Revision
	PROJECT	SWG-2007-00255	■ Review Area	Broc Adams	NO. 1 of 1	NO. 1
				 N S E W	0 337.5 675 1,350 2,025 Scale in Feet	DATE 1/22/2026



	<u>TITLE</u>	USGS 3DEP Lidar	<u>LEGEND</u> ■ Review Area	3DEP Elevation (meters) Value  181.2 75.26	<u>AUTHOR</u>	Broc Adams	<u>FIGURE</u>	NO. 1 of X	<u>REVISION</u>	NO. 0
	<u>PROJECT</u>	SWG-2007-00255			N W E S	0 337.5 675 1,350 2,025	Scale in Feet	DATE	1/21/2026	