



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

March 17, 2026

North Branch

SUBJECT: **SWG-2024-00439**: Harris County Flood Control District; Approved Jurisdictional Determination/ Permit Determination, Approximate 16.6-Acre Tract, located northeast of the intersection of Becker Road and Botkins Road, in Hockley, Harris County, Texas

Ryan Robol
Harris County Flood Control District
9900 Northwest Freeway
Houston, Texas 77092
Sent Via Email to: ryan.robol@hcfcd.hctx.net

Dear Mr. Robol:

This is in reference to your request, dated June 24, 2024, for an Approved Jurisdictional Determination for an approximate 16.6-acre tract. The review area is located northeast of the intersection of Becker Road and Botkins Road, in Hockley, Harris County, Texas (map enclosed). Specifically, the project site is located at Latitude: 30.055724°, Longitude: -95.796143°.

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 and/or site visit conducted on March 4, 2026, we have determined that the approximate 16.6-acre tract contains a stream (IS-01) and wetland (PEM-02). As described in the enclosed Memorandum for Record, these aquatic resources meet the definition of adjacent wetlands/ relatively permanent waters as defined in the pre-2015 regime post Sackett guidance, and as such, are a water of the U.S. subject to Section 404. Therefore, a DA permit is required for the discharge of dredged and/or fill material and/or work and/or structures within these waters of the U.S.

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.swg.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:

Administrative Appeals Review Officer
Southwestern Division U.S. Army Corps of Engineers (CESWD-PD-O)
1100 Commerce Street, Suite 831
Dallas, Texas 75242-1317
Contact email: swdregulatoryappeals@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-2024-00439** and contact Elena Jackson at the letterhead address, by e-mail at Elena.C.Jackson@USACE.ARMY.MIL or by telephone at 409-766-6398. 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:

A handwritten signature in black ink, appearing to read "Elena Jackson".

Elena Jackson
Regulatory Specialist



 HCFCD Project ID L100-00-00-E003 (L114-01-00)
APPROXIMATELY 16.53 ACRES
BECKER ROAD
HOCKLEY, HARRIS COUNTY, TEXAS

WOTUS FEATURES MAP

PROJECT NUMBER: 22-0736.01
FILE NAME: WETLANDS_FIGURE_9_2023_AERIAL_PHOT
DATE: 8/11/2023
DRAWN BY: BB, APPROVED BY: AB

FIGURE 9



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

CESWG - RDN

17 March 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-2024-00439

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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1. SUMMARY OF CONCLUSIONS.

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).

Feature Name	Feature Type	Latitude	Longitude	Acres/Linear Feet	Jurisdictional Status
HCFC D L114-01-00	Stream	30.055724	-95.796143	1,720.2 LF	Jurisdictional
PEM-01	Wetland	30.057189	-95.797589	0.2-acre	Non-Jurisdictional
PEM-02	Wetland	30.055619	-95.796181	0.31-acre	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. 12 March 2025 Memorandum to the Field Between the U.S. Department of Army, U.S. Army Corps of Engineers, 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

3. REVIEW AREA. The project area is a 16.6-acre plot of land located 750-feet east of the intersection of Becker Road and Botkins Road, in Hockley, Harris County, Texas.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The HCFC D channel L114-01-00 is a tributary which flows directly into the TNW Cypress Creek.⁵

⁵ This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899

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5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. The channel flows south for 1.5-miles directly into Cypress Creek.
6. SECTION 10 JURISDICTIONAL WATERS⁶: 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 10.⁷ 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

(RHA) 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.

⁶ 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.

⁷ 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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- e. Tributaries (a)(5): HCFCD Channel L114-01-00 (30.055724° N, -95.796143° W) 1720.2 LF. Aerial Photos dating back to 1978 consistently show water in the channel therefore it is a Relatively Permanent Waterbody (RPW) and is jurisdictional.
- f. The territorial seas (a)(6): N/A
- g. Adjacent wetlands (a)(7): PEM-02 (30.055619° N, -95.796181° W), 0.31-acre. This emergent wetland has a bed, bank, and continuous surface connection on both the north and south ends to HCFCD channel L114-01-00 where it drains into and out of the wetland. Therefore, the wetland is considered jurisdictional.

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”).⁸ 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. N/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

⁸ 51 FR 41217, November 13, 1986.

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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 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).

PEM-01 (30.057189° N, -95.797589° W) 0.2-acre. Aerial photos and data points show that there is no surface connection between wetland PEM-01 and the channel. The wetland is completely surrounded by uplands, has no bed and bank, and does not connect to another aquatic resource, therefore; this wetland is non-jurisdictional.

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. Desk Review: 4 March 2026
- b. Maps, plans, plots, and data submitted by or on behalf of the applicant consultant: 10 February 2026
- c. Aerial Photos: 4 March 2026
- d. United State Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Soil Survey Geographic Database (SSURGO) Esri Layer
- e. United States Geological Survey Topographic Maps: 4 March 2026
- f. National Wetland Inventory

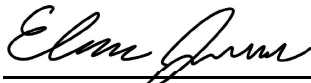
10. OTHER SUPPORTING INFORMATION. N/A

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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:



Elena Jackson
Regulatory Specialist

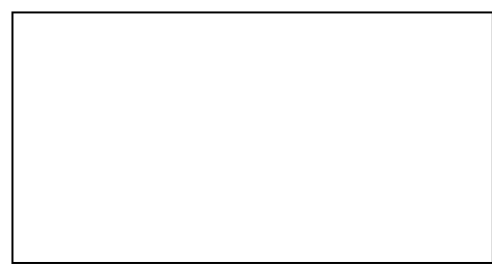
Date: 17 March 2026

REVIEWED/APPROVED BY:



Andria Davis
Leader, North Branch
Regulatory Division, Galveston District

Date: 17 March 2026



NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant:	File Number:	Date:
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL WITHOUT PREJUDICE	C
	PERMIT DENIAL WITH PREJUDICE	D
	APPROVED JURISDICTIONAL DETERMINATION	E
	PRELIMINARY JURISDICTIONAL DETERMINATION	F

SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C. PERMIT DENIAL WITHOUT PREJUDICE: Not appealable

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the permit denial

You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable

You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:

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

SECTION II – REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. Use additional pages as necessary. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

<hr/> <p>Signature of appellant or agent.</p>	Date:
Email address of appellant and/or agent:	Telephone number: