



**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): 12/28/2020  
 ORM Number: SWG-2005-00040  
 Associated JDs: SWG-2005-00040 (prior Rapanos May 2006)  
 Review Area Location<sup>1</sup>: State/Territory: Texas City: Crystal Beach County/Parish/Borough: Galveston  
 Center Coordinates of Review Area: Latitude 29.442483 Longitude -94.660059

**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 or describe rationale.
- 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)<sup>2</sup>**

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	acre(s)	N/A.	N/A.

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	acre(s)	N/A.	N/A.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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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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
Wet 8 & 9	0.01	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.	This wetland (as determined by the AGCP manual) is separated by a single dune barrier from the Gulf of Mexico; a navigable water of the U.S.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Canal	0.97	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	(b)(1) It is a water that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wet 1 & 2	1.8	acre(s)	(b)(1) Non-adjacent wetland.	(b)(1) It is a wetland (as verified by the regional supplement) that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wet 3	0.07	acre(s)	(b)(1) Non-adjacent wetland.	(b)(1) It is a wetland (as verified by the regional supplement) that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wet 4 & 6	0.65	acre(s)	(b)(1) Non-adjacent wetland.	(b)(1) It is a wetland (as verified by the regional supplement) that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-

<sup>4</sup> 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.

<sup>5</sup> 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)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wet 5	0.6	acre(s)	(b)(1) Non-adjacent wetland. (b)(1) It is a wetland (as verified by the regional supplement) that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier
Wet 7	0.65	acre(s)	(b)(1) Non-adjacent wetland. (b)(1) It is a wetland (as verified by the regional supplement) that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier

**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: **Biowest**  
This information **is and is not** sufficient for purposes of this AJD.  
Rationale: **N/A**
- Data sheets prepared by the Corps: **N/A**
- Photographs: **Aerial: Google earth**
- Corps site visit(s) conducted on: **prior in 2005**
- Previous Jurisdictional Determinations (AJDs or PJDs): **SWG-2005-0040**
- Antecedent Precipitation Tool: **provide detailed discussion in Section III.B.**
- USDA NRCS Soil Survey: **Gaveston**
- USFWS NWI maps: **Flake USGS Map**
- USGS topographic maps: **Flake USGS Topo Map**

**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.
Other Sources	Tide datum

**B. Typical year assessment(s):** Four nearest NOAA tide stations located at Pier 21, Galveston Bay Entrance, Galveston Railroad Bridge and San Luis Pass were used as a basis of review. The data from each station



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was analyzed for the time frame of 2001 to 2020 to cover a tidal epoch (18.6 year). The Pier 21 and Galveston Bay Entrance stations were active and had data covering the 19-year time frame, however, the Galveston Railroad Bridge and San Luis Pass stations had less than 8 years of data.

- The Pier 21 tide station, located in the Galveston Ship Channel, was out of service in September 2008 from Hurricane Ike
- The Galveston Bay Entrance tide station, located at the North Jetty, was out of service from September 2008 to May 2011, also from Hurricane Ike.
- The Galveston Railroad Bridge tide station, located at the Galveston Causeway, has been active since 2013.
- The San Luis Pass tide station, located at the southwest end of Galveston Island, has been active since 2015.

The monthly high tides were averaged to obtain the highest water levels of the years to determine areas that would be inundated by flooding by a nearby tidal water in a typical year. The highest tide elevation, based on the monthly average, occurred in October, which normally does not have many tropical storm systems, at all four tide stations. The October average for the Pier 21 station was +2.82 feet NAVD88, the Galveston Bay Entrance station was +2.95 foot NAVD88, the Galveston Railroad Bridge station was +3 feet NAVD88 and the San Luis Pass station was +2.98 feet NAVD88, all being within 0.18 feet.

The elevations for the project site were all above a base elevation of +3 feet NAVD88. Therefore, the aquatic features on the project site (excluding wetland polygon WET 8 &9) are all above the average highest tide of the year and based on this it is our determination that they do not get inundated from surface flood waters from the Gulf of Mexico in a "typical year."

**C. Additional comments to support AJD:** [N/A or provide additional discussion as appropriate.](#)

