



**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): 1/31/2021
 ORM Number: SWG-2017-00120
 Associated JDs: SWG-2017-00120 September 29, 2018
 Review Area Location¹: State/Territory: Texas City: Victoria County/Parish/Borough: Victoria
 Center Coordinates of Review Area: Latitude 28.722537 Longitude -96.994202

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.
- 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)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

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

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.

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.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.	N/A.	N/A.

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

² 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.

³ 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Water 05	50.9 acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	The feature is an excavated sand pit that extended the ordinary high water mark of Spring Bayou. Water 05 was impounded by the construction of a levee, which was part of a settlement agreement to resolve a violation of Section 404 of the CWA, that separates it from WBA01. There is not a hydrologic surface connection between Water 05 and WBA01 and Water 05 does not contribute surface water to an (a)(1) water (Guadalupe River) in a typical year. Also, based on the APT scores, aerial photos, and site visits. Water 05 does not get inundated from the Guadalupe River or WBA01, an (a)(2) water, in a typical year.

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: [SWCA on 16 November 2020](#)
This information **is and is not** sufficient for purposes of this AJD.
Rationale: [It identified Water 05 in relation to the other aquatic resources but did not include APT data.](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial: Digital Globe 12/26/2020; Google Earth 1996 - 2017](#)
- Corps site visit(s) conducted on: [Date\(s\)](#).
- Previous Jurisdictional Determinations (AJDs or PJDs): [SWG-2017-00120 29 September 2018](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\)](#).
- USFWS NWI maps: [Google Earth layer](#)
- USGS topographic maps: [Earth Point 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	N/A.

⁴ 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.

⁵ 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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B. Typical year assessment(s): Water 05 was analyzed using the Antecedent Precipitation Tool (APT). The APT is a tool that affords the user the capability to look at rainfall at a specific location in the recent past, cumulative for the last 3 months {WETS analysis product score}, as well as a climatological review for the past 30 years and the PDSI Drought index. This tool also provides WebWimp water balance/hydrologic seasons information. The APT uses climatic data collected from numerous nearby weather stations and produces the most reliable source for a full 30 years of precipitation data. The results of this analysis are presented in the following table:

Date	Source	Prior 72 hrs	PDSI Class	WebWIMP	APT	APC
1/26/1996	aerial	0.03"	Normal	Wet Season	12	Normal
6/27/2005	aerial	0.04"	Mild Drought	Dry Season	12	Normal
4/27/2008	aerial	1.34"	IncipientDrought	Dry Season	14	Normal
12/31/2008	aerial	0.00"	Mild Drought	Wet Season	6	Drier Than Normal
1/11/2009	aerial	0.00"	Moderate Drought	Wet Season	7	Drier Than Normal
1/19/2009	aerial	0.00"	Moderate Drought	Wet Season	6	Drier Than Normal
3/10/2011	aerial	0.03"	Moderate Drought	Dry Season	9	Drier Than Normal
2/15/2013	aerial	0.02"	Severe Drought	Wet Season	11	Normal
1/3/2016	aerial	1.18"	Moderate Wetness	Wet Season	16	Wetter Than Normal
1/21/2017	aerial	2.94"	Mild Wetness	Wet Season	15	Wetter Than Normal
3/25/2017	aerial	0.05"	Incipient Wetness	Dry Season	18	Wetter Than Normal
12/26/2020	aerial	0.00"	Normal	Wet Season	12	Normal
10/17/2017	site visit	0.00"	Extreme Wetness	Wet Season	15	Wetter Than Normal
10/30/2017	site visit	0.00"	Extreme Wetness	Wet Season	10	Normal
11/21/2017	site visit	0.00"	Severe Wetness	Wet Season	10	Normal
3/7/2018	site visit	0.75"	Moderate Wetness	Dry Season	12	Normal
3/19/2018	site visit	0.03"	Moderate Wetness	Dry Season	11	Normal
3/20/2018	site visit	0.01"	Moderate Wetness	Dry Season	9	Drier Than Normal
3/21/2018	site visit	0.01"	Moderate Wetness	Dry Season	9	Drier Than Normal
3/22/2018	site visit	0.01"	Moderate Wetness	Dry Season	9	Drier Than Normal
5/2/2018	site visit	0.00"	Mild Wetness	Dry Season	12	Normal
5/3/2018	site visit	0.00"	Mild Wetness	Dry Season	12	Normal


None of the aerial photos showed Water 05 or the land that would become Water 05 being inundated from the Guadalupe River or WBA01, which is an expansion of Spring Bayou that is a water of the U.S. The aerial photos showing WBA01 cutting into Water 05 show the water is contained within the banks of WBA01. During the ten site visits, the water level of WBA01 was always 8 to 10 feet below the top of the banks.

C. Additional comments to support AJD: The applicant stated the only times they remember water exceeding the banks of WBA01 was during Hurricane Harvey in 2017 and the 1998 flood.

SWG-2017-00120

Fordyce Holdings, Inc.
Approved Jurisdictional Determination
Water 05
Victoria, Victoria County, Texas

26 December 2020 Digital Globe Aerial Photo

 Full Res (5.1 MB)
Screen Res (0.9 MB)

Google Earth

© 2020 Google



1000 ft

