



**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): 6/25/2021

ORM Number: SWG-2018-00069

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas City: Galveston County/Parish/Borough: Galveston

Center Coordinates of Review Area: Latitude 29.267333 Longitude -94.878920

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.	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.	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	
N/A.	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
Wetland	0.12	acre(s)	(b)(1) Non-adjacent wetland.	This wetland does not abut an (a)(1) – (a)(3) water; is not inundated by flooding from an (a)(1) – (a)(3) water in a typical year; is not physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature; or is not physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure. The aerial photos and topos show that the wetland does not abut West Galveston Bay, the nearest water of the United States. Based on the aerials and topos, there is not a single natural barrier or single artificial barrier that would allow typical year inundation between the wetland and West Galveston Bay. See typical year discussion below

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: **Title(s) and date(s)**
This information **Select**. sufficient for purposes of this AJD.
Rationale: **N/A or describe rationale for insufficiency (including partial insufficiency).**
- ☐ Data sheets prepared by the Corps: **Title(s) and/or date(s).**
- ☒ Photographs: **Aerial and Other: Google Earth 2008, 2010, 2011, 2012, 2014, 2015, 2017, 2018; 2019**
- ☐ Corps site visit(s) conducted on: **Date(s).**
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): **ORM Number(s) and date(s).**
- ☒ Antecedent Precipitation Tool: **provide detailed discussion in Section III.B.**
- ☐ USDA NRCS Soil Survey: **Title(s) and/or date(s).**
- ☐ USFWS NWI maps: **Title(s) and/or date(s).**
- ☐ USGS topographic maps: **Title(s) and/or date(s).**

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.

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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Data Source (select)	Name and/or date and other relevant information
Other Sources	Texas Water Development Board LiDAR 2018

B. Typical year assessment(s): Based on the location of the wetland, two analyses were needed to determine if the subject wetland would be inundated by the flooding of surface water in a typical year by an (a)(1)-(a)(3) water, West Galveston Bay, which is tidal. The nearest NOAA tide gauges to the subject site are San Luis Pass, Galveston Bay Entrance North Jetty, Galveston Railroad Bridge, and Galveston Pier 21, Texas. The data was analyzed for the time frame of 2001 to 2020 having from seven months to 19 years of data.

The monthly high tides were averaged to obtain the highest water levels of the years to attempt to address those areas that would be inundated by flooding by the nearby tidal waterway in a "typical year". The highest tidal elevation, based upon a monthly average, occurs in October. (October normally does not have many tropical systems). The October average for the San Luis Pass station (which was the highest average of all four stations) was +3.10 feet which was recorded in relation to NAVD 88.

The LiDAR elevations for the project site, (which are also in NAVD 88), reveal the wetland identified on the site is separated by a road with a base elevation above the 3-foot NAVD 88 elevation and there is no hydrologic connection between the wetland and an (a)(1)-(a)(3) water. Therefore, indicating that the wetlands on the site do not get inundated from flooding of West Galveston Bay in a "typical year".

In an effort to determine adjacency (as it pertains to hydrologic trends and the subject aquatic resources verified by SWG) an additional analysis was done using the APT tool, elevation data, aerial imagery & other relevant site specific information. (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. 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. Historic and recent aerial photographs do not show the wetland being inundated by surface water associated with flooding from an (a)(2) water, West Galveston Bay. Here are the long term and short term responses for the APT test for aeri

Date	72 Hour	PDSI Class	ARC Score	APC
1/8/2008	0.67	Normal	11	Normal Conditions
2/15/2010	0.15	Moderate wetness	18	Wetter than Normal
11/28/2011	0.28	Extreme drought	11	Normal Conditions
10/28/2012	0.00	Moderate drought	11	Normal Conditions
5/15/2014	0.40	Incipient wetness	7	Drier than Normal
11/21/2015	0.28	Severe wetness	16	Wetter than Normal
1/22/2017	0.03	Mild wetness	10	Normal Conditions
3/21/2018	0.05	Moderate wetness	8	Drier than Normal

In conclusion, we have determined that this wetland is a non-jurisdictional (b)(1) water. This determination is based on site specific information, federal regulation, NOAA Tide data, and a review of aeri



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a typical year.

C. Additional comments to support AJD: [N/A](#)