



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
5151 FLYNN PARKWAY, SUITE 306
CORPUS CHRISTI, TEXAS 78411

CESWG - RDS

26 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-2018-00965²

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.³ 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.⁴ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁵ 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

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 When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, interstate water, or territorial seas that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ 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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amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable Texas due to litigation.

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
EEM-01	E2EM	27.617464	-97.235900	21.17	Section 404
OW-01	PUB	27.618146	-97.233207	0.15	Non-jurisdictional
OW-02	PUB	27.616416	-97.233916	8.78	Section 404
OW-03	PUB	27.615205	-97.239367	0.05	Non-jurisdictional
OW-04	PUB	27.621568	-97.228987	1.15	Non-jurisdictional
OW-05	PUB	27.617835	-97.231200	0.01	Non-jurisdictional
OW-06	PUB	27.614049	-97.234931	0.02	Section 404
PEM-01	PEM	27.622947	-97.232354	0.16	Non-jurisdictional
PEM-02	PEM	27.622899	-97.232071	0.02	Non-jurisdictional
PEM-03	PEM	27.620171	-97.230640	0.35	Non-jurisdictional
PEM-04	PEM	27.620835	-97.230761	1.06	Non-jurisdictional
PEM-05	PEM	27.618837	-97.230630	0.15	Non-jurisdictional
PEM-06	PEM	27.618399	-97.229910	0.02	Non-jurisdictional
PEM-07	PEM	27.618131	-97.232717	0.53	Non-jurisdictional
PEM-08	PEM	27.615636	-97.232273	0.17	Non-jurisdictional
PEM-09	PEM	27.615097	-97.232591	0.13	Non-jurisdictional
PEM-10	PEM	27.614468	-97.232918	0.19	Non-jurisdictional
PEM-11	PEM	27.613870	-97.233631	0.08	Section 404
PEM-12	PEM	27.614313	-97.234391	2.11	Section 404
PEM-13	PEM	27.617248	-97.232493	1.18	Section 404
PEM-14	PEM	27.614336	-97.235599	0.08	Non-jurisdictional
PEM-15	PEM	27.615486	-97.239366	0.49	Non-jurisdictional
PEM-16	PEM	27.615536	-97.238952	0.01	Non-jurisdictional
PEM-17	PEM	27.613604	-97.236330	0.13	Section 404
PEM-18	PEM	27.613895	-97.238003	13.65	Non-jurisdictional
PEM-19	PEM	27.621625	-97.228921	0.62	Non-jurisdictional
PSS-01	PSS	27.616162	-97.232135	0.22	Section 404

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TW-01	Laguna Madre	27.617291	-97.237482	20.55	Section 10/404
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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
- f. 2022 December Technical Support Document for the Final "Revised Definition of 'Waters of the United States'" Rule.

3. REVIEW AREA. The approximately 216-acre review area is located within and adjacent to the Laguna Madre at the intersection of Commodores Drive and Aquarius Street, Corpus Christi, Nueces County, Texas. Latitude: 27.6175901 N, Longitude: 97.2339195 W.
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. Laguna Madre⁶
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. EEM-01 directly abuts the Laguna Madre (labeled as TW-01). PEM-17 flows west through a culvert under an approximately 23-foot-wide berm directly into EEM-01, which abuts the Laguna

⁶ 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 (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.

Madre. PEM-11, PEM-12, PEM-13, PSS-01, OW-02, and OW-06 flows to the south to EEM-01, which directly abuts the Laguna Madre.

6. SECTION 10 JURISDICTIONAL WATERS⁷: 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 10.⁸

TW-01 (20.55 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped feature is the Laguna Madre. The Laguna Madre is a waterbody that qualifies as a “navigable water of the United States” (33 C.F.R. Part 329) and is (a) subject to the ebb and flow of the tide, and (b) is presently used, and/or has been used in the past, or may be susceptible for us to transport interstate or foreign commerce. Therefore, TW-01 is a water of the United States subject to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

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):

⁷ 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.

⁸ 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.

TW-01 (20.55 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped feature is the Laguna Madre. The Laguna Madre is a waterbody that qualifies as a “navigable water of the United States” (33 C.F.R. Part 329) and is (a) subject to the ebb and flow of the tide, and (b) is presently used, and/or has been used in the past, or may be susceptible for us to transport interstate or foreign commerce. Therefore, TW-01 is a water of the United States subject to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

b. Interstate Waters (a)(2): N/A

c. Other Waters (a)(3):

OW-02 (8.78 acres) and OW-06 (0.02 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped features OW-02 and OW-06, labelled as palustrine unconsolidated bottom, is contiguous with EEM-01, which abuts the Laguna Madre (labeled TW-01). The Laguna Madre is a waterbody that qualifies as a “navigable water of the United States” (33 C.F.R. Part 329) and is (a) subject to the ebb and flow of the tide, and (b) is presently used, and/or has been used in the past, or may be susceptible for us to transport interstate or foreign commerce. Therefore, OW-02 and OW-06 are waters of the United States subject to Section 404 of the Clean Water Act.

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):

PEM-11 (0.08 acres), PEM-12 (2.11 acres), PEM-13 (1.18 acres), and PSS-01 (0.22 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped features PEM-11, PEM-12, and PEM-13, labelled as palustrine emergent, and PSS-01, labelled as palustrine scrub shrub, is contiguous with EEM-01, which abuts the Laguna Madre (labeled TW-01). The Laguna Madre is a waterbody that qualifies as a “navigable water of the United States” (33 C.F.R. Part 329) and is (a) subject to the ebb and flow of the tide, and (b) is presently used, and/or has been used in the past, or may be susceptible for us to transport interstate or foreign

commerce. Therefore, PEM-11, PEM-12, PEM-13, and PSS-01 is a water of the United States subject to Section 404 of the Clean Water Act.

PEM-17 (0.13 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped feature, labelled as a palustrine emergent wetland, is contiguous with the wetland (EEM-01) abutting the Laguna Madre (TW-01). Site visits confirmed that the boundaries of PEM-17 abuts a culvert under an approximately 23-foot wide upland berm where waterflows into estuarine wetlands abutting the Laguna Madre. The Laguna Madre is a waterbody that qualifies as a “navigable water of the United States” (33 C.F.R. Part 329) and is (a) subject to the ebb and flow of the tide, and (b) is presently used, and/or has been used in the past, or may be susceptible for us to transport interstate or foreign commerce.

Based on the “*Memorandum to Re-evaluate Jurisdiction for NOW-2003-60436*”, the culvert acts as a discrete feature so that PEM-17 is a continuation of estuarine wetlands (EEM-01) abutting the Laguna Madre (TW-01). When comparing the LiDAR 3D mapping, the LiDAR indicates the continuation of slopes and hydrology of the wetlands on either side of the culvert. The joint EPA/Corps Memorandum on LRB-2021- 01386 (16 Feb 2024), which explains how a subsurface connection may allow a divided wetland to function as a single, unified wetland, citing the January 2023 rule preamble (88 FR 3094) “For purposes of determining whether a wetland is “adjacent,” artificial structures do not divide a wetland if a hydrologic connection is maintained between the divided portions of the wetland. Rather, the wetland is treated as one wetland. For example, if a wetland is divided by a road, a culvert could maintain a hydrologic connection.” The 2024 Memo further references the *Technical Support Document for the Final “Revised Definition of ‘Waters of the United States’”* rule which states “Under longstanding agency practice, a wetland is also delineated as a single wetland if a human-made levee or similar artificial structure divides it, but a hydrologic connection is maintained between the divided wetlands.” The primary hydrologic connection between the wetlands on either side of the berm is established by the culvert. This structure provides a clear hydrologic pathway by conveying flow between PEM-17 and EEM-01/TW-01. The function of this culvert is critical under agency guidance, which specifies that such structures maintain, rather than sever, the connection between wetland areas. Therefore, PEM-17 is considered one contiguous jurisdictional water with EEM-01, which abuts TW-01, the Laguna Madre. Therefore, PEM-17 meets the definition of adjacent because Wetland 2 is abutting the Laguna Madre, a traditional navigable water. Therefore, the discharge of dredged and/or fill material in PEM-17 is subject to Section 404 of the Clean Water Act.

EEM-01 (21.17 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland

delineation field data forms were utilized as part of the desktop analysis to identify that the mapped feature labelled as estuarine wetland abuts the Laguna Madre and is tidally influenced. The Laguna Madre is a waterbody that qualifies as a “navigable water of the United States” (33 C.F.R. Part 329) and is (a) subject to the ebb and flow of the tide, and (b) is presently used, and/or has been used in the past, or may be susceptible for us to transport interstate or foreign commerce. Therefore, EEM-01 is a water of the United States subject to Section 404 of the Clean Water Act.

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”).⁹ 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 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

⁹ 51 FR 41217, November 13, 1986.

- 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 (0.16 acres), PEM-02 (0.02 acres), PEM-03 (0.35 acres), PEM-04 (1.06 acres), PEM-05 (0.15 acres), PEM-06 (0.02 acres), PEM-07 (0.53 acres), PEM-08 (0.17 acres), PEM-09 (0.13 acres), PEM-10 (0.19 acres), and PEM-14 (0.08 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped features labelled as palustrine emergent wetlands reside in depressional areas. These wetlands are separated from the Laguna Madre and other contiguous aquatic resources by berms and natural topography changes. There is no presence of a continuous surface connection to a TNW or RPW. These wetlands are isolated so that there is no overland sheet flow with the exception of large precipitation events. Therefore, in accordance with the pre-2015 regime post *Sackett* and the 12 March 2025 Memorandum to the Field between 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, PEM-01, PEM-02, PEM-03, PEM-04, PEM-05, PEM-06, PEM-07, PEM-08, PEM-09, PEM-10, and PEM 14 do not meet the definition of adjacent as defined in the pre-2015 regime post *Sackett* guidance and is not a water of the United States subject to Section 404 of the Clean Water Act. Any discharge of dredged and/or fill material into PEM-01, PEM-02, PEM-03, PEM-04, PEM-05, PEM-06, PEM-07, PEM-08, PEM-09, PEM-10, and PEM 14 does not require a Department of Army Permit.

OW-01 (0.15 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped feature, labelled as palustrine unconsolidated bottom, reside in a depressional area. This pond is within surrounded by PEM-07 and separated from the Laguna Madre and other contiguous aquatic resources by berms and natural topography changes. There is no presence of a continuous surface connection to a TNW or RPW. This pond is isolated so that there is no overland sheet flow with the exception of large precipitation events. Therefore, in accordance with the pre-2015 regime post *Sackett* and the 12 March 2025 Memorandum to the Field between 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, OW-01 does not meet the definition of adjacent as defined in the pre-2015 regime post *Sackett* guidance and is not a water of the

United States subject to Section 404 of the Clean Water Act. Any discharge of dredged and/or fill material into OW-01 does not require a Department of Army Permit.

OW-04 (1.15 acres) and PEM-19 (0.62 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped features labelled as a palustrine emergent wetland (PEM-19) and palustrine unconsolidated bottom (OW-04) resides in a depressional area that was excavated between 1955 and 1979. PEM-19 is a fringe wetland to OW-04. There is no presence of a continuous surface connection to a TNW or RPW. OW-04 and PEM-19 are isolated so that there is no overland sheet flow with the exception of large precipitation events. Therefore, in accordance with the pre-2015 regime post *Sackett* and the 12 March 2025 Memorandum to the Field between 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, OW-04 and PEM-19 do not meet the definition of adjacent as defined in the pre-2015 regime post *Sackett* guidance and is not a water of the United States subject to Section 404 of the Clean Water Act. Any discharge of dredged and/or fill material into OW-04 and PEM-19 does not require a Department of Army Permit.

OW-05 (0.01 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that OW-05, labelled as a palustrine unconsolidated bottom, resides in depressional areas. OW-05 is separated from the Laguna Madre and other contiguous aquatic resources by berms and natural topography changes. There is no presence of a continuous surface connection to a TNW or RPW. This feature is isolated so that there is no overland sheet flow with the exception of large precipitation events. Therefore, in accordance with the pre-2015 regime post *Sackett* and the 12 March 2025 Memorandum to the Field between 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, OW-05 do not meet the definition of adjacent as defined in the pre-2015 regime post *Sackett* guidance and is not a water of the United States subject to Section 404 of the Clean Water Act. Any discharge of dredged and/or fill material into OW-05 does not require a Department of Army Permit.

OW-03 (0.05 acre), PEM-15 (0.49 acre), PEM-16 (0.01 acre), and PEM-18 (13.65 acres): LiDAR, topo, aerial imagery, site visit photos, and wetland delineation field data forms were utilized as part of the desktop analysis to identify that the mapped features labelled as a palustrine emergent wetland (PEM-15, PEM-16, and PEM-18) and palustrine unconsolidated bottom (OW-03) resides in a depressional area

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surrounded by a high berm. There is no presence of a continuous surface connection to a TNW or RPW. PEM-15, PEM-16, PEM-18, and OW-03 are isolated so that there is no overland sheet flow with the exception of large precipitation events. Therefore, in accordance with the pre-2015 regime post *Sackett* and the 12 March 2025 Memorandum to the Field between 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, PEM-15, PEM-16, PEM-18, and OW-03 do not meet the definition of adjacent as defined in the pre-2015 regime post *Sackett* guidance and is not a water of the United States subject to Section 404 of the Clean Water Act. Any discharge of dredged and/or fill material into PEM-15, PEM-16, PEM-18, and OW-03 does not require a Department of Army Permit.

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. Aquatic Resources Delineation Report: Axys Capital: Commodores Cove, prepared by Anchor QEA, 21 October 2025.
 - b. Attachment B: Google Earth Aerials dated: 1955, 1979, 1985, 1990, 1995, 2003, 2004, 2006, 2008, 2009, 2011, 2012, 2014, 2016, 2017, 2020, 2022, 2023, 2025. Google Earth accessed 17 March 2026.
 - c. Attachment C: USGS Topographic Map/Scale: Crane Islands SW; 1:24,000
 - d. Attachment D: NRCS Soil Survey Soil Survey titled: Nueces County, Texas; NRCS Website accessed on 17 March 2026.
 - e. Attachment E: US Fish and Wildlife Service (FWS) National Wetland Inventory (NWI): Web Mapper dated 17 March 2026.
 - f. Attachment F: Site Visit Photolog, Site Visit conducted on 10 February 2026.
 - g. Attachment G: LiDAR
 - h. Attachment H: Antecedent Precipitation Tool
 - i. ORM2 Database Jurisdictional determinations: February 2018: A preliminary jurisdictional determination (PJD) was issued for this property. Since this was a PJD, all aquatic resources were determined to be jurisdictional.

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10. OTHER SUPPORTING INFORMATION. N/A

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:


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Ashley Bogrand
Regulatory Project Manager, South Branch
Regulatory Division, Galveston District

March 26, 2026
Date: _____

REVIEWED/APPROVED BY:


Kara Vick Clark
Team Lead, South Branch
Regulatory Division, Galveston District

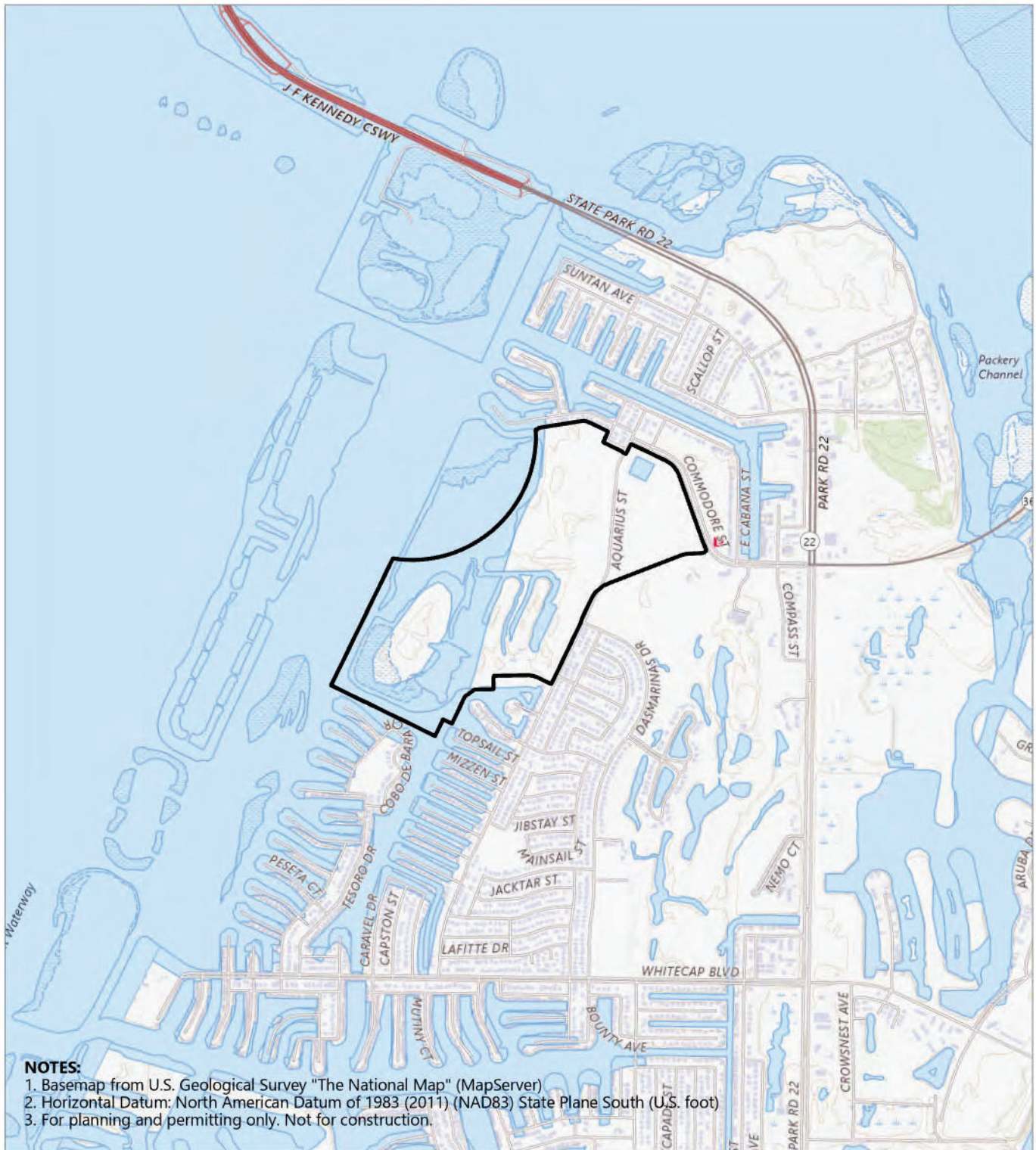
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PROJECT: Axy Capital: Commodores Cove (SWG-2018-00965)		LEGEND:  Project Review Area	
TITLE: Vicinity Map		FIGURE NO: 1 of 10	
		AUTHOR: C. Belaire	
		DATE: 10/13/2025	REVISION: NO. 0



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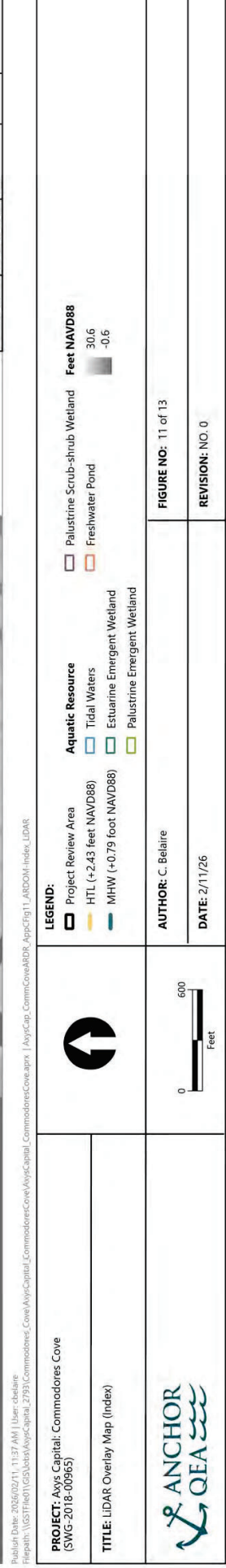
PROJECT: Axy Capital: Commodores Cove (SWG-2018-00965)		LEGEND:  Project Review Area	
TITLE: USGS Topographic Survey Map Crane Island SW, TX Quadrangle		AUTHOR: C. Belaire DATE: 10/13/2025	
		FIGURE NO: 6 of 10 REVISION: NO. 0	



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PROJECT: Axys Capital: Commodores Cove (SWG-2018-00965)		LEGEND:			
TITLE: LiDAR Overview Map		 Project Review Area	 1.0 - 1.5	 5.0 - 7.0	 17.0 - 20.0
		Feet NAVD88	 1.5 - 2.0	 7.0 - 9.0	 20.0 - 25.0
		 -0.6 - 0.0	 2.0 - 2.5	 9.0 - 11.0	 25.0 - 30.0
		 0.0 - 0.5	 2.5 - 3.0	 11.0 - 14.0	
		 0.5 - 1.0	 3.0 - 5.0	 14.0 - 17.0	
	 Feet	AUTHOR: C. Belaire		FIGURE NO: 7 of 10	
		DATE: 10/13/2025		REVISION: NO. 0	



Water Name	Latitude	Longitude	Acre	Cowardin Code
EEM-01	27.617464	-97.235900	21.17	E2EM
OW-01	27.618146	-97.233207	0.15	PUB
OW-02	27.616416	-97.233916	8.78	PUB
OW-04	27.621568	-97.228887	1.15	PUB
OW-05	27.617835	-97.231200	0.01	PUB
PEM-01	27.622947	-97.232354	0.16	PEM
PEM-02	27.622899	-97.232071	0.02	PEM
PEM-03	27.620171	-97.230640	0.35	PEM
PEM-04	27.620835	-97.230761	1.06	PEM
PEM-05	27.618837	-97.230630	0.15	PEM
PEM-06	27.618399	-97.229910	0.02	PEM
PEM-07	27.618131	-97.232717	0.53	PEM
PEM-13	27.617248	-97.232493	1.18	PEM
PEM-19	27.621625	-97.228921	0.62	PEM
TW-01	27.617291	-97.237482	20.55	E1

NOTES:

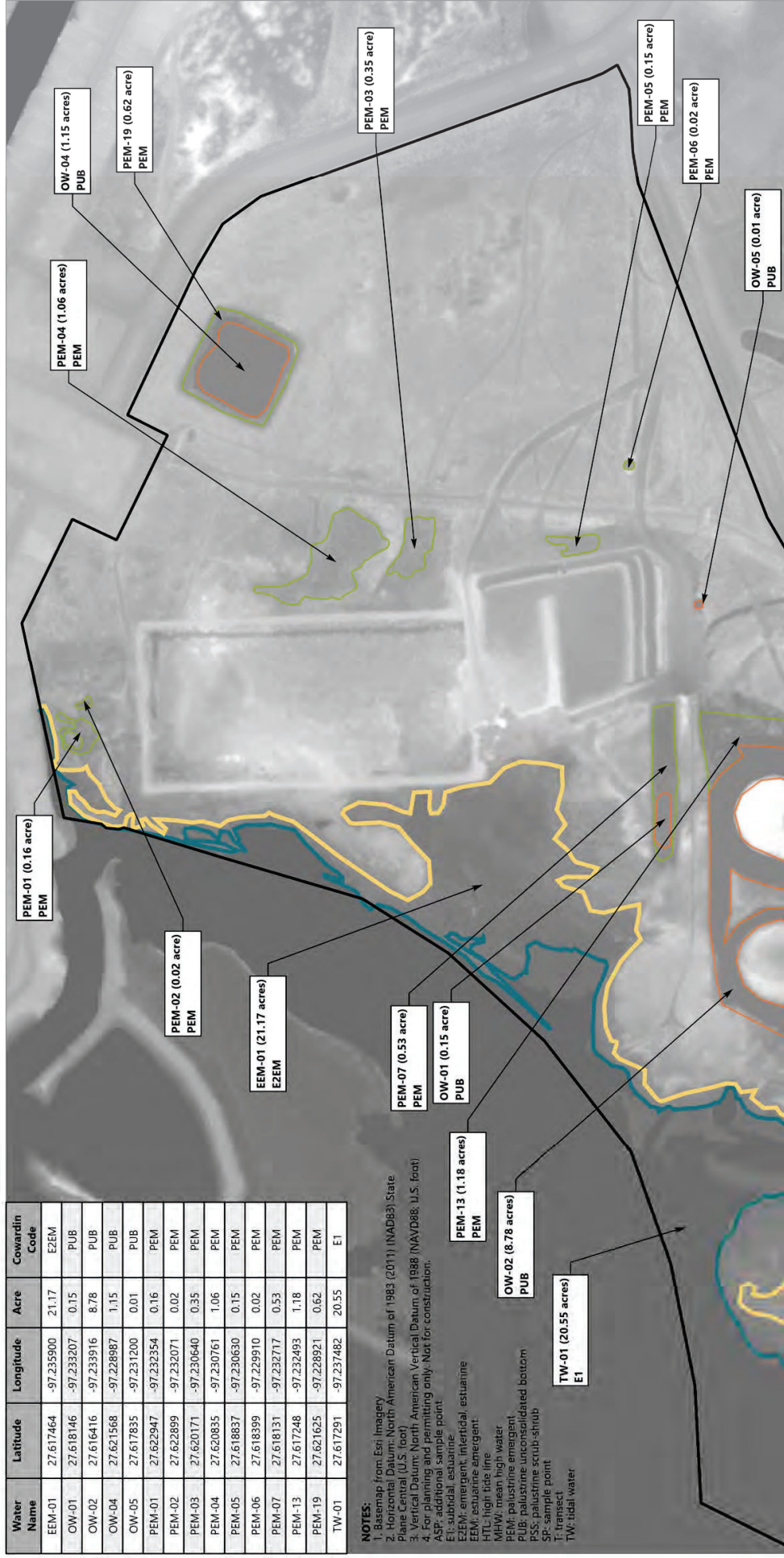
1. Basemap from Esri Imagery
2. Horizontal Datum: North American Datum of 1983 (2011) (NAD83) State Plane Central (U.S. foot)
3. Vertical Datum: North American Vertical Datum of 1988 (NAV88; U.S. foot)
4. For planning and permitting only. Not for construction.

ASP: additional sample point
E1: subtidal, estuarine
E2EM: emergent, intertidal, estuarine
EEM: estuarine emergent
HTL: high tide line
MHW: mean high water
PEM: palustrine emergent
PUB: palustrine unconsolidated bottom
PSS: palustrine scrub-shrub
SP: sample point
T: transect
TW: tidal water

NOTES:

1. Basemap from Esri Imagery
2. Horizontal Datum: North American Datum of 1983 (NAD83) State Plane Central (U.S. Foot)
3. Vertical Datum: North American Vertical Datum of 1988 (NAV88; U.S. foot)
4. For Publishing and Permitting only. Not for construction.

ASP = random sample point
 ET = subtidal estuarine
 E2EM = emergent, intertidal, estuarine
 EEM = estuarine emergent
 HTL = high tide line
 MHW = mean high water
 P-EM = palustrine emergent
 PUL = palustrine unconsolidated bottom
 PSS = palustrine scrub/shrub
 SP = sample point
 T = transect
 TW = tidal water



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 Pspath: \\3537file01\\GIS\\Jules\\AveCapital_2793\\Commodores_Core\\AveCapital_CommodoresCore\\AveCapital_CommodoresCore.aprx | AveCap_CommCoveARDR_ApplCfig11_ARDOM-North_LIDAR

PROJECT: Axis Capital: Commodores Cove
(SWG-2018-00965)

TITLE: LiDAR Overlay Map (North)

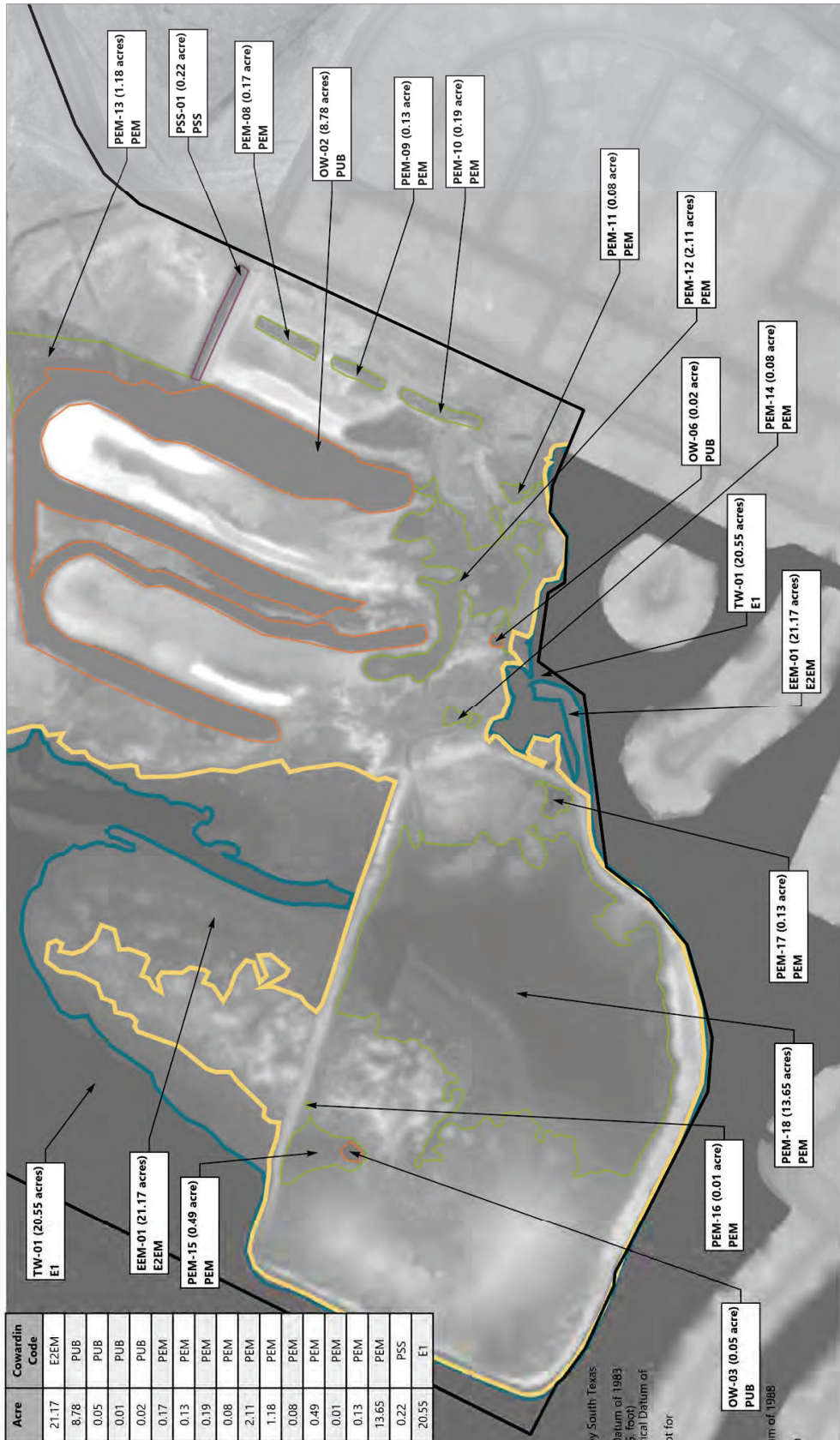


FIGURE NO: 12 of 13

REVISION: NO. 0

Water Name	Latitude	Longitude	Acre	Cowardin Code
EEM-01	27.617464	-97.235900	21.17	E2EM
OW-02	27.616416	-97.233916	8.78	PUB
OW-03	27.615205	-97.239367	0.05	PUB
OW-05	27.617835	-97.231200	0.01	PUB
OW-06	27.614049	-97.234931	0.02	PUB
PEM-08	27.615636	-97.232273	0.17	PEM
PEM-09	27.615097	-97.232591	0.13	PEM
PEM-10	27.614468	-97.232918	0.19	PEM
PEM-11	27.613870	-97.233631	0.08	PEM
PEM-12	27.614313	-97.234391	2.11	PEM
PEM-13	27.617248	-97.232493	1.18	PEM
PEM-14	27.614336	-97.235599	0.08	PEM
PEM-15	27.615486	-97.239366	0.49	PEM
PEM-16	27.615536	-97.238952	0.01	PEM
PEM-17	27.613604	-97.236330	0.13	PEM
PEM-18	27.613895	-97.238003	13.65	PEM
PSS-01	27.616162	-97.232135	0.22	PSS
TW-01	27.617291	-97.237482	20.55	E1

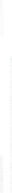
NOTES:
1. Basemap: 2018 U.S. Geological Survey South Texas LIDAR.
2. Horizontal Datum: North American Datum of 1983 (2011) (NAD83) State Plane Central (U.S. foot)
3. Vertical Datum: North American Vertical Datum of 1988 (NAVD88; U.S. foot)
4. For planning and permitting only. Not for construction.
E1: subtidal, estuarine
E2EM: emergent, intertidal, estuarine
EEM: estuarine emergent
LIDAR: light detection and ranging
MHW: mean high water
NAVD88: North American Vertical Datum of 1988
PEM: palustrine emergent
PUB: palustrine unconsolidated bottom
PSS: palustrine scrub-shrub
TW: tidal water



Project Date: 2018/03/11, 11:49 AM | User: dclara
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PROJECT: Ays Capital: Commodores Cove (SWG-2018-00965)			LEGEND:  Project Review Area  HTL (+2.43 feet NAVD88)  MHW (+0.75 foot NAVD88)  Aquatic Resource  Tidal Waters  Estuarine Emergent Wetland  Palustrine Emergent Wetland  Palustrine Scrub-shrub Wetland  Freshwater Pond  30.6  -0.6		
TITLE: LIDAR Overlay Map (South)			 ANCHOR QEA 0  600 Feet		
		AUTHOR: C. Belaire		FIGURE NO: 13 of 13	
		DATE: 2/11/26		REVISION: NO. 0	



PROJECT: Ays Capital: Commodores Cove (SWG-2018-00965)			LEGEND:  Project Review Area  HTL (~2.43 feet NAVD88)  MHW (+0.79 foot NAVD88)  Survey Transect  Upland Sample Point  Wetland Sample Point Aquatic Resource  Palustrine Scrub-shrub Wetland  Freshwater Pond  Tidal Waters  Estuarine Emergent Wetland  Palustrine Emergent Wetland	AUTHOR: C. Belaire	FIGURE NO: 2 of 10
TITLE: Aquatic Resource Delineation Overview Map (Index)				DATE: 10/13/25	REVISION: NO. 0

Water Name	Latitude	Longitude	Acres	Cowardin Code
EEM-01	27.617464	-97.235900	21.17	E2EM
OW-01	27.618146	-97.233207	0.15	PUB
OW-02	27.616416	-97.233916	8.78	PUB
OW-04	27.621568	-97.228987	1.15	PUB
OW-05	27.617835	-97.231200	0.01	PUB
PEM-01	27.622947	-97.232354	0.16	PEM
PEM-02	27.622899	-97.232071	0.02	PEM
PEM-03	27.620171	-97.230640	0.35	PEM
PEM-04	27.620835	-97.230761	1.06	PEM
PEM-05	27.618837	-97.230630	0.15	PEM
PEM-06	27.618399	-97.229910	0.02	PEM
PEM-07	27.618131	-97.232717	0.53	PEM
PEM-13	27.617248	-97.232493	1.18	PEM
PEM-19	27.621625	-97.228921	0.62	PEM
TW-01	27.617291	-97.237482	20.55	E1

NOTES:

1. Basemap from Esri Imagery
2. Horizontal Datum: North American Datum of 1983 (2011) (NAD83) State Plane Central (U.S. foot)
3. Vertical Datum: North American Vertical Datum of 1988 (NAVD88; U.S. foot)
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ASP: additional sample point
 E1: subtidal, estuarine
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 EEM: estuarine emergent
 HTL: high tide line
 MHW: mean high water
 PEM: palustrine emergent
 PUB: palustrine unconsolidated bottom
 PSS: palustrine scrub-shrub
 SP: sample point
 T: transect
 TW: tidal water

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 Length: (VGSF1601)GISJobsAysCapital 2793Commodores Cove AysCapital CommodoresCoveAprx AysCap CommCoveARDR AnpCFin3 ARDOM-North

PROJECT: Axis Capital: Commodores Cove (SWG-2018-00965)		LEGEND:  Project Review Area  HTL (+2.43 feet NAVD88)  MHW (+0.79 feet NAVD88)  --- Survey Transect  Upland Sample Point  Wetland Sample Point	Aquatic Resource  Palustrine Scrub-shrub Wetland  Freshwater Pond  Tidal Waters  Estuarine Emergent Wetland  Palustrine Emergent Wetland	AUTHOR: C. Belaire FIGURE NO: 3 of 10
TITLE: Aquatic Resource Delineation Overview Map (North)		DATE: 10/13/25	REVISION: NO. 0	

