



**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): 6/21/2021
 ORM Number: SWG 2019-00265
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Texas City: County/Parish/Borough: Brazoria
 Center Coordinates of Review Area: Latitude 29.015358 Longitude -95.282854

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
Wetland 2	58.92	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	This wetland is part of the greater Essex Bayou. Based on the aerial photos, Essex Bayou directly connects to the Gulf Intracoastal Waterway approximately 2 aerial miles south of Wetland 2. Wetland 2 was inundated with approximately 12 to 18 inches of water during the 3 December 2019 site visit. We also observed redfish (Sciaenops ocellatus) finning in the canal that shared the same water elevation as Wetland 2. Wetland 2 is dominated by saltwater cord grass (Spartina alterniflora-OBL) which is documented to grow in intertidal areas. The NWI shows Wetland 2 as an estuarine intertidal wetland. Based on this information Wetland 2 is subject to daily tidal ebb and flow.

C. Clean Water Act Section 404

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.



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Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
Wetland 2	58.92	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	This wetland is part of the greater Essex Bayou. Based on the aerial photos, Essex Bayou directly connects to the Gulf Intracoastal Waterway approximately 2 aerial miles south of Wetland 2. Wetland 2 was inundated with approximately 12 to 18 inches of water during the site visit. We also observed redfish (<i>Sciaenops ocellatus</i>) finning in the canal that shared the same water elevation as Wetland 2. Wetland 2 is dominated by saltwater cord grass (<i>Spartina alterniflora</i> -OBL) which is documented to grow in intertidal areas. The NWI shows Wetland 2 as an estuarine intertidal wetland. Therefore, Wetland 2 is subject to the ebb and flow of the daily tide.

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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	41.48	acre(s)	(b)(6) Prior converted cropland.	This feature was in cattle production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle or horse grazing and haying. Therefore, Wetland 1 meets the 33 CFR 328.3(b)(6) prior converted cropland exclusion.

III. SUPPORTING INFORMATION

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.

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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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: [Alluvion Resource Company, LLC.](#)
31 January 2019

This information is sufficient for purposes of this AJD.

Rationale:

- Data sheets prepared by the Corps: 3 December 2019
- Photographs: Aerial: [Google Earth Aerial Images 1995-2018](#)
- Corps site visit(s) conducted on: 3 December 2019
- Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: [Brazoria County SoilWeb](#)
- USFWS NWI maps: [Brazoria County USGS NWI Mapper](#)
- USGS topographic maps: [Oyster Creek, Texas 1943, 1963, 2010; and 2019](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	<i>N/A.</i>
USDA Sources	<i>N/A.</i>
NOAA Sources	<i>N/A.</i>
USACE Sources	<i>N/A.</i>
State/Local/Tribal Sources	<i>N/A.</i>
FEMA/FIRM maps	<i>N/A.</i>

B. Typical year assessment(s): *N/A*

C. Additional comments to support AJD: *N/A.*