



**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): 4/19/2021

ORM Number: SWG-2019-00452

Associated JDs: N/A.

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

Center Coordinates of Review Area: Latitude 29.832348 Longitude -95.252858

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
Wet 1	0.68	acre(s)	(b)(1) Non-adjacent wetland.	Wet 1 does not abut an (a)(1)-(a)(3) water, is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”, nor is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier. The aerial photos and the Topo Maps show that Wet 1 does not abut Halls Bayou or Greens Bayou. The aerials and topo also show that Wet1 is not separated from Halls Bayou or Greens Bayou by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in a typical year.
OW 1	0.09	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Based on the aerial photos, this pond was excavated from uplands between 1995 and 2002. According to the aerial and topo maps, there are no waters of the United States (U.S.), specifically tributaries or navigable waters, near the project site and the pond is not an impoundment of a water of the U.S.
Ditch 1	1559.7	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Based on the topo maps, the feature is a constructed or excavated channel used to convey water. The ditch does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. There were no tributaries near the project site, therefore the ditch does not relocate a tributary nor is it constructed in a tributary.

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.

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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- ☒ Information submitted by, or on behalf of, the applicant/consultant: [Wetland Delineation Report submitted by Bio-West, Inc. dated 31 October 2018](#)
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 aeriels 1952, 1977, 2004, 2009, 2014, 2016, 2018; Photographs by Bio-West taken on 18 July 2018](#)
- ☐ 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: [7.5-Minute Topographic Quadrangle Maps - Settegast, Texas 1916, 1955, 1982, 1995; Fauna, Texas 1916; Jacinto City 1955, 1982, 1995](#)

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	FEMA FIRM Panel 48201C0685L effective 18 June 2007, FEMA Flood Insurance Study (FIS) dated 6 January 2017, 2018 Texas Water Development Board LiDAR.

B. Typical year assessment(s): In an effort to determine wetland adjacency as it pertains to hydrologic trends and the subject aquatic resources verified by SWG an 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 Palmer Drought Severity Index (PDSI). 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. Historic and contemporary aerial photographs do not show the wetlands being inundated by surface water associated with flooding from Greens Bayou, the proximal (a)(2) water. Here are the long- and short-term response for the APT test for aeriels and the date the delineation was conducted (7/18/2018).

Date	72 Hour (inches)	PDSI Class	WEBWimp	ARC Score	APC
12/31/1952	N/A	Mild drought	Wet Season	13	Normal Conditions
12/31/1977	N/A	Incipient drought	Wet Season	12	Normal Conditions
1/31/2004	1.18	Mild wetness	Wet Season	14	Normal Conditions
1/7/2009	0.12	Moderate drought	Wet Season	8	Drier than Normal
2/14/2014	0.91	Moderate drought	Wet Season	9	Drier than Normal
3/3/2016	0.00	Mild wetness	Wet Season	10	Normal Conditions
7/18/2018	0.00	Mild wetness	Dry Season	14	Normal Conditions



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12/3/2018 0.00 Severe wetness Wet Season 10 Normal Conditions

According to the FEMA Flood Insurance Study (FIS), 48201CV007D, Greens Bayou cross-sections BI and BJ show that the 10-year flood elevation is 31' NAVD88. The elevation of Wet 1, according to the LiDAR, is 41' NAVD88; therefore, as such Wet 1 does is not inundated by Greens Bayou in a typical year.

In conclusion, we have determined that these aquatic features are non-jurisdictional waters (b)(1) waters. This is based on site-specific information, federal regulation, scientific and flood plain studies, and a review of aeriels. These aquatic features do NOT abut an (a)(1-3) water, NOR would they be inundated by flooding of an (a)(1-3) water in a typical year, NOR are they physically separated from an (a)(1-3) water by a single natural barrier, NOR are they physically separated by an artificial barrier that allows direct surface hydrologic connection between the aquatic feature(s) in review and an (a)(1-3) water in a typical year.

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