



**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): 10/8/2020

ORM Number: SWG-2019-00631

Associated JDs: SWG-2019-00644

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

Center Coordinates of Review Area: Latitude 29.606282 Longitude -95.022602

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 or describe rationale.
- ☐ 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
Ditch1	1577	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).	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. The ditch does not relocate a tributary nor is it constructed in a tributary nor extend the reach of the tidal waters.

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: [Wetland delineation report submitted by Terra Nova Consulting, Inc.](#)

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: [Site visit conducted 23 January 2020](#)
- ☐ Photographs: [Select.](#) [Title\(s\) and/or date\(s\).](#)
- ☒ Corps site visit(s) conducted on: [23 January 2020](#)
- ☐ 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: [Web Soil Survey \(WSS\) - https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx](#)
- ☒ USFWS NWI maps: [FWS NWI Web Map Services \(WMS\) \(https://www.fws.gov/wetlands/arcgis/services/Wetlands/MapServer/WMSServer?request=GetCapabilities&service=WMS\).](#)
- ☒ USGS topographic maps: [1916, 1955, and 1982; Seabrook, Texas.](#)

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	Operations and Maintenance Business Information Link (OMBIL) Regulatory Module (ORM) actions database.
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): Although APT analysis are routinely not needed for ditch determinations one was run in this case to address any potential concerns. Terra Nova Consulting, Inc. (TNCI) conducted a wetland delineation on 17 May 2019. According to the Antecedent Precipitation Tool (APT), the hydrologic condition scores on the TNCI site visit date was 13 (normal). In addition, the APT score for the 23 January 2020 Corps site visit date was also 13, although the area received approximately 2.0 inches of precipitation immediately preceding the site visit. The APT calculated hydrologic conditions for the reviewed historic aerial imagery are listed in Table 1 below.

Date	APT	Precipitation Condition	PDSI	WebWIMP	Preceding 72 Hours
01/23/2020	13	Normal	Incipient Drought	N/A	~ 2 inches
05/17/2019	13	Normal	Moderate Wetness	N/A	0
01/23/2019	15	Wetter than Normal	Severe Wetness	N/A	~0.25
12/22/2018	15	Wetter than Normal	Severe Wetness	N/A	~0.1

None of the reviewed aerial images depict overbank flooding from the Bayport Ship Channel, the closest (a)1 water near the subject site. Two of the aerial photos were collected during Wetter than Normal precipitation conditions. Therefore, based on the APT tool analysis of historic aerial imagery and site visit date there is insufficient data to state that the site ditch conveys water flow from an (a)(1) water in a typical year. As such the subject approximate 1,577-foot-long upland man-made drainage ditch meets the 33 CFR 328.2(b)(5) exclusion.

C. Additional comments to support AJD: The tide level was approximately 1.5-2 feet higher than the predicted high tide level according to the Morgans Point, TX tide gage station (8770613) during the site visit. There was no evidence of the review area being tidally influenced in a higher than normal tidal event. There was approximately 2 inches of precipitation within the vicinity preceding the site visit and as water was present within the ditch.



SWG-2019-00631
Port of Houston Authority (POHA)
Approved Jurisdictional Determination
Approximate 3.0-Acre Site
Seabrook, Harris County, Texas

 Review_Area ~ 3 ac  Ditch ~ 1,577 lf (0.5 ac)

Image Source: DigitalGlobe High Resolution Near Color

Date: 18 August 2020

Note: Review Area reflects neither property boundary nor ownership

