



**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): 7/1/2020

ORM Number: SWG-2020-00352

Associated JDs: N/A.

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

Center Coordinates of Review Area: Latitude 29.173375 Longitude -94.995828

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.	acre(s)	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
Open Water 1	0.325	acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water inundated by flooding from an (a)(1)-(a)(3)
			Open Water 1 is located above the mean high water mark but below the high tide line of Ostermayer Bayou (a navigable water of the U.S.)

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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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
		water in a typical year.	

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 2	0.045 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland is abutting Open Water 1, which is below the High Tide Line of Ostermayer Bayou, a Navigable Water of the United States.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	0.058 acre(s)	(b)(1) Non-adjacent wetland.	It is a wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.

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: [25 June 2020 by John Davidson](#)
- Photographs: [Aerial: GoogleEarth, 2010-2018](#)
- Corps site visit(s) conducted on: [25 June 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](#)
- USFWS NWI maps: [Google Earth Layer](#)
- USGS topographic maps: [Earth Point Topo Map](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Lake Como USGS Quad map 52, 54, 69, 74 & 94
USDA Sources	Galveston County Soil Survey
NOAA Sources	N/A.
USACE Sources	ORM for historical review

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
State/Local/Tribal Sources	N/A.
Other Sources	Google earth aerials

B. Typical year assessment(s): Wetland 1 was observed during a 25 June 2020 site visit. The APT score for that date was 16 on a scale of 6-18 with a score of 15-18 being wetter than normal precipitation for the previous 3 months. Wetland 1 is located approximately 3 feet above the surface elevation of the Open Water 1, which is below the HTL of a navigable water of the United States (Ostermayer Bayou). The water from Open Water 1 is contained within the depression and does not encroach on the uplands on the property or Wetland 1. Additionally, Google Earth Photos dated 21 March 2018, 22 January 2017, 15 May 2014 and 15 February 2010 were analyzed along with their APT scores of 8 (Drier than normal), 10 (Normal), 7 (Drier than normal) and 18 (Wetter than normal), respectively. None of the photos depict surface water from Open Water 1 encroaching the uplands on the property or Wetland 1. Therefore, we determined that Wetland 1 does not get flooded from Open Water 1, a Traditional Navigable Water, in a typical year. Additionally, it is anticipated that Wetland 1 would get flooded from a storm surge and the hydrology for this wetland is associated with the ponding of precipitation.

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

SWG-2020-00352

Cousins Homebuilding Group
Approved Jurisdictional Determination
18034 Shaman Drive
Indian Beach Subdivision
Galveston, Galveston County, Texas

21 March 2018 Google Earth Aerial Photo

SWG-2020-00352 DP1

SWG-2020-00352 DP 2

Wetland 1

Wetland 2

Open Water 1

