



**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): 3/29/2021

ORM Number: SWG-2020-00630

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 27.967082 Longitude -97.100451

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
Wet 1	0.156	acre(s)	(b)(1) Non-adjacent wetland.	This wetland does not abut an (a)(1) – (a)(3) water; is not inundated by flooding from an (a)(1) – (a)(3) water in a typical year; is not physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature; or is not physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”.
Wet 2	0.085	acre(s)	(b)(1) Non-adjacent wetland.	This wetland does not abut an (a)(1) – (a)(3) water; is not inundated by flooding from an (a)(1) – (a)(3) water in a typical year; is not physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature; or is not physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”.

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: [JD review submitted - 28 Aug 2020, by Coastal Environments, Inc. \(CEI\)](#)

This information [is and is not](#) sufficient for purposes of this AJD.

Rationale: [Report delineated the boundaries of the water features on the tract, but did not provide elevations.](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- ☒ Photographs: [Aerial and Other: Google Earth aerial - 31 Jan 2020; CEI site visit photos - 17 Aug 2020](#)
- ☐ Corps site visit(s) conducted on: [Date\(s\).](#)
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- ☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- ☒ USDA NRCS Soil Survey: [Web Soil Survey, Custom Soil Resource Report for San Patricio and Aransas Counties, Texas](#)
- ☒ USFWS NWI maps: [Estes USGS map Google Earth USFWS NWI layer accessed 3 Nov 2020](#)

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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☒ USGS topographic maps: [Estes, TX, 2016](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS 2016 topo map, Estes, Texas
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	NOAA Rockport Tidal Gauge (8774770), ref. 8 MAR 2021. Elevation in Meters (NAVD88)
Other Sources	N/A.

- B. Typical year assessment(s):** Based on the location of the wetlands a determination is required to determine if these subject wetlands would be inundated by surface water flooding in a typical year by an a)1-a)3 water. The nearest a)1-a)3 water is a tidal water and as such, tide gauge data was reviewed (along with aerials). The NOAA tide information from the closest tidal gauge to the site was reviewed. The closest NOAA tidal gauge is located at Rockport (approximately 4.8 miles north northeast of the review area), the maximum tidal elevation (determined by averaging the available tide elevation for the month of October from the past eleven years, 2010-2020) at this gauge for Aransas Bay is 0.856 meter (2.81 feet) NAVD88. Based on Google Earth imagery, this is approximately 2.19 meters lower than the lowest portion of the delineated waters in the review area; and therefore, not a source for inundation in a typical year.
- C. Additional comments to support AJD:** Wet 1 and Wet 2 are separated from a canal extending from Aransas Bay, approximately 330 feet to the southeast, by artificial barriers formed by SH 35 Business highway to the east and Portia Avenue to the west. Residential and commercial development occur along the northern boundary area, and Estes Drive parallels the southern boundary. Numerous aerial photographs were also reviewed and none of them provided evidence that the two wetlands on the site were connected via a surface hydrologic connection to an a)1-a)3 water in a typical year.