



**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-2020-00657

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 29.309046° Longitude -94.763535°

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.	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
Wetland A	0.12 acre(s)	(b)(1) Non-adjacent wetland.	Wetland A 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 a single natural or man-made barrier. The aerial photos, the Earth Point Topo Map and the NWI show that Wetland A does not abut the Gulf of Mexico. The aerials, topo and NWI also show that Wetland 1 is not separated from the Gulf of Mexico by a single natural or artificial barrier. See the typical year discussion for information on flooding/inundation in 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: [Title\(s\) and date\(s\)](#)
This information [Select.](#) sufficient for purposes of this AJD.
Rationale: [N/A.](#)
- Data sheets prepared by the Corps: [SP1, SP2 data sheets on 16 October 2020](#)
- Photographs: [Select. Title\(s\) and/or date\(s\).](#)
- Corps site visit(s) conducted on: [16 October 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: [United States Department of Agriculture \(USDA\), Natural Resource Conservation Service \(NRCS\), Soil Survey: NRCS National Cooperative Soil Survey \(NCSS\) Google Earth Layer \(http://casoilresource.lawr.ucdavis.edu/soil_web/kml/mapunits.kml\), accessed 20 October 2020](#)
- USFWS NWI maps: [United States Department of Interior \(DOI\), Fish and Wildlife Service \(FWS\), National Wetland Inventory \(NWI\): FWS NWI Online Mapper. \(http://www.fws.gov/wetlands/data/mapper.HTML\), Accessed 20 October 2020](#)
- USGS topographic maps: [Earth Point Topographic Map Google Earth Layer: Accessed 20 October 2020](#)

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	Tides and Currents website

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
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The wetland is located on Galveston Island which is surrounded by tidal waters, specifically, the Gulf of Mexico and Galveston Bay. The four nearest NOAA tide stations are Galveston Bay Entrance North Jetty, Galveston Pier 21, Galveston Railroad Bridge and San Luis Pass. The stations are located southwest and northeast of the project site. The data from each station was analyzed for the time frame of 2001 to 2020 to cover a tidal epoch (18.6 year). The Galveston Bay Entrance North Jetty and Galveston Pier 21 stations were active and had data covering the 19-year time frame, except after the stations were damaged by Hurricane Ike. The Galveston Railroad Bridge had data for 8 years and the San Luis Pass station had data for 6 years. The Galveston Bay Entrance North Jetty tide station, located at the North Jetty and northeast of the project site, was out of service from September 2008 to May 2011, from Hurricane Ike.

The monthly high tides were averaged to obtain the highest water levels of the years to determine areas that would be inundated by flooding by a nearby tidal water, the Gulf of Mexico, in a typical year. The highest tide elevation, based on the monthly average, occurred in October, which normally does not have many tropical storm systems, at both tide stations. The October average for the Galveston Bay Entrance North Jetty station, located approximately 4 miles east of the project site, was +2.97 feet NAVD88, the Galveston Pier 21 station, located approximately 2 miles northwest of the project site, was +2.85 feet NAVD88, the Galveston Railroad station, located approximately 7 miles northwest of the project site, was +3.08 feet NAVD88 and the San Luis Pass station, located approximately 26 miles southwest of the project site, was +3.10 feet NAVD88.

It was observed during the site visit that two separate and individual sand dunes run parallel to the Gulf of Mexico immediately south of the site between Wetland A and the Gulf. Additionally, according to available lidar data, the northern most dunes approximate elevation is + 10 feet NAVD88, the southernmost dunes average elevation is approximately + 7.15 feet NAVD88. Both dunes elevations are above the maximum high tide elevations as mentioned above. Therefore, no hydrological connection exists between the site and a nearby tidal water, the Gulf of Mexico, and this site would not be expected to be inundated by flooding by the nearby tidal water in a typical year. Based on the Navigable Waters Protection Rule definition of adjacent, Wetland A 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 in a typical year, nor is separated from an (a)(1)-(a)(3) water by a single natural or man-made barrier. Therefore, Wetland A is not an adjacent wetland.




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C. Additional comments to support AJD: It was observed during the site visit that two separate and individual sand dunes run parallel to the Gulf of Mexico immediately south of the site. The wetland is therefore separated from the Gulf of Mexico by more than one natural barrier and therefore does meet the definition of adjacent in the Navigable Waters Protection Rule.

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Minh Voss
Approved Jurisdictional Determination

Legend

 Wetland A- 0.12-acre



Google Earth



100 ft