



**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): 4/12/2021
 ORM Number: SWG-2020-00686
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Texas City: Enter. County/Parish/Borough: Jefferson
 Center Coordinates of Review Area: Latitude 29.894764 Longitude -94.346371

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

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Perennial Stream 1 South Fork of Taylor Bayou	9000 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	This feature is a naturally occurring perennial surface water channel that contributes surface water flow directly to an (a)(1) water, Taylor Bayou, in a typical year. All the Google Earth Aerial photos show water in Taylors Bayou year-round. The Earth Point topographic map shows the south fork of Taylor Bayou as a solid blue line, indicating it is perennial.

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
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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	87.13	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying
Wetland 2	98.85	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying
Wetland 3	123.13	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying
Wetland 4	52.39	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying
Wetland 5	43.15	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying
Wetland 6	14.81	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying
Wetland 7	48.53	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 8	54.78	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying
Wetland 9	18.95	acre(s)	(b)(6) Prior converted cropland.	This feature was in rice production prior to 1985. During at least one of the prior five years, the feature has been used in the support of agriculture through cattle grazing and haying

Man-Made Ditch 1	11,378	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.
Man-Made Ditch 2	3356	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.
Man-Made Ditch 3	2959	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.
Man-Made Ditch 4	870	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an	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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

			(a)(4) water that do not satisfy the conditions of (c)(1).	
Man-Made Ditch 5	900	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.
Man-Made Ditch 6	7340	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.
Man-Made Pond 1	0.10	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).	This feature is a constructed, or excavated stock pond used for watering cattle on the property. The man-made pond does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The pond is not an impoundment of a jurisdictional water and therefore (c)(6) is irrelevant.
Man-Made Pond 2	0.18	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).	This feature is a constructed, or excavated stock pond used for watering cattle on the property. The man-made pond does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The pond is not an impoundment of a jurisdictional water and therefore (c)(6) is irrelevant.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Man-Made Pond 3	0.12	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).	This feature is a constructed, or excavated stock pond used for watering cattle on the property. The man-made pond does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The pond is not an impoundment of a jurisdictional water and therefore (c)(6) is irrelevant.
Man-Made Pond 4	0.33	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).	This feature is a constructed, or excavated stock pond used for watering cattle on the property. The man-made pond does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The pond is not an impoundment of a jurisdictional water and therefore (c)(6) is irrelevant.
Man-Made Pond 5	0.23	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).	This feature is a constructed, or excavated stock pond used for watering cattle on the property. The man-made pond does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The pond is not an impoundment of a jurisdictional water and therefore (c)(6) is irrelevant.
Man-Made Pond 6	0.34	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	This feature is a constructed, or excavated stock pond used for watering cattle on the property. The man-made pond does not meet the definition of an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. The pond is not an impoundment of a jurisdictional water and therefore (c)(6) is irrelevant.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

			water that meets (c)(6).	
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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: [Delta Land Services , LLC.](#)
[September 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [N/A](#)
- Photographs: [Aerial: Google Earth Images 1937, 1969, 1995, 2005, 2008; and 2019](#)
- Corps site visit(s) conducted on: [N/A](#)
- 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: [Jefferson County WebSoil Survey](#)
- USFWS NWI maps: [Jefferson County USFWS NWI Map](#)
- USGS topographic maps: [Fannett West, TX 1962, 1993; and 2019.](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	
USDA Sources	
NOAA Sources	N/A.
USACE Sources	ORM for Historical review
State/Local/Tribal Sources	
FEMA/FIRM maps	FEMA NFHL Panel 4803850240 C Effective 6 August 2002

B. Typical year assessment(s): [Delta Land Services, LLC.](#) conducted a wetland delineation on 28-30 July 2020 and again 4-6 August 2020. According to the Antecedent Precipitation Tool (APT), the hydrologic conditions on the days of [Delta Land Services, LLC.](#), site visits were normal (13) and wetter than normal (16). In addition, the APT calculated the hydrologic conditions which correlate with the aerials included in the document review. In an effort to determine the flow regime of South Fork Taylor Bayou (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 compared to long term precipitation. It provides results for short term precipitation (last 72 hours), the last 3 months (WETS score) and the APT result comparing the last 30 years from numerous nearby gages. It also reports the PDSI (drought index) rainfall & WebWimp water balance/hydrologic seasons information. WETS analysis produces a score between 6 and 18 noting a score of 6-9 is drier than normal, 10-14 is normal & 15-18 is wetter than normal. 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 recent aerial photographs do not show that the wetlands being inundated by surface water associated with flooding from



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

any (a)1- (a)3 waters; even when conditions were recorded as wetter than normal. Here are the long term and short term response for the APT test for aerials & site visit. The results are listed in Table 1.

Table 1

Date	WETS	APT	Season	PDSI	Preceding 72 hr Rainfall
31 December 1937 (Aerial)	11	Normal	Wet	Mild Drought	<1"
31 December 1968 (Aerial)	11	Below	Wet	Mild Wetness	0
4 February 1995 (Aerial)	12	Normal	Wet	Mild Wetness	<1"
27 June 2005 (Aerial)	6	Below	Dry	Mild Drought	0
19 May 2008 (Aerial)	7	Normal	Dry	Mild Drought	~1.5"
23 November 2019 (Aerial)	16	Above	Wet	Normal	0.04"
28 July 2020 (Agent Site Visit)	13	Normal	Dry	Incipient Drought	1"
29 July 2020 (Agent Site Visit)	13	Normal	Dry	Incipient Drought	1"
30 July 2020 (Agent Site Visit)	16	Above	Dry	Incipient Drought	0.05"
4 August 2020 (Agent Site Visit)	16	Above	Dry	Mild Drought	0.04"
5 August 2020 (Agent Site Visit)	16	Above	Dry	Mild Drought	0.04"
6 August 2020 (Agent Site Visit)	16	Above	Dry	Mild Drought	0.21"

In review of the aerials, all showed water in South Fork Taylor Bayou. This included those photos that were taken during Wetter than Normal precipitation events. Therefore, using the APT tool in conjunction with review of the historic aerials and data provided, it was determined that South Fork Taylor Bayou has perennial flow and contributes flow directly to an (a)(1) water, Taylor Bayou.

- C. Additional comments to support AJD:** In conclusion, we determined, the perennial stream 1 (South Fork Taylor Bayou) is:
- i) A perennial river, stream, or similar naturally occurring surface water channel that contributes surface water flow to the territorial seas or traditional navigable waters (Taylor Bayou) in a typical year either directly or through one or more tributaries, lakes, ponds, and impoundments of jurisdictional waters or adjacent wetlands.
 - ii) Analysis of historic aerial imagery confirmed the South Fork of Taylor Bayou was probably manipulated prior to 1938 (oldest aerial image available) for water flow for rice farming. However, the rerouting did not



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

change flow downstream into Taylor Bayou and the Gulf Intracoastal Waterway (GIWW).