



**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): 8/30/2021

ORM Number: SWG-2020-00795

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 28.532230° North Longitude 98.614060° West

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
Stream A	244	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	This feature provides surface flow or pooling only in direct response to precipitation. It is not in a contiguous landscape position that would be anticipated to be inundated by flooding by Leoncita Creek in a typical year.
Pond A	7.7	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 pond created from impoundment of a (b)(3) water and functions to store water. This feature does not contribute flow to jurisdictional waters 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: [Wetland Report: Pertinent data provided by Geosyntec Consultants for Chesapeake Energy, dated 19 June 2020](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: [Review of aerial photography and APT information was needed to confirm status of waters.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial: 20 DEC 2018 and 19 FEB 2019; Source: Google Earth](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- 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: [McMullen County Soil Survey, accessed 29 JAN 2021](#)
- USFWS NWI maps: [NWI Map for Cross, Texas Quad](#)
- USGS topographic maps: [1:24,000-scale: Cross, Texas 2019](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrologic Dataset – 12110108 – Lower Frio
USDA 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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Data Source (select)	Name and/or date and other relevant information
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	FEMA FIRM Panel 480463B, dated 27 DEC 1974

B. Typical year assessment(s): In an effort to determine adjacency (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 are associated with flooding from 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 consultant's site visit and aerial photos.

Date	Prior 72 Hr	PDSI	Season	WETS Score	APT (30yr)
08/20/2018	0.0"	Moderate Drought	Dry	15	Wetter than Normal
12/20/2018	0.0"	Moderate Wetness	Wet	15	Wetter than Normal
02/19/2019	~ 0.2"	Normal	Wet	12	Normal

C. Additional comments to support AJD: [The FEMA FIRM panel shows the review area to be completely outside the 100-year floodplain of Leoncita Creek, the nearest jurisdictional water approximately 7.7 river miles downstream.](#)

SWG-2020-00795 McKenzie Primitive Water Impoundment #1

Review Area

