



**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): 8/24/2021

ORM Number: SWG-2020-00815

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Texas City: Rockport County/Parish/Borough: Aransas

Center Coordinates of Review Area: Latitude 28.104551 Longitude -97.046254

**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)<sup>2</sup>**

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A	N/A.	

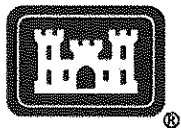
**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
S-11	0.005	acre(s)	(a)(1) Water is currently used, was used in the past, or may be susceptible to use in interstate or foreign commerce, including waters subject to the ebb and flow of the tide (CWA Section 404 ONLY).	Copano Bay is listed on the Galveston District's List of Navigable Waters and is subject to the daily ebb and flow of the tide.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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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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.	acre(s)	N/A.	N/A.
		N/A.		N/A.

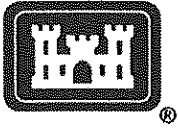
**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
AR-1	0.17	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 physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature; that does not allow a direct surface hydrologic connection due to their geomorphic positions located above the flood elevation for Salt Lake.
AR-2.	0.37	acre.	(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 physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature; that does not allow a direct surface hydrologic connection due to their geomorphic positions located above the flood elevation for Salt Lake.

**III. SUPPORTING INFORMATION**

<sup>4</sup> 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.

<sup>5</sup> 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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**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: Vicinity Map submitted by Mr. B on 19 November 2020

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

Rationale: The Corps could not verify the validity of the Vicinity Map without a site visit.

- Data sheets prepared by the Corps: USACE Wetland Data Forms dated 15 March 2021
- Photographs: Other: Site Photos taken by the Corps on 15 March 2021, Google Earth Aerials May 15 2019.
- Corps site visit(s) conducted on: 15 March 2021 Corps Site Visit.
- 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: Reviewed USDA NRCS Soil Survey Hydric map 11 May 2021
- USFWS NWI maps: Reviewed NWI Mapper on 11 May 2021
- USGS topographic maps: USGS titled: Rockport, Texas February 2020 reviewed on 11 May 2021

**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	NOAA Tide Data Gauge Rockport, Texas
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
FEMA/FIRM maps	FEMA Panel 48007C0240G Effective 17 February 2016

**B. Typical year assessment(s):** Per the available LIDAR data, the lowest portion of the review area sits at an elevation of 1.5 meters (5 feet) NAVD88. A drainage feature (storm drain) running generally northeast to southwest under the review area and into Copano Bay provides conveyance for stormwater runoff and does not provide a path for tidal inundation from Copano Bay to the review area. ). NOAA’s closest tidal gauge to Copano Bay is at Rockport (Station ID # 8774770) (approximately 1.7 miles east of the review area), the Mean High Water (defined as the average of the highest month in one calendar year over a 20-year period was observed using the most recent recorded National Tidal Datum from 2000 to 2020) for Copano Bay is 1.61 feet NAVD88, approximately 3.39 feet lower than the lowest portion of the review area, and therefore, not a source for inundation in a typical year.

**C. Additional comments to support AJD:**

Based on the desktop review and site visit we conducted on 15 March 2021, we have determined that the palustrine wetlands (AR-1, AR-2) present within the review area are not adjacent to any (a)(1) thru (a)(3) waters of Copano Bay. The wetlands (AR-1, AR-2) present within the review area occur outside of the annual high tide line, and are not considered adjacent, due to the lack of coastal inundation within a typical year. Therefore, the wetlands observed within the review area are excluded waters and are not jurisdictional under Section 404 of the Clean Water Act.