



**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): 3/1/2021
 ORM Number: SWG-2020-00842
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Texas City: Houston County/Parish/Borough: Harris
 Center Coordinates of Review Area: Latitude 29.938364 Longitude -95.6412501451

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
W01	0.02 acre(s)	(b)(1) Non-adjacent wetland.	Wetlands that meet the definition of paragraph (c)(16) and are not (a)(4) waters are not jurisdictional according to this specific type of (b)(1) exclusion for documentation purposes. The subject water does not meet the definition of “adjacent wetlands.” 33CFR328.3(c)(1)(iii): Adjacent wetlands include wetlands that are physically separated from a water identified in paragraph (a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature. W01 is physically separated from the nearest (a)2, Cypress Creek, by 4,527 feet. W01 has no direct or indirect hydrologic connection to the a(2). It is a wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
W02	3.46 acre(s)	(b)(1) Non-adjacent wetland.	Wetlands that meet the definition of paragraph (c)(16) and are not (a)(4) waters are not jurisdictional according to this specific type of (b)(1) exclusion for documentation purposes. The subject water does not meet the definition of “adjacent wetlands.” 33CFR328.3(c)(1)(iii): Adjacent wetlands include wetlands that are physically separated from a water identified in paragraph (a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature. W02 is physically separated from the nearest (a)2, Cypress Creek, by 4,435 feet. W02 has no direct or indirect hydrologic connection to the a(2). It is a wetland that does not abut an (a)(1)-(a)(3) water. It is not located in a landscape position that would be flooded/inundated by an (a)(1)-(a)(3) water during a “typical year”. It is separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
Pond	0.02 acre(s)	(b)(8) Artificial lake/pond constructed or	This feature is an artificial pond that was constructed or excavated wholly in uplands and functions to store water. This feature does not

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			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).	contribute flow to jurisdictional waters in a typical year.
Culvert	20	linear feet	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	(b)(1) Waters or water features that are not identified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) includes culverts. This culvert is located across a portion of E133-01-00 a (b)(1) exclusion.

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: [Jacobs, “Aquatic Resources Delineation Survey Results Kolbe Road and Related Infrastructure Drainage Improvements Project, Cypress, Texas”, October 14, 2020.](#)

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

Rationale: [Required changes to base map](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Site photos 9-4-2020, GE](#)
- 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: [Web Soil Survey \(U.S. Department of Agriculture \[USDA\]- Natural Resources Conservation Service \[NRCS\], 2020c\).](#)
- USFWS NWI maps: [NWI \(U.S. Fish and Wildlife Service 2020\)](#)
- USGS topographic maps: [Cypress, Tx. \(USGS, 2020\)](#)

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	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Digital Flood Insurance Rate Maps (DFIRM) (FEMA, 2015)



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B. Typical year assessment(s): Water features where analyzed using APT calculating for various references and dates. The APT is a tool that affords the user the capability to look at rainfall in the recent past, cumulative for the last 3 months as well and climatological review for the past 30 years. The WETS score (last 3 mths) for the Agent site visit, 09/04/2020, totaled 11 (Normal) on a scale of 6-18. 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. Based on randomly selected resources the APT was calculated for 5 selected resources and an determination of “normal,” is made based on the condition value sums (avg XX). This indicates that the measurements or observations made are reflective of normal climatic conditions. It uses climatic data collected from numerous nearby weather stations and produces the most reliable source with a full 30 years of precipitation data. The site coordinates are located at an appx 135.26 ft elevation. Below is the result of numerous dates run for this site.

Date	Rain prior 72 hours	WETS (3 mth) score:	APT	Season	PDSI
04 SEP 2020 Agent Site visit	~0"	11 (N)	Normal	Dry	Normal
01 DEC 2019 Google Earth	0	13 (N)	Normal	Wet	Incipient Drought
28 OCT 2017 Google Earth	0	11 (N)	Normal	Wet	Extreme wetness
15 FEB 2017 Google Earth	<1	11 (N)	Normal	Dry	Mild drought
15 FEB 2017 Google Earth	<1	13 (W)	Normal	Wet	Incipient wetness
31 MAY 2016 Google Earth	<1	12(N)	Normal	Dry	Incipient drought

Climatic data was collected from 7 weather stations all within (5.58-18.48 mi), is within the appropriate geographic region and is the most reliable source with a full 30 years of data. Furthermore, the precipitation assessment did not deviated from the 30th to 70th percentile of precipitation totals for the periodic range used. For each period, the 30-day precipitation total falls within the 70th and 30th percentiles for totals from the same date range over the preceding 30 years.

The results of the review of the APT analysis aiding in reaching the conclusion needed to determine if the subject feature have more than ephemeral flow and/or are inundated by flooding from a (a)1 -(a)3 water in a typical year.

C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.