



**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): 8/3/2021

ORM Number: SWG 2021-00168

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 29.798780 Longitude -95.080843

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

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
Open Water 1	0.61 acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Open Water 1 is located within the San Jacinto River. Based on the aerial photos, the San Jacinto River directly connects to Galveston Bay approximately 10.5 aerial miles south/southeast of Open Water 1 at Morgan's Point. The NWI describes Open Water 1 as an estuarine subtidal unconsolidated bottom feature. Based on this information Open Water 1 is subject to daily tidal ebb and flow.

**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
Open Water 1	0.61 acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is	Open Water 1 is located within the San Jacinto River. The NWI describes Open Water 1 as an estuarine subtidal unconsolidated bottom feature. Based on

<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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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	
		subject to the ebb and flow of the tide.	this information Open Water 1 is subject to daily tidal ebb and flow.	

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	

#### 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	
N/A	N/A	N/A.	N/A	

### 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: N/A

This information is sufficient for purposes of this AJD.

Rationale:

- ☐ Data sheets prepared by the Corps: N/A
- ☐ Photographs: Aerial: N/A
- ☐ Corps site visit(s) conducted on: N/A
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- ☐ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- ☐ USDA NRCS Soil Survey: N/A
- ☐ USFWS NWI maps: N/A
- ☐ USGS topographic maps: N/A

#### 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.

<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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Data Source (select)	Name and/or date and other relevant information
Other NOAA data (specify)	NOAA Tides and Currents. ( <a href="https://tidesandcurrents.noaa.gov">Tidesandcurrents.noaa.gov</a> )
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
FEMA/FIRM maps	N/A.

**B. Typical year assessment(s):** Based on the location of the open water and wetlands, an analysis was needed to determine if the subject wetlands would be inundated by overbank flooding from a paragraph (a)(1-3) water in a typical year. The nearest paragraph (a)(1-3) water is subject to the daily tidal ebb and flow. The nearest NOAA tide gauge station to the subject site is Morgans Point, Barbours Cut, TX [Station 8770613], which is located approximately 10 aerial miles to the southeast at the confluence of the San Jacinto River and Trinity Bay. Tide data was analyzed for the time period between 2001 and 2020 which covers the most contemporary 18.6-year tidal epoch. The Morgan's Point tide gauge has been active since 2001 with only four (4) months of missing data sine 2001

The monthly high tides were averaged to obtain the highest water levels, or annual high tide line (excluding extraordinary storm/flood events) to identify those areas subject to overbank flooding by the nearest paragraph (a)(1-3) tidal water in a "typical year." The highest tidal elevation, based upon a monthly average, typically occurs in October which normally does not have tropical storm systems. The October average for the Morgan's Point station was +3.24 feet, North American Vertical Datum (NAVD) 1988.

**C. Additional comments to support AJD:** The entire area of concern for the purported unauthorized activity is located within the San Jacinto river and is therefore subject to both Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.