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): 5/3/2021
ORM Number: SWG-2021-00234
Associated JDs: N/A
Review Area Location[1]: State/Territory: Texas City: Aransas Pass County/Parish/Borough: San Patricio and Aransas
Center Coordinates of Review Area: Latitude 27.92430° North Longitude 97.15850° 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
- ☐ 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.	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.	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.	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.	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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Ditch 1	6767	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).	Ditch excavated from uplands and not abutting or draining into a jurisdictional water. This ditch does not qualify as a tributary or conveyance of a tributary in a typical year.
Ditch 2	2437	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).	Ditch excavated from uplands and not abutting or draining into a jurisdictional water. This ditch does not qualify as a tributary or conveyance of a tributary in a typical year.
Ditch 3	2512	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).	Ditch excavated from uplands and not abutting or draining into a jurisdictional water. This ditch does not qualify as a tributary or conveyance of a tributary in a typical year.
Ditch 4	1068	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).	Ditch excavated from uplands and not abutting or draining into a jurisdictional water. This ditch does not qualify as a tributary or conveyance of a tributary in a typical year.
Ditch 5	746	linear feet	(b)(5) Ditch that is not an (a)(1) or	Ditch excavated from uplands and not abutting or draining into a jurisdictional

[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.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
			(a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	water. This ditch does not qualify as a tributary or conveyance of a tributary in a typical year.
Ditch 6	1482	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).	Ditch excavated from uplands and not abutting or draining into a jurisdictional water. This ditch does not qualify as a tributary or conveyance of a tributary in a typical year.
Ditch 7	521	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).	Ditch excavated from uplands and not abutting or draining into a jurisdictional water. This ditch does not qualify as a tributary or conveyance of a tributary in a typical year.
Ditch 8	1650	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).	Ditch excavated from uplands and not abutting or draining into a jurisdictional water. This ditch does not qualify as a tributary or conveyance of a tributary in a typical year.
Wetland 1	7.394	acre(s)	(b)(1) Non-adjacent wetland.	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.
Wetland 2	3.004	acre(s)	(b)(1) Non-adjacent wetland.	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

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				separated from an (a)(1)-(a)(3) water by more than a single natural or man-made barrier.
Wetland 3	0.444	acre(s)	(b)(1) Non-adjacent wetland.	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.
Wetland 4	1.141	acre(s)	(b)(1) Non-adjacent wetland.	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.

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: Review Area Map, prepared by TXDoT, dated 9 APR 2021

This information is and is not sufficient for purposes of this AJD.
Rationale: No updated information regarding delineation of aquatic features was provided with the Review Area map.

☐ Data sheets prepared by the Corps: N/A

☒ Photographs: Aerial: 30 SEP 2020, 31 JAN 2020, 29 AUG 2017, 22 FEB 2017, 22 NOV 2014; source: ESRI World Services and Google Earth

☐ 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: 20 APR 2021

☒ USFWS NWI maps: NWI for Aransas Pass, Texas Quad

☒ USGS topographic maps: 1:24,000 Aransas Pass, Texas (2019)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	US Geological Survey National Map LIDAR data flown 2018. Elevation in Meters (NAVD88). LiDAR elevation readings in the review area are shown to be within 3 centimeters of elevation difference from the National Geodetic Survey's AH1197 Benchmark, located 1,223 feet south of the review area boundary.
USDA Sources	N/A.
NOAA Sources	N/A
USACE Sources	N/A.
State/Local/Tribal Sources	N/A

Data Source (select)	Name and/or date and other relevant information
Other Sources	N/A.

B. Typical year assessment(s): Per the available LiDAR data, the lowest portion of the 87.6-acre review area within a wetland sits at an elevation of 6.80 meters (22.3 feet) NAVD88. None of the subject aquatic features are in a contiguous landscape position that would be anticipated to be inundated by flooding by the nearest water of the U.S. (McCampbell Slough) in a typical year. The determination regarding potential inundation due to flooding by the nearest waterway is based largely upon site specific information and scientific studies regarding flood plain correlation and elevation information for bankfull and floodplains (e.g. study entitled: Hydrogeomorphological differentiation between floodplains and terraces by: Qina Yan, Toshiki Iwasaki, Andrew Stumpf, Patrick Belmont, Gary Parker & Praveen Kuma) as well as review of historic site information (including precipitation data) and aerial photos of the site. The previously referenced study revealed that the 10-year flood plain elevation is located in a slightly higher elevation than bank-full elevation in riverine systems. Thus, bank full is anticipated to be located within the area that floods in a typical year and, per NWPR regulation, jurisdictional. Regulation also states that it does not extend to the boundary of the 100-year flood plain. At this location, there are no waters associated with riverine systems anywhere near the site; and therefore, the wetlands on this site are located above the projected 10-year flood plain elevation for McCampbell Slough, the nearest jurisdictional water.

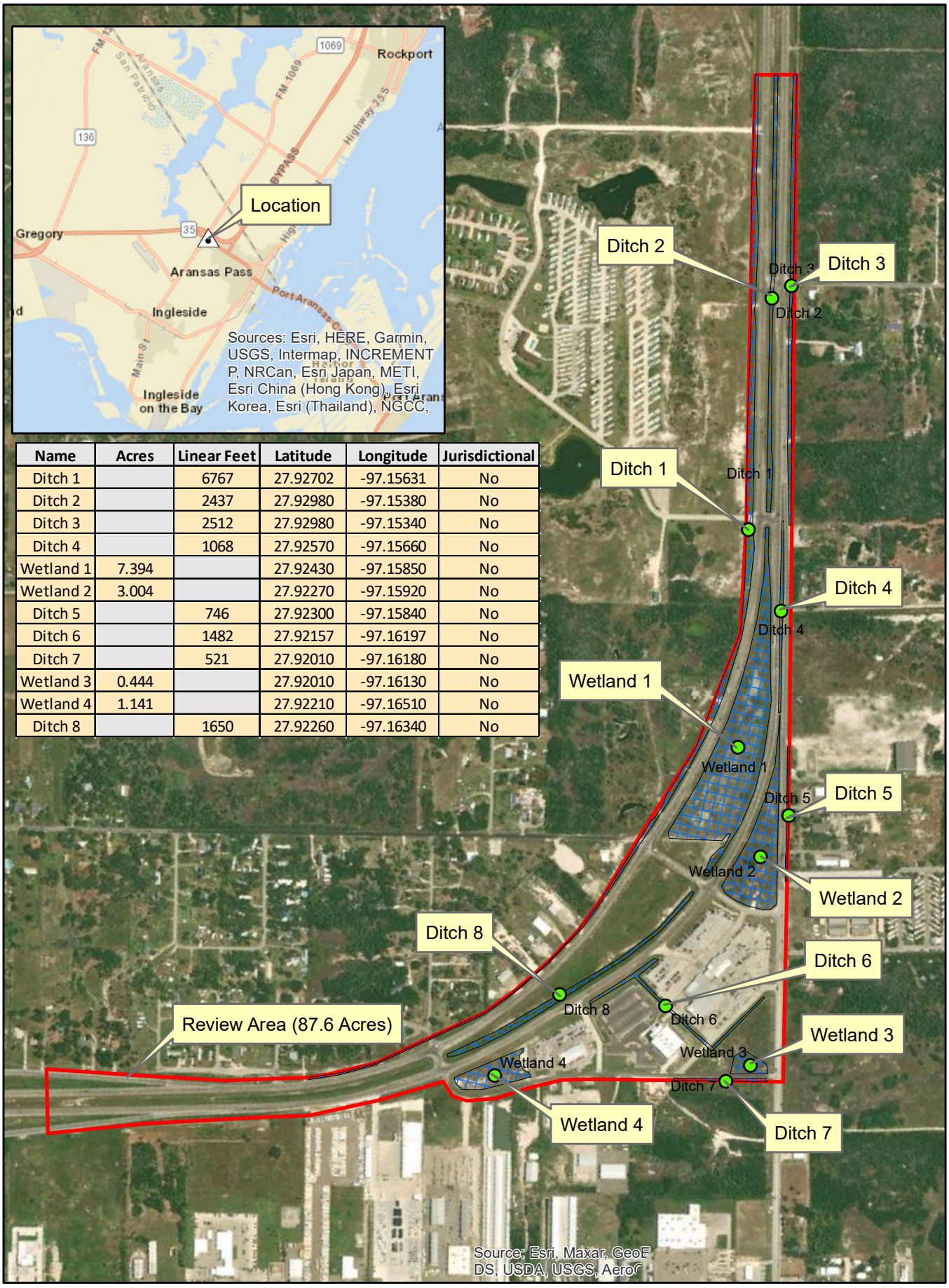
In an effort to determine adjacency (as it pertains to hydrologic trends and the subject aquatic resources verified by SWG) an analysis was done using the APT tool, elevation data, aerial imagery & other relevant site-specific information. The APT is a tool that affords the user the capability to look 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 responses for the APT test for aerials.

Date	Prior 72 Hour	PDSI	Season	WETS Score	APT (30yr)
09/30/2020	0”	Moderate Drought	Dry	10	Normal
01/31/2020	Trace	Moderate Drought	Dry	14	Normal
08/29/2017	14”	Severe Wetness	Wet	16	Wetter than Normal
02/22/2017	0.75”	Incipient Drought	Wet	11	Normal
11/22/2014	1.25”	Incipient Wetness	Dry	16	Wetter then Normal

The 11.983 acres of palustrine wetlands and 17,183 linear feet of drainage ditch do not abut McCampbell Slough and do not get inundated by McCampbell Slough, an (a)(1) through (a)(3) water. Residential, commercial, and highway development acts as an artificial barrier; however, the delineated waters' recorded elevations would prevent inundation from McCampbell Slough's annual high tides in a typical year regardless of the development's presence. Therefore, the 11.983 acres of palustrine wetlands and 17,183 linear feet of drainage ditch are not waters identified in (a)(1) – (a)(4), are not waters of the United States and are not subject to Section 404 of the Clean Water Act.

C. Additional comments to support AJD: N/A

SWG-2021-00234 87.6-Acre Review Area



Name	Acres	Linear Feet	Latitude	Longitude	Jurisdictional
Ditch 1		6767	27.92702	-97.15631	No
Ditch 2		2437	27.92980	-97.15380	No
Ditch 3		2512	27.92980	-97.15340	No
Ditch 4		1068	27.92570	-97.15660	No
Wetland 1	7.394		27.92430	-97.15850	No
Wetland 2	3.004		27.92270	-97.15920	No
Ditch 5		746	27.92300	-97.15840	No
Ditch 6		1482	27.92157	-97.16197	No
Ditch 7		521	27.92010	-97.16180	No
Wetland 3	0.444		27.92010	-97.16130	No
Wetland 4	1.141		27.92210	-97.16510	No
Ditch 8		1650	27.92260	-97.16340	No