



**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): 6/15/2021
 ORM Number: SWG-2021-00238
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Texas City: Tomball County/Parish/Borough: Harris
 Center Coordinates of Review Area: Latitude 30.001385 Longitude -95.614996

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
Faulkney Gully (K142-00-00)	3.4 acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The USGS National Hydrography Dataset (NHD) identifies Faulkney Gully as an intermittent tributary. Based on historic and contemporary aerial imagery, Faulkney Gully shows water flow present within every reviewed image indicating perennial flow within this tributary. Finally, Faulkney Gully flows approximately 2.1 river miles southeast to where it intersects with Cypress Creek, a perennial (a)(2) water. Cypress Creek then flows east-southeast approximately 6.5 river miles to the location it becomes an (a)(1) navigable water. Therefore,

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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
			Faulkney Gully meets the 33 CFR 328.3(a)(2) tributary definition.

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)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Unnamed Faulkney Gully Tributary (K142-03-00)	0.3 acre(s)	(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).	This unnamed Faulkney Gully tributary (K142-03-00) is a constructed or excavated channel used to convey water. Based on historic aerial photos this ditch was constructed between 1983 and 1995, and at the time it was originally constructed, the ditch neither relocated a tributary, nor was constructed in a tributary, nor was constructed in an adjacent wetland. Therefore, this feature meets the 33 CFR 328.3(b)(5) ditch 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: [Terracon Consultants, Inc. - Waters of the U.S. Delineation Report, 21 October 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial: Google Earth Aerial Imagery – 1943-2020.](#)

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, National Cooperative Soil Survey, Harris County, Texas. https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx](#)

USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)

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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USGS topographic maps: 7.5-minute topographic quadrangle maps: Louetta, Texas (1916, 1920, 1941); Tomball, Texas (1980, 1995).

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.
LiDAR data/maps	Texas Water Development Board (TWDB), 2018 Texas Strategic Mapping (StratMap) 0.6-Meter LiDAR, Bare Earth Digital Elevation Model (DEM), Meters (NAVD88)
FEMA/FIRM maps	FIRM Panels 48201C0240M and 48201C0430M (10/16/2013). Zone AE, base flood elevation 130 to 136 feet (NAVD88).

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: The tributary has been improved to serve as a flood drainage feature. As such all hydrology is confined to the improved channel.