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E	DEPRESS	Area	ACRE	FOOT	A1
E1	ESTUARINEF	Linear	HECTARE	KM	A2B
E1AB	LACUSTRINF		SQ_FT	M	A2O
E1AB1	MINSOILFLT		SQ_KM	MILE	A3
E1AB3	ORGSOILFLT		SQ_M	YARD	A4
E1AB4	RIVERINE		SQ_MILE		A5
E1AB5	SLOPE		SQ_YARD		A6B
E1AB6					A6N1
E1OW					A6N2
E1RB					A6N3H
E1RB1					A6N3O
E1RB2					A7PRAIRIE
E1RF					A7BAYS
E1RF2					A7POCOSINS
E1RF3					A7CA
E1UB					A7TX
E1UB1					A8H
E1UB2					A8O
E1UB3					A8100
E1UB4					DELINPJD
E2					EXCLDB1
E2AB					EXCLDB2
E2AB1					EXCLDB3I
E2AB3					EXCLDB3II
E2AB4					EXCLDB3III
E2AB5					EXCLDB4I
E2AB6					EXCLDB4II
E2EM					EXCLDB4III
E2EM1					EXCLDB4IV
E2EM2					EXCLDB4V
E2FO					EXCLDB4VI
E2FO1					EXCLDB4VII
E2FO2					EXCLDB5
E2FO3					EXCLDB6
E2FO4					EXCLDB7
E2FO5					OTHERA7
E2FO6					OTHERA8F
E2FO7					OTHERDIST
E2RF					OTHERB3I

E2RF2					OTHERB3II
E2RF3					OTHERB3III
E2RS					DRYLAND
E2RS1					
E2RS2					
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E2SB3					
E2SB4					
E2SB5					
E2SB6					
E2SS					
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NWP_ID	PermitAuthority	Closure_Method
NWP 1	Section 10	Denied Without Prejudice
NWP 2	Section 10/103	Discretionary Authority
NWP 3	Section 10/404	Exceeded Corps Review Time Limit, Verified By Default
NWP 4	Section 10/404/103	Verified With Special Conditions
NWP 5	Section 103	Verified Without Special Conditions
NWP 6	Section 404	Withdrawn
NWP 7	Section 404/103	Withdrawn By Applicant
NWP 8	Section 9	Withdrawn Due To No Permit Required (NPR)
NWP 9		Withdrawn For Enforcement Action
NWP 10		Withdrawn For Lack Of Applicant Response
NWP 11		Withdrawn To Become A General Permit (RGP, PGP)
NWP 12		Withdrawn To Become A Letter Of Permission (LOP)
NWP 13		Withdrawn To Become A Standard Permit
NWP 14		Withdrawn To Become After The Fact Permit Process
NWP 15		
NWP 16		
NWP 17		
NWP 18		
NWP 19		
NWP 20		
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NWP 25		
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NWP 32		
NWP 33		
NWP 34		
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NWP 36		
NWP 37		
NWP 38		
NWP 39		















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WorkType	Authority	Closure_Method_JD
AGRICULTURE \ CONVERSION	None	Approved JD That Did Not Require A Field/Site Visit
AGRICULTURE \ NON-EXEMPT	Section 10	Approved JD That Did Require A Field/Site Visit
AQUACULTURE \ FINFISH	Section 10/103	No JD Required
AQUACULTURE \ PLANTS	Section 10/404	Preliminary JD That Did Not Require A Field/Site Visit
AQUACULTURE \ SHELLFISH	Section 10/404/103	Preliminary JD That Did Require A Field/Site Visit
DEVELOPMENT \ ASSOCIATED INFRASTRUCTURE	Section 103	Withdrawn
DEVELOPMENT \ COMMERCIAL	Section 404	Withdrawn By Applicant
DEVELOPMENT \ INDUSTRIAL	Section 404/103	
DEVELOPMENT \ RECREATIONAL	Section 9	
DEVELOPMENT \ RESIDENTIAL \ MULTI- FAMILY		
DEVELOPMENT \ RESIDENTIAL \ SINGLE FAMILY		
DREDGING \ BOAT SLIP		
DREDGING \ CHANNELIZATION		
DREDGING \ DISPOSAL		
DREDGING \ GENERAL		
DREDGING \ MAINTENANCE		
DREDGING \ NAVIGATION \ FEDERAL SPONSOR		
DREDGING \ NAVIGATION \ PRIVATE		
ENERGY GENERATION \ COAL		
ENERGY GENERATION \ COGEN		
ENERGY GENERATION \ GEOTHERMAL		
ENERGY GENERATION \ HYDROPOWER		
ENERGY GENERATION \ KINETIC		
ENERGY GENERATION \ NATURAL GAS		
ENERGY GENERATION \ NUCLEAR		
ENERGY GENERATION \ OIL		
ENERGY GENERATION \ SOLAR		
ENERGY GENERATION \ WIND		
MINING AND DRILLING \ DRILLING \ ACCESS		
MINING AND DRILLING \ DRILLING \ FACILITIES		
MINING AND DRILLING \ DRILLING \ GAS		
MINING AND DRILLING \ DRILLING \ OIL		
MINING AND DRILLING \ DRILLING \ SHALE GAS		
MINING AND DRILLING \ MINING \ ACCESS		
MINING AND DRILLING \ MINING \ COAL \ MINE THROUGH		
MINING AND DRILLING \ MINING \ COAL \ REFUSE FILL		
MINING AND DRILLING \ MINING \ COAL \ REMINING		
MINING AND DRILLING \ MINING \ COAL \ UNDERGROUND		
MINING AND DRILLING \ MINING \ COAL \ VALLEY FILL		

MINING AND DRILLING \ MINING \ FACILITES		
MINING AND DRILLING \ MINING \ GRAVEL		
MINING AND DRILLING \ MINING \ OTHER MINERAL		
MINING AND DRILLING \ MINING \ PEAT		
MINING AND DRILLING \ MINING \ PHOSPHATE		
MINING AND DRILLING \ MINING \ ROCK		
MINING AND DRILLING \ MINING \ SAND		
MITIGATION \ CREATION		
MITIGATION \ ENHANCEMENT		
MITIGATION \ FISH/WILDLIFE \ CREATION		
MITIGATION \ FISH/WILDLIFE \ ENHANCEMENT		
MITIGATION \ FISH/WILDLIFE \ PLANTING		
MITIGATION \ FISH/WILDLIFE \ PRESERVATION		
MITIGATION \ FISH/WILDLIFE \ RESTORATION		
MITIGATION \ FISH/WILDLIFE \ SEEDING		
MITIGATION \ MITIGATION BANK		
MITIGATION \ PRESERVATION		
MITIGATION \ RESTORATION \ STREAM		
MITIGATION \ RESTORATION \ WETLAND		
MITIGATION \ WETLAND RECLAMATION		
OTHER \ BANK STABILIZATION		
OTHER \ CLEANUP HAZARDOUS OR TOXIC WASTES		
OTHER \ DAMS \ COFFER		
OTHER \ DAMS \ GENERAL		
OTHER \ DAMS \ LOW WATER		
OTHER \ DAMS \ MAINTENANCE		
OTHER \ DAMS \ REMOVAL		
OTHER \ DAMS \ RESERVOIR		
OTHER \ DAMS \ WEIR		
OTHER \ INDIAN TRIBE OR STATE 404 PROGRAM		
OTHER \ MOSQUITO DITCHING		
OTHER \ OCEAN DISPOSAL		
OTHER \ RESTRICTED AREAS		
OTHER \ SURVEY ACTIVITIES		
OTHER \ TREASURE HUNTING		
STRUCTURE \ AIDS TO NAVIGATION		
STRUCTURE \ BOAT HOUSE		
STRUCTURE \ BOAT LIFT		
STRUCTURE \ BOAT RAMP		
STRUCTURE \ BREAKWATER		
STRUCTURE \ BRIDGE/RELATED WORK		

STRUCTURE \ BULKHEAD		
STRUCTURE \ CRIB		
STRUCTURE \ DOCK \ FIXED		
STRUCTURE \ DOCK \ FLOATING		
STRUCTURE \ DOLPHINS		
STRUCTURE \ ELEV REC DECK		
STRUCTURE \ GABION		
STRUCTURE \ GROIN		
STRUCTURE \ INTAKE/OUTFALL		
STRUCTURE \ MAINTENANCE		
STRUCTURE \ MARINA		
STRUCTURE \ MARINE RAIL		
STRUCTURE \ MISCELLANEOUS		
STRUCTURE \ MOORED BARGE		
STRUCTURE \ MOORED VESSELS		
STRUCTURE \ MOORING BOUY		
STRUCTURE \ MOORING PILING		
STRUCTURE \ NAVIGATION BUOY		
STRUCTURE \ PIER \ NON-RESIDENTIAL		
STRUCTURE \ PIER \ RESIDENTIAL		
STRUCTURE \ PILE/DOLPHIN		
STRUCTURE \ RAMP		
STRUCTURE \ RECREATIONAL		
STRUCTURE \ REMOVAL		
STRUCTURE \ SCIENTIFIC DEVICE		
STRUCTURE \ UNSPECIFIED		
STRUCTURE \ UTILITY LINE OR STRUCTURE		
STRUCTURE \ WATER CONTROL		
STRUCTURE \ WEIR		
TRANSPORTATION \ AIRPORT \ FACILITY		
TRANSPORTATION \ AIRPORT \ MAINTENANCE		
TRANSPORTATION \ AIRPORT \ RUNWAY		
TRANSPORTATION \ BRIDGE \ CONSTRUCTION (NEW)		
TRANSPORTATION \ BRIDGE \ MAINTENANCE		
TRANSPORTATION \ BRIDGE \ PIER		
TRANSPORTATION \ BRIDGE \ PROTECTION		
TRANSPORTATION \ BRIDGE \ REMOVAL		
TRANSPORTATION \ BRIDGE \ REPLACEMENT		
TRANSPORTATION \ PIPELINE \ ACCESS ROAD		
TRANSPORTATION \ PIPELINE \ AERIAL		
TRANSPORTATION \ PIPELINE \ BURIED		

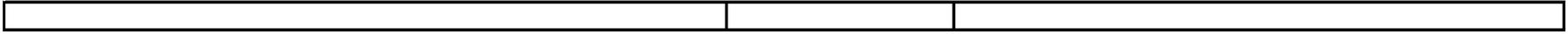




























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tab_a1	Flow_Regime
The waterbody is subject to Section 9 or 10 of the Rivers and Harbors Act	Perennial
A federal court has determined that the waterbody is navigable-in-fact under federal law	Intermittent
Waters have historically, are currently, and/or are susceptible for commercial navigation, including commercial waterborne recreation.	Ephemeral





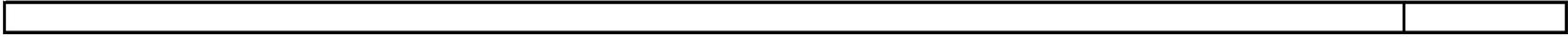


















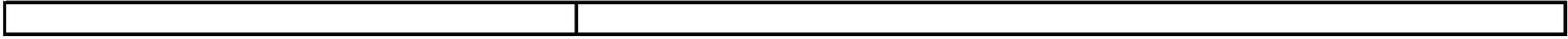


















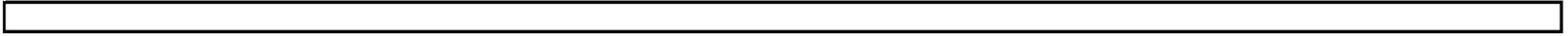


















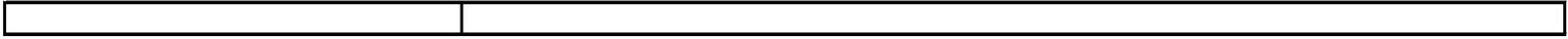


































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## Regulatory Program



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### **APPROVED JURISDICTIONAL DETERMINATION FORM**

#### **U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in the Approved Jurisdictional Determination Form User Manual.

#### **SECTION I: BACKGROUND INFORMATION**

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): [2 SEP 2015](#)

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): [SWG-2015-00535](#)

#### **C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: [TX](#) County/parish/borough: Hidalgo City: San Benito

Center coordinates of site (lat/long in degree decimal format): Lat. 26.02278, Long. -97.63775.

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are:  attached  in report/map titled

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1):

#### **D. REVIEW PERFORMED FOR SITE EVALUATION:**

Office (Desk) Determination Only. Date:

Office (Desk) and Field Determination. Office/Desk Date(s): 2 SEP 2015 Field Date(s): 25 AUG 2015.

#### **SECTION II: DATA SOURCES**

Check all that were used to aid in the determination and attach data/maps to this JD form and/or references/citations in the administrative record, as appropriate.

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: R Reyes Trucking, Received 5 AUG 2015.

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Office concurs with data sheets/delineation report.. Title/Date:

Office does not concur with data sheets/delineation report. Summarize rationale and include information on revised data sheets/delineation report that this JD form has relied upon: Revised Title/Date:

Data sheets prepared by the Corps. Title/Date: SWG-2015-00535, Site SP1, dated 25 AUG 2015.

Corps navigable waters study. Title/Date:

CorpsMap ORM map layers. Title/Date:

USGS Hydrologic Atlas. Title/Date:

USGS, NHD, or WBD data/maps. Title/Date:

USGS 8, 10 and/or 12 digit HUC maps. HUC number: 13090002.

USGS maps. Scale & quad name and date: 1:24,000 Scale; LA PALOMA, Texas Quadrangle, dated 2002.

USDA NRCS Soil Survey. Citation: Hidalgo County Online Soil Survey, referenced 13 AUG 2015; Rio Grande silt loam, not listed as hydric.

USFWS National Wetlands Inventory maps. Citation: FWS Wetlands Mapper, referenced 2 SEP 2015. No wetlands recorded in the project area.

State/Local wetland inventory maps. Citation:

FEMA/FIRM maps. Citation: FEMA Panel 4801010250B, dated 15 SEP 1983. Zone A; floodzone from the Rio Grande.

Photographs:  Aerial. Citation: National Aerial Imagery Program, flown 14 October 2014. or  Other. Citation: Photographs taken during the 25 AUG 2015 site visit.

LiDAR data/maps. Citation:

Previous determinations. File no. and date of jurisdictional determination letter:

Applicable/supporting case law:

Applicable/supporting scientific literature:

Other information (please specify):

## **SECTION III: SUMMARY OF FINDINGS**

### **Complete Spreadsheet Tab "Aquatic Resources" – Required for All AJDs**

#### **A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:**

"navigable waters of the U.S." within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

- **List water(s) and area/length within review area – Required:**

*NOTE:* If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Section 10 navigable waters list, **DO NOT USE THIS FORM TO MAKE THE DETERMINATION.** The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

#### **B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION:** "waters of the U.S." within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

(a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters or TNW).

- **Complete Spreadsheet Tab "(a)(1)" - Required**

This JD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.

(a)(2): All interstate waters, including interstate wetlands.

- **Complete Spreadsheet Tab "(a)(2)" - Required**

(a)(3): The territorial seas.

- **Complete Spreadsheet Tab "(a)(3)" - Required**

(a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.

- **Complete Spreadsheet Tab "(a)(4)" - Required**

(a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Spreadsheet Tab "(a)(5)" - Required**

(a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

- **Complete Spreadsheet Tab "(a)(6)" - Required**

Bordering/Contiguous.

Neighboring:

(c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.

(c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.

(c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.

(a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Spreadsheet Tab "(a)(7)" for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. – Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.

(a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Spreadsheet Tab "(a)(8)" for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. – Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.

**C. NON-WATERS OF THE U.S. FINDINGS:**

**Check all that apply.**

- The review area is comprised entirely of dry land.
- Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
  - **Complete Spreadsheet Tab “NonWaters-No SigNex”. Attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. – Required**
  - Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.
- Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
  - **Complete Spreadsheet Tab “NonWaters-No SigNex”. Attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. – Required**
  - Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.
- Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):
  - **Complete Spreadsheet Tab “NonWaters-Excluded” - Required**
  - (b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.
  - (b)(2): Prior converted cropland.
  - (b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
  - (b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
  - (b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).
  - (b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.
  - (b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.
  - (b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.<sup>1</sup>
  - (b)(4)(iv): Small ornamental waters created in dry land.<sup>1</sup>
  - (b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.
  - (b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.<sup>1</sup>
  - (b)(4)(vii): Puddles.<sup>1</sup>
  - (b)(5): Groundwater, including groundwater drained through subsurface drainage systems.<sup>1</sup>
  - (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.<sup>1</sup>
  - (b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.
- Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).
  - **Complete Spreadsheet Tab “NonWaters-Other” - Required**

**D. ADDITIONAL COMMENTS TO SUPPORT JD:** A site visit was conducted on 25 August 2015. The proposed site lies between the Rio Grande and the Levee; however, the site sits approximately 20 feet above the level of the Rio Grande in normal circumstances. The site visit resulted in negative findings with no evidence found that the site included any waters of the United States, including wetlands.

<sup>1</sup> In many cases these excluded features will not be specifically identified on the approved JD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9 JUL 2015**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Galveston District, SWG-2015-00446, Bruce Howard Pier Location, Salt Lake

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: TX County/Parish: Aransas City: Rockport  
Center coordinates of site (lat/long in degree decimal format, NAD-83): Lat. 28.07801° N, Long. 97.09031° W;  
Universal Transverse Mercator: UTM: Zone 14, 3,107,316 N., 687,650 E., NAD: 83

Name of nearest water body: Salt Lake

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salt Lake

Name of watershed or Hydrologic Unit Code (HUC): 12100405; Aransas Bay

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

Office (Desk) Determination. Date: 7 JUL 2015

Field Determination. Date(s):

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Are** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. **[Required]**

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: **The project site is on Salt Lake, which is an extension of Copano Bay by way of an excavated channel. Copano Bay is listed on Galveston District's Navigable Waters list (Section 10 list). Copano Bay has been, is currently used, and has potential to be used in the foreseeable future for interstate commerce. Per the Rapanos Guidance all Section 10 waters are Traditionally Navigable Waters and are subject to jurisdiction under Section 404 of the Clean Water Act.**

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. **[Required]**

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters
- Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: linear feet: width (ft) and/or **0.10** acres

Wetlands: acres

**c. Limits (boundaries) of jurisdiction based on: Established by OHWM.**

Elevation of established OHWM (if known):

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain:

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs**

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

**1. TNW**

Identify TNW: Salt Lake (Copano Bay)

Summarize rationale supporting determination: **The project site is on Salt Lake, which is an extension of Copano Bay by way of an excavated channel. Copano Bay is listed on Galveston District's Navigable Waters list (Section 10 list). Copano Bay has been, is currently used, and has potential to be used in the foreseeable future for interstate commerce. Per the Rapanos Guidance all Section 10 waters are Traditionally Navigable Waters and are subject to jurisdiction under Section 404 of the Clean Water Act.**

**2. Wetland adjacent to TNW**

Summarize rationale supporting conclusion that wetland is “adjacent”:

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):**

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, fill out Section III.D.2 and Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the water body<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the water body has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

**1. Characteristics of non-TNWs that flow directly or indirectly into TNW**

**(i) General Area Conditions:**

Watershed size: **Pick List**  
Drainage area: **Pick List**  
Average annual rainfall: inches  
Average annual snowfall: inches

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.  
Project waters are **Pick List** river miles from RPW.  
Project waters are **Pick List** aerial (straight) miles from TNW.  
Project waters are **Pick List** aerial (straight) miles from RPW.  
Project waters cross or serve as state boundaries. Explain:

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Identify flow route to TNW<sup>5</sup>:  
Tributary stream order, if known:

(b) **General Tributary Characteristics (check all that apply):**

**Tributary is:**  Natural  
 Artificial (man-made). Explain:  
 Manipulated (man-altered). Explain:

**Tributary properties with respect to top of bank (estimate):**

Average width:           feet  
Average depth:           feet  
Average side slopes: **Pick List**

**Primary tributary substrate composition (check all that apply):**

Silts                                Sands                                Concrete  
 Cobbles                            Gravel                            Muck  
 Bedrock                        Vegetation. Type/% cover:  
 Other. Explain:

**Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:**

**Presence of run/riffle/pool complexes. Explain:**

**Tributary geometry: Pick List**

**Tributary gradient (approximate average slope):            %**

(c) **Flow:**

**Tributary provides for: Pick List**

**Estimate average number of flow events in review area/year: Pick List**

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:

Dye (or other) test performed:

**Tributary has (check all that apply):**

Bed and banks  
 OHWM<sup>6</sup> (check all indicators that apply):  
 clear, natural line impressed on the bank    the presence of litter and debris  
 changes in the character of soil            destruction of terrestrial vegetation  
 shelving                                        the presence of wrack line  
 vegetation matted down, bent, or absent    sediment sorting  
 leaf litter disturbed or washed away        scour  
 sediment deposition                        multiple observed or predicted flow events  
 water staining                                abrupt change in plant community  
 other (list):  
 Discontinuous OHWM.<sup>7</sup> Explain:

**If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):**

High Tide Line indicated by:            Mean High Water Mark indicated by:  
 oil or scum line along shore objects        survey to available datum;  
 fine shell or debris deposits (foreshore)    physical markings;  
 physical markings/characteristics        vegetation lines/changes in vegetation types.  
 tidal gauges  
 other (list):

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain:

Identify specific pollutants, if known:

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

<sup>6</sup> A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the water body's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

<sup>7</sup>Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size:            acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. Explain findings:

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:

Identify specific pollutants, if known:

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately (            ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)      Size (in acres)      Directly abuts? (Y/N)      Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

### C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

**Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:**

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

### D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

- TNWs:      linear feet      width (ft), Or, **0.10** acres.
- Wetlands adjacent to TNWs:      acres.

2. **RPWs that flow directly or indirectly into TNWs.**

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
- Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft)
- Other non-wetland waters: acres

Identify type(s) of waters:

**3. Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs.**

- Water body that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres

Identify type(s) of waters:

**4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
  - Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
  - Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

Provide acreage estimates for jurisdictional wetlands in the review area: acres

**5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres

**6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres

**7. Impoundments of jurisdictional waters.<sup>9</sup>**

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>10</sup>**

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain:
- Other factors. Explain:

**Identify water body and summarize rationale supporting determination:**

<sup>8</sup>See Footnote # 3.

<sup>9</sup>To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft)
- Other non-wetland waters: acres
- Identify type(s) of waters:
- Wetlands: acres

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: acres.

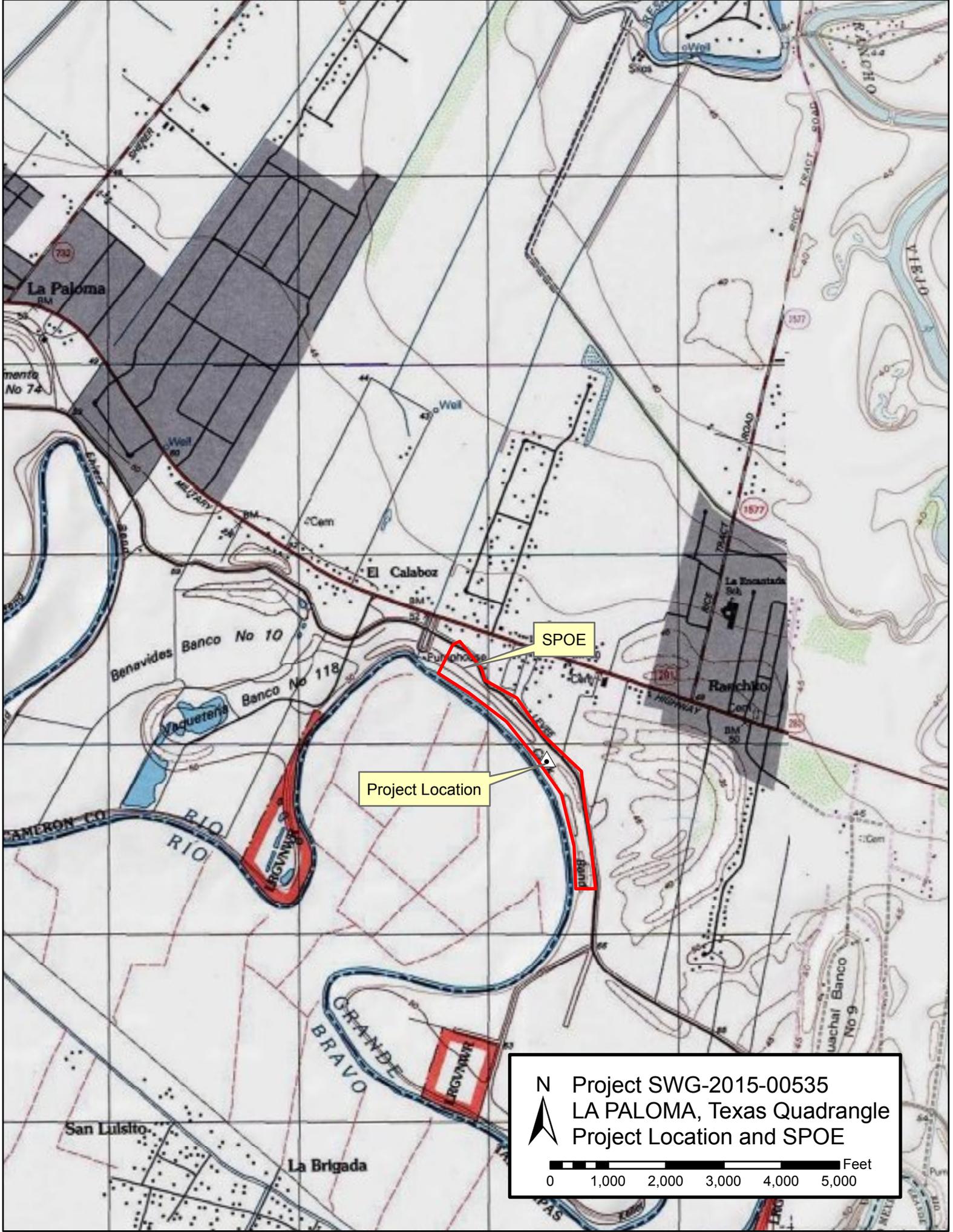
**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Plans provided by Bruce Howard, Received 9 JUL 2015.**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data
  - USGS 8 and 12 digit HUC maps
- Galveston District's Approved List of Navigable Waters
- U.S. Geological Survey map(s). Cite scale & quad name: **1:24,000; ROCKPORT, Texas**
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **National Aerial Imagery Program, 2014**  
or  Other (Name & Date): **Aerial photographs from Bing.com, ref. 9 JUL 2015**
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** The project site is on Salt Lake, which is an extension of Copano Bay by way of an excavated channel. Copano Bay is listed on Galveston District's Navigable Waters list (Section 10 list). Copano Bay has been, is currently used, and has potential to be used in the foreseeable future for interstate commerce. Per the Rapanos Guidance all Section 10 waters are Traditionally Navigable Waters and are subject to jurisdiction under Section 404 of the Clean Water Act.





N Project SWG-2015-00535  
LA PALOMA, Texas Quadrangle  
Project Location and SPOE

0 1,000 2,000 3,000 4,000 5,000 Feet