



**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): 3/12/2021
 ORM Number: SWT-2020-00213-1
 Associated JDs: SWT-2020-00213-2. SWT-2020-00213-3, SWT-2020-00213-4
 Review Area Location¹: State/Territory: Texas City: Borger County/Parish/Borough: Hutchinson
 Center Coordinates of Review Area: Latitude 35.729777 Longitude -100.354153

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
S1	80	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
S2	35	linear feet	(a)(2) Perennial tributary contributes

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
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	water in aerial photographs (1995, 2003, 2008, 2012, 2014, 2019).

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
W1	0.01	acre(s)	(b)(1) Non-adjacent wetland.	Based on USGS topographic map and aerial photographs, W1 does not directly abut an a(1-3) water, is not inundated from an a(1-3) water in a typical year, and is not separated from an a(1-3) water by a natural or artificial barrier. Therefore, W1 was determined not to be an adjacent wetland.
W2	0.33	acre(s)	(b)(1) Non-adjacent wetland.	Based on USGS topographic map and aerial photographs, W2 does not directly abut an a(1-3) water, is not inundated from an a(1-3) water in a typical year, and is not separated from an a(1-3) water by a natural or artificial barrier. Therefore, W2 was determined not to be an adjacent wetland.
W3	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Based on USGS topographic map and aerial photographs, W3 does not directly abut an a(1-3) water, is not inundated from an a(1-3) water in a typical year, and is not separated from an a(1-3) water by a natural or artificial barrier. Therefore, W3 was determined not to be an adjacent wetland.
P1	0.05	acre(s)	(b)(9) Water-filled depression constructed/excavated in	Based on USGS topographic map and aerial photography, P1 does not appear to have been excavated in a WOTUS and does not have

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
		upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	downstream connectivity. Therefore, P1 has been determined to be an upland pond.

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: **“Borger Refinery Modificaiton Project” letter dated November 30, 2020 from Phillips 66.**

This information is sufficient for purposes of this AJD.

Rationale: **N/A**

- Data sheets prepared by the Corps: **Title(s) and/or date(s).**
- Photographs: **Aerial:** Google Earth: 1995, 2003, 2008, 2012, 2014, 2019
- 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: **Title(s) and/or date(s).**
- USFWS NWI maps: **Title(s) and/or date(s).**
- USGS topographic maps: **ORM II**

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	N/A.

B. Typical year assessment(s): **The APT data for November 3, 2020 indicates that the site was within the dry season, but experieinceing normal conditions.**

C. Additional comments to support AJD: **N/A**