

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

Revised 8/13/04

**DISTRICT OFFICE:** Galveston District  
**FILE NUMBER:** SWG-2006-2562-RCC (21175(09))

**PROJECT LOCATION INFORMATION:**

State: Texas  
County: Nueces and San Patricio Counties, Texas  
Center coordinates of site (latitude/longitude): 27-49-23.23 97-11-34.91  
Approximate size of area (parcel) reviewed, including uplands: approximately 3 acres.  
Name of nearest waterway: Corpus Christi Bay  
Name of watershed: Corpus Christi Bay

**JURISDICTIONAL DETERMINATION**

**Completed:** Desktop determination  Date: 24 January 2007  
Site visit(s)  Date(s):

**Jurisdictional Determination (JD):**

- Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:
  - There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.5 acre.
  - There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .
  - There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
    - Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

**BASIS OF JURISDICTIONAL DETERMINATION:**

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":**
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":**
- (1) The presence of waters, which are currently used, or 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.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
    - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
    - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
    - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) – (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Excavation adjacent to and connection to be made to Corpus Christi Bay a navigable waterbody

FILE NUMBER: SWG-2006-2652-RCC

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other:
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
  - U.S. Geological Survey 7.5 Minute Topographic maps: Port Ingleside
  - U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - U.S. Geological Survey 15 Minute Historic quadrangles:
  - USDA Natural Resources Conservation Service Soil Survey: San Patricio County
  - National wetlands inventory maps: Port Ingleside
  - State/Local wetland inventory maps:
  - FEMA/FIRM maps (Map Name & Date): San Patricio Co, Panel No 485506 0529C (March 18, 1985)
  - 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
  - Aerial Photographs (Name & Date):
  - Other photographs (Date):
  - Advanced Identification Wetland maps:
  - Site visit/determination conducted on:
  - Applicable/supporting case law:
  - Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION  
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: CESWG  
FILE NUMBER: D-19271

PROJECT LOCATION INFORMATION:

State: TEXAS  
County: JACKSON, TEXAS  
Center coordinates of site (latitude/longitude): UTM (NAD 27): Z14 729241E, 3208226N  
Approximate size of area (parcel) reviewed, including uplands: 0.1 acres.  
Name of nearest waterway: NONE  
Name of watershed: 12100101

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 2-8-07  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information,  there appear to be (or)  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or 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.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:*

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other:
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps: EDNA, TEXAS
  - U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- Aerial Photographs (Name & Date): EDNA, TEXAS 2007 (MAPQUEST.COM)
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on:
- Applicable/supporting case law:
- Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

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

Revised 8/13/04

**DISTRICT OFFICE:** CESWG-PE-RCC  
**FILE NUMBER:** SWG-2007-210-RCC

**PROJECT LOCATION INFORMATION:**

State: Texas  
County: Nueces  
Center coordinates of site (latitude/longitude): 27.8386/97.0642 (NAD83)  
Approximate size of area (parcel) reviewed, including uplands: 0.1 acres.  
Name of nearest waterway: Port Aransas Channel  
Name of watershed: Corpus Christi Bay

**JURISDICTIONAL DETERMINATION**

**Completed:** Desktop determination  Date: 12 February 2007  
Site visit(s)  Date(s):

**Jurisdictional Determination (JD):**

Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD -- An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

*There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 50 acres.

*There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 50 acres.

*There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

**BASIS OF JURISDICTIONAL DETERMINATION:**

**A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":**

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

**B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":**

- (1) The presence of waters, which are currently used, or 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.
- (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
- (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
- (5) The presence of a tributary to a water identified in (1) – (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Waters subject to the ebb and flow of the Gulf of Mexico tide.*

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other:
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
- This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies: 2 Sept. 1971 Galveston District Navigable Waters of US study
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps: Port Aransas, TX
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- Aerial Photographs (Name & Date): 2004 TNRS
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on:
- Applicable/supporting case law:
- Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

DISTRICT OFFICE: Galveston  
FILE NUMBER: 14392(06)/2116

**PROJECT LOCATION INFORMATION:**

State: Texas  
County: Cameron  
Center coordinates of site (latitude/longitude): 26 19 34.91; 97 26 40.30  
Approximate size of area (parcel) reviewed, including uplands: 0.5 acre.  
Name of nearest waterway: Laguna Madre  
Name of watershed: South Laguna Madre

**JURISDICTIONAL DETERMINATION**

Completed: Desktop determination  Date: 12 February 2007  
Site visit(s)  Date(s):

**Jurisdictional Determination (JD):**

- Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:
  - There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.001 acre.
  - There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.0 acre.
  - There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
    - Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

**BASIS OF JURISDICTIONAL DETERMINATION:**

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":**
  - The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":**
  - (1) The presence of waters, which are currently used, or 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.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
    - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
    - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
    - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) – (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Tidal waters of the Arroyo Colorado

**FILE NUMBER: 14392(06)/2116**

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Ordinary High Water Mark indicated by: | <input checked="" type="checkbox"/> High Tide Line indicated by:              |
| <input type="checkbox"/> clear, natural line impressed on the bank         | <input type="checkbox"/> oil or scum line along shore objects                 |
| <input type="checkbox"/> the presence of litter and debris                 | <input checked="" type="checkbox"/> fine shell or debris deposits (foreshore) |
| <input type="checkbox"/> changes in the character of soil                  | <input checked="" type="checkbox"/> physical markings/characteristics         |
| <input type="checkbox"/> destruction of terrestrial vegetation             | <input type="checkbox"/> tidal gages  |
| <input type="checkbox"/> shelving  | <input type="checkbox"/> other:   |
| <input type="checkbox"/> other: hydrophytic vegetation                     |   |

- Mean High Water Mark indicated by:  
 survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.

- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by (company):

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.  
 Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  
 Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.  
 Data sheets prepared/submitted by or on behalf of the applicant.  
 This office concurs with the delineation report, dated DATE, prepared by (company):  
 This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.  
 Corps' navigable waters' studies:  
 U.S. Geological Survey Hydrologic Atlas:  
 U.S. Geological Survey 7.5 Minute Topographic map: La Leona, Texas  
 U.S. Geological Survey 7.5 Minute Historic quadrangles:  
 U.S. Geological Survey 15 Minute Historic quadrangles:  
 USDA Natural Resources Conservation Service Soil Survey:  
 National wetlands inventory maps: La Leona, Texas  
 State/Local wetland inventory maps:  
 FEMA/FIRM maps (Map Name & Date):  
 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)  
 Aerial Photographs (Name & Date): TxGLO, Date unknown  
 Other photographs (Date):  
 Advanced Identification Wetland maps:  
 Site visit/determination conducted on:  
 Applicable/supporting case law:  
 Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

DISTRICT OFFICE: CESWG-PE-RCC  
FILE NUMBER: SWG-2007-198 -RCC

**PROJECT LOCATION INFORMATION:**

State: Texas  
County: Nueces  
Center coordinates of site (latitude/longitude): 25.9853/97.5142 (NAD83)  
Approximate size of area (parcel) reviewed, including uplands: 10 acres.  
Name of nearest waterway: Resaca del Rancho Viejo  
Name of watershed: Laguna Madre

**JURISDICTIONAL DETERMINATION**

Completed: Desktop determination  Date: 12 February 2007  
Site visit(s)  Date(s):

**Jurisdictional Determination (JD):**

Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

*There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

*There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

*There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

**BASIS OF JURISDICTIONAL DETERMINATION:**

**A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":**

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

**B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":**

(1) The presence of waters, which are currently used, or 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.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Tributary to Rancho Viejo Floodway and Laguna Madre.

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other:
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
  - U.S. Geological Survey 7.5 Minute Topographic maps: West Brownsville, Texas
  - U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - U.S. Geological Survey 15 Minute Historic quadrangles:
  - USDA Natural Resources Conservation Service Soil Survey: Cameron Co. 1928 & 1974
  - National wetlands inventory maps: West Brownsville, TX
  - State/Local wetland inventory maps:
  - FEMA/FIRM maps (Map Name & Date):
  - 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
  - Aerial Photographs (Name & Date): 2004 TNRIS
  - Other photographs (Date):
  - Advanced Identification Wetland maps:
  - Site visit/determination conducted on:
  - Applicable/supporting case law:
  - Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

DISTRICT OFFICE: CESWG  
FILE NUMBER: 24411

**PROJECT LOCATION INFORMATION:**

State: TX/LA  
County: Jefferson/Cameron  
Center coordinates of site (latitude/longitude): utm 414057E, 3293301  
Approximate size of area (parcel) reviewed, including uplands: 10 acres.  
Name of nearest waterway: Sabine Lake  
Name of watershed: Lower Sabine

**JURISDICTIONAL DETERMINATION**

Completed: Desktop determination  Date: 2/14/07  
Site visit(s)  Date(s):

**Jurisdictional Determination (JD):**

- Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:
- There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .
- There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .
- There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

**BASIS OF JURISDICTIONAL DETERMINATION:**

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":**
- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":**
- (1) The presence of waters, which are currently used, or 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.
- (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
- (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
- (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
- (5) The presence of a tributary to a water identified in (1) - (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: USCG will permit Sec 10 Bridge; COE will permit Sec 404 Fills.*

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other: Survey
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: TXDOT

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
  - Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated 18 sept 06 (D-18512), prepared by (company): Blanton & Assoc.
- This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps:
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- Aerial Photographs (Name & Date):
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on:
- Applicable/supporting case law:
- Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

DISTRICT OFFICE: Galveston  
FILE NUMBER: 24474 (SWG-2007-201-RCC)

PROJECT LOCATION INFORMATION:

State: Texas  
County: San Patricio  
Center coordinates of site (latitude/longitude): 27-51-59.76 E; 97-14-25.06 N  
Approximate size of area (parcel) reviewed, including uplands: 80.0 acres.  
Name of nearest waterway: La Quinta Channel  
Name of watershed: Corpus Christi Bay

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 14 February 2007  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

- Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:
  - There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 5.7 acres.
  - There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 2.5 acres.
  - There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
    - Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

- A. **Waters defined under 33 CFR part 329 as "navigable waters of the United States":**
  - The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. **Waters defined under 33 CFR part 328.3(a) as "waters of the United States":**
  - (1) The presence of waters, which are currently used, or 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.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
    - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
    - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
    - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) – (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Site consists of tidal waters of Corpus Christi Bay and adjacent wetlands and other special aquatic sites.

**FILE NUMBER: 24474**

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Ordinary High Water Mark indicated by: | <input checked="" type="checkbox"/> High Tide Line indicated by:              |
| <input type="checkbox"/> clear, natural line impressed on the bank         | <input type="checkbox"/> oil or scum line along shore objects                 |
| <input type="checkbox"/> the presence of litter and debris                 | <input checked="" type="checkbox"/> fine shell or debris deposits (foreshore) |
| <input type="checkbox"/> changes in the character of soil                  | <input type="checkbox"/> physical markings/characteristics                    |
| <input type="checkbox"/> destruction of terrestrial vegetation             | <input type="checkbox"/> tidal gages  |
| <input type="checkbox"/> shelving  | <input type="checkbox"/> other:   |
| <input type="checkbox"/> other: hydrophytic vegetation                     |   |
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
- Artificially irrigated areas, which would revert to upland if the irrigation ceased.
- Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
- Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- Isolated, intrastate wetland with no nexus to interstate commerce.
- Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
- Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Project involves directional drilling under levee for elevated ditch.
- Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
- This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic map:
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps: Port Ingleside, Texas
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- Aerial Photographs (Name & Date): USDA, 1995
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on:
- Applicable/supporting case law:
- Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

DISTRICT OFFICE: Galveston
FILE NUMBER: D-19223

PROJECT LOCATION INFORMATION:

State: Texas
County: Cameron
Center coordinates of site (latitude/longitude): 28 04 44.1503; 97 05 21.5145
Approximate size of area (parcel) reviewed, including uplands: 0.268 acre.
Name of nearest waterway: Laguna Madre
Name of watershed: South Laguna Madre

JURISDICTIONAL DETERMINATION

Completed: Desktop determination [X] Date: 14 February 2007
Site visit(s) [ ] Date(s):

Jurisdictional Determination (JD):

[ ] Preliminary JD - Based on available information, [ ] there appear to be (or) [ ] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

[X] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

[X] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.01 acre.

[X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.01 acre.

[ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [ ] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

[X] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- [ ] (1) The presence of waters, which are currently used, or 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.
[ ] (2) The presence of interstate waters including interstate wetlands1.
[ ] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
[ ] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
[ ] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
[ ] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
[ ] (4) Impoundments of waters otherwise defined as waters of the US.
[ ] (5) The presence of a tributary to a water identified in (1) - (4) above.
[ ] (6) The presence of territorial seas.
[X] (7) The presence of wetlands adjacent2 to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Site has shoreline subject to daily ebb and flow of tidal waters of Laguna Madre and adjacent non-tidal wetlands.

**FILE NUMBER: D-19223**

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other: hydrophytic vegetation
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other:
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
  - U.S. Geological Survey 7.5 Minute Topographic maps: Port Isabel, TX
  - U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - U.S. Geological Survey 15 Minute Historic quadrangles:
  - USDA Natural Resources Conservation Service Soil Survey:
  - National wetlands inventory maps:
  - State/Local wetland inventory maps:
  - FEMA/FIRM maps (Map Name & Date):
  - 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
  - Aerial Photographs (Name & Date): USDA 1995
  - Other photographs (Date):
  - Advanced Identification Wetland maps:
  - Site visit/determination conducted on: 6 February 2007
  - Applicable/supporting case law:
  - Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

DISTRICT OFFICE: Galveston  
FILE NUMBER: SWG-2007-274-RCC (D-19320)

PROJECT LOCATION INFORMATION:

State: Texas  
County: San Patricio  
Center coordinates of site (latitude/longitude): Site 1: 28 01 41.44, 97 05 21.5145; Site 2: 28 03 31.76, 97 52 50.90  
Approximate size of area (parcel) reviewed, including uplands: 2.0 acres.  
Name of nearest waterway: Chiltipin Creek  
Name of watershed: Aransas

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 16 February 2007  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

- Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:
  - There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.0 acre.
  - There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.50 acre.
  - There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
    - Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

- A. **Waters defined under 33 CFR part 329 as "navigable waters of the United States":**
  - The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. **Waters defined under 33 CFR part 328.3(a) as "waters of the United States":**
  - (1) The presence of waters, which are currently used, or 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.
  - (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
  - (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
    - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
    - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
    - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
  - (4) Impoundments of waters otherwise defined as waters of the US.
  - (5) The presence of a tributary to a water identified in (1) - (4) above.
  - (6) The presence of territorial seas.
  - (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination.* Sites are on upper reach of Chiltipin Creek where flows are intermittent.

**FILE NUMBER: SWG-2007-274-RCC (D-19320)****Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other: hydrophytic vegetation
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other:
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
  - Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
  - This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps: Sinton West, TX
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps: Sinton West, TX
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- Aerial Photographs (Name & Date): provided by applicant, date unknown
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on:
- Applicable/supporting case law:
- Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

DISTRICT OFFICE: CESWG  
FILE NUMBER: 24407

PROJECT LOCATION INFORMATION:

State: TEXAS  
County: GALVESTON  
Center coordinates of site (latitude/longitude): UTM (NAD 27): Z 15, 316425, 3238219N  
Approximate size of area (parcel) reviewed, including uplands: 13.44 acres.  
Name of nearest waterway: SWEETWATER LAKE  
Name of watershed: 12040204

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 2-16-07  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

*There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

*There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

*There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or 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.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* SWEETWATER LAKE IS A NATURAL INLET, SUBJECT TO THE EBB AND FLOW OF TIDE AND HAS A DIRECT SURFACE CONNECTION TO WEST GALVESTON BAY.

**Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)**

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other: AS STATED BY APPLICANT

 Mean High Water Mark indicated by:

- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.

 Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURSDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
- This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps: VIRGINIA POINT, TEXAS
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
- Aerial Photographs (Name & Date):
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on:
- Applicable/supporting case law:
- Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION  
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: CESWG  
FILE NUMBER: SWG-2007-45

PROJECT LOCATION INFORMATION:

State: TEXAS  
County: GALVESTON  
Center coordinates of site (latitude/longitude): UTM (NAD 27): Z 15, 329192E, 3252269N  
Approximate size of area (parcel) reviewed, including uplands: 0.04 acres.  
Name of nearest waterway: MAN MADE CANAL ADJACENT TO GIWW  
Name of watershed: 12040202

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 2-16-07  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information,  there appear to be (or)  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or 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.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination.* THE PROJECT IS LOCATED ON AN UNNAMED CANAL WHICH IS SUBJECT TO THE EBB AND FLOW OF TIDE, AND HAS A DIRECT SURFACE CONNECTION TO THE GIWW.

**Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)**

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other: AS STATED BY APPLICANT
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.  
Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  
Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.  
 Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.  
Corps' navigable waters' studies:  
U.S. Geological Survey Hydrologic Atlas:  
U.S. Geological Survey 7.5 Minute Topographic maps: PORT BOLIVAR, TEXAS  
U.S. Geological Survey 7.5 Minute Historic quadrangles:  
U.S. Geological Survey 15 Minute Historic quadrangles:  
USDA Natural Resources Conservation Service Soil Survey:  
National wetlands inventory maps:  
State/Local wetland inventory maps:  
FEMA/FIRM maps (Map Name & Date):  
100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)  
Aerial Photographs (Name & Date):  
Other photographs (Date):  
Advanced Identification Wetland maps:  
Site visit/determination conducted on:  
Applicable/supporting case law:  
Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION  
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: CESWG  
FILE NUMBER: 24433

PROJECT LOCATION INFORMATION:

State: TEXAS  
County: CALHOUN  
Center coordinates of site (latitude/longitude): UTM (NAD 27): Z 14, 740890E, 3162755N  
Approximate size of area (parcel) reviewed, including uplands: 0.32 acres.  
Name of nearest waterway: LAVACA BAY  
Name of watershed: 12100401

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 2-16-07  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information,  there appear to be (or)  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or 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.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* LAVACA BAY IS A NATURAL BAY, PART OF THE MATAGORDA BAY SYSTEM, SUBJECT TO THE EBB AND FLOW OF TIDE, WITH A DIRECT SURFACE CONNECTION TO THE GULF OF MEXICO.

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other: AS STATED BY APPLICANT

 Mean High Water Mark indicated by:

- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.

 Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.  
 Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  
 Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.  
 Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):  
 This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.  
 Corps' navigable waters' studies:  
 U.S. Geological Survey Hydrologic Atlas:  
 U.S. Geological Survey 7.5 Minute Topographic maps: LAVACA BAY, TEXAS  
 U.S. Geological Survey 7.5 Minute Historic quadrangles:  
 U.S. Geological Survey 15 Minute Historic quadrangles:  
 USDA Natural Resources Conservation Service Soil Survey:  
 National wetlands inventory maps:  
 State/Local wetland inventory maps:  
 FEMA/FIRM maps (Map Name & Date):  
 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)  
 Aerial Photographs (Name & Date):  
 Other photographs (Date):  
 Advanced Identification Wetland maps:  
 Site visit/determination conducted on:  
 Applicable/supporting case law:  
 Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION  
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: CESWG  
FILE NUMBER: SWG-2007-39

PROJECT LOCATION INFORMATION:

State: TEXAS  
County: CALHOUN  
Center coordinates of site (latitude/longitude): UTM (NAD 27): Z 14, 740894E, 3166465N  
Approximate size of area (parcel) reviewed, including uplands: 0.32 acres.  
Name of nearest waterway: LAVACA BAY  
Name of watershed: 12100401

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 2-16-07  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information,  there appear to be (or)  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or 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.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* LAVACA BAY IS A NATURAL BAY, PART OF THE MATAGORDA BAY SYSTEM, SUBJECT TO THE EBB AND FLOW OF TIDE, WITH A DIRECT SURFACE CONNECTION TO THE GULF OF MEXICO.

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other: AS STATED BY APPLICANT

 Mean High Water Mark indicated by:

- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.

 Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
- This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
  - U.S. Geological Survey 7.5 Minute Topographic maps: LAVACA BAY, TEXAS
  - U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - U.S. Geological Survey 15 Minute Historic quadrangles:
  - USDA Natural Resources Conservation Service Soil Survey:
  - National wetlands inventory maps:
  - State/Local wetland inventory maps:
  - FEMA/FIRM maps (Map Name & Date):
  - 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
  - Aerial Photographs (Name & Date):
  - Other photographs (Date):
  - Advanced Identification Wetland maps:
  - Site visit/determination conducted on:
  - Applicable/supporting case law:
  - Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION  
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: CESWG  
FILE NUMBER: SWG-2007-10

PROJECT LOCATION INFORMATION:

State: TEXAS  
County: BRAZORIA  
Center coordinates of site (latitude/longitude): UTM (NAD 27): Z 15, 255775E, 3226887N  
Approximate size of area (parcel) reviewed, including uplands: 0.01 acres.  
Name of nearest waterway: WETLANDS ADJACENT TO OYSTER CREEK  
Name of watershed: 12100401

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 2-16-07  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

- Preliminary JD - Based on available information,  there appear to be (or)  there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:
- There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .
- There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .
- There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- (1) The presence of waters, which are currently used, or 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.
- (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
- (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
- (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
- (5) The presence of a tributary to a water identified in (1) - (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* THE PROJECT IS LOCATED IN WETLANDS ADJACENT TO OYSTER CREEK, A NATURAL TRIBUTARY WITH A DIRECT SURFACE CONNECTION TO THE GULF OF MEXICO. IN THE AREA OF THE PROJECT SITE, OYSTER CREEK IS NOT SUBJECT TO THE EBB AND FLOW OF TIDE.

FILE NUMBER: SWG-2007-10

**Lateral Extent of Jurisdiction:** (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other:
- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: USACE DETERMINATION # D-18519(01)

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
  - U.S. Geological Survey 7.5 Minute Topographic maps: EAST COLUMBIA, TEXAS
  - U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - U.S. Geological Survey 15 Minute Historic quadrangles:
  - USDA Natural Resources Conservation Service Soil Survey:
  - National wetlands inventory maps:
  - State/Local wetland inventory maps:
  - FEMA/FIRM maps (Map Name & Date):
  - 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
  - Aerial Photographs (Name & Date):
  - Other photographs (Date):
  - Advanced Identification Wetland maps:
  - Site visit/determination conducted on:
  - Applicable/supporting case law:
  - Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

JURISDICTIONAL DETERMINATION  
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: CESWG  
FILE NUMBER: 24432

PROJECT LOCATION INFORMATION:

State: TEXAS  
County: CALHOUN  
Center coordinates of site (latitude/longitude): UTM (NAD 27): Z 14, 741401E, 3166981N  
Approximate size of area (parcel) reviewed, including uplands: 0.31 acres.  
Name of nearest waterway: LAVACA BAY  
Name of watershed: 12100401

JURISDICTIONAL DETERMINATION

Completed: Desktop determination  Date: 2-16-07  
Site visit(s)  Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).  
Check all that apply:

*There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

*There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

*There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.  
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or 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.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* LAVACA BAY IS A NATURAL BAY, PART OF THE MATAGORDA BAY SYSTEM, SUBJECT TO THE EBB AND FLOW OF TIDE, WITH A DIRECT SURFACE CONNECTION TO THE GULF OF MEXICO.

**Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)**

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other: AS STATED BY APPLICANT

- Mean High Water Mark indicated by:
- survey to available datum;  physical markings;  vegetation lines/changes in vegetation types.

- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated \_\_\_\_\_, prepared by (company):
  - This office does not concur with the delineation report, dated \_\_\_\_\_, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
  - U.S. Geological Survey 7.5 Minute Topographic maps: LAVACA BAY, TEXAS
  - U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - U.S. Geological Survey 15 Minute Historic quadrangles:
  - USDA Natural Resources Conservation Service Soil Survey:
  - National wetlands inventory maps:
  - State/Local wetland inventory maps:
  - FEMA/FIRM maps (Map Name & Date):
  - 100-year Floodplain Elevation is: \_\_\_\_\_ (NGVD)
  - Aerial Photographs (Name & Date):
  - Other photographs (Date):
  - Advanced Identification Wetland maps:
  - Site visit/determination conducted on:
  - Applicable/supporting case law:
  - Other information (please specify):

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.