U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 4/5/2021
ORM Number: SPA-2020-00089-LCO
Associated JDs: N/A
Review Area Location[1]: State/Territory: Texas City: El Paso County/Parish/Borough: El Paso
Center Coordinates of Review Area: Latitude 31.782165° Longitude -106.491717°

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)[2]

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters):[3]				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

[1] Map(s)/figure(s) are attached to the AJD provided to the requestor.
[2] If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.
[3] A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
SPA-2021-00089-LCO	9000	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See Section III.C below

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: AECOM, LLC
This information is sufficient for purposes of this AJD.
Rationale: N/A

☐ Data sheets prepared by the Corps: Title(s) and/or date(s).

☒ Photographs: Aerial and Other: Google Earth Imagery 2018 (latitude 31.782165, longitude -106.491717, El Paso County, Texas)

☐ Corps site visit(s) conducted on: Date(s).

☐ Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).

☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.

☐ USDA NRCS Soil Survey: Title(s) and/or date(s).

☐ USFWS NWI maps: Title(s) and/or date(s).

☐ USGS topographic maps: Title(s) and/or date(s).

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	A. Park Williams, Edward R. Cook, Jason E. Smerdon, Benjamin I. Cook, John T. Abatzoglou, Kasey Bolles, Seung H. Baek, Andrew M. Badger, Ben Livneh. 2018. Large Contribution from Anthropogenic Warming to an Emerging North American Megadrought. Science. Vol. 368 Issue 6488. Pp. 314-318.

B. Typical year assessment(s):

The Antecedent Precipitation Tool (APT) was run across two dates: March 2020 (date of the aerial imagery) and April 5, 2021 (the date of evaluation by the USACE). The APT results indicated that in 2020 the site was experiencing normal conditions, with precipitation falling between the 30th and 70th percentile of the 30-year rolling period. However, the APT results showed that during 2021 the site was experiencing

[4] Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.
[5] Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

a drier than normal year, with two out of the three data points falling below the 30th percentile. Subsequently, the drought index for 2021 indicated extreme drought conditions for the site. Based on this information, the evaluation of the review area was conducted during a drier than normal year within a 30-year rolling period.

It is worth noting that a study by Columbia University concludes that the American Southwest is experiencing a historic “megadrought” not seen in centuries. In fact, for several western states, including New Mexico and Texas, the last twenty years ranks as the second-driest period in the past 1,200 years (A. Park. Williams, 2018).

C. Additional comments to support AJD: The review area falls within the Chihuahua Desert, which has a dry climate with only one rainy season in the summer and smaller amounts of precipitation in early winter. Most of the summer rains fall between late June and early October, during the North American Monsoon when moist air from the Gulf of Mexico penetrates into the region. Furthermore, it is considered a rain shadow desert because the two main mountain ranges covering the desert, the Sierra Madre Occidental to the west and the Sierra Madre Oriental to the east, block most moisture from the Pacific Ocean and the Gulf of Mexico respectively.

Temperatures in this area range from 35 to 40° Celcius (C) (95 to 104°Farenheit [F]); and the average annual temperature is 24° C (75° F). The mean annual precipitation is 235 millimeters (mm) (9.3 inches [in]) with a range of approximately 150 to 400 mm (6 to16 in), and snowfall is minimal to non-existent. Soils are well drained and the water table exceeds 80 inches in depth.

Based on a review of aerial imagery and photographs of the proposed project site, the stream channel under review does not currently exhibit any flow or ponding. Furthermore, there are no connecting springs that contribute flow to the waterway; and the watershed receives no snowpack during the year. Based on soils data the water table is greater than 50 feet below the surface and does not rise up during the wet season and come in contact with the stream. Additionally, the stream channel lacks a riparian corridor and vegetation is dominated by upland species Broom Snakeweed (Gutierrezia sarothrae), Honey Mesquite (Prosopis glandulosa), and Creosote Bush (Larrea tridentata). Given this data, the only flows that the waterway experiences are from precipitation events. As such, the waterway evaluated as part of this review is determined to be an ephemeral stream channel.