

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 1, 2010

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, 51-ACRE SPRINGVILLE SITE, SPK-2006-50140

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Utah**

County/parish/borough: **Utah**

City: **Springville**

Center coordinates of site (lat/long in degree decimal format): Lat. **40.1578238080342°**, Long. **-111.658467281775°**

Universal Transverse Mercator: **12 443922.83 4445482.17**

Name of nearest waterbody: **Dry Creek**

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

Name of watershed or Hydrologic Unit Code (HUC): **Spanish Fork, Utah., 16020202**

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

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

JD form: **Previous Approve JD SPK-2006-50140 dated July 31, 2006**

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

Office (Desk) Determination. Date:

Field Determination. Date(s): **June 15, 2010**

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

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

Explain: **N/A**

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **are and are not** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

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

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: **N/A** linear feet, **N/A** wide, and/or **N/A** acres.

Wetlands: **N/A** acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known): **N/A**

2. Non-regulated waters/wetlands (check if applicable):³

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

Explain: **The property was originally delineated in April 2006 when the land use included the heavy use of flood irrigation from Dry Creek Canal and stock watering from a free-flowing artesian well. A total of approximately 8.7 acres of wet meadow wetlands were delineated at that time. On July 31, 2006, the Corps verified the wetland delineation. After the delineation was approved by the Corps of Engineers, GCD, Inc. ceased irrigation and retained**

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

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

³ Supporting documentation is presented in Section III.F.

Frontier Corporation in 2008 to complete a groundwater monitoring study in order to reassess whether wetland hydrology was present at the site in the absence of irrigation water. A total of 18 shallow groundwater monitoring wells were installed and measured weekly between April 3 and June 26, 2008. Wetland delineation datasheets were completed at each of the 18 monitoring well sites. The monitoring results and datasheets were included in the July 2008 Wetland Delineation Reassessment Report, which was submitted to the Corps of Engineers for review. During this hydrology study there were times when Dry Creek overflowed and flooded the site. This monitoring data was not sufficient for the Corps to make a determination. Per the Corps guidance, GCD, Inc. continued groundwater monitoring in 2009 and 2010, and retained Paul West to complete additional wetland delineation datasheets in July 2010. Climate conditions during the 2009 and 2010 supplemental monitoring periods had normal to above normal precipitation. The 2009 and 2010 data further demonstrates that the presence of wetland hydrology was not sufficient to meet the hydrology indicator. Terry Johnson and Tim Witman conducted site visits in the spring of 2009. No hydrology was observed on site during these site visits. During the summer 2009 site visit it was determined that the remaining wells with the exception of 5, 6, and 7 did not meet the hydrology parameter. The Corps determined that additional information was needed from wells 5, 6, and 7. The request for additional information was based on the well data, vegetation, and landscape position. Vegetation near these wells appeared to be dominated with hydrophytic species and the well data indicated that water was nearly within 12 inches of the soil surface. The three wells appear to be situated at lower elevation in the site and would most likely receive any rain runoff. The wells were monitored for an additional growing season in the spring of 2010 to confirm the presence or absence of hydrology. The rainfalls during the 2009 and 2010 growing season was average to slightly above average. Overflows along Dry Creek from past irrigation locations were contained. The hydrology was not present in the wells during the wettest part of the year between April and June. Therefore, based on the supplemental hydrology information the Corps has determined that the site lacks the presence of all three wetland parameters. The hydrology is not sufficient to meet the Corps definition of a wetland therefore there are no wetlands or other waters of the United States present on the property.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW

Identify TNW: N/A

Summarize rationale supporting determination: N/A

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": N/A

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

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

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

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

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is

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

the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

(i) General Area Conditions:

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

(ii) Physical Characteristics:

(a) Relationship with TNW:

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

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

Identify flow route to TNW⁵: N/A
Tributary stream order, if known: N/A

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

Tributary is: Natural
 Artificial (man-made). Explain: N/A
 Manipulated (man-altered). Explain: v

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

Average width: N/A feet
Average depth: N/A feet
Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

- | | | |
|--|--|-----------------------------------|
| <input type="checkbox"/> Silts | <input type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input type="checkbox"/> Vegetation. Type/% cover: | |
| <input type="checkbox"/> Other. Explain: N/A | | |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
Presence of run/riffle/pool complexes. Explain:
Tributary geometry: **Pick List**
Tributary gradient (approximate average slope): N/A %

(c) Flow:

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

Describe flow regime:
Other information on duration and volume:

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

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

- Dye (or other) test performed: N/A

Tributary has (check all that apply):

- Bed and banks
- OHWM⁶ (check all indicators that apply):
 - clear, natural line impressed on the bank
 - the presence of litter and debris

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

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

- changes in the character of soil
- shelving
- vegetation matted down, bent, or absent
- leaf litter disturbed or washed away
- sediment deposition
- water staining
- other (list):
- Discontinuous OHWM.⁷ Explain: N/A
- destruction of terrestrial vegetation
- the presence of wrack line
- sediment sorting
- scour
- multiple observed or predicted flow events
- abrupt change in plant community

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

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

(iii) Chemical Characteristics:

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

Explain: N/A

Identify specific pollutants, if known: N/A

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

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: N/A acres

Wetland type. Explain: N/A

Wetland quality. Explain: N/A

Project wetlands cross or serve as state boundaries. Explain: N/A

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: N/A

Surface flow is: **Pick List**

Characteristics: N/A

Subsurface flow: **Pick List**. Explain findings: N/A

Dye (or other) test performed: N/A

(c) Wetland Adjacency Determination with Non-TNW:

- Directly abutting
- Not directly abutting
 - Discrete wetland hydrologic connection. Explain: N/A
 - Ecological connection. Explain: N/A
 - Separated by berm/barrier. Explain: N/A

(d) Proximity (Relationship) to TNW

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

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

Flow is from: **Pick List**.

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

(ii) Chemical Characteristics:

⁷Ibid.

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: N/A
Identify specific pollutants, if known: N/A

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

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

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

All wetland(s) being considered in the cumulative analysis: **Pick List**
Approximately N/A acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
N/A	N/A	N/A	N/A

Summarize overall biological, chemical and physical functions being performed: N/A

C. SIGNIFICANT NEXUS DETERMINATION

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

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

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

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

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

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

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

- TNWs: N/A linear feet, N/A wide, Or N/A acres.
 Wetlands adjacent to TNWs: N/A acres.

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

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: **Dry Creek is a channelized perennial creek that flows year round. Observations throughout the year and at various locations along the creek have indicated year round flows. The USGS maps Dry Creek as a perennial stream.**
- Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: N/A

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

- Tributary waters: **612** linear feet **5-10** feet wide.
 Other non-wetland waters: N/A acres.
Identify type(s) of waters: N/A

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**

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

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

- Tributary waters: N/A linear feet, N/A wide.
 Other non-wetland waters: N/A acres.
Identify type(s) of waters: N/A

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

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

Provide acreage estimates for jurisdictional wetlands in the review area: N/A acres.

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

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

Provide acreage estimates for jurisdictional wetlands in the review area: N/A acres.

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

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

Provide estimates for jurisdictional wetlands in the review area: N/A acres.

7. **Impoundments of jurisdictional waters.⁹**

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

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

⁸See Footnote # 3.

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

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

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

Identify water body and summarize rationale supporting determination:

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

- Tributary waters: **N/A** linear feet, **N/A** wide.
- Other non-wetland waters: **N/A** acres.
Identify type(s) of waters: **N/A**
- Wetlands: **N/A** acres.

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

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

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

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

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

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

SECTION IV: DATA SOURCES.

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

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **September 18, 2010 Letter Report**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **1:24K; UT-PROVO**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Web Soil Survey**
- National wetlands inventory map(s). Cite name: **1:24K; UT-PROVO**
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **Various reports included in the file and Google Earth™**

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

or Other (Name & Date): **Photos Taken in July 2008 Reports**

Previous determination(s). File no. and date of response letter: **July 31, 2006 and September 24, 2008 SPK-2006-50140**

Applicable/supporting case law:

Applicable/supporting scientific literature:

Other information (please specify): **Site Visits June 15, 2010 and various visits in Spring 2009 to observe hydrology. Wetland Reports dated January 7, 2005, May 5, 2006, July 2008, data emailed June 3, 2010, and report dated September 18, 2010.**

B. ADDITIONAL COMMENTS TO SUPPORT JD: