

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): January 10, 2012.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, Webb Property, SPK-2007-00699.
Name of water being evaluated on this JD form: Uplands

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Utah County: Utah City: Lehi

Center coordinates of site (lat/long in degree decimal format): Lat: 40.3981707299° N, Long: -111.8775680124 W

Universal Transverse Mercator: 12 425527.49 4472321.44.

Name of nearest waterbody: Dry Creek to Utah Lake.

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

Name of watershed or Hydrologic Unit Code (HUC): 16020201.

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. List other JDs: April 30, 2007 SPK-2007-00699-UO

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

Office (Desk) Determination. Date: January 4, 2012.

Field Determination. Date(s): December 22, 2011.

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 no** "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 width (ft) and/or N/A acres.

Wetlands: N/A acres.

c. Limits (boundaries) of jurisdiction based on: **Not applicable. and **Not applicable.****

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: N/A.

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.

SECTION III: CWA ANALYSIS

- A. TNWs AND WETLANDS ADJACENT TO TNWs: NOT APPLICABLE
- B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS: NOT APPLICABLE
- C. SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE
- D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE: NOT APPLICABLE

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):⁴

- 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: N/A

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

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

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

- 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).
- 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 width (ft).
- Lakes/ponds: N/A acres.
- Other non-wetland waters: N/A acres. List type of aquatic resource: N/A.
- 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 width (ft).
- 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: Wetland Delineation Webb Property Dec 12, 2006 and Webb Property Wetland delineation Revised August 2008.
 - Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.

⁴ 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.

- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: N/A.
- Corps navigable waters' study: N/A.
- U.S. Geological Survey Hydrologic Atlas: Not Reviewed.
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24K; UT-JORDAN NARROWS
- USDA Natural Resources Conservation Service Soil Survey. Citation: Web Soil Survey Accessed January 2012.
- National wetlands inventory map(s). Cite name: 1:24K; UT-JORDAN NARROWS Quad. Accessed via ORM Database.
- State/Local wetland inventory map(s): N/A
- FEMA/FIRM maps: Area not mapped.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth and Google Maps Accessed Dec 2011
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: September 17, 2008 and April 30, 2007, SPK-2007-00699-UO.
- Applicable/supporting case law: N/A.
- Applicable/supporting scientific literature: N/A.
- Other information (please specify): Groundwater monitoring data submitted July 3, 2008 and site visit December 22, 2011.

B. ADDITIONAL COMMENTS TO SUPPORT JD: A jurisdictional determination was issued for this site on April 30, 2007. In that determination Wetlands were identified within this parcel. Subsequent information was provided which showed the the area does not support the hydrology and does not meet the wetland hyroldogy parameter. Groundwater information dated July 3, 2008 and the revised wetland delineation submitted August 14, 2008 was reviewed. A site visit was conducted on December 22, 2011 and no hydology was observed. The groundwater data observations from April and May 2008 indicate tht the water is not within 12 inches of the ground surface. A letter from this office dated September 17, 2008 indicates that the area does not meet the wetland parameters and no permit would be required to build on it. Irrigation water from a head gate flows to this property from the east. This excess irrigation water, if not utilized can flow onto this parcel and casue some ponding. Upon review of the information we have determined that the site as depicted on the figure titled Webb Property Delineation Revised August 2008 does not contain jursidicational wetlands.