

**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): July 23, 2015**
- B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, Warm Springs Potential Unauthorized Activity, SPK-2015-00018-SG**
- C. PROJECT LOCATION AND BACKGROUND INFORMATION:**  
State: **Utah** County/parish/borough: **Washington** City: **Washington**  
Center coordinates of site (lat/long in degree decimal format): Lat. **37.13719°**, Long. **-113.5138°**  
Universal Transverse Mercator: **12 276713.26 4113050.57**  
Name of nearest waterbody:  
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Mill Creek**  
Name of watershed or Hydrologic Unit Code (HUC): **Upper Virgin, 15010008**  
 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:
- D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**  
 Office (Desk) Determination. Date: **July 23, 2015**  
 Field Determination. Date(s): **January 20, 2015**

**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:

**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):<sup>1</sup>**

- TNWs, including territorial seas  
 Wetlands adjacent to TNWs  
 Relatively permanent waters<sup>2</sup> (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: linear feet, wide, and/or acres.  
Wetlands: acres.

**c. Limits (boundaries) of jurisdiction based on: **Established by OHWM.****

Elevation of established OHWM (if known):

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **This isolated spring-fed system, known locally as the Boilers, is fed by three warm springs and historically was isolated from any connection with downstream waters. Since settlement of the area in the late 1800's, the Boilers has been used by residents of Washington City as an irrigation source. The water rights to the springs are privately held and used exclusively for irrigation. There is currently a ditch and culvert that drains under I-15 to connect the Boilers to an irrigation delivery system throughout Washington City (See figure 2). The irrigation system ends at a farm field approximately 500-ft from Mill**

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

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

Creek, a tributary of the Virgin River, where it can be completely stopped and diverted for agricultural purposes. There is an irrigation ditch through the farm field that does connect to Mill Creek, but there was no recent evidence that flow from the springs has reached this ditch.

**SECTION III: CWA ANALYSIS**

- A. TNWs AND WETLANDS ADJACENT TO TNWs: NA
- B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): NA
- C. SIGNIFICANT NEXUS DETERMINATION: NA
- 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: NA
  - 2. RPWs that flow directly or indirectly into TNWs. NA
  - 3. Non-RPWs<sup>4</sup> that flow directly or indirectly into TNWs. NA
  - 4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs. NA
  - 5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs. NA
  - 6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs. NA
  - 7. Impoundments of jurisdictional waters: NA

- 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):<sup>5</sup>
  - 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:
  - Other factors. Explain:

**Identify water body and summarize rationale supporting determination:**

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

- Tributary waters:           linear feet,           wide.
- Other non-wetland waters:           acres.  
Identify type(s) of waters:
- Wetlands:           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:
  - Other: (explain, if not covered above):

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):           linear feet,           wide.

---

<sup>4</sup>See Footnote # 3.  
<sup>5</sup> 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.

