



**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): [November 24, 2020](#).

ORM Number: [SPK-2014-00139](#).

Associated JDs: [N/A](#).

Review Area Location¹: State/Territory: [Nevada](#). City: . County/Parish/Borough: [Eureka and Lander](#).

Center Coordinates of Review Area: Latitude [40.2173](#). Longitude [-116.5529](#).

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. acres	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. acres	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. acres	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.



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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.	acres	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.	acres	N/A	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
27-48-14-313	0.13	acres	(b)(1) Non-adjacent wetland.	These wetlands meets the definition of paragraph (c)(16); however, they do not abut, nor are they inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor are they physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier. Furthermore, there is no hydrologic surface water connection between these wetlands and a paragraph (a)(1) – (a)(3) water in a typical year.
27-48-20-434	0.01			
27-48-21-421	0.04			
27-48-22-222A	0.06			
27-48-23-234	0.08			
27-48-23-244	0.07			
27-48-27-134	0.03			
27-48-27-134A	0.01			
27-48-28-211	0.1			
27-48-28-441	0.01			
27-48-28-441A	0.02			
27-48-28-441B	0.15.			
D1-M	15860.49	feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between these channels and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from these channels terminates in the Crescent Valley depression where they dissipate into the valley floor and have no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
D2-M	22385.91			
D3-M	9323.06			
D4-M	20476.64			
D4-T1	10577.37			
D5-M	14034.65			
D5-T1	6260.41			
FM-M	36271.24			
FM-T1	11084.88			
FM-T2	2365.56			
FM-T3	7263.88			
FM-T4	4592.80			
FM-T5	9380.37			
MI-M	23227.01			
MI-T1	6111.50			
MI-T2	4997.79			
MU-M	20294.56			
MU-T1	5226.6			

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.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
STP1	0.13	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	These features were constructed in uplands for agriculture use. They do not impound waters of the U.S.
STP2	0.02			
STP3	0.08			
STP4	0.01			
STP5	0.02			
STP6	0.02			

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: [2020 Jurisdictional Determination Reverification Report, Mill Canyon Site, SPK-2014-00139, prepared by Frontier Corporation USA, February, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: *N/A.*

Data sheets prepared by the Corps: .

Photographs: [Aerial and Other. 2020 Jurisdictional Determination Reverification Report, Mill Canyon Site, SPK-2014-00139, Appendix D-1, prepared by Frontier Corporation USA, February, 2020.](#)

Corps site visit(s) conducted on: .

Previous Jurisdictional Determinations (AJDs or PJDs): [SPK-2014-00139, August 27, 2015.](#)

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

USDA NRCS Soil Survey: .

USFWS NWI maps: .

USGS topographic maps: [USGS. \(2018\). Topographic Map CORTES, NV. 1:24,000 scale. 2018. Reston, VA, USA: U.S. Dept. of the Interior. Retrieved from <https://ngmdb.usgs.gov/topoview/viewer/#12/42.2093/-111.0122>.](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	<i>N/A.</i>
USDA Sources	<i>N/A.</i>
NOAA Sources	<i>N/A.</i>
USACE Sources	<i>N/A.</i>
State/Local/Tribal Sources	<i>N/A.</i>
Other Issues	<i>N/A.</i>



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- B. Typical year assessment(s):** N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.
- C. Additional comments to support AJD:** Within the project boundary various unnamed ephemeral creeks named D1-M, D2-M, D3-M, D4-M, D4-T1, D5-M, D5-T1, FM-M, FM-T1, FM-T2, FM-T3, FM-T4, FM-T5, MI-M, MI-T1, MI-T2, MU-M, MU-T1 (subject channels) all flow into the Crescent Valley depression where they dissipate into the valley floor and have no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest Traditional Navigable Waters (TNW). Any flow from the subject channels would be sheet flow across the landscape during major storm events, typically exceeding a 50 year event. The project area is situated in a closed hydrologic basin with no outlets and no tributary connections to a TNW. The subject channels flow toward but do not reach the Humboldt River or its tributaries which is approximately 25 miles north of the project boundary and a tributary to the Rye Patch Reservoir, a TNW. The subject channels have not been demonstrated to contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3. The subject channels were determined to be isolated on August 27, 2015, by the Corps after coordination with EPA Region 9. There is no new information to indicate that the subject channels have a connection to any TNW. Each channel is documented on individual forms located in the 2020 Jurisdictional Determination Reverification Report, Mill Canyon Site, SPK-2014-00139, prepared by Frontier Corporation USA, February, 2020. These sheets include the general area conditions, physical characteristics, chemical characteristics, OHWM and biological characteristics of each water evaluated.