



**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): 11/17/2020  
 ORM Number: SPK-2019-00617  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Utah City: N/A County/Parish/Borough: Weber County  
 Center Coordinates of Review Area: Latitude 41.2327 Longitude -112.1479

**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)<sup>2</sup>**

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

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
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
Ditch 1	2,660 acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	This ditch is located on the western side of the property and flows from north to south. The ditch is an (a)(2) water (tributary) because it has perennial flow, contributes flow to an (a)(1) water (Great Salt Lake) via the Weber River.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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.	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.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Ditch 2	1,678	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	A search of aerial imagery revealed that this ditch did not relocate a tributary or was constructed in a tributary or constructed in adjacent wetlands. Therefore, since the ditch is not a tributary under (a)(2), exclusion (b)(5) applies.
Wetland 1	0.81	acre(s)	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, this wetland is directly abutting a ditch. The wetland does not meet the conditions of paragraph (a)(4) for adjacency since the ditch is an excluded feature pursuant to (b)(5), see Ditch 2.
Wetland 2	0.06	acre(s)	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier. Furthermore, there is no hydrologic surface water connection between the wetland and a paragraph (a)(1) – (a)(3) water.
Non-Wetland Playas (Alkali Bottoms)	18.6	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from	These features are topographically low areas that may temporarily hold precipitation and may intercept high ground water for short durations. These features are separated from tributary Ditch 1 (nearest (a)(1), (a)(2) or (a)(3) water) by a berm; therefore, the tributary ditch does not flood the subject non-wetland playas in a typical year. None of the non-wetland playas within the study area are physically separated from an (a)(1) –

<sup>4</sup> 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.

<sup>5</sup> 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)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
		an (a)(1)-(a)(3) water in a typical year.	(a)(3) water by a natural or artificial barrier. Furthermore, there is no hydrologic surface water connection between the non-wetland playas and a paragraph (a)(1) – (a)(3) water in a typical year.

**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: [Wetland and Waters of the U.S. Survey Report Little Mountain Solar Project, dated August 2019, Revised June 2020 and, September, 2020 prepared by Heritage Environmental Consultants, LLC.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [N/A](#)

Photographs: [Aerial: GoogleEarth 7.3.3.7692. \(1997 December 30, 2003 August 18, 2006 July 31, 2009 June 22, 2010 June 17, 2011 November 14, 2013 June 4, 2015 June 16, 2017 June 17, 2018 October 9, 2019 July 18\). Weber County, Utah. 41.233229° latitude, -112.14831° longitude, eye alt 13816 ft. Retrieved September 1, 2020, from <http://www.earth.google.com>](#)

Corps site visit(s) conducted on: [November 13, 2019](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [\*provide detailed discussion in Section III.B.\*](#)

USDA NRCS Soil Survey: [N/A](#)

USFWS NWI maps: [N/A](#)

USGS topographic maps: [N/A](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">AAJ (26 Sept 1937). Name: 10-AAJ-1-24. Weber County, Utah latitude 41.233329°, longitude: -112.14831°. Retrieved on October 9, 2020, from <a href="https://geodata.geology.utah.gov/imagery/">https://geodata.geology.utah.gov/imagery/</a></a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

**B. Typical year assessment(s):** [Ditch 1 is located on the western side of the property and flows from north to south. Artificial earthen berms run along the ditch on either side. The ditch has a perennial flow in a typical year and contributes surface water flow to the Great Salt Lake, an \(a\)\(1\) water. Google Earth aerial photography dating back to 1997, did not reveal the presence of surface water from Ditch 1 anywhere within the review area. The Corps Antecedent Precipitation Calculator Tool indicates that the area was experiencing drier than normal conditions during the Corps site inspection done on November 13, 2019. Furthermore, the ground photographs taken in August 2019 included in the AR report document evidence of no inundation of the area from Ditch 1 even though the inspection was performed at a time when the](#)



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Antecedent Precipitation Calculator Tool generated a condition value of 16 for wetter than normal conditions. This site inspection was performed during the dry season when the area was experiencing an incipient drought.

- C. Additional comments to support AJD:** The aquatic resources report identifies the non-wetland playas areas as alkali bottoms that are not formally identified as aquatic features. The report indicates that the origin of the alkali bottom areas is uncertain and indicates the areas do not appear to be non-wetland playas due the absence of natural drainage features, the absence of water movement or accumulation, and the absence of geomorphic or vegetative ordinary high water marks. The photos in different iterations of the aquatic resources report give the appearance of an ordinary high water mark. However, the Corps site inspection and an aerial review of the site confirmed no sign of water flow between the potential non-wetland playas and a (a)(1), (a)(2) or (a)(3) water. Based on aerial photography, Ditch 1 was constructed after 1937. Ditch 1 did not relocate a tributary, was not constructed in a tributary not constructed in an adjacent wetland.