



**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 9, 2020](#).

ORM Number: [SPK-2019-00773](#).

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

Review Area Location<sup>1</sup>: State/Territory: [Utah](#). City: [Brigham City](#). County/Parish/Borough: [Box Elder](#).

Center Coordinates of Review Area: Latitude [41.5283°](#). Longitude [-112.0584°](#).

**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).

---

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



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**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. acres	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. acres	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Black Slough	5,139 (1.97) linear feet (acres)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Black Slough is a perennial drainage channel that is fed primarily by channels, springs, seeps, and shallow groundwater to the north and east. Black Slough drains to the southwest from the study area and directly into the Great Salt Lake.
Ditch 1	1,402 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 1 is part of a channelized wetland drainage and is an extension of Wetland 1a. The ditch is an (a)(2) water (tributary) because it has perennial flow in a typical year, contributes flow to an (a)(1) water (Great Salt Lake) in a typical year via Black Slough, and was constructed in a tributary and adjacent wetlands.
Ditch 2	1,782 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 2 is part of a channelized wetland drainage and is an extension of Wetland 1a. The ditch is an (a)(2) water (tributary) because it has perennial flow in a typical year, contributes flow to an (a)(1) water (Great Salt Lake) in a typical year via Black Slough, and was constructed in a tributary and adjacent wetlands.

<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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Ditch 3	62	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 3 is part of a channelized wetland drainage and is an extension of Wetland 1a. The ditch is an (a)(2) water (tributary) because it has perennial flow in a typical year, contributes flow to an (a)(1) water (Great Salt Lake) in a typical year via Black Slough, and was constructed in a tributary and adjacent wetlands.
Ditch 4	531	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 4 is part of a channelized wetland drainage and is an extension of Wetland 1a. The ditch is an (a)(2) water (tributary) because it has perennial flow in a typical year, contributes flow to an (a)(1) water (Great Salt Lake) in a typical year via Black Slough, and was constructed in a tributary and adjacent wetlands.
Ditch 5	120	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 5 is part of a channelized wetland drainage and is an extension of Wetland 1a. The ditch is an (a)(2) water (tributary) because it has perennial flow in a typical year, contributes flow to an (a)(1) water (Great Salt Lake) in a typical year via Black Slough, and was constructed in a tributary and adjacent wetlands.
Ditch 6	828	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 6 is part of a channelized wetland drainage and is an extension of Wetland 1a. The ditch is an (a)(2) water (tributary) because it has perennial flow in a typical year, contributes flow to an (a)(1) water (Great Salt Lake) in a typical year via Black Slough, and was constructed in a tributary and adjacent wetlands.

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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
Wetland 1a.	N/A.	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland A is a large wetland area associated with Black Slough, the main drainage on site. Wetland A extends beyond the study area to the south and west and flows through a culvert under I-15 into a large contiguous complex of wet meadow, playa, saline wet meadow, and emergent marsh wetlands. This complex directly abuts and drains directly into the Great Salt Lake. Wetland A and the wetland complex is in fact one wetland that is adjacent in its entirety since it is divided by a road with a culvert, which allows for a direct hydrological connection through these features in a typical year, consistent with 33 CFR 328.3(c)(1)(iv) and the preamble (85 FR 22312-22313, 21 April 2020). The off-site boundary of Wetland A extends up to the culvert and there are no other barriers or features that come between Wetland A and the culverts.
Wetland 1b.	N/A.	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1b is a vegetated playa wetland that is contiguous with Wetland 1a and the larger overall wetland complex, which as noted above, directly abuts the Great Salt Lake.
Wetland 1c.	N/A.	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1c is a vegetated playa wetland that is contiguous with Wetland 1a and the larger overall wetland complex, which as noted above, directly abuts the Great Salt Lake.
Wetland 1d.	N/A.	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1d is a vegetated playa wetland that is contiguous with Wetland 1a and the larger overall wetland complex, which as noted above, directly abuts the Great Salt Lake.
Wetland 1e.	N/A.	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1e is a vegetated playa wetland that is contiguous with Wetland 1a and the larger overall wetland complex, which as noted



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
			above, directly abuts the Great Salt Lake.
Wetland 1f.	N/A.	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water. Wetland 1f is a forested wetland that is contiguous with Wetland 1a and the larger overall wetland complex, which as noted above, directly abuts the Great Salt Lake.
Wetland 2a.	N/A.	acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature. Wetland 2a is located in an old oxbow depression wetland associated with Black Slough. Based on historic aerial imagery, this depression fills with water each year in the spring through natural processes when groundwater and surface water levels in adjacent wetlands are high. Wetland 2a is separated from an (a)(1) – (a)(3) water (Black Slough) only by a natural berm. A narrow upland area approximately 15-20 feet wide separates Wetland 2a from Wetland 1a.
Wetland 2b.	N/A.	acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature. Wetland 2b is a vegetated playa wetland contiguous with Wetland 2a and is located in an old oxbow depression associated with Black Slough. Based on historic aerial imagery, this depression fills with water each year in the spring through natural processes when groundwater and surface water levels in adjacent wetlands are high. Wetland 2b is separated from an (a)(1) – (a)(3) water (Black Slough) only by a natural berm. A narrow upland area approximately 15-20 feet wide separates Wetland 2b from Wetland 1a.

**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

<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.



**U.S. ARMY CORPS OF ENGINEERS  
 REGULATORY PROGRAM  
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
 NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland 3	0.087	acres	(b)(1) Non-adjacent wetland.	Wetland 3 is located in a small natural depression that temporarily holds precipitation and may intercept high ground water for short durations. The feature is completely surrounded by uplands and shows no signs of drainage away from the feature. This feature is separated from a drainage ditch to the south by a dirt road and no culverts under the roadway exist that could provide a hydrologic connection. Black Slough (nearest (a)(1)-(a)(3) water) and associated wetlands are approximately 700 feet northwest of Wetland 3.

<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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**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: [Kagel Environmental; Aquatic Resources Delineation Report, Nucor Site; February 17, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [Information/clarifications in addition to the initial delineation submittal were needed in order to process the JD, as requested by the Corps on March 31, 2020. The applicant provided additional information and updated maps on August 14, 2020, which was determined sufficient for the Corps to complete the JD request.](#)

Data sheets prepared by the Corps: .

Photographs: [Aerial: Google Earth 7.3.3.7692.\(1993, September 8; 2005, December 31; 2011, September 14; 2017, June 18; 2018, September 14; 2020, May 31\). Brigham City, Utah. Latitude 41.5283° Longitude -112.0584°, eye alt 11,500 ft. Retrieved November 3, 2020, from <http://www.earth.google.com>; \[Historicaerials.com 1958, 1959, 1965, 1966, 1974.\]\(#\)](#)

Corps site visit(s) conducted on: .

Previous Jurisdictional Determinations (AJDs or PJDs): .

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

USDA NRCS Soil Survey: .

USFWS NWI maps: .

USGS topographic maps: .

**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="#">N/A.</a>
<a href="#">Other Issues</a>	<a href="#">N/A.</a>

**B. Typical year assessment(s):** [The Antecedent Precipitation Tool \(APT\) was used to determine the typical year assessment for this site based on the consultant's multiple site visit dates between June 5, 2019 and August 7, 2019. The ATP indicates that rainfall conditions cycled from wetter than normal, normal, drier than normal, and back to normal during that time period and were within the range of a typical year.](#)

**C. Additional comments to support AJD:** [The features identified as Ditches 1 - 6 are linear drainages choked with wetland vegetation and do not exhibit ordinary high water mark indicators. These drainages are, in fact, all part of the same contiguous Wetland 1a.](#)