



**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 30, 2020](#).

ORM Number: [SPK-2000-50221](#).

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

Review Area Location¹: State/Territory: [Utah](#). City: [Kaysville](#). County/Parish/Borough: [Davis](#).

Center Coordinates of Review Area: Latitude [41.0156](#). Longitude [-111.9224](#).

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).

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



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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.

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
Ditch 1	584 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.

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.

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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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: [McSwain Property Approx. 2.85 Acres Aquatic Resources and Wetlands Delineation Technical Report Dated August 2020 by Frontier Corporation USA Environmental Consultants.](#)

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. \(13 August 1993, 10 October 1997, 3 May 2002, 7 September 2002, 13 August 2003, 31 August 2003, 27 February 2005, 17 April 2005, 21 August 2005, 12 December 2006, 22 June 2009, 17 June 2010, 14 September 2011, 30 December 2012, 16 June 2015, 17 June 2017, 10 September 2018, 30 December 2019, 15 May 2020\). Davis County, Utah. Latitude 41.0156°, Longitude: -111.9224°, eye alt 1,281 ft. Retrieved November, 2 2020, from <http://www.earth.google.com>.](#)

Corps site visit(s) conducted on: [N/A](#).

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
USGS Sources	N/A .
USDA Sources	N/A .
NOAA Sources	N/A .
USACE Sources	N/A .
State/Local/Tribal Sources	<p>Project 1985 85-14 Date May: 01, 1985 Name: 85-14_A-1-11. Davis County, Utah latitude 41.0156°, longitude: -111.9224°. Retrieved on November 2, 2020, from https://geodata.geology.utah.gov/imagery/</p> <p>Project 1937 AAJ-AAK Date; September 26, 1937 Name: 10-AAK_3-4. County, Utah latitude 41.0156°, longitude: -111.9224°. Retrieved on November 2, 2020, from https://geodata.geology.utah.gov/imagery/</p>
FEMA/FIRM maps	Utah Division of Water Rights - Traditional and ESRI Topographic Maps. Retrived on November 2, 2020, from https://maps.waterrights.utah.gov/EsriMap/map.asp?layersToAdd=StreamAltSearch&strm=20050001.



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- B. Typical year assessment(s):** The ditch has a perennial flow in a typical year and contributes surface water flow to the Great Salt Lake, an (a)(1) water via the Bair Creek, an (a)(2) water. Google Earth aerial photography dating back to 1993, did not reveal the presence of surface water from the ditch anywhere within the review area. The Corps Antecedent Precipitation Calculator Tool indicates that the area was experiencing drier than normal conditions during the time the site inspection was done by the consultant on April 24, 2020. The inspection was done during the wet season when the area was experiencing a mild drought. Even though the Antecedent Precipitation Calculator Tool indicates drier than normal conditions during the site inspection, water was documented flowing in the ditch with depths ranging between 0.5 to 0.8 feet depending on location.
- C. Additional comments to support AJD:** A review of historic satellite images revealed that the ditch was constructed sometime between 1997 and 2002. The ditch flows east to west through the center of the study area which is located between Haight Creek and Bair Creek. The ditch receives irrigation conveyance, municipal stormwater, and drainage from the Davis Park Golf Course via culverts that surface near the east property boundary. The ditch eventually drains into Bair Creek, an (a)(2) water which is a tributary to the Great Salt Lake, an (a)(1) water. Although the ditch contributes surface water flow into a jurisdictional water in a typical year, the aerial review revealed that the ditch does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. therefore, since the ditch is not a tributary under (a)(2), this feature can be excluded under (b)(5). The AR report indicates the presence of wetland vegetation along the ditch banks; however, the vegetation was documented above the ordinary high water mark in areas in which soils did not meet the hydric soils criteria.