



**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): [December 1, 2020](#).

ORM Number: [SPK-2020-00538](#).

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

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

Center Coordinates of Review Area: Latitude [40.523323](#). Longitude [-111.438014](#).

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
O1.	940	Square feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary O1 is a branch of the Middle Ditch, one of the Heber Valley's main agricultural ditches. When there are sufficient flows, the Middle Ditch flows into Spring Creek, an (a)(2) tributary to the Provo River, another (a)(2) tributary. The Provo River flows into Deer Creek Reservoir which drains directly into Utah Lake.

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
W1.	0.59	acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland W1 extends beyond the study area to the west and abuts the Westside Ditch, an (a)(2) tributary. This branch of the Westside Ditch flows into Spring Creek, another (a)(2) tributary, which then flows into the Provo River, yet another (a)(2) tributary. Provo River flows into Deer Creek

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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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
				Reservoir which drains directly into Utah Lake.
W2	1.82	acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland W2 extends beyond the study area to the west and flows into the same branch of the Westside Ditch as wetland W1. Although Wetlands W1 and W2 do not appear to be connected in the Aquatic Resources Report, they are artificially disconnected by the western study area boundary and are lobes of the same contiguous wetland. Wetland W2 flows into the branch of Westside Ditch which flows into Spring Creek, then the Provo River, then into Deer Creek Reservoir before terminating into Utah Lake.
W3	0.01	acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland W3 immediately abuts the (a)(2) tributary O1. O1 flows into Spring Creek, then into the Provo River, then into Deer Creek Reservoir before terminating into Utah Lake.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
N/A.	N/A.	acres	N/A.

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: [Aquatic Resource Delineation Report, dated July 10, 2020.](#)
This information is sufficient for purposes of this AJD.
Rationale: [N/A](#) .
- Data sheets prepared by the Corps: [N/A](#) .
- Photographs: [Other: Figures D1-D8, Aquatic Resource Delineation Report, dated July 10, 2020.](#)
- Corps site visit(s) conducted on: [June 4, 2020 and August 10, 2020.](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#) .
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Figure A-3, NRCS SSURGO Soils, Aquatic Resource Delineation Report dated, July 10, 2020.](#)
- USFWS NWI maps: [Figure A-2, National Wetlands Inventory & National Hydrography Dataset, Aquatic Resource Delineation Report, dated July 10, 2020..](#)
- 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	Figure A-4, Aquatic Resource Delineation Report, dated July 10, 2020.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Issues	N/A.

B. Typical year assessment(s): [N/A](#)

C. Additional comments to support AJD: [Wetlands W1, W2, and W3 all meet the definition of adjacent wetlands abutting \(a\)\(2\) tributaries, consistent with 33 CFR 328.3\(c\)\(1\)\(i\) and the preamble \(85 FR 22309-22310\). The western, off-site boundaries of Wetlands W1 and W2 extend up to a branch of the Westside Ditch and the only barrier or feature that comes between Wetlands W1 and W2 is the fence on the west side of the study area. Wetland W3 abuts Tributary O1, a branch of the Middle Ditch, within the study area and is not separated by any natural or artificial barrier or feature. Westside Ditch, Middle Ditch, Spring Creek, and the Provo River all meet the definition of a tributary at 33 CFR 328.3\(c\)\(12\) as intermittent \(Westside Ditch and Middle Ditch\) and perennial \(Spring Creek and Provo River\) waters that contribute surface water flow in a typical year to Utah Lake, an \(a\)\(1\) water. Westside Ditch is considered an \(a\)\(2\) tributary and not a \(b\)\(5\) ditch because it is a naturally occurring surface water channel that contributes surface water flow to an \(a\)\(1\) water in a typical year. Additionally, Westside Ditch is considered](#)



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intermittent rather than ephemeral as it flows continuously during certain times of the year and more than in direct response to precipitation.