



**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 30, 2020](#).

ORM Number: [SPK-2020-00853](#).

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

Review Area Location¹: State/Territory: [Utah](#). City: [West Valley City](#). County/Parish/Borough: [Salt Lake County](#).

Center Coordinates of Review Area: Latitude [40.722150](#). Longitude [-112.071805](#).

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
W-A.	1.17 acres	(b)(1) Non-adjacent wetland.	This wetland is situated along the west property line at the center of the property and runs in a northern direction along Kersey Creek, which flows off site in a north-to-south direction just west of the survey area. Wetland W-A is separated

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				from the Kersey Creek Canal by a human-made berm that acts as a barrier to surface-water flow. The 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 an (a)(1) – (a)(3) water.
W-B	0.3	acres	(b)(1) Non-adjacent wetland.	This wetland is situated along the east property line and is supported by surface-water flow from offsite excavated ponds to the east of the survey area. The 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 an (a)(1) – (a)(3) water.
W-C	0.08	acres	(b)(1) Non-adjacent wetland.	This wetland is situated on the northern side of the property. Wetland W-C is supplied with surface water via a leaking artesian well. The 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 an (a)(1) – (a)(3) water.
D	385	linear	(b)(5) Ditch that is not an (a)(1) or	The ditch is located at the center of



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
		feet	(a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	the property and connects wetlands W-A and W-B. Historic aerials show that the ditch was excavated between 1977 and 1997 with a pond on the west property boundary. The pond was filled between 2002 and 2003. A review of historic aerial imagery revealed that the ditch documented on-site did not relocate a tributary, was not constructed in a tributary or constructed in adjacent wetlands. Therefore, since the ditch is not a tributary under (a)(2), exclusion (b)(5) applies.

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: [Whitaker Construction Property - 19.6 Acres Aquatic Resources Inventory Report Salt Lake County, Utah prepared by Bio-West, Inc dated September 2020.](#)

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. \(15 July 1997, 3 May 2002, 14 July 2003, 18 August 2002, 24 August 2004, 3 July 2005, 31 July 2006, 31 December 2005, 27 April 2007, 22 June 2009, 17 June 2010, 14 September 2011, 4 June 2013, 16 June 2015, 8 July 2016, 15 June 2017, 17 June 2017, 9 October 2018, 18 July 2019, 31 May 2020\). Salt Lake County, Utah 40.724357 -112.071479, eye alt 2429 ft. Retrieved December 29, 2020 from <http://www.earth.google.com>.](#)

[Historic Aerials by NETRonline. Topo Maps. T1954, T1963, T1971, T1975, T1987, T1993, T2001, T2014, T2017. Aerials 1943, 1950, 1959, 1965, 1971, 1977, 1977, 2004, 2006, 2009, 2011, 2014, and 2016. Retrieved December 29, 2020 from <https://www.historicaerials.com/viewer>.](#)

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.*



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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	N/A.
Other Issues	N/A.

- B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) was used to give context to this site based on the inspection date of September 3, 2020 (AR delineation site inspection). The APT indicates that during the site inspection the project area was experiencing drier than normal conditions and the drought index PDSI was indicating an extreme drought. Google Earth aerial photography from typically wet periods (27 April 2007) did not reveal the presence of surface water from Kersey Creek within the project area. The December 31, 2005 aerial gives the impression that there is a connection between the wetland and Kersey Creek; however, review of aerial images from different years revealed that there is no surface connection between wetland W-A and the creek. Based on the information documented in the aerial photographs and the APT, the site conditions observed in 2007 are reflective of a typical year.
- C. Additional comments to support AJD:** A review of historical photographs revealed that the ponds to the east of wetland W-B were excavated sometime between 1977 and 1997 in an area that was an agricultural field. These ponds are not part of the study area since they are located outside of the subject property; therefore, the ponds are not being evaluated as part of this AJD.