



**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): [July 22, 2020](#).

ORM Number: [SPK-2020-00211](#).

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

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

Center Coordinates of Review Area: Latitude [40.7496](#). Longitude [-111.9980](#).

**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).

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<sup>1</sup> 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)<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
N/A.	N/A.	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.	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.

**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
Wetland A.	0.34. acres	(b)(1) Non-adjacent wetland.	Wetland is situated in an excavated borrow pit with artificial berms along the length of the canal. In addition, the canal has been decommissioned and there is no potential hydrologic connectivity to the Great Salt Lake,

<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.

<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
				the nearest TNW. Exclusion (b)(9) for water filled depressions was evaluated; however, this exclusion no longer applies once a feature subject to the (b)(9) exclusion is no longer used for the original purpose for which it was excluded. The pits are no longer being used for borrow; therefore, exclusion (b)(9) does not apply for this site.
Wetland B.	0.02	acres	(b)(1) Non-adjacent wetland.	Wetland is situated in an excavated borrow pit with artificial berms along the length of the canal. In addition, the canal has been decommissioned and there is no potential hydrologic connectivity to the Great Salt Lake, the nearest TNW. Exclusion (b)(9) for water filled depressions was evaluated; however, this exclusion no longer applies once a feature subject to the (b)(9) exclusion is no longer used for the original purpose for which it was excluded. The pits are no longer being used for borrow; therefore, exclusion (b)(9) does not apply for this site.
Wetland C.	0.35	acres	(b)(1) Non-adjacent wetland.	Wetland is situated in an excavated borrow pit with artificial berms along the length of the canal. In addition, the canal has been decommissioned and there is no potential hydrologic connectivity to the Great Salt Lake, the nearest TNW. Exclusion (b)(9) for water filled depressions was evaluated; however, this exclusion no longer applies once a feature subject to the (b)(9) exclusion is no longer used for the original purpose for which it was excluded. The pits are no longer being used for borrow; therefore, exclusion (b)(9) does not apply for this site.
Wetland D1.	0.27.	acres	(b)(1) Non-adjacent wetland.	Wetland D1 and D2 abut a ditch running parallel to the railroad. While this ditch may occasionally



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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
				discharge to the Great Salt Lake, it was not mapped because it is not an aquatic resource due to the fact that it lacks an ordinary high watermark (OHWM). Even if the railroad ditch had an OHWM it would not have met the tributary definition at (c)(12) because is not intermittent or perennial and it does not alter or relocate a tributary.
Wetland D2.	0.05	acres	(b)(1) Non-adjacent wetland.	Wetland D1 and D2 abut a ditch running parallel to the railroad. While this ditch may occasionally discharge to the Great Salt Lake, it was not mapped because it is not an aquatic resource due to the fact that it lacks an OHWM. Even if the railroad ditch had an OHWM it would not have met the tributary definition at (c)(12) because is not intermittent or perennial and it does not alter or relocate a tributary.

**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: [Phelan Development Company, February 25, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [Wetlands D1 and D2](#) were described as waters of the U.S. in the report submitted by the applicant. Upon further review of the information and evaluation of the site under the NWPR, the Corps made the determination that wetlands D1 and D2 are not waters of the United States pursuant to 33 CFR §328.3(a) and are therefore excluded by 33 CFR 33 CFR §328.3(b)(1) along with wetlands A, B, and C.

Data sheets prepared by the Corps: .

Photographs: [Aerial and Other.](#) Aerials and photos included in the Aquatic Resources Report dated February, 2020. Site inspection done by consultant on January 28, 2020.

Corps site visit(s) conducted on: .

Previous Jurisdictional Determinations (AJDs or PJDs): .

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



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- USDA NRCS Soil Survey: [Soil Survey Map Phelan SLC Property February 24, 2020.](#)
- USFWS NWI maps: [National Wetland Inventory May Phelan SLC Property February 24, 2020.](#)
- USGS topographic maps: [Phelan SLC Property February 2020 1:24,000 Topographic Base.](#)

**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>	N/A.
<a href="#">USDA Sources</a>	N/A.
<a href="#">NOAA Sources</a>	N/A.
<a href="#">Other USACE data (specify)</a>	N/A.
<a href="#">State/Local/Tribal Sources</a>	N/A.
<a href="#">Other Issues</a>	N/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 inspection date of January 28, 2020. The ATP indicates that the rainfall conditions were wetter than normal at the time of the site inspection.

**C. Additional comments to support AJD:** The Brighton Canal is located south of wetland A and north of Wetlands B and C and is an above-grade irrigation conveyance. It was built in the early 1900s for the purpose of distributing irrigation water diverted from the Jordan River to farm and ranch lands located throughout the western and northwestern areas of the Salt Lake Valley. The canal crosses the Phelan property, continues north/northwest, crossing the 5600 West north of the Brighton Drain, continues north across I-80 and eventually drains into the North Pointe Canal near the present day construction location of the new State Prison. The North Point Canal flows westward and drains into the Great Salt Lake. Historically, the Brighton Canal used to have a surface water connection to the Great Salt Lake. However, due to changes in land use, the portion of the Brighton Canal that traverses through the project area was decommissioned at the end of the 2018 growing season. The Brighton Canal decommission area extend past the property lines of the project area with the upstream termination point being located southeast of the project area at the railroad spur crossing of California Avenue and downstream termination point located at 7200 West 700 North. Wetland A, Wetland B, and Wetland C are situated in excavated borrow pits adjacent to the decommissioned section of the canal with fill berms making-up the north and south banks along the entire length of the channel. Due to the decommission of the section of the Brighton Canal within the project area, Wetlands A, B, and C have no potential flow path or hydrologic connectivity to the Great Salt Lake.