



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): February 25, 2021

ORM Number: SPK-2020-00543

Associated JDs: N/A.

Review Area Location<sup>1</sup>:

State/Territory: NV County/Parish/Borough: Lander County

Center Coordinates of Review Area: Latitude 39.4537 Longitude -117.48637

**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 or describe rationale.
- 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).

**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                                |

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

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide and 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 independent 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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**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  |
|----------------|----------------|--|--|
| Channel 1      | 2602.2 feet    | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The subject channels flow only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3)) |
| Channel 2      | 4330.8 feet    | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The subject channels flow only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3)) |
| Channel 3      | 4258.1 feet    | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The subject channels flow only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3)) |
| Channel 4      | 6415.5 feet    | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The subject channels flow only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3)) |

**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: Draft Desktop Aquatic Resources Delineation Report dated July 2020.

This information is sufficient for purposes of this AJD.

Rationale: N/A

\_\_\_ Data sheets prepared by the Corps:

Photographs: (aerial: GoogleEarth 7.3.3.7692. (May 25, 2014, August 30, 2010, May 24, 2006, September 4, 1999). 39.4537 latitude, -117.48637 longitude, eye alt 6120 ft. Retrieved February 25, 2021, from <http://www.earth.google.com>.

\_\_\_ 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:

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

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide and 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.

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<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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**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 Sources              | N/A.  |

**B. Typical year assessment(s):** N/A.

**C. Additional comments to support AJD:** Channel 1 is an ephemeral stream channel that flows west to east across the northwestern corner of the Project Area. Channel 1 confluences with Channel 2 to become Channel 3 just north of the Project Area. Channel 2 is an ephemeral stream channel that flows west to east across the northwestern corner of the Project Area. Channel 2 confluences with Channel 1 to become Channel 3 just north of the Project Area. Channel 3 is an ephemeral stream channel that flows southwest to northeast across the northwestern corner of the Project Area. It then leaves the Project Area, turns to the south, and re-enters the Project Area to flow south into the central portion of the Project Area before dissipating into the surrounding landscape. Channel 4 is an ephemeral stream channel that flows north to south across the central portion of the Project Area. National Hydrography Dataset mapping shows that Channel 4 confluences with another ephemeral stream channel approximately 1.8 miles south of the Project Area before dissipating into Smith Creek Valley approximately four miles south of the Project Area. None of the vegetation communities described by the SWReGAP are hydrophytic or have hydrophytic components. None of the soils mapped within the Project Area are hydric or have hydric inclusions. The National Hydrography Dataset (NHD) (US Geological Survey [USGS] 2016) indicates the presence of four ephemeral stream channels within the Project Area.

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