



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): March 30, 2021

ORM Number: SPK-2021-00074

Associated JDs: N/A

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

State/Territory: UT City: Fairfield County: Utah County

Center Coordinates of Review Area: Latitude 40.23762 Longitude -112.06421

**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 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 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
202100074-Canal1	3090 feet 0.43 acre	(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)	The 3 canals located within the 4,514-acre review site were constructed prior to the oldest aerial found on the Historic Aerials website, "1943." These canals alignments have changed over the years but are within the same general location. These canals/ditches were clearly constructed for flood irrigation of the review site and convey irrigation water to downstream users. These canals are not realigned tributaries and were not constructed within a wetland that is adjacent to an (a)(1) to (a)(3) water. These canals are isolated and do not have any associated interstate commerce. Therefore, due to the lack of connection with an (a)(1) to (a)(3) water and the canals being manmade these water are not waters of the U.S. regulated under Section 404 of the Clean Water Act or under Section 10 of the Rivers and Harbors Act.
202100074-Canal2	10610 feet 0.96 acre		
202100074-Canal3	3720 feet 0.51 acre		
202100074-W01	72.72 acres	(b)(1) Non-adjacent wetland	Wetlands W01 through W10 total 779.55-acres of palustrine emergent wetland. The 4,514-acre review site, including the subject wetlands, are located within Cedar Valley, an endorheic basin. The subject wetlands are fed by Big Spring, a high groundwater table, and flood irrigation. These wetlands generally flow northwest. Cedar Valley does not have an outlet does not contain an (a)(1) water. Each of these aquatic resources either eventually dissipate near the city of Fairfield. Therefore, these wetlands within the 4,514-acre review area are not waters of the U.S. regulated under Section 404 of the Clean Water Act or under Section 10 of the Rivers and Harbors Act.
202100074-W02	9.59 acres		
202100074-W03	1.03 acres		
202100074-W04	7.55 acres		
202100074-W05	652.67 acres		
202100074-W06	2.76 acres		
202100074-W07	0.62 acres		
202100074-W08	0.32 acres		
202100074-W09	24.48 acres		
202100074-W10	7.81 acres		

**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 Resources Delineation Report for the NextEra Fairfield Solar Site, Utah County, Utah, prepared by SWCA Environmental Consultants, dated November 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. (1993 August 13, 1997, 2003 August 5, 2004 September 30, September 11, 2005 July 11, 2006 July 12, 2010 June 17, 2011 October 20, 2013 June 4, 2015 June 16, 2017 June 17, 2019 July 18, 2020 May 31). Fairfield, Utah. 40.23762 ° latitude, -112.06421° longitude, eye alt 4706 ft. Retrieved March 29, 2021, from

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<http://www.earth.google.com>; Historic Aerials by NETRonline. Aerials. 1943, 1958, 1965, 1972, 1983, 1993, 1997, 2011, and 2016. Retrieved March 29, 2021 from <https://www.historicaerials.com/viewer>.

- \_\_\_ 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: *Title(s) and/or date(s).*

**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:** N/A.

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