



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): April 5, 2021

ORM Number: SPK-2021-00117

Associated JDs: N/A

Review Area Location¹: 2198 South 7600 West

State/Territory: UT City: Magna County/Parish/Borough: Salt Lake County

Center Coordinates of Review Area: Latitude 40.722930 Longitude -112.069518

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)²

| § 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)³

| (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 |

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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 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.

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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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
|----------------|----------------|-----------------------------|--|
| EM-01 | 1.09 acres | (b)(1) Non-adjacent wetland | This wetland is situated along the west property line at the center of the property extending to the south property line. This wetland is supported by open subsurface wells and seasonal run-off. 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. |
| EM-02 | 0.01 acres | (b)(1) Non-adjacent wetland | This wetland is situated on the north side of the property and is limited to a narrow section along the west property line. This wetland is supported by open subsurface wells and seasonal run-off. 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. |

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.

X Information submitted by, or on behalf of, the applicant/consultant: *Mitchel Property Wetland*

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Delineation dated December 22, 2020 prepared by Lochner. This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: *N/A*

Photographs: *Aerials*, 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 April 5, 2021 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 April 5, 2021 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*

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): The Antecedent Precipitation Tool (APT) was used to give context to this site based on the inspection dates of May 28, November 20, and December 2, 2020 (AR delineation site inspection). The APT indicates that during the site inspections the project area was experiencing drier than normal conditions and the drought index PDSI was indicating a moderate draught during the May inspection and an extreme drought during the November and December inspections. 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. Based on the information documented in the aerial photographs and the APT, the site conditions observed in 2007 are reflective of a typical year.

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C. Additional comments to support AJD: The hydrology in the study area was mostly dependent upon open subsurface wells; the waters of which were channelized to flow into the study area to form a pond. The wells were originally constructed in the 1930s to create marshland for hunting grounds. In the late 1930s, the waters were channelized into a stream north of the study area that flowed between two developed properties roughly parallel to 7600 West. By 1985, the stream channel was filled, and waters were pooling within and immediately adjacent to the study area. By the 1990s, filling activities occurred within the pond forcing waters directly west through a small portion of an east-west ditch (located outside of the study area). Currently, many of the wells that contributed to this pond have been closed or shut off, significantly reducing the amount of water within the study area. The east-west ditch, located west of the study area, contains a wooden dam that allows livestock to cross the ditch at the same elevation as the surrounding uplands. The base of the ditch is uphill of the study area and is situated approximately 4 feet above the pond west of the study area. Kersey Creek is located approximately 715 linear feet west of the study area. However, waters from this site are not connected to the creek as wetlands EM-01 and EM-02 connect to a pond located on the adjacent property owner to the west. On December 31, 2020, the Corps issued an Approved Jurisdictional Determination for the adjacent property to the west (SPK-2020-00853) which excluded the pond and other waters from Corps Jurisdiction since these waters were separated from the Kersey Creek Canal by a human-made berm that acts as a barrier to surface-water flow. These combined factors do not currently allow for a hydrologic surface connection between the wetland areas and an (a)(1), (a)(2), or (a)(3) water.

Because the traditional three-parameter approach to determine the presence of wetlands did not yield accurate results, the consultant considered problematic conditions as outlined in Chapter 5 of the *U.S. Army Corps of Engineers Arid West Regional Supplement* for Area EM-01. This area was determined to be a wetland based on the presence of a single indicator (i.e. hydric soils) since the site is in a landscape position that is likely to collect or concentrate water.

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