



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): 24-May-2021

ORM Number: SPK-1994-00760

Associated JDs: N/A

Review Area Location¹:

State/Territory: NV City: Beatty County/Parish/Borough: Nye County

Center Coordinates of Review Area: Latitude 36.896294 Longitude -116.83821

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

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

² 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.

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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Channel 2	2640 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	This aquatic feature is an ephemeral stream that only flows in direct response to precipitation. A review of historic aerial imagery focusing on times of non-drought conditions, snowpack, or when flows would be expected for an intermittent feature, resulted in no signatures of saturation or inundation for the features or adjacent areas. There are no physical indicators of water persisting in this channel beyond response to rainfall. Based on information in the AR report, the area has shown no signatures of saturation or inundation within the feature or adjacent areas.
Channel 3	1614 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	This aquatic feature is an ephemeral stream that only flows in direct response to precipitation. A review of historic aerial imagery focusing on times of non-drought conditions, snowpack, or when flows would be expected for an intermittent feature, resulted in no signatures of saturation or inundation for the features or adjacent areas. There are no physical indicators of water persisting in this channel beyond response to rainfall. Based on information in the AR report, the area has shown no signatures of saturation or inundation within the feature or adjacent areas.
Ditch 11	393 feet	(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).	A search of aerial imagery revealed that this ditch did not relocate a tributary or was 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: Aquatic Resources Delineation Bullfrog Mine Project, dated January 4, 2021.
This information is sufficient for purposes of this AJD.
Rationale: N/A

Data sheets prepared by the Corps:

Photographs: (aerial and other) Aerial imagery: Google Earth imagery (15 September 2015; 9 April 2012). Beatty, Nevada. Latitude 36.89629 N, Longitude -116.83821 W, eye alt. 4882 feet. Retrieved May 5, 2021 from <http://www.earth.google.com>

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

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Ground photos: Aquatic Resources Delineation Bullfrog Mine Project, dated January 4, 2021, Appendix 3, photos 3-14, 32.

- ___ 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: *Custom Soil Resource Report for Death Valley National Park Area, California and Nevada; and Nye County, Nevada, Southwest Park. Bullfrog Mines LLC Claims Area, dated November 16, 2020*
- USFWS NWI maps: *Bullfrog Mines LLC Claim Area: Central, North, North 2, South, South 2, dated November 16, 2020.*
- ___ USGS topographic maps:

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset, dated December 10, 2020
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: A review of aerial imagery from Google Earth focusing on times of non-drought conditions, snowpack, and when flows would be expected for ephemeral features resulted in no signatures of saturation or inundation for the study area or adjacent areas. Pre-field analysis for this project included a USFWS NWI map which indicated the potential presence of riverine features within the study area. The project's agent, Redhorse Corporation, conducted field work on November 30 and December 1, 2020 which did not identify ordinary high-water mark indicators within the mapped ephemeral channels. The ground photos provided by the applicant, photos 3-14 and 32, show fully developed xeric vegetation growing within the ephemeral channels. Best available data did not indicate that the features within the study area flow except in direct response to precipitation events.

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