



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): May 25, 2021

ORM Number: SPK-2020-00548

Associated JDs: SPK-2020-00548 PJD verified on September 10, 2020

Review Area Location¹:

State/Territory: UT City: South Weber County/Parish/Borough: Davis County

Center Coordinates of Review Area: Latitude 41.125562 Longitude -111.900474

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
P1-A (Military Canal)	69 feet (0.007 acre)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	P1 is a spring-fed stream at the north end of the survey area. It consists of segments P1-A (69 linear feet), P1-B (55 linear feet), and P1-C (912 linear feet). Stream P1 flows through the survey area, is piped under the Weber Basin Job Corps campus, and eventually drains to the Weber River, a tributary of the Great Salt Lake, an (a)(1) water. The AR delineation has shown with data points and aerial photographs that this tributary is a perennial feature considered jurisdictional under the Navigable Waters Protection Rule (NWPR) rule.
P1-B (Military Canal)	55 feet (0.006 acre)		
P1-C (Military Canal)	912 feet (0.104 acre)		
P2-A	834 feet (0.057 acre)	(a)(2) Perennial tributary contributes	P2 consists of segments P2-A (834 linear feet) and P2-

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**U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE**

P2-B	25 feet (0.002 acres)	surface water flow directly or indirectly to an (a)(1) water in a typical year	B (25 linear feet) flowing into the large pond located on the Weber Basin Job Corps campus which drains into the Davis-Weber Canal. The Davis-Weber Canal drains into Kays Creek, a tributary of the Great Salt Lake, an (a)(1) water. The AR delineation has shown with data points and aerial photographs that this tributary is a perennial feature considered jurisdictional under the NWPR rule.
P3	50 feet (0.003 acre)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	P3 flows into a large pond located on private land which drains into the Davis-Weber Canal. The Davis-Weber Canal drains into Kays Creek, a tributary of the Great Salt Lake, an (a)(1) water. The AR delineation has shown with data points and aerial photographs that this tributary is a perennial feature considered jurisdictional under the NWPR rule.
P4(North Fork Kays Creek)	218 feet (0.066)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream P4 flows into Kays Creek a tributary of the Great Salt Lake an (a)(1) water. The AR delineation has shown with data points and aerial photographs that this tributary is a perennial feature considered jurisdictional under the NWPR rule.

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))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Davis-Weber Canal A	322 feet (0.209 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 survey area intersects the canal twice (Davis-Weber Canal-A and Davis-Weber Canal-B). The canal is a constructed cement structure about 25 feet wide and 6 feet deep. Although the canal provides a hydrologic connection between perennial streams P2 and P3 to Kays Creek an (a)(2) water, tributary to the Great Salt Lake an (a)(1) water, since this feature is not a tributary under (a)(2), exclusion (b)(5) applies.
Davis-Weber Canal B	245 feet (0.159 acre)		
Unnamed Drainage 1	260 feet (0.016 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)	This feature is a roadside ditch running along the west side of U.S. 89. The hydrology source appears to be water diverted from Corbett Creek to a farm pond east of the survey area. This water eventually flows to a culvert under U.S. 89. Portions of this channel were delineated as wetlands due to the prevalence of hydrophytic vegetation (Wetland 2). The water from this ditch that does not seep into the ground continues down the roadside ditch and enters

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**U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE**

			the Davis-Weber Canal. Unnamed Drainage 1 is a constructed ditch and would not be considered jurisdictional based on 33 CFR Section 328.3(b)(5).
Wetland 2	0.079 acres	(b)(1) Non-adjacent wetland	This wetland is associated with Unnamed Drainage 1 as portions of this linear feature were delineated as wetlands due to the prevalence of hydrophytic vegetation; however, Wetland 2 does not abut a jurisdictional water, is not flooded by a jurisdictional water, and is not separated from a jurisdictional water by a natural feature or artificial structure allowing a hydrologic surface connection. This 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. Therefore, this wetland is not jurisdictional per the NWPR.
Wetland 3a	0.061 acre	(b)(1) Non-adjacent wetland	Wetland 3 complex is located in a roadside ditch and wooded area west of U.S. 89. The hydrology source for this wetland complex is flow from nearby seeps and springs. These wetlands meet the definition of paragraph (c)(16); however, the wetlands do not abut, nor are inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor are physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier. Furthermore, there is no hydrologic surface water connection between these wetlands and an (a)(1) – (a)(3) water. Therefore, these wetlands are not jurisdictional per the NWPR.
Wetland 3b	0.435 acre		
Wetland 3c	0.032 acre		
Wetland 3d	0.571 acre		
Wetland JMAC	0.134 acres	(b)(1) Non-adjacent wetland	This wetland is located behind a business between a parking/storage area and a berm. This 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. Therefore, this wetland is not jurisdictional per the NWPR.
Open Water 1	0.044 acre	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Open Water 1 is 0.044 acre and sits directly south of Wetland 3b. The previous owners of the land built up the ground in this area to create the open water, which gets its hydrology from adjacent hillside springs. The water flows from the ponded area through the wetlands to the north. This feature does not contribute surface water flow to an (a)(1), (a)(2), or (a)(3) water, therefore, it is not considered jurisdictional under 33 CFR Section 326.3(a)(3) and the (b)(8) exclusion applies.
Open Water 2	0.048 acre	(b)(8) Artificial lake/pond constructed or excavated in upland	Open Water 2 is 0.048 acre and sits between Wetlands 3d and 3c at the bottom of a roadway fill slope. The

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U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
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		or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	hydrology source for this feature is hillside seeps and springs, as well as flow from a culvert at the southern end of Wetland 3d. This feature does not contribute surface water flow to an (a)(1), (a)(2), or (a)(3) water, therefore, it is not considered jurisdictional under 33 CFR Section 326.3(a)(3) and the (b)(8) exclusion applies.
Detention Basin	0.502 acre	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	This feature is 0.502 acre and is located on the west side of U.S. 89 and just south of 8225 South. The basin is owned by the Utah Department of Transportation and is mostly open water with hydrophytic vegetation growing on the edges. The detention basin was constructed wholly in uplands and controls features that convey, treat, infiltrate, or store stormwater runoff. The detention basin does not utilize otherwise jurisdictional waters as part of the overall system. Therefore, the detention basin meets the (b)(10) exclusion.

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 Davis Aqueduct Parallel Pipeline Project dated October 5, 2020 prepared by HDR.

This information *is* sufficient for purposes of this AJD.

Rationale: N/A

___ Data sheets prepared by the Corps: N/A

Photographs: Aerial Review - GoogleEarth 7.3.3.7692. (15 May 2020). Davis County, Utah 40.125562 -111.900474, eye alt 2820 ft. Retrieved April 25, 2021 from <http://www.earth.google.com>.

___ Corps Site visit(s) conducted on: N/A

Previous Jurisdictional Determinations (AJDs or PJDs): A PJD was issued for this project on September 10, 2020 under the same project number SPK-2020-00548. This PJD covered the same aquatic resources being evaluated under this AJD.

___ 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

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REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
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USACE Sources	N/A
State/Local/Tribal Sources	Topographic Map – Utah Division of Water Rights retrieved May 25, 2021
Other Sources	N/A

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

C. Additional comments to support AJD: AR report indicates Wetland JMAC supports problematic soils probably associated with the adjacent parking lot and berm construction. The presence of a high-water table and saturation were the primary hydrology indicators for Wetland 2 documented in the AR report; however, the source of hydrology determined. A review of topographic maps associated with this AJD review confirmed that the hydrology sources for Wetland 2 could not be established.

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