

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 11 December 2007**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Utah Regulatory Office, Eagles Landing, SPK- 200700663-UO, West Swale and Wetland Zone 2**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Utah                      County/parish/borough: Weber                      City: Eden  
Center coordinates of site (lat/long in degree decimal format): Lat. 41.3305° **N**, Long. 111.8208° **W**.  
Universal Transverse Mercator:

Name of nearest waterbody: Pineview Reservoir

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Pineview Reservoir

Name of watershed or Hydrologic Unit Code (HUC): 16020102

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
- Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- Office (Desk) Determination. Date: 13 September 2007
- Field Determination. Date(s): 30 May 2007

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

- Waters subject to the ebb and flow of the tide.
- Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.  
Explain: .

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters
- Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: 0 linear feet:                      width (ft) and/or                      acres.  
Wetlands: 0.19 acre.

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual**

Elevation of established OHWM (if known): .

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: **An upland swale (approximately 484 linear feet) is located in the northwest portion of the overall project area. The swale is a depressional feature vegetated with Fac-Up to Upland vegetation that acts to convey surface water to a perennial RPW. No jurisdictional features such as bed and bank, OHWM or scour were observed in the swale. Based on information provided by the consultant, and through examination of aerial photos, water enters the swale through direct precipitation and periodically may receive some water that is piped from ponds located at an off-site golf course located up-slope from the review site.**

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs**

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

**1. TNW**

Identify TNW: \_\_\_\_\_ .

Summarize rationale supporting determination: \_\_\_\_\_ .

**2. Wetland adjacent to TNW**

Summarize rationale supporting conclusion that wetland is “adjacent”: \_\_\_\_\_ .

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):**

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

**1. Characteristics of non-TNWs that flow directly or indirectly into TNW**

**(i) General Area Conditions:**

Watershed size: **square miles**  
Drainage area: **acres**  
Average annual rainfall: \_\_\_\_\_ inches  
Average annual snowfall: \_\_\_\_\_ inches

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.  
Project waters are **Pick List** river miles from RPW.  
Project waters are **Pick List** aerial (straight) miles from TNW.  
Project waters are **Pick List** aerial (straight) miles from RPW.  
Project waters cross or serve as state boundaries. Explain: \_\_\_\_\_ .

Identify flow route to TNW<sup>5</sup>: \_\_\_\_\_ .  
Tributary stream order, if known: \_\_\_\_\_ .

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

(b) General Tributary Characteristics (check all that apply):

**Tributary is:**  Natural  
 Artificial (man-made). Explain: .  
 Manipulated (man-altered). Explain: .

**Tributary properties with respect to top of bank (estimate):**

Average width: feet  
Average depth: feet  
Average side slopes: **Pick List**.

**Primary tributary substrate composition (check all that apply):**

Silts  Sands  Concrete  
 Cobbles  Gravel  Muck  
 Bedrock  Vegetation. Type/% cover:  
 Other. Explain: .

**Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:** .

**Presence of run/riffle/pool complexes. Explain:** .

**Tributary geometry: Pick List**

**Tributary gradient (approximate average slope):** %

(c) Flow:

**Tributary provides for: Pick List**

**Estimate average number of flow events in review area/year: Pick List**

Describe flow regime: Flows every time it rains.

Other information on duration and volume: .

Surface flow is: **Pick List**. Characteristics: Flow is confined where there is a discrete linear depression until it reaches Wetland Zone 4 it changes to sheetflow then changes back to the upland linear depression feature.

Subsurface flow: **Pick List**. Explain findings: .

Dye (or other) test performed: .

**Tributary has (check all that apply):**

Bed and banks  
 OHWM<sup>6</sup> (check all indicators that apply):  
 clear, natural line impressed on the bank  the presence of litter and debris  
 changes in the character of soil  destruction of terrestrial vegetation  
 shelving  the presence of wrack line  
 vegetation matted down, bent, or absent  sediment sorting  
 leaf litter disturbed or washed away  scour  
 sediment deposition  multiple observed or predicted flow events  
 water staining  abrupt change in plant community  
 other (list):  
 Discontinuous OHWM.<sup>7</sup> Explain: .

**If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):**

High Tide Line indicated by:  Mean High Water Mark indicated by:  
 oil or scum line along shore objects  survey to available datum;  
 fine shell or debris deposits (foreshore)  physical markings;  
 physical markings/characteristics  vegetation lines/changes in vegetation types.  
 tidal gauges  
 other (list):

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: es.

Identify specific pollutants, if known: .

(iv) **Biological Characteristics. Channel supports (check all that apply):**

Riparian corridor. Characteristics (type, average width): .

<sup>6</sup>A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

<sup>7</sup>Ibid.

- Wetland fringe. Characteristics:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

**2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

**(i) Physical Characteristics:**

**(a) General Wetland Characteristics:**

Properties:

Wetland size: 0.19 acres

Wetland type. Explain: Palustrine wet meadow.

Wetland quality. Explain: Poor to moderate quality due to historical grazing has taken place within the wetland.

Project wetlands cross or serve as state boundaries. Explain:

**(b) General Flow Relationship with Non-TNW:**

Flow is: **Ephemeral flow**. Explain: Wetlands sits in a depression on a slope. Water flows from it to downstream waters during precipitation events.

Surface flow is: **Overland sheetflow**

Characteristics: Both overland sheetflow and discreet channel, as described above.

Subsurface flow: **Unknown**. Explain findings:

Dye (or other) test performed:

**(c) Wetland Adjacency Determination with Non-TNW:**

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: Wetland is connected to the RPW via an upland swale (identified as the West Swale). This swale acts to convey precipitation waters from the wetland to the RPW.

Ecological connection. Explain:

Separated by berm/barrier. Explain:

**(d) Proximity (Relationship) to TNW**

Project wetlands are **2-5** river miles from TNW.

Project waters are **2-5** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters**.

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

**(ii) Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Water color is clear and appears moderately good. A portion of the water may be from stormwater runoff and from lawn maintenance at the golf course and upstream residential sites.

Identify specific pollutants, if known: There is potential for pollutants from urban and golf course runoff to pass through the wetland prior to discharging into the RPW and TNW.

**(iii) Biological Characteristics. Wetland supports (check all that apply):**

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain: Wet meadow wetland with herbaceous veg cover of 100 percent.

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: general avian species.

**3. Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **1**

Approximately ( 0.19) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
#2 N	0.19		

Summarize overall biological, chemical and physical functions being performed: Wetland areas at this site serve to filter runoff from residential and commercial subdivisions, including a golf course, located immediately upstream of the wetlands. See attached photos for documentation of residential proximity and runoff. Runoff from these areas has the potential of carry pollutants such as fertilizers, pesticides and hydrocarbons associated with motor vehicle use. The wetlands are also within several miles of Pineview Reservoir, a TNW that is used for boating, recreational fishing, swimming, and eventually for both irrigation and drinking water. Wetlands in this area may also serve as foraging and watering sites for wildlife.

**C. SIGNIFICANT NEXUS DETERMINATION**

**A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.**

**Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:**

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

**Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:**

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: The adjacent wetland, Wetland Zone 2, has the ability to carry water and pollutants to the RPW via an upland swale (West Swale). Based on information provided by the consultant, and through examination of aerial photos, water enters the swale through direct precipitation and periodically may receive some water that is piped from ponds located at an off-site golf course located up-slope from the review site. There is a discrete hydrologic connection to the RPW through a 220 foot long section of upland swale which runs down slope of the wetland. Wetland areas at this site serve to filter runoff from residential and commercial subdivisions, including a golf course, located immediately upstream of the wetlands. See attached photos for documentation of residential proximity and runoff. Runoff from these areas has the potential of carry pollutants such as fertilizers, pesticides and hydrocarbons associated with motor vehicle use. The wetlands are also within several miles of Pineview Reservoir, a navigable in fact TNW that is used for boating, recreational fishing, swimming, and eventually for both irrigation and drinking water. Wetlands in this area may also serve as foraging and watering sites for wildlife.

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):**

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:  
 TNWs:      linear feet      width (ft), Or,      acres.

Wetlands adjacent to TNWs:          acres.

2. **RPWs that flow directly or indirectly into TNWs.**

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: Water typically flows year round, originating from springs and irrigation water, through a series of man-made and natural channels to Pineview Reservoir, a TNW per SPK-200701644. An approximated path of flow is depicted on the attached figure. Path was estimated using available information from topographical maps.
- Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:          .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters:          linear feet          width (ft).  
 Other non-wetland waters:          acres.  
Identify type(s) of waters:          .

3. **Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs.**

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters:          linear feet          width (ft).  
 Other non-wetland waters:          acres.  
Identify type(s) of waters:          .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
- Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Wetland zones 1, 3, and 4 all share boundaries with the RPW. Contour lines suggest that water flowing from these wetland zones would enter the RPW, therefore any pollutant would likely be carried into the RPW then to Pineview Reservoir. The wetland zones also receive water from the RPW. The second attached figure shows the locations of zones 1, 3, and 4 in relation to the RPW.**
- Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:          .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **0.19** acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area:          acres.

7. **Impoundments of jurisdictional waters.<sup>9</sup>**

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or  
 Demonstrate that water meets the criteria for one of the categories presented above (1-6), or  
 Demonstrate that water is isolated with a nexus to commerce (see E below).

<sup>8</sup>See Footnote # 3.

<sup>9</sup>To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>10</sup>**

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: .
- Other factors. Explain: .

**Identify water body and summarize rationale supporting determination:**

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.  
Identify type(s) of waters: .
- Wetlands: acres.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): **Feature is an upland swale (West Swale) and does not exhibit any jurisdictional features such as scour or OHWM, but simply acts to convey surface waters from wetlands to other jurisdictional waters.**

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: .
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000; Hunstville Quadrangle.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

<sup>10</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- Photographs:  Aerial (Name & Date): Terraserver 2003.  
or  Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): Site visit on 30 May 2007.

#### **B. ADDITIONAL COMMENTS TO SUPPORT JD:**

The adjacent wetland, Wetland Zone 2, has the ability to carry water and pollutants to the RPW via a swale (West Swale). Based on information provided by the consultant, and through examination of aerial photos, water enters the swale through direct precipitation and periodically may receive some water that is piped from ponds located at an off-site golf course located up-slope from the review site. There is a discrete hydrologic connection from the wetland to the RPW through a 220 foot long section of upland swale which runs down slope of the wetland. The wetland areas at this site serve to filter runoff from residential and commercial subdivisions, including a golf course, located immediately upstream of the wetlands. See attached photos for documentation of residential proximity and runoff. Runoff from these areas has the potential of carry pollutants such as fertilizers, pesticides and hydrocarbons associated with motor vehicle use. The wetlands are also within several miles of Pineview Reservoir, a navigable in fact TNW (Corps ID # 2007001644) that is used for boating, recreational fishing, swimming, and eventually for both irrigation and drinking water. Wetlands in this area may also serve as foraging and watering sites for wildlife.

The RPW represents a connection between the review site and the closest TNW, Pineview Reservoir. Water flows into the RPW and the review site from the north, via a stream channel. The RPW flows through the site, illustrated as a blue-line in the second attached figure, with approximately 2,467 linear feet of non-wetland waters of the US within the site. The red line in the first figure indicates the estimated flow pattern of the RPW from the review area to the TNW, Pineview Reservoir. The path was estimated using topographical maps and aerial photography.

Two other features, the East Swale and the Canal, identified in Figure 2 were also determined to be non-jurisdictional. Both have completed datasheets. The East swale (approximately 1760 linear feet) is located in the northeast portion of the overall project area. The swale is a depressional feature vegetated with Fac-Up to Upland vegetation that acts to convey surface water to a perennial RPW. OHWM and scour were observed at the top of the swale, but disappear halfway down the hill. Water then sheetflows to the bottom of the valley. Based on information provided by the consultant, and through examination of aerial photos, water enters the swale through direct precipitation and periodically may receive some water that is piped from ponds located at an off-site golf course located up-slope from the review site. The lower half of the swale the water turned to sheet flow, near where it intersects with the canal. There was no bed and bank that would suggest that water would normally flow through this section. Water was observed in this swale during a 30 May 2007 site visit; however, information from the consultant indicates that this water was flowing only as a result of discharge from the offsite pond and from excess lawn irrigation from a new residential development. The consultant also indicated that as of September 2007 the discharge into the swale from the off-site sources has ceased. The Canal traverses the site laterally, from west to east, following contour lines, see attached map Figure 2. Water to the canal has been shutoff and areas that were identified as wetland in June 2006 were reexamined during a 30 May 2007 site visit by ACOE Regulatory staff. The canal, since it no longer functions as a conveyance of water is determined to be non-jurisdictional.

The RPW and Wetland Zones 1,3, and 4 were determined to be jurisdictional and combined onto one datasheet. Wetland zones 1, 3, and 4 constitute jurisdictional wetlands abutting a perennial RPW. Wetland zones 1, 3, and 4 all share boundaries with the RPW. Contour lines suggest that water flowing from these wetland zones would enter the RPW, therefore any pollutant would likely be carried into the RPW then to Pineview Reservoir. Contours were confirmed during a 30 May 2007 site visit. The wetland zones also receive water from the RPW.



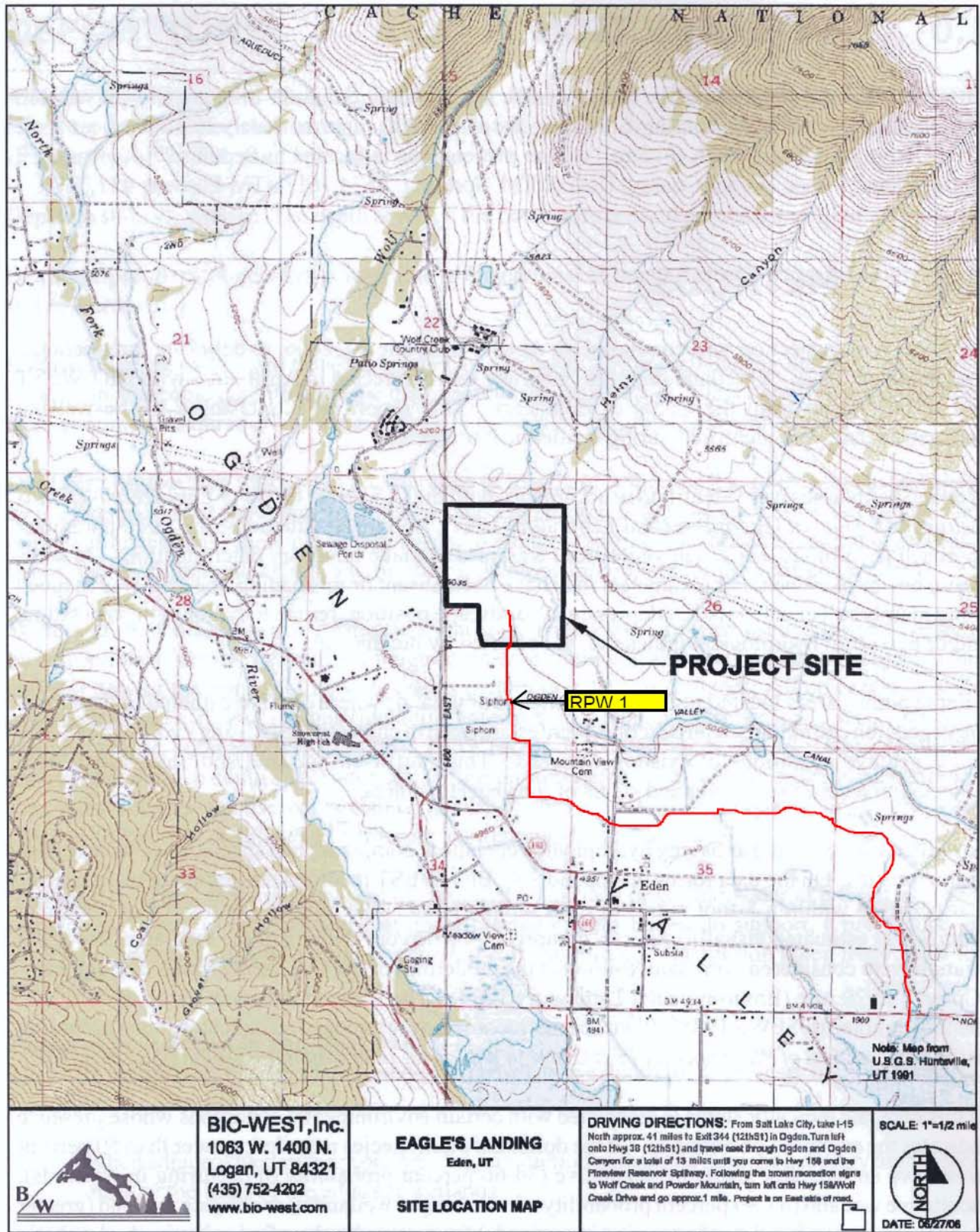
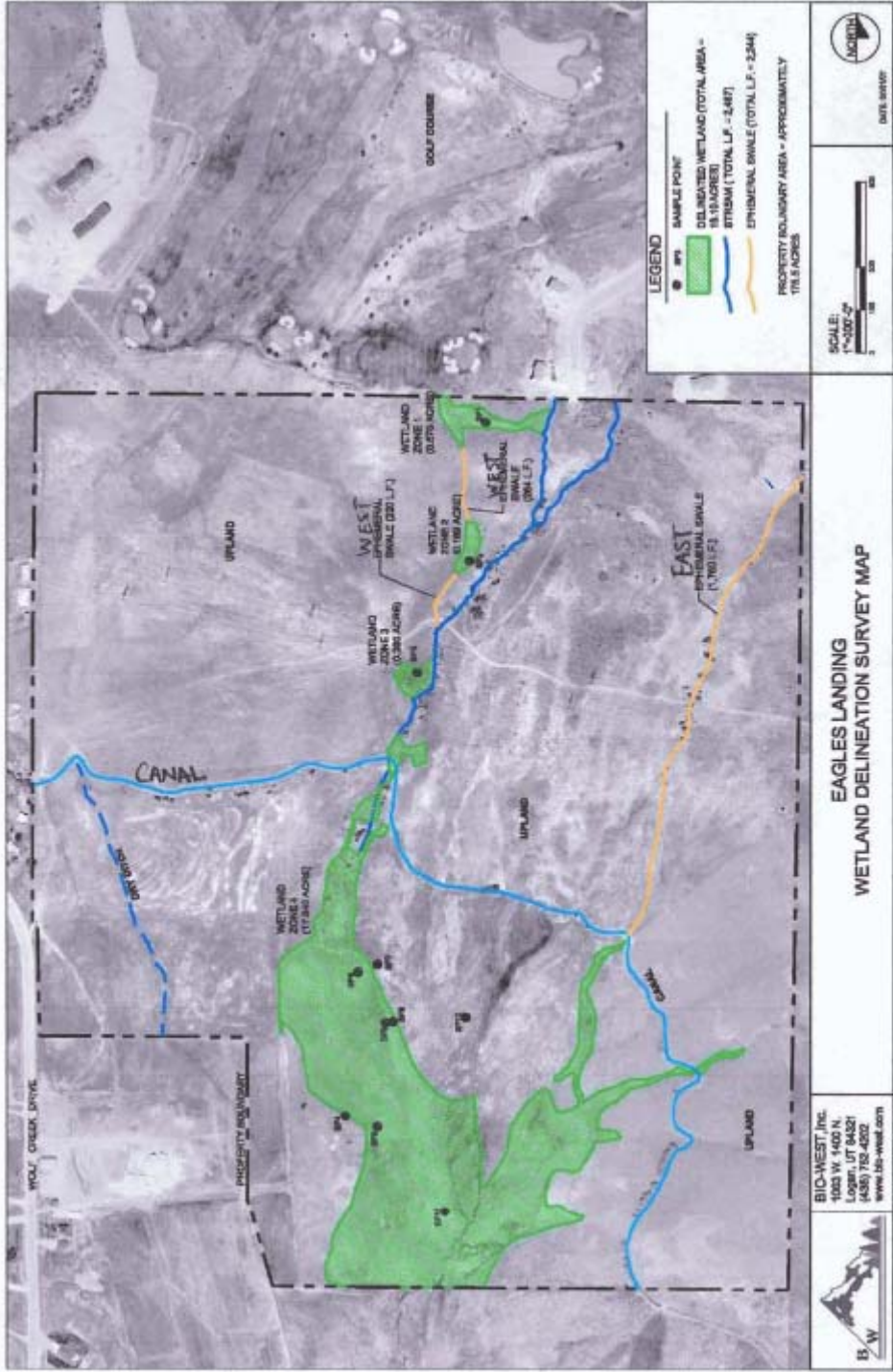


Figure 1. Eagles Landing site location map.







Looking North from West Swale Towards Wetland Zone 1



Residential Runoff Uphill From West Swale.