

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): February 3, 2010.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, St. George Field Office, Dixie Drive Interchange, SPK-2009-00243.

Name of water being evaluated on this JD form: SPK200900243F

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Utah County: Washington City: St. George

Center coordinates of site (lat/long in degree decimal format): Lat: 37.07583 N, Long: 113.58708 W

Universal Transverse Mercator: _____

Name of nearest waterbody: Santa Clara River.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Lake Mead.

Name of watershed or Hydrologic Unit Code (HUC): Upper Virgin, Utah., 15010008.

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. List other JDs: SPK200900243A, SPK200900243B, SPK200900243C, SPK200900243D, SPK200900243E, SPK200900243G, SPK200900243H, SPK200900243I, SPK200900243J, SPK200900243K, SPK200900243L

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

Office (Desk) Determination. Date: February 3, 2010.

Field Determination. Date(s): _____.

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Pick List** "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 **Pick List** "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):¹

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters² (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: _____ linear feet _____ width (ft) and/or _____ acres.

Wetlands: _____ acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List and **Pick List****

Elevation of established OHWM (if known): _____.

2. Non-regulated waters/wetlands (check if applicable):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: **SPK200900243F is determined to be an upland impoundment, constructed about 1976-1977, to serve as a**

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

² 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).

³ Supporting documentation is presented in Section III.F.

primary pumping pond for the Southgate Golf Course and pressurize the golf course's irrigation system. The primary water source for the pond is the City of St George secondary reuse system. Other sources include storm drain run-off from surrounding streets and irrigation ditches. Based on the construction and source water, the artificial Southgate Golf Course Primary Pumping Pond (SPK200900243F) is not a Water of the United States as defined in 33CFR 328.3 (q)(4).

SECTION III: CWA ANALYSIS

- A. TNWs AND WETLANDS ADJACENT TO TNWs: NOT APPLICABLE
- B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS: NOT APPLICABLE
- C. SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE
- D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE: NOT APPLICABLE
- 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):⁴
- 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:**

- 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).
- Other: (explain, if not covered above): _____.

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: 3.2 acres.
- Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
- Wetlands: _____ acres.

SECTION IV: DATA SOURCES.

⁴ 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.

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: Horrocks Engineers, Dixie Drive Interchange-Jurisdictional Determination re-evaluation Request for the Southgate Golf Course Primary Pumping Pond; Wetland ID#F (SPK200900243F), January 22, 2010.
- 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: _____
- 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)
- Photographs: Aerial (Name & Date): Southgate Golf Course Area - 1960 and 2009.
or Other (Name & Date): Wetland ID#F: Overflow Pipe Inlet and Outlet (2010); Wetland ID #B: Pre-Flood (2004), Flood Damage (2005), Post-Flood (2009).
- Previous determination(s). File no. and date of response letter: SPK-2009-00243, February 25, 2009.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Horrocks Engineers, Delineation of Waters of the U.S. in support of the Dixie Drive Environmental Assessment, June 30, 2008.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The February 25, 2009 JD for SPK2009-00243F is based the June 30, 2008 Delineation of Waters of the U.S. report describing a pipe connecting the pond to the Santa Clara River. The significant nexus determination, dated February 25, 2009, is based on this overflow pipe and the potential for discharges to influence water quality in the Santa Clara River, a tributary of Lake Mead and Traditional Navigable Water. This JD is supported by new information. Prior to a January 2005 flood, the Santa Clara River was further south and the pipe discharged more directly into the river. In response to the flood, the river moved to the north and an emergent marsh area (SPK200900243B) developed where it currently exists. Although pond water can flow through the pipe to the emergent marsh, this discharge occurs during the hotter summer months when irrigation demands are higher and the pond's water level intermittently increases above the pipe's intake. Although the water flowing through the pond's pipe may supplement the marsh's water supply, the primary water source for the marsh vegetation is the high water table associated with the Santa Clara River. The marsh will probably exist even if the periodic pond overflow ceases. If the pond was a water of the United States, based on current knowledge of the pond's water source and operation, it is reasonable to assume that the chemical, physical, and/or biological effects of the periodic pond discharge on the emergent marsh, Santa Clara River, and Lake Mead are insubstantial.