

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): September 28, 2010

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, Parrish Land Holdings, SPK-2010-00820-UO

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Utah**

County/parish/borough: **Davis**

City: **Centerville**

Center coordinates of site (lat/long in degree decimal format): Lat. **40.919707174111°**, Long. **-111.894202476937°**

Universal Transverse Mercator: **12 424704.57 4530228.73**

Name of nearest waterbody: **Farmington Bay, Great Salt Lake**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Great Salt Lake**

Name of watershed or Hydrologic Unit Code (HUC): **Lower Weber, Utah., 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:

Field Determination. Date(s): **July 7, 2010 and September 10, 2010**

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: **N/A**

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** "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: **0** linear feet, **0** wide, and/or **0** acres.

Wetlands: **2.13** acres.

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

Elevation of established OHWM (if known): **N/A**

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: **The project site is located within an enclosed basin that must fill with approximately 4,941 CF of water before it can discharge out of the site. The stormdrain system for Parrish Lane is relatively flat and if water flows from the storm drain system, it likely will discharge water into the subject site and not allow the site to drain. The wetlands on the property are seasonal wet meadow wetlands that appear to have very little ponding or surface water. The vegetation is distressed in the late summer and fall, indicating that the site hydrology is not present during this time of year but may be present long enough in the spring to support the vegetation. The lack of emergent marsh or ponded areas on the site indicate that there is not an abundant source of hydrology that is sufficient to fill the site and drain through the Parrish Lane storm drains. Ditches were identified on the north and**

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.

south sides of the site. The ditch on the south side is approximately 4 to 5 feet deep with very little water flowing through it. The southern ditch does not influence the hydrology on the site and only drains areas east of I-15. The ditch does not discharge or collect water from the site. The ditch to the north, across Parrish Lane, is also a deep ditch with some adjacent wetlands. This ditch conveys some flows and may collect some groundwater from upgradient areas. The elevated roadways on the north and west side of the site create a barrier between this site and any other water. In addition, the Legacy Highway located west of the property and developed and undeveloped lots west of the property are situated between the property and the Great Salt Lake.

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: N/A

Summarize rationale supporting determination: N/A

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": N/A

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 waterbody⁴ 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: 29 acres

Drainage area: 29 acres

Average annual rainfall: 23 inches

Average annual snowfall: included inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 1 tributaries before entering TNW.

Project waters are 1 (or less) river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

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

Project waters are **1 (or less)** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: **No. The project waters are located entirely within the confines of the project site in Centerville, Utah. They do not cross state boundaries or serve as state borders.**

Identify flow route to TNW⁵: **The drainage ditch flows west towards the Great Salt Lake. The tributary flows under the Legacy Highway and joins a slightly larger drianaged ditch which flows to the north and then turns west and discharges into the Farmington Bay Wildlife Management Area which is comprised of wetlands that about the Great Salt Lake.**

Tributary stream order, if known: **Unknown**

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

Tributary is: Natural
 Artificial (man-made). Explain: N/A
 Manipulated (man-altered). Explain: **This drainage may or may not have been a natural drainage that was channelized and altered to irrigate land and drain land.**

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

Average width: **2** feet
Average depth: **4** feet
Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

Silts Sands Concrete
 Cobbles Gravel Muck
 Bedrock Vegetation. Type/% cover: **50**
 Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: **Stable and used mostly as a man altered storm drain ditch.**

Presence of run/riffle/pool complexes. Explain: **None. very low flows and man altered storm drain ditch**

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): **1 %**

(c) Flow:

Tributary provides for: **Intermittent but not seasonal flow**

Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: **This channel most likely flows the majority of the year and may dry up during long hot summers. The flow appers to be minimal with little erosion along the banks. This drainage ditch may convey high flows during stormevents.**

Other information on duration and volume: **None available**

Surface flow is: **Confined**. Characteristics: **Flow is confined within the man-altered channel**

Subsurface flow: **Unknown**. Explain findings: **No Dye test was performed. Flow passes into culverts under the highway and into ditches the visibly drain into the Great Salt Lake.**

Dye (or other) test performed: N/A

Tributary has (check all that apply):

Bed and banks
 OHWM⁶ (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.⁷ Explain:

⁵ 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.

⁶ 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.

⁷Ibid.

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

- | | |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by: | <input type="checkbox"/> Mean High Water Mark indicated by: |
| <input type="checkbox"/> oil or scum line along shore objects | <input type="checkbox"/> survey to available datum; |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings; |
| <input type="checkbox"/> physical markings/characteristics | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges | |
| <input type="checkbox"/> other (list): N/A | |

(iii) **Chemical Characteristics:**

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

Explain: **Water was clear during the site visits. This drainage collects runoff from developed commercial and residential areas, undeveloped land, and roadways. There is not heavy industrial operations in the immediate vicinity of this drainage. Light industrial and commercial development dominate the area. This channel can convey runoff from these developed sites and roadways. No water discoloration, oily films were observed.**

Identify specific pollutants, if known: **Roadway and parking lot runoff would be the major contributing pollutant to this drainage ditch.**

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

- Riparian corridor. Characteristics (type, average width): **Wet meadow and emergent vegetation approximately 10 to 15 feet wide. Some shrub and tress also grow along the riparian zone.**
- Wetland fringe. Characteristics: **N/A**
- Habitat for:
 - Federally Listed species. Explain findings: **N/A**
 - Fish/spawn areas. Explain findings: **N/A**
 - Other environmentally-sensitive species. Explain findings: **N/A**
 - Aquatic/wildlife diversity. Explain findings: **N/A**

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: **2.13** acres

Wetland type. Explain: **Wet meadow wetland. The wetland is a seasonal wetland that would appear dry during the summer months. Some surface water was observed in the spring however the surface water was minimal. The wetland is not wet year round. Wetland vegetation on the site is not thriving which also indicates that the site does not support a great deal of hydrology.**

Wetland quality. Explain: **The wetland could serve to support some habitat for birds and other animals. The wetland does not support aquatic species. It is surrounded by a railroad, highway, storage units and other commercial developments. This area receives runoff from the roadways and could filter pollutants. The area is not overly saturated and does not have the ability to collect and store large amounts of storm water because there are no other sources of water other than Parrish Lane.**

Project wetlands cross or serve as state boundaries. Explain: **The project site is located within Davis County, Utah and does not cross state lines.**

(b) General Flow Relationship with Non-TNW:

Flow is: **No Flow**. Explain: **This wetland does not flow directly to the TNW. The site is not located within the 100 year floodplain and does not receive enough water to flow from the site through the culvert or over the roadways and connect to the ditch on the north side of Parrish Lane or overcome the elevation (2-3 feet) needed to flow to the southern ditch.**

Surface flow is: **Not present**

Characteristics: **Only small portions of the site were inundated or saturated to the surface during the spring growing season. The site does not have enough grade or receive enough runoff to produce flows that enable water to discharge from the site.**

Subsurface flow: **Unknown**. Explain findings: **No sub surface flow test was conducted.**

Dye (or other) test performed: **N/A**

(c) Wetland Adjacency Determination with Non-TNW:

- Directly abutting
- Not directly abutting
 - Discrete wetland hydrologic connection. Explain: **N/A**
 - Ecological connection. Explain: **N/A**
 - Separated by berm/barrier. Explain: **The site is separated by Parrish Lane and 1250 West. A culvert from the Parrish Lane drainage could convey flows from the site if portions of the site fill up to a depth of 1.5**

feet of water. The site does not appear to have a large enough drainage area to receive this amount of water. Therefore there is no direct connection to any other water.

- (d) Proximity (Relationship) to TNW
 - Project wetlands are **1 (or less)** river miles from TNW.
 - Project waters are **1 (or less)** aerial (straight) miles from TNW.
 - Flow is from: **No Flow**.
 - Estimate approximate location of wetland as within the **100 - 500-year** 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 on site in spring time was clear.**

Identify specific pollutants, if known: **Pollutants would originate from the roadways adjacent to the site. Oil or other car and roadway pollutants would be the main source of chemicals to the site. It is unlikely that the pollutants would be able to leave the site and discharge to the Great Salt Lake.**

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

- Riparian buffer. Characteristics (type, average width): N/A
- Vegetation type/percent cover. Explain: N/A
- Habitat for:
 - Federally Listed species. Explain findings: N/A
 - Fish/spawn areas. Explain findings: N/A
 - Other environmentally-sensitive species. Explain findings: N/A
 - Aquatic/wildlife diversity. Explain findings: N/A

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

All wetland(s) being considered in the cumulative analysis: **7**
Approximately **2.13** 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>
Area A - N	0.369	Area B - N	0.033
Area C - N	0.006	Area D - N	0.013
Area E - N	0.038	Area F - N	0.201
Area G - N	1.471		

Summarize overall biological, chemical and physical functions being performed: **These wetlands are small and confined by roadways with no apparent significant connection to the ditch on the north side of Parrish Lane or the southern ditch. The site does not receive water from the ditch south of the project area. The wetlands serve to collect and detain rain and snow that falls within the site and collects stormwater from 4 discharge points along Parrish Lane. Parrish Lane is a newly reconstructed roadway running east west and connects I-15 and Centerville with the Legacy Highway. Water running off of Parrish Lane is discharged to the site and is likely a source of hydrology for these wetlands. These new discharge culverts could convey roadway pollutants to the site. Wetlands on the property can filter the pollutants and detain stormwater. There is not discharge point from this site to the drainage ditch on the north side of Parrish Lane.**

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 site consists of 7 wetlands that vary in size from 0.006 acres to 1.471 acres. In total there are 2.13 acres of wetlands scattered along the northern half of the property. These wetlands appear to be seasonal wetlands. Currently the site is dry and the wetland vegetation is dying or distressed. It is common to observe a shift in vegetation or health in the hydrophytic vegetation in seasonal wetlands. Hydrology on the site has been altered in that the site is no longer irrigated and the drainage has been redirected to the south of the property into a new ditch constructed in uplands. A drainage ditch also exists north of the property, north of Parrish Lane. The ditch on the south side of the property conveys flows to the west of the site. There is no connection between the southern ditch and the drainage ditch north of Parrish Lane. In addition, there is no water flowing from the southern ditch to the north onto the project site and there is no designated outlet pipe from the project site. According to the applicant 4 pipes discharge water onto the site from Parrish Lane. UDOT installed these 4 storm drain outlets during the reconstruction of I-15 and Legacy Highway. A detailed survey was conducted by the applicant to try and show the disconnect between the site, the culvert elevations, and the ditch to the north of Parrish Lane. The outlet in the northwest corner is the lowest outlet on the site and is at an elevation of 4216.71. The second culvert over (to the east) is the next highest and is at elevation 4217.02 and flows north to the 24 inch storm drain main line that flows east to west under Parrish Lane. The elevation of the pipe where it connects to the 24 inch storm drain is 4216.87. The connection point at the 24 inch pipe is lower than the inlet elevation and indicates that this pipe drains from the project site into the storm drain line and eventually into the drainage ditch north of Parrish Lane. Evidence around the pipe, such as a lack of vegetation, vegetation that has been matted down by flow, and debris indicate that the pipe also flows from the road to the site. According to the applicant's surveyor the site would need to fill with 4,941 CF of water before the water can begin to flow from the site into the culvert. The surveyor stated in a September 9, 2010 email that "these pipes are sufficiently flat that any flows that are more than an inch deep in the storm drain main will spill out south onto your property rather than flowing into the pipe as designed. Unless your property has approximately 6-12 inches of standing water - enough that it prevents flows in the pipes from spilling out and to provide head to move the flows in the designed direction, your site will experience wetness any time there is drainage on Parrish Lane or on your site". In addition, the surveyor states that "1250 West Street is built above natural grade, as is Parrish Lane. Your site trends at approximately 1/2% grade to the northwest. The intersection of the two streets, with storm drain above natural grade of your property, forms an artificial dam that prevents your property from draining as it would were those streets not so constructed". This indicates that there is normally a disconnect between the wetlands and the drainage ditch north of Parrish Lane. Additionally, the applicant's consultant has lived and worked in this area for over 38 years. He has stated that he has never seen the site flooded. Aerial photos indicate that the site may have some water but it does not appear to be sufficient to drain from the site.**

The site could be divided into two small drainages. The east and the west. The east consists of Wetlands B, C, D, E, and G. and would need to flow over a slight rise in the landscape to connect with Wetland A. The Figure 1 of 1 titled, Legacy Crossing at Parrish Lane 300 North Street & 1250 West Street Centerville, Utah, dated 9/20/10 (the fourth figure in JD packet) depicts the areas that would need to flood before the site could drain to the drainage ditch north of Parrish Lane. The eastern area would need to flood then flow to the west or out the storm drain pipe under Parrish Lane. The northwest corner would need to flood to a depth of 1.5 feet before discharging out to the storm drain pipe.

Based on the drainage size of the project site and the lack of abundant rain storm events or the potential for other flows to enter the property, the Corps does not believe there is a physical or chemical or biological connection from these wetlands to the Great Salt Lake. Although the site may detain stormwater from Parrish Lane it was not designed as a stormwater basin. The wetlands do not have the capacity to support fish or aquatic species. Based on the information provided by the applicant they have identified the quantity of water that would be required to flood the site and back up the storm drains to allow the site to drain. The Corps does not believe that there is a significant nexus between the wetlands on site and the Great Salt Lake. These wetlands do not support or currently have the ability to support interstate commerce.

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: N/A linear feet, N/A wide, Or N/A acres.
- Wetlands adjacent to TNWs: N/A 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: **The drainage ditch north of Parrish Lane was flowing during the site visit. Although the flow was limited this ditch likely intercepts ground water or is fed by springs or sources upgradient.**
- 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: N/A

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

- Tributary waters: **0** linear feet **0** wide.
- Other non-wetland waters: **0** acres.

Identify type(s) of waters: N/A

3. Non-RPWs⁸ 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: N/A linear feet, N/A wide.
- Other non-wetland waters: N/A acres.

Identify type(s) of waters: N/A

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:

- 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: N/A

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

7. Impoundments of jurisdictional waters.⁹

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).

⁸See Footnote # 3.

⁹To 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):¹⁰

- 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: N/A
- Other factors. Explain: N/A

Identify water body and summarize rationale supporting determination:

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

- Tributary waters: N/A linear feet, N/A wide.
- Other non-wetland waters: N/A acres.
Identify type(s) of waters: N/A
- Wetlands: N/A 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: **The project site is located within an enclosed basin that must fill with approximately 4,941 CF of water before it can discharge out of the site. The stormdrain system for Parrish Lane is relatively flat and if water flows in the storm drain system it most likely will discharge water to the site and not allow the site to drain. The wetlands on the property are seasonal wet meadow wetlands that appear to have very little ponding or surface water. The vegetation is distressed in the late summer and fall, indicating that the site hydrology is not present during this time of year but may be present long enough in the spring to support the vegetation. The lack of emergent marsh ponding areas on the site indicate that there is not an abundant source of hydrology sufficient to fill the site and drain through the Parrish Lane storm drains. Ditches were identified on the north and south sides of the site. The ditch on the south side is approximately 4 to 5 feet deep with very little water flowing through it. The southern ditch does not influence the hydrology on the site. The ditch to the north across Parrish Lane is also a deep ditch with some adjacent wetlands. This ditch conveys some flows and may collect some groundwater from upgradient areas. The elevated roadways on the north and west side of the site isolate the wetlands on the property. In addition, the legacy highway to the west of the property and developed and undeveloped lots west of the property site between the project site and the Great Salt Lake.**
- Other: (explain, if not covered above): N/A

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): N/A linear feet, N/A wide.
- Lakes/ponds: N/A acres.
- Other non-wetland waters: N/A acres. List type of aquatic resource:
- Wetlands: N/A 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): N/A linear feet, N/A wide.
- Lakes/ponds: N/A acres.
- Other non-wetland waters: N/A acres. List type of aquatic resource:
- Wetlands: 2.13 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: **Delineation Report July 22, 2010, July 2008 and revised figures 9/20/10**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.

¹⁰ 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.

- 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: **1:24K; UT-FARMINGTON**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Online NRCS Web Soil Survey Accessed 9/21/10**
- National wetlands inventory map(s). Cite name: **1:24K; UT-FARMINGTON**
- State/Local wetland inventory map(s): **N/A**
- FEMA/FIRM maps: **FEMA Flood Maps Online**
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **Google Earth, BingMaps Aerial and BirdsEye View Accessed 9/21/2010**
or Other (Name & Date):
- Previous determination(s). File no. and date of response letter: **N/A**
- Applicable/supporting case law: **N/A**
- Applicable/supporting scientific literature: **N/A**
- Other information (please specify): **Visual observation or site visits conducted 5/10/2010, 2/25/2010, 6/29/2010, 7/7/2010, 9/7/2010, 9/10/2010.**

B. ADDITIONAL COMMENTS TO SUPPORT JD: