

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** October 15, 2010.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Sacramento District, UDOT Southern Parkway, Segment 3A-2., SPK-2000-50443.

Name of water being evaluated on this JD form: Unnamed Ephemeral Wash K, L, O, P, and Q

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

State: Utah County: Washington City: St George

Center coordinates of site (lat/long in degree decimal format): Lat: 37.0486° N, Long: -113.4853° W

Universal Transverse Mercator: 12.

Name of nearest waterbody: \_\_\_\_\_.

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

Name of watershed or Hydrologic Unit Code (HUC): Lower Virgin - Utah, Nevada, Arizona. 15010010.

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: Unnamed Ephemeral Wash A through J, M, and N

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

Office (Desk) Determination. Date: October 7, 2010.

Field Determination. Date(s): January 20, September 2, 2010.

**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):<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: \_\_\_\_\_ 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):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Unnamed Ephemeral Wash K, L, O, P, and Q are non-jurisdictional because they are intrastate, isolated, non-navigable waters with no interstate commerce connection.

<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: 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):<sup>4</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:**

- 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): 9,057 linear feet 2 to 4 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):

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<sup>4</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.

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Delineation of Waters of the U.S., Southern Parkway-Segment 3A, Utah Department of Transportation, UDOT Project No. S-LC53(45), prepared by Horrocks Engineers, September 27, 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): \_\_\_\_\_  
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): \_\_\_\_\_.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** The Southern Parkway project, as approved in the Federal Highway Administration's October 2005 Record of Decision, consists of an interchange at Reference Post 2 on Interstate 15 in St. George, Utah, and an associated 26-mile, four-lane, limited-access highway that connects to State Route 9 in Hurricane, Utah. Utah Department of Transportation (UDOT) has constructed Southern Parkway Segments 1 and 2 and planning to construct portions of Segment 3A. On January 22, 2010, a field visit was conducted to identify streams (unnamed ephemeral washes) in the proposed 245 acre study area and discuss the project. On September 2, 2010, a follow-up field visit was conducted to verify the draft delineation report before submittal. On September 27, 2010, UDOT submitted the Delineation of Waters of the U.S., Southern Parkway-Segment 3A prepared by Horrocks Engineers.

General plant communities in the delineation study area include the following upland species: Creosote Bush (Larrea tridentata), Big Sagebrush (Artemisia tridentata), Range Ratany (Krameria parvifolia), Bur Sage (Ambrosia dumosa), Shadscale (Atriplex confertifolia), Mormon Tea (Ephedra torreyana), Big Rabbitbrush (chrysothamnus nauseosus), and Winterfat (Ceratoides lantana). No wetland species were found.

Precipitation in St George, Utah, mainly falls as rain, but snowfall is possible. The average annual total precipitation is 8.25 inches, evenly spread throughout the year. The average seasonal precipitation is; Winter 2.86 inches, Spring 1.85 inches, Summer 1.62 inches, and Fall 1.93 inches. The average total snowfall is 3.2 inches; Winter 2.8 inches, Spring and Fall 0.2 inches, respectively. If conditions are optimal, ephemeral drainages within the project area can have surface water flow in response to snow melt and rain events.

The waters identified in Southern Parkway Segment 3A-2, Unnamed Ephemeral Wash K, L, O, P and Q, are described as follows:

Waters	Length (linear feet)	Width (feet)	Waters Reference
Unnamed Ephemeral Wash K	1,906	no photo	Figure 4d
Unnamed Ephemeral Wash L	1,950	no photo	Figures 4d
Unnamed Ephemeral Wash O	1,900	no photo	Figures 4e
Unnamed Ephemeral Wash P	2,269	2 (photo 11)	Figures 4e
Unnamed Ephemeral Wash Q	1,032	7 (photo 12)	Figures 4e

Wash K and Wash L, and their associated tributaries, originate quite low on Warner Ridge and terminate at Washington Fields Road. The site visits confirmed that Wash K and L flow along Washington Fields Road, where they infiltrate, evaporate, and terminate.

Wash O and Wash P, and their associated tributaries, originate on Warner Ridge and terminate at Washington Fields Road. The site visits confirmed that Wash O and P flow along Washington Fields Road where they infiltrate, evaporate, and terminate.

Wash Q originates as a roadside ditch associated with Washington Fields Road, outside of the Gypsum Debris Basin, and flows northwesterly to a series of unnamed levees, dikes, and debris basins where they infiltrate, evaporate, and terminate. The site visits confirmed that Wash Q is not connected to the Gypsum Debris Basin.

The primary land use in the project area is undeveloped open space. No documented or observed interstate or foreign commerce connections were found for Unnamed Ephemeral Wash K, L, O, P, and Q.

Therefore, the Corps has determined that Unnamed Ephemeral Wash K, L, O, P, and Q are non-jurisdictional because they are intrastate, isolated, non-navigable waters with no interstate commerce connection.