

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): July 26, 2012.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, South Valley Regional Airport West Jordan, SPK-2012-00518-UO.

Name of water being evaluated on this JD form: Tributary to Barneys Creek and North Ditch

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Utah County: Salt Lake County City: Jordan

Center coordinates of site (lat/long in degree decimal format): Lat: 40.6110 N, Long: -111.9944 W

Universal Transverse Mercator: 12 415870.68 4496052.88 .

Name of nearest waterbody: Jordan River.

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

Name of watershed or Hydrologic Unit Code (HUC): West Jordan, Utah., 16020204.

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: N/A

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

Office (Desk) Determination. Date: July 26, 2012.

Field Determination. Date(s): June 19, 2012.

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: N/A linear feet N/A width (ft) and/or N/A acres.

Wetlands: N/A acres.

c. Limits (boundaries) of jurisdiction based on: **Not applicable. and **Not applicable.****

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 tributary to Barneys Creek and the Northern ditch were both reviewed as part of this determination. The Tributary to Barneys Creek is a large vegetated swale with no Ordinary High Water Mark or bed and bank**

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.

characteristics. The swale is vegetated with upland species and clearly does not have regular flows in it. It appears to only capture stormwater from upland areas to the west. The northern ditch is a stormwater ditch that was excavated in uplands. This ditch does not appear on the 1951 USGS map or in aerial photos from that time period. The ditch was dug in uplands to convey stormwater from upland areas that were developed to the west of the site. This drainage is part of the city's stormwater plan and discharges to a detention basin located east of the study area.

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): **Waters did not have OHWM characteristics or were excavated in uplands and drain only upland areas.**

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.

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.

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: Delienation of Waters of the U.S. Prepared May 2012, Technical Memo dated July 18, 2012 with attached USGS Maps, and Aerial photos 1943 1950.
- 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: Included in Wetland Delineation Report dated May 2012.
- National wetlands inventory map(s). Cite name: Included in Wetland Delineation Report dated May 2012.
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Current Google Earth images and 1943 and 1950
or Other (Name & Date): Included in Wetland Delineation Report dated May 2012.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Site Visit June 19, 2012.

B. ADDITIONAL COMMENTS TO SUPPORT JD: This site does not contain jurisdictional waters of the U.S. There are no wetlands present and the drainages on the south end and north are either swales or excavted in uplands and drain only uplands and therefore would not fall under the jurisdiction of the Clean Water Act. Based on the information by the applicant and their consultant including the various aerial photos from 1943, 1950, Google Earth images, the USGS maps from 1951 and 1952 of this area and a site visit condcuted on June 19, 2012 we have determined that no waters of the U.S. are present within the site and no waters are intersate waters.

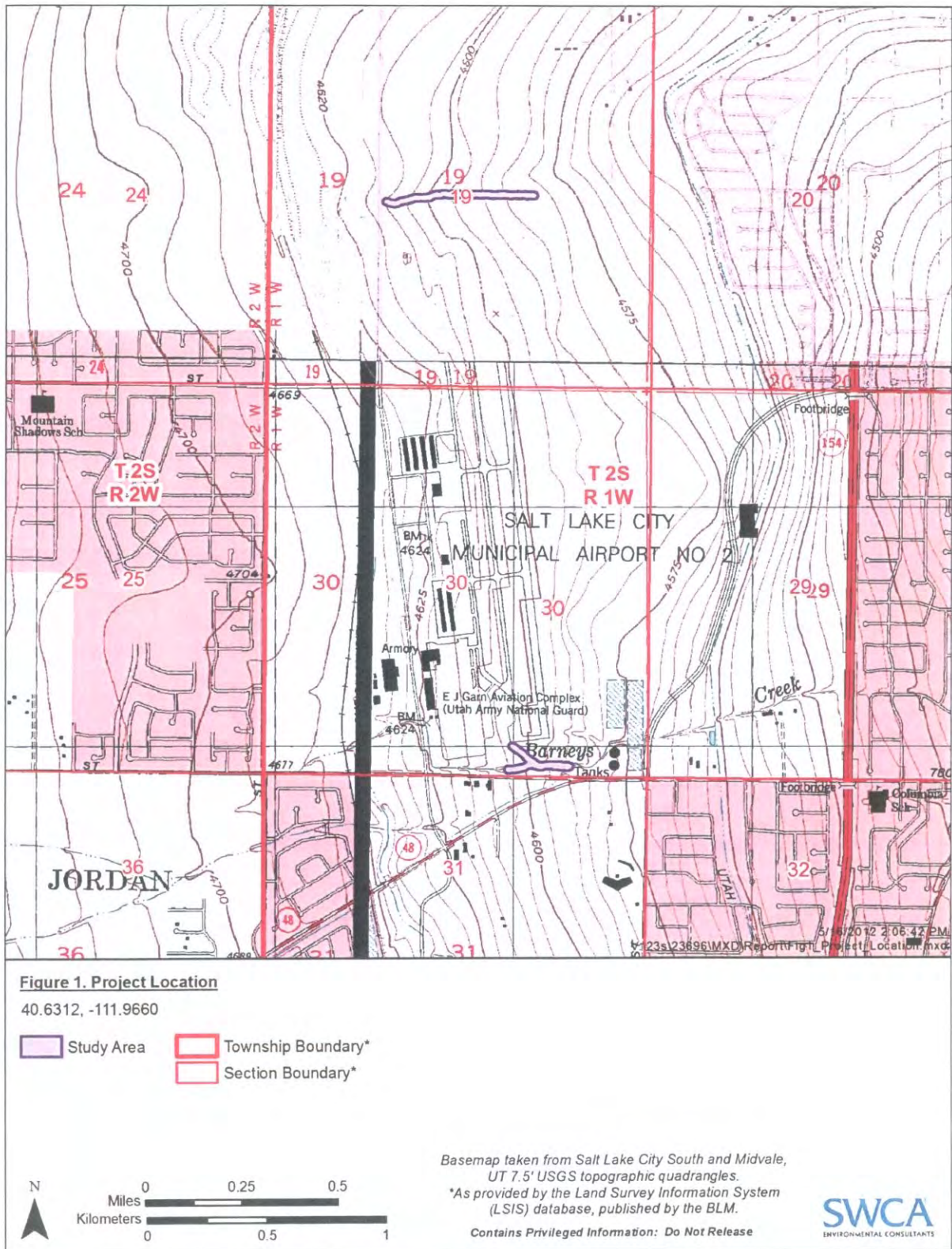


Figure 1. Project location.

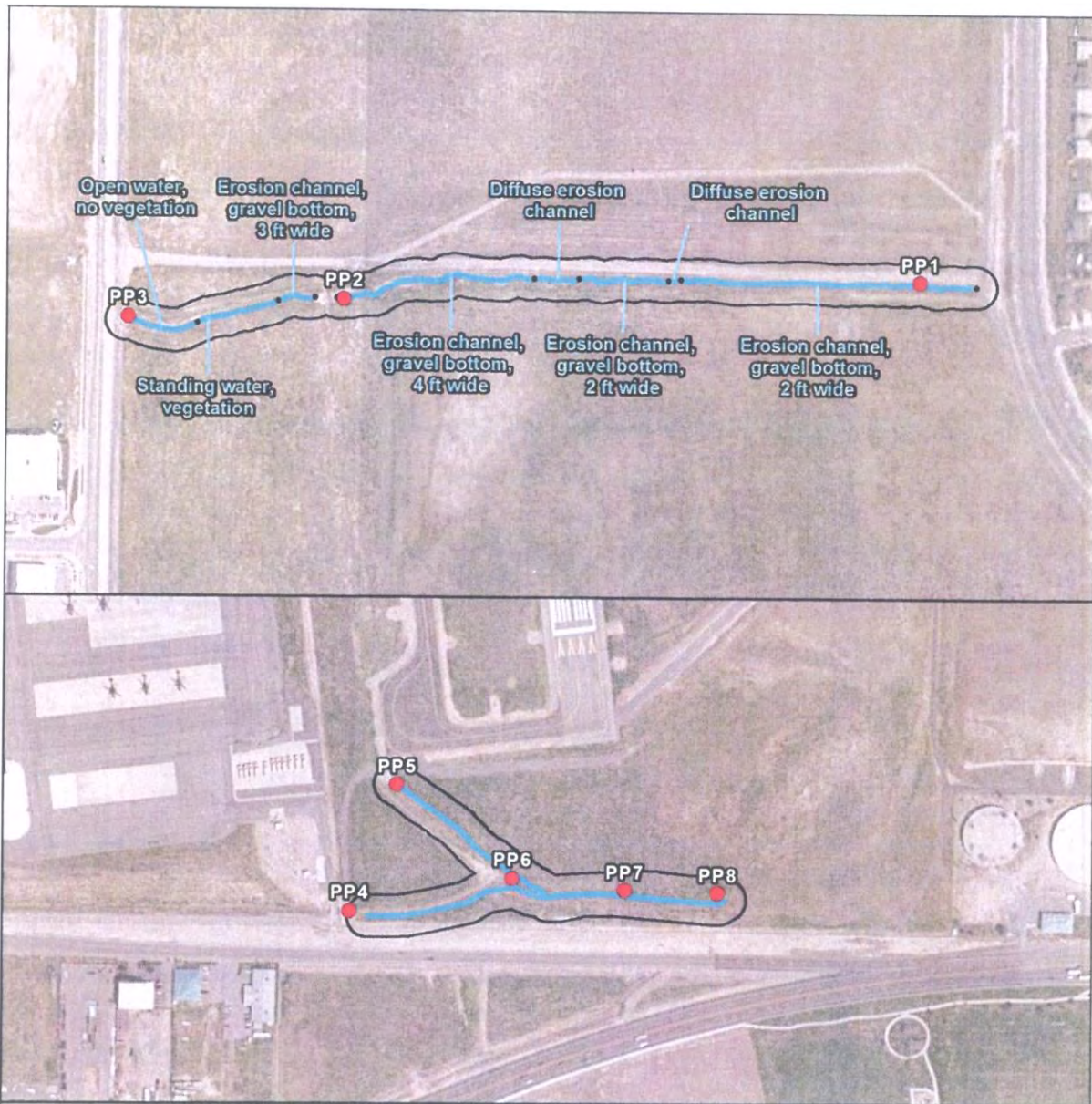


Figure 5. Results

Survey Conducted May 15, 2012

- Study Area
- Photo Point
- Ditch



Basemap taken from Bing Aerial Maps, ArcGIS Online, 2010.

Contains Privileged Information: Do Not Release



Figure 5. Results.