U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): October 29, 2020.
ORM Number: SPK-2003-25089.
Associated JDs: N/A.
Review Area Location[1]: State/Territory: Nevada. City: Round Mountain. County/Parish/Borough: Nye.
Center Coordinates of Review Area: Latitude 38.7288. Longitude -117.0802.

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

[1] Map(s)/figure(s) are attached to the AJD provided to the requestor.

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)[2]

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.		N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters):[3]				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.		N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.		N/A	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.		N/A	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.		N/A	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Willow Creek	2,215	Linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Willow Creek is not a tributary within the meaning of 33 CFR 328.3(c)(12) since it does not contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33

[2] If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.
[3] A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.
[4] Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.
[5] Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				CFR §328.3. USGS has mapped the terminus of Willow Creek outside of the project area in the Big Smokey Valley floor where it infiltrates into the ground and does not flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3.
Indian Creek	7,254	Linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Indian Creek is not a tributary within the meaning of 33 CFR 328.3(c)(12) since it does not contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3. USGS has mapped the terminus of Indian Creek outside of the project area in the Big Smokey Valley floor where it infiltrates into the ground and does not flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3.
Jefferson Creek	590	Linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Jefferson Creek is not a tributary within the meaning of 33 CFR 328.3(c)(12) since it does not contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3. USGS has mapped the terminus of Jefferson Creek outside of the project area in the Big Smokey Valley floor where it infiltrates into the ground and does not flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3.
Shoshone Creek	11,000	Linear feet	(b)(1) Surface water channel that does not contribute surface water	Shoshone Creek is not a tributary within the meaning of 33 CFR

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
			flow directly or indirectly to an (a)(1) water in a typical year.	328.3(c)(12) since it does not contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3. USGS has mapped the terminus of Shoshone Creek outside of the project area in the Big Smokey Valley floor where it infiltrates into the ground and does not flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3.
Mariposa Canyon	7,317	Linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Mariposa Canyon is not a tributary within the meaning of 33 CFR 328.3(c)(12) since it does not contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3. USGS has mapped the terminus of Mariposa Canyon outside of the project area in the Big Smokey Valley floor where it infiltrates into the ground and does not flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3.
1	5,628	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #1 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #1 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
3	8,590	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream,	Feature #3 is not mapped by the USGS (2018). Investigation

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
			swale, gully, rill, or pool.	performed by Wood Rodgers indicates that feature #3 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
4	8,540	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #4 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #4 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
5	127	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #5 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #5 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
6	4,766	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #6 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #6 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
7	3,244	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #7 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #7 flows only in direct response to precipitation (e.g.,

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
8	4,717	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #8 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #8 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
9	13,034	Linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Feature #9 is not a tributary within the meaning of 33 CFR 328.3(c)(12) since it does not contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3. Feature #9 is not mapped by the USGS (2018).
10	10,532	Linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Feature #10 is not a tributary within the meaning of 33 CFR 328.3(c)(12) since it does not contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3. Feature #10 is not mapped by the USGS (2018).
11	1,632	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #11 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #11 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
12	2,338	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #12 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #12 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
13	622	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #13 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #13 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
14	527	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #14 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #14 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
15	526	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #15 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #15 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
16	19,379	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #16 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				indicates that feature #16 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
17	18,598	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #17 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #17 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
18	13,705	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #18 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #18 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
19	17,591	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #19 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #19 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
20	22,046	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #20 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #20 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
21	21,733	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #21 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #21 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
22	15,725	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #22 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #22 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
23	11,431	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #23 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #23 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.
24	6,763	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Feature #24 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #24 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
25	10,883	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	pictures. Feature #25 is not mapped by the USGS (2018). Investigation performed by Wood Rodgers indicates that feature #25 flows only in direct response to precipitation (e.g., rain or snow fall) (33 CFR 328.3(c)(3)), which is consistent with the observations of no water flowing or present in ground level or aerial pictures.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: Aquatic Resources Delineation and Ordinary High Water Mark Report, Round Mountain Gold Corporation Smokey Valley Common Operation SPK-2003-25089, prepared by Wood Rodgers, November, 2019.
This information is. sufficient for purposes of this AJD.
Rationale: N/A.

☐ Data sheets prepared by the Corps: .

☒ Photographs: Aerial and Other. Aquatic Resources Delineation and Ordinary High Water Mark Report, Round Mountain Gold Corporation Smokey Valley Common Operation SPK-2003-25089, Appendix C, prepared by Wood Rodgers, November, 2019. AND GoogleEarth 7.3.3.7692. (May, 24, 2006). Round Mountain, Nevada. 38.7288° latitude, -117.0802° longitude, eye alt 12.41 mi. Retrieved October 20, 2020, from http://www.earth.google.com.

☐ Corps site visit(s) conducted on: .

☒ Previous Jurisdictional Determinations (AJDs or PJDs): SPK-2003-25089 September 29, 2006 and December 9, 2014.

☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.

☐ USDA NRCS Soil Survey: .

☐ USFWS NWI maps: .

☒ USGS topographic maps: USGS. (2018). Topographic Maps ROUND MOUNTAIN, NV, PABLO CANYON RANCH, NV and CARVERS SE, NV. 1:24,000 scale. 2018. Reston, VA, USA: U.S. Dept. of the Interior. Retrieved from https://ngmdb.usgs.gov/topoview/viewer/#12/42.2093/-111.0122 .

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Issues	N/A.

B. Typical year assessment(s): The Corps Antecedent Precipitation Calculator indicated that at the time the field data was collected (JUL, 2019) the area was experiencing normal conditions during the dry season. The ground photographs provided by the Wood Rodgers document channels without evidence of persistent flow. The channels are free of hydrophytic vegetation and algae which are typically find in low gradient intermittent and perennial streams and ditches in this region. Review of Google Earth aerial photography from a documented wetter than normal period of the dry season (MAY, 2006) did not reveal the presence of surface water anywhere within the review area.

C. Additional comments to support AJD: Within the project boundary various unnamed ephemeral creeks numbered 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 on the attached map, as well as Willow Creek, Indian Creek, Jefferson Creek, Shoshone Creek, and Mariposa Canyon (subject channels) all flow into the Big Smoky Valley depression where they dissipate into the playa on the valley floor and have no demonstrated physical, chemical or biological connection to Walker Lake or the Rye Patch Reservoir, both Traditional Navigable Waters (TNW). Any flow from the subject channels would be sheet flow across the landscape during major storm events, typically exceeding a 50 year event. Big Smoky Valley is situated in a closed hydrologic basin with no outlets and no tributary connections to a TNW. The nearest TNW is Walker Lake which is approximately 81 miles west of the project boundary. The subject channels flow toward but do not reach the Humboldt River or its tributaries which is approximately 130 miles north of the project boundary and a tributary to the Rye Patch Reservoir, a TNW. The subject channels have not been demonstrated to contribute surface water flow to a water identified in paragraph (a)(1) either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of 33 CFR §328.3. The subject channels were determined to be isolated on September 29, 2006, by the Corps after coordination with EPA Region 9 and again December 9, 2014. There is no new information to indicate that the subject channels have a connection to any TNW. Each channel is documented on individual forms located in the Aquatic Resources Delineation and Ordinary High Water Mark Report, Round Mountain Gold Corporation Smokey Valley Common Operation SPK-2003-25089, submitted by Wood Rodgers, November, 2019. These sheets include the general area conditions, physical characteristics, chemical characteristics, OHWM and biological characteristics of each water evaluated.