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): November 23, 2020.
ORM Number: SPK-2008-00354.
Associated JDs: SPK-2008-00354 Preliminary JD issued on March 13, 2017.
Review Area Location[1]: State/Territory: Utah. City: St. George / Page. County/Parish/Borough: Kane and Washington Counties, Utah & Coconio and Mohave Counties, Arizona.
Center Coordinates of Review Area: Latitude 36.98920. Longitude -112.42756.

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
Lake Powell	0.04	acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act.	A navigation study was done for Lake Powell. On November 8, 1974, the Sacramento District exercised jurisdiction within the gross pool boundaries of the lake.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Paria River	0.44	acres	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The Aquatic Resources (AR) delineation has shown with data points and aerial photographs that this tributary is perennial and flows into Lake Powell, an (a)(1) water.
Kanab Creek	0.28	acres	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The AR delineation has shown with data points and aerial photographs that this tributary is perennial and flows into Lake Powell, an (a)(1) water.

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.	acres	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.	acres	N/A	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]

[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.

Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Ephemeral Washes (273 total: labeled NWPR-S001 to NWPR-S00276).	8.09	acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The study area supports 273 ephemeral features that only flows in direct response to precipitation. Based on information in the AR report, the areas have shown no signatures of saturation or inundation for the features or adjacent areas. There are no physical indicators of water persisting in these channels beyond response to rainfall.

[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.

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: Lake Powell Pipeline Project, Final Study Report 2, Aquatic Resources, April 2016 for the Utah Board of Water Resources.
This information is. sufficient for purposes of this AJD.
Rationale: N/A.

☐ Data sheets prepared by the Corps: N/A.

☒ Photographs: Aerial and Other. Aerial Imagery: GoogleEarth 7.3.3.7692. (December 30, 1984, September 24, 1992, April 21, 2004, July 12, 2006, June 7, 2007, October 2, 2009, June 4, 2010, June 4, 2012, May 30, 2013, February 14, 2015, April 6, 2015, July 2, 2019). Kane and Washington Counties, Utah and Coconio Mohave Counties, Arizona.

☒ Corps site visit(s) conducted on: September 15, 2016 and June 18, 2018.

☒ Previous Jurisdictional Determinations (AJDs or PJDs): SPK-2008-00354 PJD issued on March 13, 2017.

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

☐ USDA NRCS Soil Survey: N/A.

☐ USFWS NWI maps: N/A.

☐ USGS topographic maps: N/A.

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 Tool indicates that during the 2008-2014, time the sites were being inspected for the AR report, the area was experiencing wetter than normal conditions between 2008 and 2010, normal conditions between 2011 and 2013, and drier than normal conditions in 2014. The tool also indicates that the area was experiencing a mild drought between 2008 and 2011, a moderate drought in 2013 and 2014 and a severe drought in 2013. Google Earth aerial photography, including records from typically wet periods (April 21, 2004, February 14, and 2015 April 2015) did not reveal the presence of surface water. Therefore, based on the information documented in these aerial photographs and the Corps Antecedent Precipitation Calculator Tool, the site conditions are reflective of a typical year.

C. Additional comments to support AJD: These 273 aquatic features are ephemeral streams that drain directly into Lake Powell or its tributaries. A review of historic aerials focusing on times of non-drought conditions, snowpack or when flows would be expected for ephemeral features, resulted in no signatures of saturation or inundation for the features or adjacent areas. Waters within the study area were identified on available mapping and aerial photographs. A project scientist reviewed the study area in person and reviewed each water body and to assess its condition. The inspections were done at different times during the 2008 through 2014 field season. Accessing USGS gage records where available, investigators developed a representative understanding of what drainages appeared to be perennial and contain measurable aquatic resources. Waters were evaluated based on the presence or absence of flowing water, high groundwater seeps or springs, and leaf litter in stream bed that would indicate the hydraulic transport of plant material. Other criteria were also evaluated to determine if the subject waters possessed characteristics that would indicate perennial flow and related aquatic resources. These criteria included sediment build-up that would indicate seasonal flows, general geomorphological conditions including riffle-pool sequences, bank condition, soil features, vegetation established in a channel bottom that could not occur in a flowing stream, benthic macroinvertebrate population. Based on this information, jurisdictional waters within the study area are limited to Lake Powell (a)(1) Water, Paria River (a)(2) Water, and Kanab Creek (a)(2) Water with the remaining 273 ephemeral washes excluded as waters of the U.S. per the (b)(3) of the NWPR.