



**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): [December 28, 2020](#).

ORM Number: [SPK-2015-01039](#).

Associated JDs: [N/A](#).

Review Area Location¹: State/Territory: [Nevada](#). City: [near Battle Mountain](#).

County/Parish/Borough: [Eureka and Lander](#).

Center Coordinates of Review Area: Latitude [40.3019](#). Longitude [-116.4809](#).

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).

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.	acres	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.	acres	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.	acres	N/A.	N/A.

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

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.



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

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.	N/A.	acres	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
Channel 1	3,624.	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Grass Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Channel 3	7,275	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Crescent Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Channel 3 diversion	3,026	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel

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.



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Crescent Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Channel 6	3,750	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Grass Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Channel 10	7,824	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Crescent Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Channel 13	9,110	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Grass Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				the Rye Patch Reservoir, the nearest TNW.
Channel 13A	422	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Grass Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Channel 14	609	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Grass Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Channel 15	2,462	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from this channel terminates in the Crescent Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Channel 18	7,256	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.	Investigation performed by Frontier Corporation USA indicates that there is no hydrologic surface water connection between this channel and a paragraph (a)(1) – (a)(3) water in a typical year. All flow from



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				this channel terminates in the Crescent Valley depression where it dissipates into the valley floor and has no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest TNW.
Wetland 1	0.04	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor are they physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier. Furthermore, there is no hydrologic surface water connection between this wetland and a paragraph (a)(1) – (a)(3) water in a typical year.
Wetland 3	0.17	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor are they physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier. Furthermore, there is no hydrologic surface water connection between this wetland and a paragraph (a)(1) – (a)(3) water in a typical year.
ST1	0.01	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature was constructed in uplands for agriculture use. It does not impound waters of the U.S.
ST2	0.01	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature was constructed in uplands for agriculture use. It does not impound waters of the U.S.
ST3	0.01	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not	This feature was constructed in uplands for agriculture use. It does not impound waters of the U.S.



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			an impoundment of a jurisdictional water that meets (c)(6).	
ST4	0.01	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This feature was constructed in uplands for agriculture use. It does not impound waters of the U.S.
RIB10c	5.59	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 10d	5.55	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 11a	3.63	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 11b	4.45	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 11c	4.3	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 11d	4.4	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	
RIB 12a	4.34	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 12b	4.33	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 12c	3.64	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 12d	4.76	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 13a	3.92	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 13b	4.07	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.
RIB 13c	3.8	acres	(b)(9) Water-filled depression constructed/excavated in	This feature was constructed in uplands incidental to an ongoing



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	mining operation. It does not impound waters of the U.S.
RIB 13d	3.78	acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This feature was constructed in uplands incidental to an ongoing mining operation. It does not impound waters of the U.S.

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: [2020 Jurisdictional Determination Reverification Report, Deep South Expansion Site, SPK-2015-01039, prepared by Frontier Corporation USA, February, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other. 2020 Jurisdictional Determination Reverification Report, Deep South Expansion Site, SPK-2015-01039, Appendix D-1 and D-2, prepared by Frontier Corporation USA, February, 2020 .](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [SPK-2015-01039, February 10, 2016.](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: .

USFWS NWI maps: .

USGS topographic maps: .

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.



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

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

B. Typical year assessment(s): N/A.

C. Additional comments to support AJD: Within the four project boundaries 14 rapid infiltration basins and 4 stock troughs have been constructed in uplands, these feature 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. Additionally 10 unnamed ephemeral channels identified as Channel 1, Channel 3, Channel 3 Diversion, Channel 6, Channel 10, Channel 13, Channel 13A, Channel 14, Channel 15, and Channel 18 (subject channels) have been delineated within the project boundaries, all flow into the Crescent or Grass Valley depressions (isolated basins) where they dissipate into the valley floor and have no demonstrated physical, chemical or biological connection to the Rye Patch Reservoir, the nearest 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. The project areas are situated in closed hydrologic basins with no outlets and no tributary connections to a TNW. The subject channels flow toward but do not reach the Humboldt River or its tributaries which is approximately 15 miles north of the project boundaries 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 February 10, 2016, by the Corps after coordination with EPA Region 9. There is no new information to indicate that the subject channels have a connection to any TNW. Each feature is documented on individual forms located in the 2020 Jurisdictional Determination Reverification Report, Deep South Expansion Site, SPK-2015-01039, prepared by Frontier Corporation USA, February, 2020. These sheets include the general area conditions, physical characteristics, chemical characteristics, OHWM and biological characteristics of each water evaluated.