



**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 6, 2020](#).

ORM Number: [SPK-2020-00538](#).

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

Review Area Location¹: State/Territory: [Utah](#). City: [Huntington](#). County/Parish/Borough: [Emery](#).

Center Coordinates of Review Area: Latitude [39.32462](#). Longitude [-110.99453](#).

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.



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

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	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	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	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	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	N/A

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
X1, Stream	348	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	historic aerial imagery, ground photos, xeric vegetation within the channel (sagebrush (<i>Artemesia tridentata</i>) and rabbit brush (<i>Ericameria nauseosa</i> and/or <i>Chrysothamnus viscidiflorus</i>)), the lack of hydrophytic and facultative

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.



**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
				shrub species typical of intermittent streams in this area (e.g., willows, tamarisk, mule-fat, etc.) are absent on this stream indicating water availability is insufficient to support these species, and OHWM Delineation Datasheets indicate this feature does not flow except in direct response to precipitation events. As such, the feature meets the criteria of a (b)(3) water as defined in paragraph (c)(3).
X2, Stream	3380	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	As with X1, historic aerial imagery, ground photos, xeric vegetation within the channel (sagebrush (<i>Artemesia tridentata</i>) and rabbit brush (<i>Ericameria nauseosa</i> and/or <i>Chrysothamnus viscidiflorus</i>)), the lack of hydrophytic and facultative shrub species typical of intermittent streams in this area (e.g., willows, tamarisk, mule-fat, etc.) are absent on this stream indicating water availability is insufficient to support these species, and OHWM Delineation Datasheets indicate this feature does not flow except in direct response to precipitation events. As such, the feature meets the criteria of a (b)(3) water as defined in paragraph (c)(3).
X4, Canal	6069	Linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	A review of historic aerial imagery revealed that the canal documented on-site did not relocate a tributary, was not constructed in a tributary or constructed in adjacent wetlands. This canal meets the ditch definition in paragraph (c)(2) of the rule and should be treated as any other ditch. Therefore, since the ditch is not a tributary under (a)(2), exclusion (b)(5) applies.
X8, Stream	3817	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A review of historic aerial imagery, ground photos, xeric vegetation within the channel (sagebrush (<i>Artemesia tridentata</i>) and rabbit brush (<i>Ericameria nauseosa</i> and/or



**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
				<i>Chrysothamnus viscidiflorus</i>)), the lack of hydrophytic and facultative shrub species typical of intermittent streams in this area (e.g., willows, tamarisk, mule-fat, etc.) are absent on this stream indicating water availability is insufficient to support these species, and OHWM Delineation Datasheets indicate this feature does not flow except in direct response to precipitation events. As such, the feature meets the criteria of a (b)(3) water as defined in paragraph (c)(3).
X10, Stream	147	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A review of historic aerial imagery, ground photos, xeric vegetation within the channel (sagebrush (<i>Artemesia tridentata</i>) and rabbit brush (<i>Ericameria nauseosa and/or Chrysothamnus viscidiflorus</i>)), the lack of hydrophytic and facultative shrub species typical of intermittent streams in this area (e.g., willows, tamarisk, mule-fat, etc.) are absent on this stream indicating water availability is insufficient to support these species, and OHWM Delineation Datasheets indicate this feature does not flow except in direct response to precipitation events. As such, the feature meets the criteria of a (b)(3) water as defined in paragraph (c)(3).
X12, Irrigation ditch	2436	Linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	A review of historic aerial imagery revealed that the ditch documented on-site did not relocate a tributary, was not constructed in a tributary or constructed in adjacent wetlands. Therefore, since the ditch is not a tributary under (a)(2), exclusion (b)(5) applies.

III. SUPPORTING INFORMATION



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

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 Resource Delineation Report for Castle Solar, LLC, dated July 7, 2020, prepared by Martin & Nicholson Environmental Consultants, LLC.](#)

This information **is** sufficient for purposes of this AJD.

Rationale: [N/A.](#)

Data sheets prepared by the Corps: [N/A.](#)

Photographs: [Aerial and Other.](#) 1.) Aerial imagery: [Google Earth imagery \(August 17, 2015; May 21, 2013; September 18, 1998\). Huntington, Utah. Latitude 39.32462° N, Longitude -110.99452° W, eye alt. 7984 feet. Retrieved September 24, 2020 from <http://www.earth.google.com>. Worldview. \(May 25, 2020\). Multiple source mosaic product. c7dad39c835f5d01d7689953a5edd48a, orthorectified. Huntington, Utah, USA: DigitalGlobe, Inc. 2.\) Ground photos: \[Aquatic Resource Delineation Report dated September 5, 2018\]\(#\)](#)

Corps site visit(s) conducted on: [N/A.](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A.](#)

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

USDA NRCS Soil Survey: [Soils \(Figure A-3, Aquatic Resource Delineation Report\).](#)

USFWS NWI maps: [National Wetland Inventory and National Hydrography Dataset \(Figure A-2, Aquatic Resource Delineation Report\)..](#)

USGS topographic maps: [Project Location \(Figure A-1, Aquatic Resource Delineation Report\)..](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Project Location (Figure A-1, Aquatic Resource Delineation Report), LANDFIRE data (USGS 2016). USGS. (1956). Topographic Map Price, Utah. 1:48,000 scale. 1962. Price, UT, USA: U.S. Dept. of the Interior. Retrieved from https://ngmdb.usgs.gov/topoview/viewer/#15/39.3250/-110.9758.
USDA Sources	Soils (Figure A-3, Aquatic Resource Delineation Report).
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool, DigitalGlobe Aerial Imagery.
State/Local/Tribal Sources	N/A.
Other Issues	N/A.

B. Typical year assessment(s): [The Antecedent Precipitation Tool \(APT\) was used to give context to this site based on the inspection date of September 5, 2018. Given that the Drought Index \(PDSA\) indicates an extreme drought was ongoing at the time of inspection date and September is within the dry season, normal precipitation conditions were observed. The APT was also run on May 25, 2020 as DigitalGlobe imagery is available and this date is within the growing season; The APT shows a moderate drought and normal precipitation conditions. There do not appear to be flows within any of the ephemeral features on May 25, 2020. There is no aerial imagery available, both in Google Earth and Digital Globe, during the wet](#)



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

season and therefore aerial imagery is not a definitive point in time information source for this project. The project proponents did not provide any period-of-time data sources

- C. Additional comments to support AJD:** Pre-field analysis for this project included a USFWS NWI map which indicated the potential presence of 0.57 acre of palustrine, unconsolidated shore, temporary flooded wetlands (PUSAh NWI code) and 0.19 acre of Palustrine, emergent, persistent, unconsolidated shore, seasonally flooded, excavated wetlands (PEM1Cx NWI code). The project's agent sampled at five locations to determine if wetland conditions were present and found no hydrologic indicators, hydric soil, or hydrophytic vegetation at any of the five sampling points. The canal can be seen on USGS quadrangle 1:48,000 maps dating back to 1956.