



**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): [September 21, 2020](#).

ORM Number: [SPK-2020-00496](#).

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

Review Area Location<sup>1</sup>: State/Territory: [Utah](#). City: [Francis](#). County/Parish/Borough: [Summit](#).

Center Coordinates of Review Area: Latitude [40.60868](#). Longitude [-111.26508](#).

**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).

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

**Enclosure 3**



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**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 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): <sup>3</sup>			
(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.

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)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Ditch A	156 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).	Ditch A is a constructed irrigation channel used to convey water for agriculture. A review of available historic aerial imagery dating back to 1962 shows that this ditch existed back then, though there is no indication of any nearby

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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.



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
				tributaries that this ditch could have relocated. This ditch is typical of straight, shallow, man-made irrigation laterals used to convey water from canals to irrigated pastureland. Ditch A sits slightly higher topographically on the landscape than the surrounding area, supporting the argument that the ditch was constructed in uplands. Ditch A did not relocate a tributary, was not constructed in a tributary and no part was constructed in adjacent wetlands or other waters type. Therefore, since Ditch A is not a tributary under (a)(2), exclusion (b)(5) applies.
Ditch B	648	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).	Ditch B is a constructed irrigation channel used to convey water for agriculture. A review of available historic aerial imagery dating back to 1962 shows that at least a portion of this ditch existed back then, though there is no indication of any nearby tributaries that this ditch could have relocated. This ditch is typical of straight, shallow, man-made irrigation laterals used to convey water from canals to irrigated pastureland. Ditch B sits slightly higher topographically on the landscape than the surrounding area, supporting the argument that the ditch was constructed in uplands. Ditch B did not relocate a tributary, was not constructed in a tributary and no part was constructed in adjacent wetlands or other waters type. Therefore, since Ditch B is not a tributary under (a)(2), exclusion (b)(5) applies.
Ditch C	431	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).	Ditch C is a constructed irrigation channel used to convey water for agriculture. A review of available historic aerial imagery dating back to 1962 revealed that Ditch C did not previously exist and there is no



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
				indication of any nearby tributaries that this ditch could have relocated. This ditch is typical of straight, shallow, man-made irrigation laterals used to convey water from canals to irrigated pastureland. Ditch C sits slightly higher topographically on the landscape than the surrounding area, supporting the argument that the ditch was constructed in uplands. Ditch C did not relocate a tributary, was not constructed in a tributary and no part was constructed in adjacent wetlands or any other waters type. Therefore, since Ditch C is not a tributary under (a)(2), exclusion (b)(5) applies.
Ditch D	730	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).	Ditch D is a constructed irrigation channel used to convey water for agriculture. A review of available historic aerial imagery dating back to 1962 revealed that Ditch D did not previously exist and there is no indication of any nearby tributaries that this ditch could have relocated. This ditch is typical of straight, shallow, man-made irrigation laterals used to convey water from canals to irrigated pastureland. Ditch D sits slightly higher topographically on the landscape than the surrounding area, supporting the argument that the ditch was constructed in uplands. Ditch D did not relocate a tributary, was not constructed in a tributary and no part was constructed in adjacent wetlands or any other waters type. Therefore, since Ditch D is not a tributary under (a)(2), exclusion (b)(5) applies.

**III. SUPPORTING INFORMATION**



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**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: [Wise Earth, "Wetlands & Waters Delineation, Bill Crittenden Property", Revised September 1, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [The initial submittal was insufficient and the Corps requested additional information from the applicant. Revisions were received and deemed sufficient to make a jurisdictional determination.](#)

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

Photographs: [Aerial and Other. Google Earth 7.3.3.7692.\(1993, August 23; 2011, September 14; 2013, June 4; 2017, June 22\). Francis, Utah. Latitude 40.608828 Longitude -111.265092, eye alt 15,307 ft. Retrieved September 21, 2020, from http://www.earth.google.com.](#)

[Historicaerials.com 1962;](#)

[Wise Earth, "Wetlands & Waters Delineation, Bill Crittenden Property", Revised September 1, 2020, April 21-May 21, 2020 ground photos.](#)

Corps site visit(s) conducted on: [August 25, 2020 .](#)

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

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
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Issues</a>	<a href="#">N/A.</a>

**B. Typical year assessment(s):** [N/A.](#)

**C. Additional comments to support AJD:** [The 4 ditches identified on site are manmade irrigation conveyances constructed in uplands. Ditches C and D did not exist in the 1962 aerial image from historicaerials.com. Imagery that predates Ditches A and B could not be found, though these ditches occur in topographically higher portions of the study area and are characteristic of Ditches C and D and other upland irrigation laterals throughout this region. Portions of the study area appear to have wetland signatures on some aerial images. However, none of the test pits on site met the hydrology parameter.](#)