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):01/08/2020.
ORM Number: SPK-2011-01248.
Associated JDs: N/A.
Review Area Location[1]: State/Territory: Utah. City: Alton. County/Parish/Borough: Kane County.
Center Coordinates of Review Area: Latitude 37.400537. Longitude -112.470531.

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.	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
4 (a-b) – Lower Robinson Creek.	6,160.	Linear Feet	(a)(2) Intermittent 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 intermittent from Cross Section 4b downstream to its confluence with Kanab Creek, an (a)(2) 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.	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
1 –	4,071.	Feet	(b)(3) Ephemeral feature, including	The subject channel flows only in

[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
Ephemeral Wash.			an ephemeral stream, swale, gully, rill, or pool.	direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3)).
2 - Arroyo		881 Feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channel has no OHWM and flows only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3))
3 - Gully		1,016 Feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channel has no OHWM and flows only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3))
4 (c-d) – Lower Robinson Creek		3,733 Feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channel flows only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3))
5 – Ephemeral Wash		972 Feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channel flows only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3))
6 – Ephemeral Wash		4,754 Feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channel flows only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3))
7 – Ephemeral Wash		6,789 Feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channel flows only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3))
8 – Ephemeral Wash		2,550 Feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channel flows only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3))

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: Waters of the United States Determination on 8 Ephemeral Washes Upstream of Kanab Creek dated December 12, 2020.
This information is. sufficient for purposes of this AJD.
Rationale: N/A.

☐ Data sheets prepared by the Corps: .

☒ Photographs: Aerial and Other. Waters of the United States Determination on 8 Ephemeral Washes Upstream of Kanab Creek, Table 5 photographs dated December 12, 2020. Aerial Imagery: GoogleEarth 7.3.3.7692. (December 30, 2019, October 03, 2019, June 02, 2014, June 05, 2012, October 02, 2011, August 27, 2009, September 24, 2006). Kane County, Utah.

☐ Corps site visit(s) conducted on: .

☐ Previous Jurisdictional Determinations (AJDs or PJDs): .

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

☒ USDA NRCS Soil Survey: Waters of the United States Determination on 8 Ephemeral Washes Upstream of Kanab Creek, 2.4 Soils.

☐ 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.
State/Local/Tribal Sources	N/A.
Other Issues	N/A.

B. Typical year assessment(s): The field data collection on September 3 2020 was taken during the dry season and the data collected on November 5 and 6 was taken during the wet season. Aerials obtained through Google Earth on November 23, 2019 during the wet season both show no indication of water. The Corps Antecedent Precipitation Calculator indicated that at the time the field data was collected the area was experiencing an extreme drought, therefore the observations were not reflective of a typical year.

C. Additional comments to support AJD: The ground photographs provided by Alpine Environmental Resources document a channel without evidence of persistent flow. Snow pack averages around 15 inches annually. Snowfall events occur during the months of November through mid March. High temperatures and sunny days during winter months allows for snowmelt between storms. Additionally, precipitation events occur during all seasons of the year. Average rainfall events record less than 1 inch of precipitation. Over the previous 10 years 3 high rainfall events recorded 2.5 to 3.5 inches. From this data we understand that snowpack does not contribute significant surface water to this section of the watershed. The non-jurisdictional watercourses within the study area contain upland vegetation throughout the channel. No hydrophytic vegetation is present throughout the study area. None of the soils within the subject area were found to be hydric. All of these observations did not occur during a typical year, but during an extreme drought.