



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):

ORM Number: SPK-2015-00876

Associated JDs: SPK-2015-00876, February 8, 2017

Review Area Location¹:

State/Territory: NV City: Reno County/Parish/Borough: Washoe County

Center Coordinates of Review Area: Latitude 39.430302 Longitude -119.792017

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 or describe rationale.
- 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	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

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
AR-3, Thomas Creek	980 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Thomas Creek is a perennial stream that flows to Steamboat Creek which flows to the Truckee River on an annual basis. The Truckee River is a navigable-in-fact TNW.

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

Adjacent wetlands ((a)(4) waters):

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 and 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 independent 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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
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
AR-1	1265 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)	AR-1 is a constructed channel used to convey water for agriculture. It is not a relocated tributary, was not constructed in a tributary, and no part was constructed in a wetland or any other waters type.
AR-1a	915 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)	AR-1a is a constructed channel used to convey water for agriculture. It is not a relocated tributary, was not constructed in a tributary, and no part was constructed in a wetland or any other waters type.
AR-1b	355 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)	AR-1b is a constructed channel used to convey water for agriculture. It is not a relocated tributary, was not constructed in a tributary, and no part was constructed in a wetland or any other waters type.
AR-2	1235 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)	AR-2 is a constructed channel used to convey water for agriculture. It is not a relocated tributary, was not constructed in a tributary, and no part was constructed in a wetland or any other waters type.

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: *Aquatic Resources Delineation Report, Ostertag Property. Resource Concepts, Inc., June 23, 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:

Aquatic Resources Delineation Report, Ostertag Property. Resource Concepts, Inc., June 23, 2020. Attachment C.

Thomas Creek Properties Project, Washoe County, Nevada, Wetland Delineation and Waters of the U.S. Inventory, Wood Rodgers, August 2015. Appendix C.

Historicaerials.com, Location: Latitude 39.430302, Longitude -119.792017, 1948 and 2017. Retrieved January 6, 2021.

Google Earth 7.3.3.7692. (2020 May 23, 2018 November 16, and 2017 August 11). Reno, Nevada. Latitude 39.430302, Longitude -119.792017, eye alt 4,696 ft. Retrieved January 6,

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 and 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 independent 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

2021, from <http://www.earth.google.com>.

Corps Site visit(s) conducted on: *Date(s)*.

- Previous Jurisdictional Determinations (AJDs or PJDs): *Thomas Creek Properties Project, Washoe County, Nevada, Wetland Delineation and Waters of the U.S. Inventory, Wood Rodgers, August 2015. (SPK-2015-00876, February 8, 2017).*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Aquatic Resources Delineation Report, Ostertag Property. Resource Concepts, Inc., June 23, 2020. Attachment B, Figure 2.*
- USFWS NWI maps: *Aquatic Resources Delineation Report, Ostertag Property. Resource Concepts, Inc., June 23, 2020. Attachment B, Figure 3.*
- USGS topographic maps: *Aquatic Resources Delineation Report, Ostertag Property. Resource Concepts, Inc., June 23, 2020. Attachment B, Figure 1. Historicaerials.com, Location: Latitude 39.430302, Longitude -119.792017, T1952, T1972, T2018. Retrieved January 6, 2021.*

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 Sources	N/A.

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

C. Additional comments to support AJD: Features named AR-1, AR-1a, AR-1b, and AR-2 are irrigation ditches which receive irrigation waters from Steamboat Ditch in normal waters years and receive water from agricultural wells in below normal water years. These ditches were constructed in and across uplands and are not re-routed or constructed through tributaries, wetlands, or other waters of the U.S. Thomas Creek is a known, USGS mapped perennial stream that flows to Steamboat Creek, which flows to the Truckee River, a navigable-in-fact TNW. Wetlands and other waters that were identified in the 2017 AJD for this area appear to have been the result of the irrigation that was ongoing during the field investigation in 2015. On-site environmental conditions appear to have changed and become drier between the 2015 report and 2020 report.

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 independent 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.