



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): February 25, 2021

ORM Number: SPK-2021-00126

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: UT City: Vernal County/Parish/Borough: Uintah County

Center Coordinates of Review Area: Latitude 40.47912 Longitude -109.60892

**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)<sup>2</sup>**

§ 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)<sup>3</sup>

(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
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

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

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<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 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.

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<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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**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
Two Unnamed Ephemeral Channels	3935 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Aerial imagery, ground photos, xeric vegetation within the channel (e.g., <i>Artemesia tridentata</i> , <i>Salsola tragus</i> , <i>Opuntia pycnantha</i> , <i>Atriplex canescens</i> , <i>Bromus tectorum</i> , etc.), 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. Best available data indicates 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). The one ephemeral channel has numerous relic channels within the study area. However, none of the relic channels have ordinary high water mark indicators.
Highline Canal	58 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 search of aerial imagery revealed that this ditch did not relocate a tributary or was 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**

**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.

X  Information submitted by, or on behalf of, the applicant/consultant: *Ashley Valley Watershed Flood & Irrigation Project dated January 2021.*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

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- Data sheets prepared by the Corps: *N/A*
- Photographs: *(aerial and other) Ground photos: Ashley Valley Watershed Flood & Irrigation Project dated January 2021, Appendix C – Photo Inventory, SC4-5.*

Aerial Imagery: Google Earth imagery (21 June 2015; 21 March 2012; 14 September 2011). Vernal, Utah. Latitude 40.47912 N, Longitude -109.60892 W, eye alt. 7836 feet. Retrieved February 24, 2021 from <http://www.earth.google.com>.

- 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: *Ashley Valley Watershed Flood & Irrigation Project, pages 5, 59-64, dated January 2021.*
- USFWS NWI maps: *Ashley Valley Watershed Flood & Irrigation Project, page 65, dated January 2021.*
- USGS topographic maps: *N/A*

**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:** A review of aerial imagery from Google Earth focusing on times of non-drought conditions, snowpack, and when flows would be expected for ephemeral features resulted in no signatures of saturation or inundation for the study area or adjacent areas. Pre-field analysis for this project included a USFWS NWI map which indicated the potential presence of riverine features within the study area. The project’s agent, J-U-B Engineering, Inc., conducted field work on August 27 and 28, 2019 as well as April 15, 2020 which did not identify ordinary high water mark indicators within the mapped ephemeral channels. The ground photos provided by the applicant, SC4-5, show fully developed xeric vegetation growing within the ephemeral channels as well as the early stages of cryptobiotic soil formation which indicates infrequent large water events. Best available information did not indicate that the features within the study area flows except in response to precipitation events. Pre-field analysis also included an NRCS Soil Types map which showed all three

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soils within the study area having a hydric rating of zero, further substantiating the claim that features within the study area are ephemeral.

The Highline Canal can be seen in aerial imagery dating back to at least July 3, 1997. The canal flows north to south, perpendicular to the natural contours of Vernal's northwest foothills. The canal receives irrigation conveyance from Ashley Creek, a perennial river, and terminates into the Green River, another perennial water, approximately 18 miles downstream of the study area. Therefore, the canal has intermittent surface water flow in a typical year and contributes surface water flow to a jurisdictional water in a typical year. However, best available data does not indicate that the canal relocates a tributary; is constructed in a tributary; or is constructed in an adjacent wetland and therefore is not considered a water of the United States.

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