



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): June 22, 2021
ORM Number: SPK-2020-00765
Associated JDs: SPK-1994-50503, SPK-2007-01819, SPK-2016-0018, and SPK-2017-00109.
Review Area Location¹:
State/Territory: UT City: Farmington County/Parish/Borough: Davis County
Center Coordinates of Review Area: Latitude 40.988684 Longitude -111.917969

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
Stream – Shepard Creek	715 linear feet (0.08 acres)	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The stream flows in a northeast to southwest direction along the eastern boundary of the study area. A culvert near the eastern property boundary allows for water conveyance into the property. This stream is a (a)(2) Perennial tributary that contributes surface water flow directly or indirectly the Great Salt Lake, (a)(1). The AR delineation and the Corps aerial review has shown that this tributary is a feature considered jurisdictional under the Navigable Waters Protection Rule (NWPR) rule.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) 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 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.



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(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
Wetland A	0.36 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland area is located on the northwest side of Shepard Creek towards the south eastern corner of the study area. This wetland is located in an area lower in elevation than the surrounding higher uplands and is topographically distinct. This wetland is directly abutting Shepard Creek, an A-2 water that drains directly into the Great Salt Lake, an (a)(1) water. Therefore, this wetland is jurisdictional per the NWPR.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland B	0.36 acres	(b)(1) Non-adjacent wetland	This wetland is located at the western end of the study area and is situated at the bottom of an enclosed depression that is topographically distinct. The aerial review revealed that this wetland does not have a direct surface connection to Shepard Creek but appears to act as a detention basin for the adjacent upland areas. The wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural barrier. Furthermore, there is no hydrologic surface water connection between the wetland and an (a)(1) – (a)(3) water. Non-adjacent wetland and are non-jurisdictional per the NWPR.

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 Cottonwood Park, Farmington Utah dated August 18, 2020 prepared by Kagel Environmental, LLC.

This information *is* sufficient for purposes of this AJD.
Rationale: N/A

Data sheets prepared by the Corps: N/A

Photographs: Aerial Photographs - GoogleEarth 7.3.3.7692. (13 August 1993, 3 October 1997, 3 May 2002, 9 July 2002, 12 June 2003, 24 August 2004, 27 February 2005, 17 April 2005, 31 July 2006, 22 June 2009, 10 June 2010, 14 September 2011, 4 June 2013, 16 June 2015, 17 June 2017, 10 September 2018, 18 July 2019, 15 May 2020). Davis County, Utah 40.990016 -111.915415, eye alt 3281 ft. Retrieved June 17, 2021 from <http://www.earth.google.com>.

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Historic Aerials by NETRonline. Aerials 1950, 1958, 1965, 1971, 1978, 1980, 1981, 1993, 1997, 2004, 2006, 2009, 2011, 2014, 2016. Retrieved June 17, 2021 from <https://www.historicaerials.com/viewer>

Corps Site visit conducted on: April 21, 2021

Previous Jurisdictional Determinations (AJDs or PJDs):

SPK-1994-50503 issued on November 30, 1994. Preliminary wetland determination and conceptual plan for a community college. The proposed project site encompasses 165 acres and the site potentially contains about 23 acres of wetlands, in addition to 27.88 acres of wetlands previously delineated by Versar and verified by the Corps. Documentation for the Versar verification was not found for purposes of the current AJD.

SPK-2007-01819 issued on February 27, 2008. AJD issued for the property immediately adjacent to the south boundary of the current AJD. Approximately 2.84 acres of waters of the United States, including wetlands, were found to be present at this site.

SPK-2016-00018 issued on May 18, 2016. PJD issued to Dominion Energy (Questar Gas) associated with an 18-mile-long pipeline. This pipeline bisects the study area- see section C Additional Comments to Support AJD.

SPK-2017-00109 issued on September 6, 2017. AJD issued for the property immediately to the south boundary of the current AJD. Approximately 9.96 acres of aquatic resources, consisting of 9.79 acres of freshwater wet meadow, 0.14 acre/753 linear feet of perennial stream, and 0.03 acre/ 277 linear feet of intermittent ditch were found to be present at this site.

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

___ USDA NRCS Soil Survey: N/A

___ USFWS NWI maps: N/A

___ 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	Topographic Maps by NETRonline. Maps T1954, T1957, T1971, T1978, T5001, T2014, and T2017. Retrieved on June 17, 2021 from https://www.historicaerials.com/viewer

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

C. Additional comments to support AJD: The property is bordered by an elevated pedestrian trail which creates depressional areas on either side. The area on the northwest side was identified as Wetland A and appears to have a subsurface connection to the depressional areas on the opposite side of the trail which are located outside of the study area. Inundation was observed in Google Earth aerial photography for years 2002, 2003, 2005, 2010, 2019, and 2020. Photos included in the AR report, a street view of Google Earth show a significant difference in elevation between Wetland A and the adjacent uplands which prevent a direct surface connection to Wetland B.

Aerial photography from years 2005 and 2009 seem to indicate that wetland A extend past the boundaries delineated in the AR resources report based on inundation of the area. The aerial records show a disturbance area associated with the construction of an 18-mile long gas pipeline that bisected a potential section of this wetland area. However, Corps field verification and field data from the AR report confirmed that currently, Wetland A does not extend past the boundaries as delineated in the AR report and the areas located southwest of the disturbed swath do not support aquatic resources.

Historic aerial photographs show a linear feature on the east side of the pedestrian trail that could have connected Wetland A with Shepard Creek. Records for the area shows that this feature was previously delineated as a ditch, which is not a valid surface water connection per the NWPR.

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