



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): July 22, 2021  
ORM Number: SPK-2019-00445  
Associated JDs: N/A  
Review Area Location<sup>1</sup>: 2250 South 7200 West  
State/Territory: UT City: Magna County/Parish/Borough: Salt Lake County  
Center Coordinates of Review Area: Latitude 40.713697 Longitude -112.073344

**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
Riter Canal	1,629 linear feet (0.64 acres)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The Riter Canal flows into the Great Salt Lake, an (a)(1) water approximately 5 river-miles north of the project site. The aquatic resources delineation report has shown with data points and aerial photographs that this tributary is a perennial feature considered jurisdictional under the Navigable Waters Protection Rule (NWPR) rule.

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

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

<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 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.

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Phragmites Wetland	0.44 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	This wetland is located along the southern boundary of the study area and extends the length of the parcel from north to south. This wetland has hydrophytic vegetation, hydric soils, and is hydrologically connected to the Riter Canal, an (a)(2) water. This wetland is considered jurisdictional under the NWPR rule.

**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
N/A	N/A	N/A	N/A

**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: “Wetland Delineation Report Magna Fill Area” prepared by SGM, Inc dated March 16, 2021 and “Waters of the United States Delineation Report, 2250 South, 7200 West to 8000 West Project” prepared by Project Engineering Consultants (PEC) dated July 2019.

This information is sufficient for purposes of this AJD.

Rationale: N/A

Data sheets prepared by the Corps: July 22, 2021

Photographs: GoogleEarth 7.3.3.7692. (30 December 1985, 15 July 1997, September 30, 1997, 3 May 2002, 14 July 2003, 18 August 2003, 24 August 2004, 3 July 2005, 31, 27 December 2005, 12 July 2006, 27 April 2007, 22 June 2009, 17 June 2010, 14 September 2011, 4 June 2013, 16 June 2015, 8 July 2016, 15 June 2017, 17 June 2017, 9 October 2018, 18 July 2019, 31 May 2020). Salt Lake County, Utah 40.713697 -112.073344, eye alt 3819 ft. Retrieved July 22, 2021 from <http://www.earth.google.com>.

Historic Aerials by NETRonline. Topo Maps. T1954, T1963, T1971, T1975, T1987, T1993, T2001, T2014, T2017. Retrieved July 22, 2021 from <http://www.historicaerials.com/viewer>

\_\_\_ 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: N/A

\_\_\_ USFWS NWI maps: N/A

\_\_\_ USGS topographic maps: N/A

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**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	Historic Aerials by NETRonline. Aerials 1943, 1950, 1959, 1965, 1971, 1977, 1977, 2004, 2006, 2009, 2011, 2014, and 2016. Retrieved July 22, 2021 from <a href="http://www.historicaerials.com/viewer">http://www.historicaerials.com/viewer</a>

**B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) was used to give context to this site based on the inspection dates of April 30, 2019 and February 2, 2021 (aquatic resource delineation site inspections). The APT indicates that during the site inspections the project area was experiencing wetter than normal conditions with a PDSI of severe wetness during the April 30, 2019 inspection and drier than normal conditions with a PDSI of severe drought during the February 2, 2021 inspection. Google Earth aerial photography from typically wet periods (April 27, 2007) did not reveal the presence of surface water from Riter Canal within the project area. In addition, the photos from the April 30, 2019 site inspection did not show any evidence of surface water or inundation considering that April 2019 documented above average precipitation. No surface water or inundation was documented during the February 2021 inspection. Based on the information documented in the aerial photographs, the APT, and the aquatic resources reports, the site conditions observed in 2007, 2019, and 2020 are reflective of a typical year.

**C. Additional comments to support AJD:** The study area is comprised of 47.92 acres. The site was evaluated by the Corps for potential unauthorized activities in 2019. Approximately 15.45 acres of the parcel were filled with 3 to 4 feet (65,000 to 70,000 cubic yards) of fill material placed at the parcel in 2019. An area supporting approximately 0.44 acres of wetland had been previously delineated within the fill footprint. This determination was based on the information in the aquatic resources report prepared by PEC titled “Waters of the United States Delineation Report, 2250 South, 7200 West to 8000 West Project” dated July 2019. The wetlands delineated in this report are located in an area north of and not abutting the Riter Canal.

The site was re-evaluated by a new consultant, SGM, Inc., and a revised aquatic resources report titled “Wetland Delineation Report, Magna Fill Area” dated March 16, 2021 was submitted for Corps review. The revised report indicates that the PEC delineation report erroneously determined that a depleted matrix was present at the one soil pit dug on the parcel. SGM visited the site on February 2, 2021 and four soil pits were established in an unfilled section of the previously identified wetlands. A depleted matrix was not documented, and no redox concentrations were observed during the 2021

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inspection. In addition, all soil pits revealed lack of hydrology with the exception of one, identified as WDDF-4, that did show oxidized rhizospheres along living roots (C3 hydrology indicator); however, WDDF-4 lacks hydrophytic vegetation and hydric soils. In addition, surface water, water table, and saturation were absent during the consultant's site inspections.

Because the site has been previously disturbed and in order to verify the absence of wetlands, the Corps prepared revised data sheets and evaluated the project under the problematic conditions guidance as outlined in Chapter 5 of the *U.S. Army Corps of Engineers Arid West Regional Supplement* for all sampling points (WDDF-1, WDDF-2, WDDF-3, and WDDF-4) documented in the SGM, Inc report. Based on the Corps revised data sheets and an evaluation of Chapter 5, the Corps confirmed that none of the sample points can be considered wetlands since the site is in landscape position that is not likely to collect or concentrate water.

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