



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): August 12, 2021.

ORM Number: SPK-2021-00496

Associated JDs: N/A.

Review Area Location¹:

State/Territory: UT City: Toquerville County: Washington County

Center Coordinates of Review Area: Latitude 37.225156 Longitude -113.284037

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
Ash Creek	0.18 acre	(a)(2) Perennial tributary that contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Ash Creek flows into the Virgin River, which then flows into the Colorado River, an (a)(1) water.
LaVerkin Creek	0.23 acre	(a)(2) Perennial tributary that contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	LaVerkin Creek flows into the Virgin River, which then flows into the Colorado River, an (a)(1) 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
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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 simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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N/A	N/A	N/A	N/A
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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 1	0.02 acre	(a)(4) Wetland abuts an (a)(1-3) water	Wetland directly abuts Ash Creek, an (a)(2) water.
Wetland 2	0.06 acre	(a)(4) Wetland abuts an (a)(1-3) water	Wetland directly abuts Ash Creek, an (a)(2) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Irrigation Ditch	0.17 acre	(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)	This ditch receives flow diverted from Ash Creek north of the study area, then flows through several man-made ponds and returns to Ash Creek south of the study area. The ditch was not constructed in nor did it relocate a tributary and was not constructed in a wetland.
Man-made Pond 1	0.15 acre	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6)	This man-made pond received its hydrology from the irrigation ditch, a non-jurisdictional feature.
Man-made Pond 2	0.03 acre	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6)	This man-made pond received its hydrology from the irrigation ditch, a non-jurisdictional feature.
Overflow Channel	0.01 acre	(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)	Water is seeping through the ground below the irrigation ditch, providing hydrology to this overflow channel. Because this channel is receiving hydrology from a non-jurisdictional feature, this overflow channel is also considered non-jurisdictional.
Wash	0.07 acre	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The wash originates on the west side of I-15 and its' flow is ephemeral. No water was flowing at the time of the field investigation. This is an ephemeral feature that only receives flow in response to precipitation events.

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: Aquatic Resources Delineation Toquerville Parkway dated November 2020.
This information is sufficient for purposes of this AJD.
Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

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- ___ Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: aerial and other. GoogleEarth 7.3.3.7692. (2021 April 29). Toquerville, Utah. Latitude 37.225156 Longitude -113.284037, eye alt 6421 ft. Retrieved August 11, 2021, from <http://www.earth.google.com> Aquatic Resources Delineation Toquerville Parkway Appendix C: Photographs and Data Sheets.
- ___ Corps Site visit(s) conducted on: Date(s).
- ___ Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).
- ___ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- ___ USDA NRCS Soil Survey: Title(s) and/or date(s).
- ___ USFWS NWI maps: Title(s) and/or date(s).
- USGS topographic maps: USGS. (1885). Topographic Map. 1:62,500 scale. Historical file, Topographic Division. USGS file copy. Retrieved on 8/10/2021 from <https://ngmdb.usgs.gov/topoview/viewer/#13/37.2252/-113.2840>.

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: The North portion of the irrigation ditch originally appeared to be a historical channel of Ash Creek, however, the Corps cannot find any evidence to support this and additionally, when using the ruler tool on Google Earth and looking at a topo map, you can see that the elevation of the irrigation ditch is approximately 7 feet higher than Ash Creek and follows a steady topographic elevation at the base of the hillside. This indicates to the Corps that the irrigation ditch and overflow channel are both man-made features that were built in uplands and are therefore non-jurisdictional. This determination also makes the pond features non-jurisdictional as they are caused by the impoundments of these man-made ditches.

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