

**APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): March 10, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, Stack Property, SPK-2021-00227

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Utah** County/parish/borough: **Davis County** City: **Farmington**
Center coordinates of site (lat/long in degree decimal format): Lat. **40.995568°**, Long. **-111.921150°**
Universal Transverse Mercator: **12 422524.15 4538673.72**
Name of nearest waterbody: **Spring Creek**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Great Salt Lake**

Name of watershed or Hydrologic Unit Code (HUC): **Lower Weber, 16020102**

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
 Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form:

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination. Date: **March 10, 2022**
 Field Determination. Date(s): **August 24, 2021**

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

- Waters subject to the ebb and flow of the tide.
 Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **are and are not** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- TNWs, including territorial seas
 Wetlands adjacent to TNWs
 Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
 Non-RPWs that flow directly or indirectly into TNWs
 Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
 Impoundments of jurisdictional waters
 Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: **2,698** linear feet or **0.33** acre.
Wetlands: **3.07** acres.

c. Limits (boundaries) of jurisdiction based on: **OHWM and 1987 Delineation Manual**

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):³

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Wetlands 1, 2, and 4 were previously evaluated in 2005 under SPK-2005-50200 and determined to be jurisdictional waters of the U.S. However, a site visit done on 24 August 2021 by Corps staff revealed that these wetlands discharge into closed basins with no culvert allowing a surface water connection to jurisdictional waters. Field observations revealed that hydrology for these wetlands is provided by artificially irrigation practices from an agricultural field located on the northeast side of the study area. Wetlands 1, 2, and 4 are not contiguous with any of the other larger wetlands**

Enclosure 3

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

documented on site (Wetlands 3, 5, 7, 8, 9, 11, 13A, and 13B) and they are intrastate isolated aquatic resource with no apparent interstate or foreign commerce connection because they are part of closed, isolated depressions that do not connect to Spring Creek (JD Form Enclosure 1).

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: Not Applicable

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent":

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: Approx. 1,260 Acres

Drainage area: Approx 1,260 Acres

Average annual rainfall: 22 inches

Average annual snowfall: 50 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 1 tributaries before entering TNW.

Project waters are 2-5 river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

Project waters are 2-5 aerial (straight) miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from RPW.

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Project waters cross or serve as state boundaries. Explain: **N/A. The waters are wholly within the state of Utah.**

Identify flow route to TNW⁵:
Tributary stream order, if known:

(b) General Tributary Characteristics (check all that apply):

Tributary is: Natural
 Artificial (man-made). Explain:
 Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):
Average width: **3-5** feet
Average depth: **2-3.5** feet
Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):
 Silts Sands Concrete
 Cobbles Gravel Muck
 Bedrock Vegetation
 Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
Presence of run/riffle/pool complexes. Explain: None
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): **<1%**

(c) Flow:

Tributary provides for: **Perennial**
Estimate average number of flow events in review area/year: **1**
Describe flow regime: **Spring Creek maintains above-surface baseflow throughout the year with punctuated high water levels in response to storm events and artificial irrigation.**
Other information on duration and volume:

Surface flow is: **Discrete and Confined**. Characteristics: **Mostly confined to channels**.

Subsurface flow: **Unknown**. Explain findings: **Not Observed**.
 Dye (or other) test performed:

Tributary has (check all that apply):

- Bed and banks
 - OHWM⁶ (check all indicators that apply):
 - clear, natural line impressed on the bank
 - changes in the character of soil
 - shelving
 - vegetation matted down, bent, or absent
 - leaf litter disturbed or washed away
 - sediment deposition
 - water staining
 - other (list):
 - Discontinuous OHWM.⁷ Explain:
- the presence of litter and debris
 - destruction of terrestrial vegetation
 - the presence of wrack line
 - sediment sorting
 - scour
 - multiple observed or predicted flow events
 - abrupt change in plant community

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- High Tide Line indicated by:
 - oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gauges
- Mean High Water Mark indicated by:
 - survey to available datum;
 - physical markings;
 - vegetation lines/changes in vegetation types.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

other (list):

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: **Water is clear during normal flow.**

Identify specific pollutants, if known: **Likely to be high in nutrients due to agriculture practices and adjacent residential developments.**

(iv) Biological Characteristics. Channel supports (check all that apply):

Riparian corridor. Characteristics (type, average width):

Wetland fringe. Characteristics: **Wetlands 3, 5, 7, 8, 9, 11, 13A, and 13B are fringe wetlands that directly abut Spring Creek.**

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: **Habitat for macroinvertebrates and wildlife.**

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: **3.07** acres

Wetland type. Explain: Palustrine Emergent and Palustrine Forested

Wetland quality. Explain: **Wetlands are medium quality due impairments including invasive species, water quality impacts from adjacent agriculture fields, and residential developments. These wetlands are directly abutting Spring Creek and in close proximity to Haight Creek and Shepard Creek and their wildlife habitat potential. Culverts were installed in by June 2009 between wetlands 5 (a directly abutting wetland) and wetland 9. A second culvert was constructed between wetland 9 and wetland 3 to allow for the construction of road for a residential development. The surface water connection from Spring Creek has been maintained through the culverts. Construction of the culverts has not not affected the jurisdictional status of these wetlands 3 and 9.**

Project wetlands cross or serve as state boundaries. Explain: N/A. **The waters are wholly within the state of Utah.**

(b) General Flow Relationship with Non-TNW:

Flow is: **Perennial Flow**. Explain: **Wetlands on the site appear to have hydrology through most of the year.**

Surface flow is: **Overland sheetflow**

Characteristics: **Hydrologic movement through the wetlands appears to be mainly through sheet flow and shallow subsurface flow.**

Subsurface flow: **Unknown**. Explain findings:

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting: **Wetlands 3, 5, 7, 8, 9, 11, 13A, and 13B are directly abutting Spring Creek.**

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are [redacted] river miles from TNW.

Project waters are [redacted] aerial (straight) miles from TNW.

Flow is from: [redacted].

Estimate approximate location of wetland as within the [redacted] floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: **Water color is clear, water quality is likely high in nutrients from agricultural practices.**

Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):

- Riparian buffer. Characteristics (type, average width): **25 feet.**
- Vegetation type/percent cover. Explain: **60-80%**
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings: **Habitat for invertebrates, small mammals, birds, etc.**

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **8**

Approximately **3.07** acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
3 Yes	0.27	11 Yes	0.75
5 Yes	0.46	13A Yes	0.47
7 Yes	0.01	13B Yes	0.04
8 Yes	0.32		
9 Yes	0.75		

Summarize overall biological, chemical and physical functions being performed: **The wetlands are providing habitat for wildlife and invertebrates as well as flood attenuation during high water events along the Spring Creek. Additional functions include, nutrient uptake, removal of sediments, and improvement of water quality.**

C. SIGNIFICANT NEXUS DETERMINATION:

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

- 1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

TNWs: linear feet, wide, Or acres.
 Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: **Spring Creek carries above-surface base flow throughout most of the year.**
- Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

Tributary waters: linear feet wide.
 Other non-wetland waters: acres.
Identify type(s) of waters:

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

Tributary waters: linear feet, wide.
 Other non-wetland waters: acres.
Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
- Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Wetlands 3, 5, 7, 8, 9, 11, 13A, and 13B directly abut Spring Creek as illustrated in the wetland delineation maps.**

- Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

⁸See Footnote # 3.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from "waters of the U.S.," or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain:
- Other factors. Explain:

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet, wide.
- Other non-wetland waters: acres.
 Identify type(s) of waters:
- Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce. **Investigation and analysis performed by Kagel Environmental, LLC and verified in the field by Corps staff demonstrated that Wetlands 1, 2 and 4 do not have a chemical, physical or biological connection with Spring Creek. Wetlands 1, 2, and 4 are located in depressed areas surrounded by uplands isolating them from jurisdictional waters.**
 - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
 - Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, wide.
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: **0.75** acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, wide.
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below): "Aquatic Resources Delineation Report Stack Real Estate Site Farmington, Utah" dated March 3, 2021, and revised on February 17, 2022, by Kagel Environmental, LLC.

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **1:24K; Farmington**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Web Soil Survey included in the Aquatic Resources Report.**
- National wetlands inventory map(s). Cite name: **U.S. Fish and Wildlife Service Wetland Mapper included in the Aquatic Resources Report.**
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **GoogleEarth 7.3.3.7692. (Historic Aerial Imagery). Davis County, Utah. Latitude: 40.995568; Longitude: -111.921150. Retrieved November 24, 2021, from <http://www.earth.google.com>.**
or Other (Name & Date):

Previous determination(s). File no. and date of response letter: **SPK-2005-50200 AJD and NWP39 permit issued to Woodside Homes c/o Thane Smith. The AJD was issued on June 30, 2005, and verified approximately 2.61 acres of waters of the U.S. An application for a Nationwide Permit 39 was received after the AJD was verified. The permit verification was issued on February 6, 2007, and authorized the discharge of fill material in 0.29 acre of waters of the U.S., including wetlands for the construction of a residential development. In particular, the direct impacts were associated with the installation of culverts to maintain water flow within the project area. The mitigation requirement was to enhance 3.04 acres of wet meadow wetlands habitat within an on-site preserve. The wetland preserve needed to be deed restricted. An aerial review of the site revealed that the culvert installation was completed by June 2009. However, no documentation for the preserve area, including monitoring report and deed restrictions have been submitted to date. The property has changed ownership and there is no documentation of a NWP transfer to the new property owner.**

SPK-2005-50472 AJD verified on November 22, 2005, for a 15-acre size parcel within the subject project area. Approximately 0.42 acre of wetlands were documented. The determination was issued to Farmington Land Company, LLC c/o Steve Christensen.

SPK-2006-50144 AJD verified on October 18, 2005, for a 4.2-acre size parcel within the subject project area. Approximately 0.67 acre of wetlands were documented. The determination was issued to Woodside Homes c/o Brandon Lee.

- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: The original study area for this JD request terminated at Burke Lane. On December 22, 2021, Stark Real Estate was notified of non-compliance activities along Burke Lane immediately south of their property. The non-compliance activity could have severed the hydrological connection from the site to downstream waters of the U.S. and needed to be further evaluated. On February 24, 2022, Kagel Environmental, LLC submitted an addendum letter and revised maps dividing the study area into two separate delineation requests. The subject request includes 94.7 acres and is located north and/or west of Spring Creek centerline and excludes the approximately 40 acres between the centerline of Spring Creek and Burke Lane that could have been subject to adverse effects due to the downstream non-compliance activity.

The revised request from Kagel Environmental, LLC requested evaluation for interstate isolated wetlands to include wetlands 1, 2, 3, 4, and 9. However, a review of site conditions, historic remote sensing information (JD Form Enclosure 2), and National Agricultural Imagery Program (NAIP) aerial data (JD Form Enclosure 3) revealed that wetlands 3 and 9 support a surface water connection with Wetland 5, which is a directly abutting wetland to Spring Creek. The connection is maintained via culverts as indicated in Section IIIB and Section IV of the JD form of the JD form and depicted on Site Plan 1 prepared by Corps Staff (JD Form Enclosure 4). This information was field verified by Corps personnel on August 24, 2021.

In addition, further evaluation of the site, historic aerials and NAIP maps revealed that the wetland boundaries extend past the locations delineated by Kagel Environmental, LLC for wetlands 5 and 9. A revised wetland map was prepared by Corps staff for wetlands 5 and 9 based on wetland signatures documented between 2011 and 2021. The area for wetland 5 was revised from 0.36 acre in the Kagel Environmental, LLC report to 0.46 acre and wetland 9 was revised from 0.535 acre in the Kagel Environmental, LLC report to 0.75 acre.

In the addendum letter, Kagel Environmental, LLC indicated that neither Kagel Environmental, LLC nor Stark Real Estate is aware of what the new owners plan for the acreage south of Spring Creek. However, a search of Davis County property

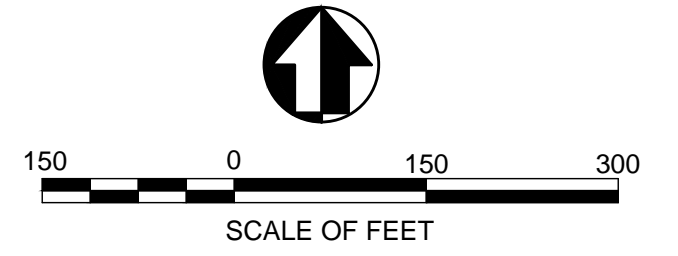
records revealed that the Stack Real Estate Properties extend south of Spring Creek's centerline (JD Form Enclosure 5).

A review of ORM records revealed that a portion of the study area is associated a Nationwide Permit verified on February 6, 2007, under SPK-2005-50200. Since the study area boundaries for SPK-2005-50200 encompass only a small section of the subject study area and include a residential development to the north, the new request was assigned a 2021 SPK number.

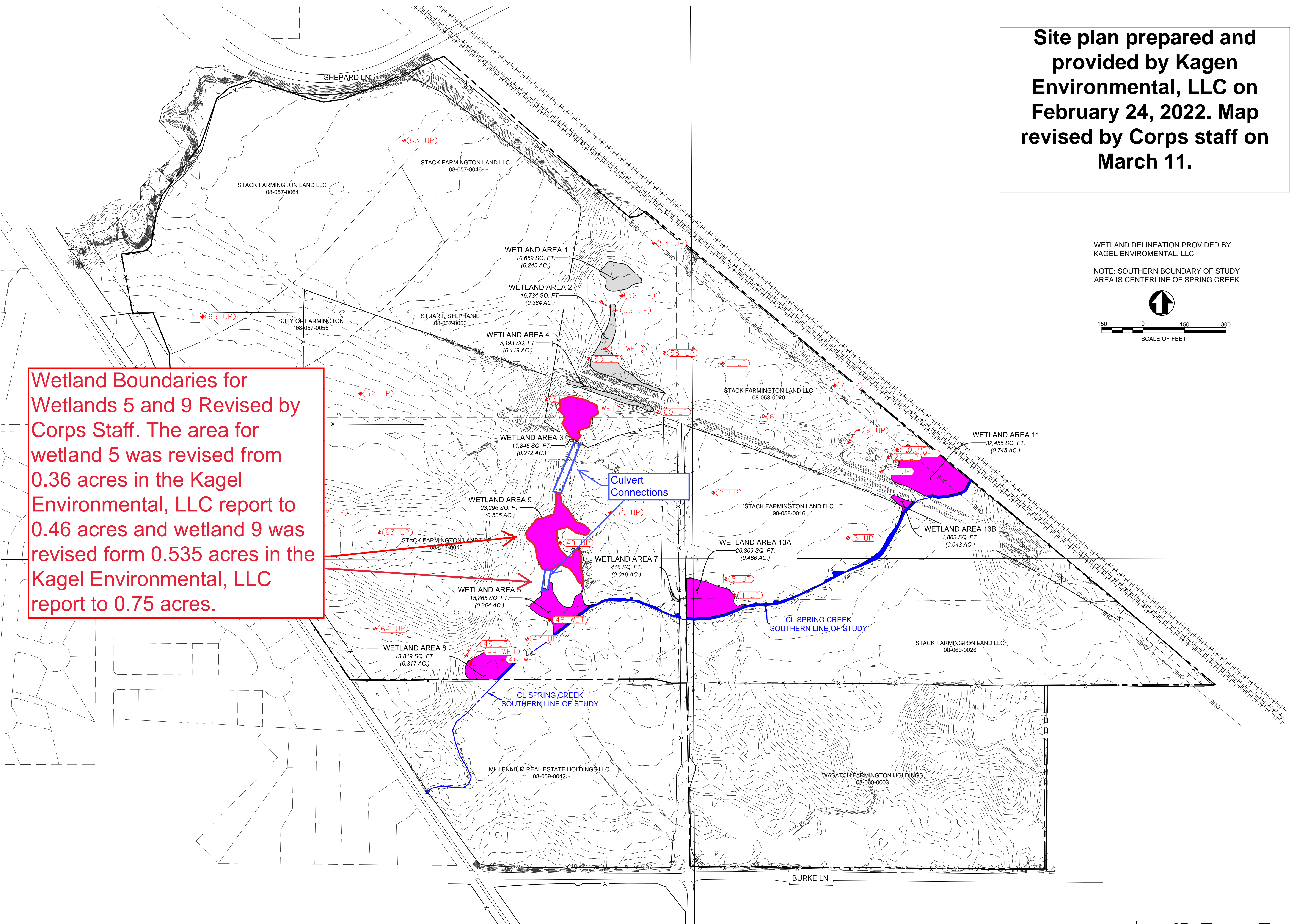
Site plan prepared and provided by Kagen Environmental, LLC on February 24, 2022. Map revised by Corps staff on March 11.

WETLAND DELINEATION PROVIDED BY KAGEL ENVIRONMENTAL, LLC

NOTE: SOUTHERN BOUNDARY OF STUDY AREA IS CENTERLINE OF SPRING CREEK



Wetland Boundaries for Wetlands 5 and 9 Revised by Corps Staff. The area for wetland 5 was revised from 0.36 acres in the Kagen Environmental, LLC report to 0.46 acres and wetland 9 was revised from 0.535 acres in the Kagen Environmental, LLC report to 0.75 acres.



DATE: 2/17/2022
 PLOT DATE:
 SCALE: 1" = 150'
 PROJECT NUMBER: 8SRE010200

WETLAND DELINEATION OF
 STACK FARMINGTON
 FARMINGTON, UTAH

PSOMAS
 4179 Riverboat Road, Suite 200
 Salt Lake City, Utah 84123
 (801) 270-5777 (801) 270-5782 (FAX)

DESIGNED	SRV
DRAFTED	SRV
CHECKED	JT
SHEET	
1	
4	

SPK-2021-00227

August 2021

Legend

 Wetland

Wetland 3, 0.27 Acres

Wetland 9, 0.75 Acres

Wetland 5, 0.46 Acres

Creek Park

Google Earth

1000 ft


JD Form Enclosure 2



SPK-2021-00227

May 2021

Legend

 Wetland



Creek Park

Google Earth

Image © 2021 Maxar Technologies


1000 ft



SPK-2021-00227

June 2020

Legend


 Wetland

Creek Park

Google Earth

Image © 2021 Maxar Technologies




 1000 ft

SPK-2021-00227

May 2020

Legend

 Wetland



Creek Park

Google Earth

Image © 2021 Maxar Technologies


1000 ft



SPK-2021-00227

July 2019

Legend

 Wetland

Creek Park

Google Earth


1000 ft



SPK-2021-00227

September 2018

Legend

 Wetland

Creek Park

Google Earth


1000 ft



SPK-2021-00227

June 2017

Legend

 Wetland



Google Earth


1000 ft



SPK-2021-00227

July 2016

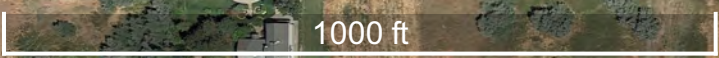
Legend

 Wetland



Creek Park


Google Earth



SPK-2021-00227

June 2015

Legend

 Wetland



Google Earth


1000 ft



SPK-2021-00227

June 2013

Legend

 Wetland



Creek Park

Google Earth


1000 ft



SPK-2021-00227

October 2011

Legend

 Wetland

Creek Park

Google Earth

Image USDA Farm Service Agency




1000 ft

SPK-2021-00227

June 2010

Legend

 Wetland

Creek Park

Google Earth

1000 ft



National Agriculture Imagery Program (NAIP)



Wetland 3, 0.27 Acres

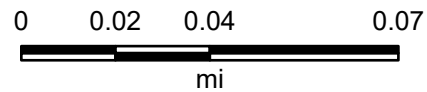
Wetland 9, 0.75 Acres

Wetland 5, 0.46 Acres

Bureau of Land Management, Utah AGRC, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA, Esri, USDA Farm Service Agency, USGS TNM – National Hydrography Dataset. Data Refreshed January, 2022.



SPK-2021-00227



Map Center: 111.922103°W 40.994925°N

Map Created by: N. Fresard

Date: 3/11/2022


Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere

JD Form Enclosure 3

SPK-2021-00227

Culvert Locations

Legend

 Wetland

Culvert

Wetland 3

Wetland 9

Culvert 2

Spring Creek - RPW

Spring Creek-RPW

Culvert 3

Wetland 5 - directly abutting wetland

Spring Creek - RPW

Google Earth



3000 ft

JD Form Enclosure 4

