



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
SOUTH PACIFIC DIVISION  
450 GOLDEN GATE AVENUE  
SAN FRANCISCO CALIFORNIA 94102-3661

CESPD-ZA

01 October 2021

MEMORANDUM FOR RECORD

SUBJECT: Determination of Navigability, Lower Bear River in Utah.

1. On 18 August 2021, the Sacramento District submitted a report of findings and District Counsel opinion pursuant to 33 CFR §329.14. The Sacramento District found that the Lower Bear River from its mouth at the Great Salt Lake to the limits of our area of responsibility at the Idaho-Utah state line (RM 101.3) was used in the past and was susceptible for use in transporting interstate commerce. Based on these findings, the Sacramento District recommends that the South Pacific Division determine these portions of the Lower Bear River to be navigable waters of the United States pursuant to the Rivers and Harbors Act and 33 CFR §329.4.
2. Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody and is not extinguished by later actions nor events which impede or destroy navigable capacity. (33 CFR §329.4).
3. In the 1860s and 1870s, during the railroad construction era, the Lower Bear River was used to transport railroad ties from points in Idaho to Corinne, Utah. In addition to the railroad tie trade, sawmills in Corinne were supplied with logs transported down the Lower Bear River from points in Idaho from 1869 to 1875. Corinne, during this era, was a hub for interstate transport. Railroads, waterborne freight, tie and log drives and interstate wagon freight lines all met in Corinne, which acted as a transfer point until the completion of the Utah and Northern Railroad. Interstate transport of railroad ties and logs driven on the Bear River from the north met steam and sail transport ascending the Bear River from the Great Salt Lake.
4. Past and continued use by recreational boaters using equipment analogous to the boats used during the fur trade and log and tie driving era demonstrate the susceptibility of the Lower Bear River to transport for these purposes.
5. Based on the historical documentation of past commercial use and susceptibility to that use, the South Pacific Division determines that the Lower Bear River, from its

CESPD-ZA

SUBJECT: Determination of Navigability, Lower Bear River in Utah.

mouth at the Great Salt Lake in Utah, upriver to the Idaho-Utah state line at approximately River Mile 101.3, is a navigable waterway of the United States pursuant to the Rivers and Harbors Act and 33 CFR Part 329.

6. My contact person is Mr. Thomas Cavanaugh, (415) 503-6574, or Thomas.J.cavanaugh@usace.army.mil.

**Antoinette R.  
Gant**  
ANTOINETTE R. GANT, PMP  
COL, EN  
Commanding

Digitally signed by  
Antoinette R. Gant  
Date: 2021.10.01  
16:16:05 -07'00'