



**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): 9/14/2020
 ORM Number: NWW-2016-00168
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Idaho City: Middleton County/Parish/Borough: Canyon
 Center Coordinates of Review Area: Latitude 43.703153° Longitude -116.632191°

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
Willow Creek	242	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			Willow Creek was a natural creek which was excavated and constructed within for irrigation ditches uses. Reviewing Willow Creek prior to alterations from irrigation systems affecting the natural hydrology determined that the reach was an intermittent tributary as defined in the navigable water protection rule due to continuous surface water flow during spring melt of snowpack. The estimated drainage basin is 84.71 square miles and the mean annual precipitation is 12.8 inch per year for the review area. See Section III.c below of

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 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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
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NAVIGABLE WATERS PROTECTION RULE

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
				<p>snowpack information. The 7 day 10 year output from StreamStats was used to estimate low flows within the drainage using regression analysis. The USGS StreamStats reported an average 7 day flow at the lowest flow of 10 years was estimated for Willow Creek at 0.363 cubic feet per second. Currently a natural channel with bed and bank can be observed via Google Earth aerial near Lat 43.752692° Long -116.530214°) which is above the irrigation supply.</p> <p>The USGS topographical map dated 1898 shows Willow Creek as an intermittent tributary. However the USGS topographical map dated 1955, & 2020 and the National Hydrography Dataset display the reach of Willow Creek within the review area as a perennial system due to the altered hydrology from the irrigation diversions which direct flow into Willow Creek.</p>
Mill Slough	134	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>Mill slough was a natural creek which was excavated and constructed within for irrigation ditches uses. Per the Idaho Historical Site Inventory (10-CN-116) Mill Slough was a natural slough which was excavated or dredged for irrigation uses circa 1920. The historical review of the Mill Slough circa 1920 prior to alterations from irrigation systems affecting the natural hydrology was determined to be an Intermittent Tributary due to estimated surface water flow during spring melt of snowpack. The estimated drainage basin is 67.99 square miles and the mean annual precipitation is 11.6 inch per year for the review area, per StreamStats. See Section III.c below of snowpack information. The 7 day 10 year output from StreamStats was used to estimate low flows within the drainage regression analysis. The USGS StreamStats reported an average 7 day flow at the lowest flow of 10 years was estimated for Willow Creek at 0.269 cubic feet per second.</p> <p>A natural channel with bed and bank can be observed near Lat 43.752692° Long -116.530214°).</p> <p>The USGS topographical map dated 1898 does not display Mill Creek intermittent tributary. However the USGS mapping requirements for are not the same as the NWPR definition for intermittent streams. the USGS topographical map dated 1955, & 2020 and the National Hydrography Dataset display the reach</p>



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
			of Mill Slough within the review area as a perennial stream due to the altered hydrology from the irrigation diversions which direct flow into Mill Slough. using

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.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 3	0.111 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Per the Wetland Delineation and Water of the US report South Cemetery Road; SH-44 to Willow Creek Middleton, Canyon County, Idaho dated August 27, 2020, Wetland 3 physically touches/ abuts Willow Creek an (a)(2) water near RM 0.71. See section III.C below for flow path from Willow Creek to a Section 10 water.
Wetland 4	0.018 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Per the Wetland Delineation and Water of the US report South Cemetery Road; SH-44 to Willow Creek Middleton, Canyon County, Idaho dated August 27, 2020, Wetland 4 physically touches/ abuts Mill Slough an (a)(2) water near RM 0.52. See section III.C below for flow path from Mill Slough to a Section 10 water.
Wetland 5	0.013 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Per the Wetland Delineation and Water of the US report South Cemetery Road; SH-44 to Willow Creek Middleton, Canyon County, Idaho dated August 27, 2020, Wetland 5 physically touches/ abuts Mill Slough an (a)(2) water near RM 0.52. See section III.C below for flow path from Mill Slough to a Section 10 water.
Wetland 6	0.237 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Per the Wetland Delineation and Water of the US report South Cemetery Road; SH-44 to Willow Creek Middleton, Canyon County, Idaho dated August 27, 2020, Wetland 6 physically touches/ abuts Mill Slough an (a)(2) water near Lat 43.697140°, Long - 116.634129°. See section III.C below for flow path from Mill Slough to a Section 10 water.

D. Excluded Waters or Features



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	0.098	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	Wetland 1 abuts the Unnamed Drain which was determined to be a non-jurisdictional feature (b)(5), see below. Surface flow from Wetland 1 flows to the Unnamed Drain and enters the Boise River near RM 22.26.
Wetland 2	0.009	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	Wetland 2 abuts the Unnamed Drain which was determined to be a non-jurisdictional feature (b)(5), see below. Surface flow from Wetland 2 flows to the Unnamed Drain and enters the Boise River near RM 22.26.
Canyon Canal	624	linear feet	(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).	The reach of the Canyon canal within the review area was constructed in uplands and was not constructed within or relocates an (a)(2) water. Per the topographical maps (dated 1898, 1955, & 2020) the reach of Canyon Canal within the review area was constructed outside the channel of any tributary. The National Wetland Inventory map support the absences of wetlands occurrence in the constructed footprint of the Canyon Canal. USDA soil survey maps also confirm that the reach of the Canyon Canal in the review area was not constructed in wetlands. The soil survey indicates non-hydric soils within the constructed footprint of the Canyon Canal (Lankbush loam, dark variant, 0-1 percent slopes and Draper Loam, 0-1 percent slope).
Unnamed Drain	316	linear feet	(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).	The reach of the Unnamed Drain within the review area was constructed in uplands and was not constructed within or relocates an (a)(2) water. Per the topographical maps (dated 1898, 1955, & 2020) the reach of the Unnamed Drain within the review area was constructed outside the channel of any tributary. The National Wetland Inventory map support the absences of wetlands occurrence in the constructed footprint of the Unnamed Drain. USDA soil survey maps also confirm that the reach of the Unnamed Drain in the review area was not constructed in wetlands. The soil survey indicates non-hydric

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				soils within the constructed footprint of the Unnamed Drain (Lankbush loam, dark variant, 0-1 percent slopes).
Field Ditch 1	62	linear feet	(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).	The reach of the Field Ditch 1 within the review area was constructed in uplands and was not constructed within or relocates an (a)(2) water. Per the topographical maps (dated 1898, 1955, & 2020) the reach of the Field Ditch 1 within the review area was constructed outside the channel of any tributary. The National Wetland Inventory map support the absences of wetlands occurrence in the constructed footprint of Field Ditch 1. USDA soil survey maps also confirms that the reach of the Field Ditch 1 in the review area was not constructed in wetlands. The soil survey indicates non-hydric soils within the constructed footprint of Field Ditch 1 (Draper Loam, 0-1 percent slope).
Field Ditch 2	238	linear feet	(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).	The reach of the Field Ditch 2 within the review area was constructed in uplands and was not constructed within or relocates an (a)(2) water. Per the topographical maps (dated 1898, 1955, & 2020) the reach of the Field Ditch 2 within the review area was constructed outside the channel of any tributary. The National Wetland Inventory map support the absences of wetlands occurrence in the constructed footprint of Field Ditch 2. USDA soil survey maps also confirm that the reach of the Field Ditch 1 in the review area was not constructed in wetlands. The soil survey indicates non-hydric soils within the constructed footprint of Field Ditch 2 (Draper Loam, 0-1 percent slope).
Field Ditch 3	223	linear feet	(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).	The reach of the Field Ditch 3 within the review area was constructed in uplands and was not constructed within or relocates an (a)(2) water. Per the topographical maps (dated 1898, 1955, & 2020) the reach of the Field Ditch 3 within the review area was constructed outside the channel of any tributary. The National Wetland Inventory map support the absences of wetlands occurrence in the constructed footprint of Field Ditch 3. USDA soil survey maps also confirm that the reach of the Field Ditch 3 in the review area was not constructed in wetlands. The soil survey indicates non-hydric soils within the constructed footprint of Field Ditch 3 (Draper Loam, 0-1 percent slope).



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Field Ditch 4	218	linear feet	(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).	The reach of the Field Ditch 4 within the review area was constructed in uplands and was not constructed within or relocates an (a)(2) water. Per the topographical maps (dated 1898, 1955, & 2020) the reach of the Field Ditch 1 within the review area was constructed outside the channel of any tributary. The National Wetland Inventory map support the absences of wetlands occurrence in the constructed footprint of Field Ditch 1. USDA soil survey maps also confirm that the reach of the Field Ditch 1 in the review area was not constructed in wetlands. The soil survey indicates non-hydric soils within the constructed footprint of the Field Ditch 4 (Moulton Loam, 0-1 percent slope, Moulton Fine Sandy Loam, 0-1 percent slope).

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 and Water of the US report South Cemetery Road; SH-44 to Willow Creek Middleton, Canyon County, Idaho dated August 27, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: Site photos of data pits, soils and vegetation are found in Appendix B of the Wetland Delineation and Water of the US report titled; South Cemetery Road, SH-44 to Willow Creek Middleton, Canyon County, Idaho dated August 27, 2020.](#)

[Aerial imagery: Google Earth imagery dated: July 18, 2018; June 29, 2017; April 1, 2016.](#)

Corps site visit(s) conducted on: [July 21, 2020 with Mike McConnell \(Horrocks Engineers\) in attendance. See field notes document titled; 2016-00168 Field Notes_20200721, for site details.](#)

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: [Wetland Delineation and Water of the US report South Cemetery Road; SH-44 to Willow Creek Middleton, Canyon County, Idaho dated August 27, 2020., pages 58-60.](#)

USFWS NWI maps: [NWW-2016-00168 NWI Map, Map derived from colored infrared, Dated 1980's, Scale 1:58K, dated August 6, 2020](#)

USGS topographic maps: [Nampa Quadrangle topo map, dated 1898, Scale 1:125K; Boise Quadrangle topo map, dated 1955, Scale 1:250K; Caldwell Quadrangle topo map, dated April, 2020, Scale 1:24K](#)

Other data sources used to aid in this determination:



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REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	StreamStats Report, Mill Slough, dated July 20, 2020; StreamStats Report, Willow Creek, dated August 11, 2020; StreamStats (PROSPER tool), dated July 21, 2020; National Hydrography Dataset classification, dated August 5, 2020
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	Idaho State Historic Preservation Office - Historical Site Inventory (10-CN-116) IDEQ- Lower Boise River Watershed Advisory Group KMZ Layer of Treasure Valley irrigation features.
Other Sources	N/A.

B. Typical year assessment(s): APT dated May 24, 2016 of the center point of the review area found that wetland delineation and aquatic resource review occurred within a drier than normal condition during a mild drought, however all of the hydrology provided to the jurisdictional resources are regulated by irrigation diversions and man-made irrigation systems.

APT dated July 21, 2020 of the Mill Slough found that field visit and associated aquatic resource review occurred within a wetter than normal condition, however all of the hydrology provided to the jurisdictional resources are regulated by irrigations diversion and man-made irrigation systems.

No analysis of typical year took place for the jurisdictional evaluation of wetlands 1-2 since the non-jurisdictional feature conveying flow to the Boise River an (a)(2) water was determined to be a ditch which has no flow requirements to meet the (b)(5) exclusion.

C. Additional comments to support AJD:

Hydrologic surface connection flow path:

Willow Creek currently receives a supply of water from C-Line East Canal located at (43.747962° , - 116.544952°) which receives a supply from Black Canyon Canal from Black canyon reservoir. The reach of Willow Creek within the review area flows to the Boise River a RM 24.7 which flows to the Snake River at RM 395.5. The Snake River has been determined to be navigable under Section 10 of the Rivers and Harbors Act at RM 445.5.

Mill Slough receives a supply of water from Middleton Canal which receives water from Foothill Ditch which redirects water from the Boise River near lat 43.691297°, long -116.396498°. The reach of Mill Slough within the review area flows to the Boise River a RM 24.9 which flows to the Snake River at RM 395.5. The Snake River has been determined to be navigable under Section 10 of the Rivers and Harbors Act at RM 445.5.

Downstream flow duration:

Topo maps, USGS Hydrography dataset, USGS stream gauges (13206000 13213000, Boise River; 13213100, Snake River) and aerial imagery show the stream reaches of the Boise and Snake rivers leading down to the Section 10 water are perennial waterways.

Snowpack:

An average of 8 inches of snowfall could contribute to the spring melt. Middleton Idaho has on average



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

18.34 days within a calendar year with a snow depth of 1 inch or more (<http://www.usa.com/middleton-id-weather.htm>, <https://www.ncdc.noaa.gov/snow-and-ice/daily-snow/ID/snow-depth>, <https://data.nodc.noaa.gov/cgi-bin/iso?id=gov.noaa.ncdc:C00861>).

Elevation data for inundation:

There is no hydrologic surface connection between the non-jurisdictional wetlands (wetland 1 and 2) and Mill Slough. The non-jurisdictional wetlands and Mill Slough are separated by a subdivision.