



**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): 9/23/2020
 ORM Number: NWW-2020-354-I02
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Idaho City: near Preston County/Parish/Borough: Franklin
 Center Coordinates of Review Area: Latitude 42.135516 Longitude -111.92329

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
Bear River	12.57 acre(s)	(a)(1) Water is currently used, was used in the past, or may be susceptible to use in interstate or foreign commerce, including waters subject to the ebb and flow of the tide (CWA Section 404 ONLY).	The Bear River headwaters are located in Utah, flows through Wyoming and Idaho and then back into Utah where it terminates in the Great Salt Lake. The river has been used in the past to float railroad ties to various locations along the river. Additionally, the river is currently subject to recreational navigation.

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.



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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Battle Creek	1.46	acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Battle Creek is a perennial stream as evidenced by USGS Quad Sheets and the Delineation Report provided by the property owner. Battle Creek flows into or is tributary to the Bear River. The confluence of Battle Creek and the Bear River is located on the southeast corner of the property.

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
Pond 2	0.17	acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	This pond is located in the riparian area along the Bear River within wetland complex Z. The Delineation Report indicates that the pond flows into the Bear River.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland M	2.72	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland N	0.99	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland O	0.29	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland P	1.44	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland Q	3.93	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland R	0.24	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland S	0.28	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland T	0.64	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland U	10.78	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland V	47.03	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland W	1.04	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland X	0.14	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland Y	0.48	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River
Wetland Z	0.23	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See Wetland Delineation Report and map showing that wetland is abutting the Bear River

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	8.80	acre(s)	(b)(7) Artificially irrigated area, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease.	See Delineation Report for rationale supporting this wetland as excluded because it is an area that is wetland because of the application of irrigation water. Limited ground water monitoring seems to support that the water table in this wetland is heavily influenced by the application of irrigation water as the water table level rises at the start of the application of irrigation water. Additionally, while still meeting wetland criteria the area is topographically high that surrounding wetland that contains deep wetlands that would likely persist even in the absence of irrigation water. Lastly Google Earth aerial imagery from 2003 shows irrigation water flooding the surface of the area.
Wetland B	0.74	acre(s)	(b)(1) Non-adjacent wetland.	See Delineation Report for rationale supporting this wetland as excluded because it is an area that is wetland because of the application of irrigation water. Limited ground water monitoring seems to support that the water table in this wetland is heavily influenced by the application

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.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			of irrigation water as the water table level rises at the start of the application of irrigation water. Additionally, while still meeting wetland criteria the area is topographically high that surrounding wetland that contains deep wetlands that would likely persist even in the absence of irrigation water. Lastly Google Earth aerial imagery from 2003 shows irrigation water flooding the surface of the area
Wetland C	14.12	acre(s)	(b)(1) Non-adjacent wetland. See Delineation Report for rationale supporting this wetland as excluded because it is an area that is wetland because of the application of irrigation water. Additionally, while still meeting wetland criteria the area is topographically high that surrounding wetland that contains deep wetlands that would likely persist even in the absence of irrigation water. An irrigation ditch diverts water from Battle Creek on the north part of the property and terminates in the field with topography sloping North to South.
Wetland D	0.27	acre(s)	(b)(1) Non-adjacent wetland. See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Wetland E	1.83	acre(s)	(b)(1) Non-adjacent wetland. See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Wetland F	0.67	acre(s)	(b)(1) Non-adjacent wetland. See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Wetland G	0.09	acre(s)	(b)(1) Non-adjacent wetland. See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Wetland H	0.12	acre(s)	(b)(1) Non-adjacent wetland. See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Wetland I	0.12	acre(s)	(b)(1) Non-adjacent wetland. See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Wetland J	0.24	acre(s)	(b)(1) Non-adjacent wetland.	See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Wetland K	0.06	acre(s)	(b)(1) Non-adjacent wetland.	See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Wetland L	0.08	acre(s)	(b)(1) Non-adjacent wetland.	See the wetland delineation map provided as part of the Delineation Report. The map clearly shows that this feature is surrounded by uplands and does not have a direct surface hydrologic connection to an a(1)-(3) water.
Ditch 1	0.027	acre(s)	(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 was excavated/constructed in upland.
Ditch 2	0.001	acre(s)	(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 was excavated/constructed in upland.
Ditch 3	0.033	acre(s)	(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 was excavated/constructed in upland.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch 4	0.156	acre(s)	(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 was excavated/constructed in upland.
Ditch 5	0.046	acre(s)	(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 was excavated/constructed in upland.
Ditch 6	0.029	acre(s)	(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 was excavated/constructed in upland.
Ditch 7	1.865	acre(s)	(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 was excavated/constructed in upland.
Pond 1	0.44	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake	This pond was excavated/constructed in upland.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		or pond is not an impoundment of a jurisdictional water that meets (c)(6).	

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: [Boa Ogoi Restoration Project 349-acre Survey Area Aquatic Restoration Report Preston, Franklin County, Idaho. July 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Select. Title\(s\) and/or date\(s\).](#)
- 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: [NRCS \(Web Soil Survey\) also included in the Aquatic Resources Report.](#)
- USFWS NWI maps: [USFWS \(Wetland Mapper\) also included in the Aquatic Resources Report.](#)
- USGS topographic maps: [1:24k \(Banida\)](#)

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): [The Antecedent Precipitation Tool indicates that sampling occurred during a drought/under drier than normal conditions. It doesn't appear however that these conditions affected the delineation as all upland sample points also didn't have wetland vegetation and/or hydric soils.](#)

C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)