



**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): 8/11/2021
 ORM Number: NWW-2017-00720
 Associated JDs: NWW-2017-00720 AJD issued July 2, 2018
 Review Area Location¹: State/Territory: Idaho City: Challis County/Parish/Borough: Custer
 Center Coordinates of Review Area: Latitude 44.504169° Longitude -114.244615°

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
N/A.	N/A.	N/A.	N/A.

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
N/A.	N/A.	N/A.	N/A.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 3	0.7	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 3 has no physical connectivity, is not inundated by flooding from, and is separated by an artificial barrier from an (a)(1)-(a)(3) water during a typical year. Wetland 3 is surround by either uplands or roadways that act as levees restricting any typical year hydrologic surface connection to other jurisdictional aquatic resources identified in the previous July 2, 2018 AJD determination (NWW-2017-00720).

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: [Bionomics Environmental, Inc.](#) “Waters of the U.S. and Wetland Delineation Report” November 20, 2017.

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [Arid West, Wetland 3 Data Point, June 23, 2021](#)

Photographs: [Aerial and Other: Aerial Imagery: Google Earth \(Oct 6, 2014, July 13, 2013, June 23, 2009, Sept 13, 1998\); Site photographs: Appendix B \(pg 28\), Bionomics Environmental, Inc. “Waters of the U.S. and Wetland Delineation Report” November 20, 2017](#)

Corps site visit(s) conducted on: [June 23, 2021 site visit verified that the wetland 3 boundary has not changed since the 2017 delineation. The site visit confirmed that wetland 3 has had minor changes in the vegetative strata or percent cover at the site. The current vegetative condition concurs with the previous determination that the site met the vegetative parameter for a wetland per the Arid West regional supplement. A restrictive layer was observed at wetland 3 data pit site confirming the previous 2017 field evaluation for soils. The soils meet the problematic hydric soils conditions for “Seasonally Pondered Soils”, per the Arid West Regional Supplement Chapter 5 Difficult Wetland Situations. The hydrology primary indicator, water stained leaves was present during the June 23, 2021 site evaluation. No culverts or other features were present to create a hydrologic surface connection between wetland 2 and wetland 3 during a typical year.](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [NWW-2017-00720, Issued July 2, 2018](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [Appendix C, Bionomics Environmental, Inc. “Waters of the U.S. and Wetland Delineation Report” November 20, 2017](#)

USFWS NWI maps: [NWW-2017-00720 , NWI Map, Dated July 12, 2021](#)

USGS topographic maps: [Title\(s\) and/or date\(s\).](#)

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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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):** July 12, 2021 APT assessment of the 2017 and 2021 field verifications confirmed that the site conditions of both field evaluation occurred during normal conditions of a typical year.
- C. Additional comments to support AJD:** The Navigable Waters Protection Rule: Definition of “Waters of the United, 85 Fed Reg. 22279 (April 21, 2020) - NWPR states “Jurisdiction of the wetland is severed when, in a typical year, an artificial feature does not allow for a direct hydrologic surface connection between the wetland and the jurisdictional water”.