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): April 27, 2020

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Walla Walla District; NWW-2019-00263, Almeida-Canyon Canal Agricultural Conversion

C. PROJECT LOCATION AND BACKGROUND INFORMATION: .
State: Idaho County/parish/borough: Canyon City: Middleton
Center coordinates of site (lat/long in degree decimal format): 43.705823° Lat. -116.591837° Long.
Universal Transverse Mercator: Zone 11 Northing 4839281.03 **N**, Easting 532885.37 **E**.
Name of nearest waterbody: Canyon Canal
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Boise River
Name of watershed or Hydrologic Unit Code (HUC): 170501140410; Mill Slough-Boise River
☒ 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: 2019-08-12
☒ Field Determination. Date(s): 30 May 2019

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 waters[2] (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: 2,500 linear feet: 15 width (ft) and/or 0.87 acres.
      Wetlands: 0 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**
      Elevation of established OHWM (if known):2,407 feet above sea level.

[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).

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:

The site in question is approximately 1 acre of a 1.7 acre wetland depression. At one point in time, the site in question was likely part of the Mill Slough, as identified on USGS Middleton Quadrangle (7.5 minute, Rev. 1971). However, the Treasure Valley, which includes the Boise Metro Area and the site in question, has been heavily modified by agricultural irrigation practices since the late 1800's. Aquatic resources in proximity to the site in question are likely a combination of irrigation delivery and natural run-off. According to aerial imagery from 18 July 2018 (Google Earth), this slough now appears to be mostly converted or diverted into irrigation conveyances. The Canyon Canal is the closest irrigation feature (RPW) to the site in question. According to the USFWS National Wetland Inventory (accessed May 28, 2019) for this area, there is very little wetland estimated to be present in the historic Mill Slough; only two patches of about 2 acres each and two patches under 1 acre was inventoried. According to the NRCS Web Soil Survey (accessed May 28, 2019), the site in question is mainly "chance fine sandy loam" and likely meets the definition of a hydric soil; surrounding soils were various other loams. Depth to water table for the site in question was estimated to be between 0 and 25 inches. When viewing satellite imagery, two possible inlets were observed: One inlet on the southern and one on the eastern edge of the wetland. The southern inlet was previously connected to the Canyon Canal, but a majority of the channel was filled sometime between 1992 and 2002 (according to Google Earth satellite imagery) and no longer surficially connects to the Canyon Canal.

On May 30, 2019, a crew of USACE personnel performed a wetland delineation of this site (with the property owner's permission), including a full survey of the 2 acre complex for inlets and outlets (with the adjacent property owner's permission). The water line on-site was approximately 5-6 feet below much of the surrounding landscape. Areas adjacent to this waterline at similar elevation were dominated by various rushes (i.e., spike rush, cattails, etc.) ranging from "OBL" to "FAC". Soils in these areas also had evidence of redox. Other indicators of hydric soils were faint or not present; however, lack of strong indicators beyond redox features was likely due to the agricultural development of the surrounding landscape. A water table was evident in these areas at a depth just over 1 foot, and saturation was evident within a foot. Considering these observations, the area in question meets the definition of a "wetland".

For wetlands to be considered waters of the U.S., it must meet one of the following criteria:

1. **The wetland is adjacent to a Traditional Navigable Water (TNW)**
2. **The wetland is directly abutting a relatively permanent water (RPW)**
3. **The wetland is adjacent to an RPW, non-RPW, and/or wetlands that have a significant nexus with a TNW**

The nearest TNW to the wetlands in question is the Boise River, which is approximately 0.90 miles to the southwest at its closest point (as the crow flies). Therefore, the wetland is not adjacent to a TNW and does not meet the first criteria. The nearest RPW is the Canyon Canal, which passes closest to the site approximately 300 feet to the south. Therefore, the wetland also does not directly abut an RPW and does not meet the second criteria. However, the wetland may be considered adjacent to the Canyon Canal and may meet the third criteria. As such, a significant nexus evaluation was conducted.

[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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 waterbody[4] 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: 880,800 acres
Drainage area: 880,800 **acres**
Average annual rainfall: 12 inches
Average annual snowfall: 20 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☒ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: N/A.

Identify flow route to TNW[5]: .
Tributary stream order, if known: .

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

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

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: Canyon Canal is an irrigation feature that may utilize portions of historic Mill Slough.

Tributary properties with respect to top of bank (estimate):
Average width: 15 feet feet
Average depth: 5 feet feet
Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

☒ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover: Estimated to be reed canary grass and other vegetation typical of irrigation canals in the area. A survey was not completed in Canyon Canal, but a survey was conducted in adjacent wetlands; see below for more details on the vegetation found in that area.	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Canyon Canal is an irrigation feature maintained by Canyon County Water Co.; therefore, it is expected to have a roughly trapezoidal form and have flow strictly managed (i.e., limited if any flooding/floodplain, no flows in irrigation off-season).
Presence of run/riffle/pool complexes. Explain: None (irrigation feature).
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): 0.17% (drops approximately 45 feet in elevation over its length of approximately 25,500 linear feet).

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: Flows are expected to be consistent in Canyon Canal from April through October as dictated by irrigation districts.
Other information on duration and volume: cfs is unknown but expected to remain relatively consistant throughout irrigation season (i.e., is managed by the irrigation districts according to their needs).

Surface flow is: **Discrete and confined.** Characteristics: Flow is likely to remain relatively constant throughout irrigation season of April through October, ceasing altogether during the irrigation off-season.

Subsurface flow: **Yes, but limited**. Explain findings: Land owners adjacent to the ditch claim that water in the wetland on their property appears and recedes with the irrigation season, and Canyon Canal is the nearest irrigation feature to this wetland..
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☒ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☒ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community
☐ other (list):	

☐ Discontinuous OHWM.[7] Explain: .

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

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

[6]A 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.
[7]Ibid.

☐ tidal gauges
☐ other (list):

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Turbidity is variable depending on the inputs from a multitude of upstream activities.

Identify specific pollutants, if known: Agricultural and residential runoff (i.e., sediment and chemicals).

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

☐ Riparian corridor. Characteristics (type, average width): .

☒ Wetland fringe. Characteristics: Estimated to be reed canary grass and other vegetation typical of irrigation canals in the area. A survey was not completed in Canyon Canal, but a survey was conducted in adjacent wetlands; see below for more details on the vegetation found in that area..

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: Potential habitat for waterfoul, amphibians, and other species typically found near irrigation features.

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:1.7 acres

Wetland type. Explain:Emergent.

Wetland quality. Explain:No functional value assessment was conducted, but wetlands are assumed to have low value based on observations during site visit. Wetland is surrounded by agricultural production and residences..

Project wetlands cross or serve as state boundaries. Explain: N/A.

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: Irrigation features have seasonal flow from April through October as controlled by irrigation districts.

Surface flow is**: Discrete and confined**

Characteristics: Surface flow occurs in an irrigation feature.

Subsurface flow: **Unknown**. Explain findings: No testing was completed to verify subsurface flow; however, property owners state that wetland water level will recede when irrigation flows cease..

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☐ Directly abutting

☒ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☒ Separated by berm/barrier. Explain: Wetland is a depressional feature that has been severed from the Canyon Canal; the wetland is located 300 feet away and is assumed to be severed by filling activities occurring between 1992 and 2002 (based on satellite imagery).

(d) Proximity (Relationship) to TNW

Project wetlands are **5-10** river miles from TNW.

Project waters are **1-2** aerial (straight) miles from TNW.

Flow is from: **Navigable waters to wetland.** (Unnamed irrigation ditches flow into the wetland; these ditches appear to diverge from Canyon Canal, which diverges from the McHenry Lateral, which diverges from Dry Creek Canal, which diverges from the Boise River, a TNW).

Estimate approximate location of wetland as within the **100 - 500-year** 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 is mildly turbid, wetland has no visible surface outlet, water levels fluxuate with irrigation season, may be part of old Mill Creek Slough.

Identify specific pollutants, if known: Wetland is located adjacent to agricultural land and facilities, but water was not tested for specific polutants.

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

☒ Riparian buffer. Characteristics (type, average width):Reed canary grass and other vegetation typical of irrigation features in the area is present in riparian fringe.

☒ Vegetation type/percent cover. Explain:Various rushes, cattail, curly dock, spike weed, veronica, wild rye, dandilion, clover, and unknown grasses (mowed); vegetation was densly present in water below water mark..

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings:Potential habitat for waterfoul, amphibians, and other species typically found near irrigation features.

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

All wetland(s) being considered in the cumulative analysis: **1**

Approximately (1.7) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
N	1.7		

Summarize overall biological, chemical and physical functions being performed: No survey of the wetland functions has been performed; however, it is assumed that the wetland will remove agricultural pollutants from run-off that may enter during storm events or if water is diverted into the wetlands, also acting as a physical sink for excess run-off. Vegetation within the wetland is prevalent and generally categorized as "emergent". The wetland and adjacent waters provide minor habitat value to waterfoul, amphibians, and other fauna that are typical of irrigation features in the region. No fish are known to be present.

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: Spillover from an unnamed user ditch, located south and west of the wetland, may occur during high flows, but the ditch does not appear to provide a defined surficial hydrologic connection to the wetland: This ditch does not carry channelized surface flow to the wetland, nor does the wetland drain into the ditch. This unnamed user ditch is elevated compared to the wetland

and could not function as an outlet channel. On the eastern edge of the wetland, there is another elevated user ditch that runs adjacent to the wetland, elevated by approximately 3-4 feet, that empties directly into the wetland. It appears to have been recently modified to carry water to the wetland area on the property boundary between the applicant and adjacent owner (on the adjacent owner's side of the fence). However, this unnamed user ditch was not flowing at the time of the delineation, which was during the irrigation season. If used at all, this eastern unnamed user ditch is expected to minimally contribute surface flow to the water levels in the wetland, and it cannot function as an outlet due to its relative elevation. Over the course of the wetland delineation and further investigation of available information, no other potential outlet points were identified. According to the property owner, the wetland goes dry when adjacent irrigation resources are "turned off" for the season (between October and April), and water returns with the return of irrigation flows in the spring, which indicates a wetland influenced by sub-surface seepage of irrigation features (i.e., groundwater influence). Considering the above information, the wetland may receive limited, occasional surficial input from waters of the U.S., but it does not appear to discharge any water surficially to waters of the U.S. or otherwise.

While Canyon Canal flows directly to the Boise River, the reach being assessed for this significant nexus evaluation measures approximately 0.80 miles between confluences upstream (McHenry Lateral) and downstream (Mill Slough). A precise determination of stream order was not performed, on account of irrigation systems having numerous, complex diversions that do not necessarily follow the pattern of a natural stream system. The wetland in this determination is the only one adjacent to this reach of the tributary.

Canyon Canal, including the tributary reach mentioned above, has the capacity to carry pollutants or nutrients to the Boise River during the irrigation season (it is assumed that flows are not present during the irrigation off-season of October through April, as described by the landowner) The adjacent wetland is presumed to retain agricultural and residential runoff; given the size of the wetland (1.7 acres), this contribution could be more than speculative relative to the length of tributary reach (roughly 1/2 mile). owever, there is no obvious surface or sub-surface connection where the adjacent wetlands would drain into Canyon Canal. Therefore, there is no indication that pollutants or nutrients from this wetland would be able to reach Canyon Canal, as they are separated by roughly 300 feet and are at equal elevations on average; the wetland itself as well as groundwater filtration would likely remove any pollutants even if there were a sub-surface connection. Due to the seasonal flow of Canyon Canal and seasonal inundation of the adjacent wetland, neither resource offers fish habitat. It is also presumed that other species would not utilize the tributary or wetland year-round; however, they may provide food and shelter for animals passing through the area, particularly waterfowl. The adjacent wetland is separated from Canyon Canal by agricultural development (crops and corrals), which severely inhibits or severs ecological connectivity between these resources.

Given the above factors (no obvious surface or sub-surface outlet, seasonal flow/inundation, poor and disconnected habitat, inability to prove more than a speculative effect), it has been determined that there is not a significant nexus between this tributary, its adjacent wetland, and the Boise River. There are no other similarly situated wetlands along this relevant reach of Canyon Canal.

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 width (ft), 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: .
- ☒ 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: RPW is known as Canyon Canal, which is under the jurisdiction of the Canyon County Irrigation Co., and flows from April to October during the annual irrigation season. This canal may be partially constructed in the historic Mill Creek Slough.

Provide estimates for jurisdictional waters in the review area (check all that apply):
- ☒ Tributary waters: **2,500** linear feet **15** width (ft), starting at the confluence of Canyon Canal with the McHenry Lateral and ending approximately 2,500 linear feet downstream in Canyon Canal where it begins flowing away from the wetland feature.
- ☐ Other non-wetland waters: acres.
  Identify type(s) of waters: .

3. Non-RPWs[8] 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 width (ft).
- ☐ Other non-wetland waters: acres.

[8]See Footnote # 3.

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 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area:

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.

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 width (ft).
- ☐ 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.

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[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.*

☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  ☒ 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: No outlet was observed for the entire wetland area, though there had historically been an outlet draining the wetland to the south up until at least 1992, which was plugged sometime between 1992 and 2002 (according to Google Earth sattelite imagery accessed June 24, 2019). Additionally, while the wetland has been observed by landowners to dry up during the irrigation off-season (i.e., are likely influenced by irrigation features), there is no evidence that the wetlands release this water directly into Canyon Canal, an RPW that connects to the Boise River, which is a TNW. Furthermore, the wetlands are disconnected from the Boise River by nearly a mile and are disconnected from Canyon Canal by 300 feet of crops or corrals; no significant ecological connection is evident. Therefore, as there is no known connection to either Canyon Canal or the Boise River directly, the wetlands present no more than a speculative effect on the chemical, biological, and physical integrity of the Boise River.

☐ 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 width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 1.7 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, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 1.7 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):
☒ 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.
  ☐ Office concurs with data sheets/delineation report.
  ☐ Office does not concur with data sheets/delineation report.
☒ Data sheets prepared by the Corps:Site visit conducted May 30, 2019.
☐ Corps navigable waters' study: .
☒ U.S. Geological Survey Hydrologic Atlas:Digital NHD data as a Google Earth KML layer.
  ☒ USGS NHD data.
  ☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: USGS Middleton Quadrangle (7.5 minute, Rev. 1971)
☒ USDA Natural Resources Conservation Service Soil Survey. Citation:NRCS Web Soil Survey for Canyon County, Idaho.
☒ National wetlands inventory map(s). Cite name:U.S. Fish and Wildlife Service Wetlands and Riparian Mapper for Google Earth.
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date):Google Earth satellite imagery (1992-2018).
  or ☒ Other (Name & Date):EVWHS Digital Globe satellite imagery (2015-2019).
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: Based on a review of the delineation conducted by USACE personnel on May 30, 2019, as well as desktop and online resources, it has been determined that the aquatic resources found within the review area are not jurisdictional under Section 404 of the Clean Water Act.