

JURISDICTIONAL DETERMINATION

APPLICANT: Clearwater County

PROJECT LOCATION/WATERWAY: Clearwater River, Sec. 7, T.36 N., R.2 E., B.M., Clearwater County, Idaho

FILE NUMBER: NWW No. 040600056

PROJECT REVIEW COMPLETED: [X]Office []Field

Jurisdictional Determination (JD): (For sites regulated under 33 CFR 320-330)

- [] Preliminary JD - Based on available information, [] there appear to be or [] there appear to be no "waters of the United States" or "navigable waters of the United States" on the project site. A preliminary JD is not appealable.
[X] Approved JD - [X] There are or [] there are no "waters of the United States" or "navigable waters of the United States" on the project site. An approved JD is an appealable action (Reference 33 CFR 331).
(Note: JDs prepared by the Environmental Protection Agency are not appealable to the Corps of Engineers)

Basis of Jurisdictional Determination:

Waters defined under 33CFR 328.3(a) as "waters of the United States":

- [X] (1) The presence of waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
[] (2) The presence of interstate waters including interstate wetlands1.
[] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters:
[] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
[] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
[] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
[] (4) Impoundments of waters defined as a Water of the US.
[X] (5) The presence of a tributary to a water identified in (1) - (4) above.
[] (6) The presence of territorial seas.
[] (7) The presence of wetlands adjacent2 to interstate or other waters of the US, except for those wetlands adjacent to other wetlands.

Waters defined under 33CFR 329 as "navigable waters of the United States":

- [] The presence of 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.

Rationale for Basis:

The Clearwater River has been utilized to transport logs to downstream sawmills, it is also used by out of state recreationists for boating and fishing. The Clearwater River flows into the Snake River, an interstate, navigable waterway.

Lateral Extent of Jurisdiction: (Reference: 33 CFR 328 and 329)

- [X] Ordinary High Water Mark indicated by: [] High Tide Line indicated by:
[X] clear, natural line impressed on the bank [] oil or scum line along shore objects
[] the presence of litter and debris [] fine shell or debris deposits (foreshore)
[] changes in the character of soil [] physical markings/characteristics
[X] destruction of terrestrial vegetation [] tidal gages
[X] shelving [] other:
[] other: _____

- [] Mean High Water Mark indicated by:
[] survey to available datum; [] physical markings; [] vegetation lines/changes in vegetation types

- [] In ocean or coastal area, site is within a zone three geographic (nautical) miles seaward of the baseline3

- [] Wetland, as shown on the attached wetland delineation map and/or in a jurisdictional report prepared by: _____

[] Additional supporting information attached:

Preparer: Duane E. Mitchell Date: August 30, 2004

1Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

2The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

3Baseline is the line on the shore reached by the ordinary low tides from which the distance of three miles is measured. Revised 7/9/03