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): January 25, 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Walla Walla District; Cardis, John T; Palisades Creek Subdivision; Palisades Creek, 1 abutting wetland and 3 adjacent wetlands; NWW No. 2007-233

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Idaho County/parish/borough: Bonneville City: near Irwin, Idaho
Project Location:
Latitude (NAD83) 43.3864397995423; Longitude (NAD83) -111.228649249406
UTM Zone 12; X Coordinate 481480.394241015; Y Coordinate 4803755.11691414
PLSS: Township 1 N; Range 44 E; Section 25; Meridian Boise.
USGS 1:24K Quad Name ID-THOMPSON PEAK
Name of nearest waterbody: Palisades Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Snake River.
Name of watershed or Hydrologic Unit Code (HUC): Palisades. Idaho, Wyoming, 8 Digit Huc 17040104
☒ 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:
☒ Field Determination. Date: September 18, 2007

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.
☐ 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** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

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: **Palisades Creek.**
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☒ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs: **Wetland A.**
      ☒ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs. **Wetlands B, C and D.**
      ☐ 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: **Palisades Creek**, approximately 2000linear feet.
      Wetlands: **Wetland A abuts Palisades Creek and is 0.31 acres.**
      Wetland B is adjacent to Palisades Creek and is 0.63 acres.
      Wetland C is adjacent to Palisades Creek and is 0.25 acres.
      Wetland D is adjacent to Palisades Creek and is 0.94 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual and Ordinary High Water Mark**
      Elevation of established OHWM (if known): .

[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: .

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**: Section B.1 applies to PALISADES CREEK**

   (i) General Area Conditions:
   Palisades Creek Watershed size is approx. 64 square miles
   Drainage area on Palisades Creek upstream of project site is approx. 60 square miles.
   Average annual rainfall: mean annual precipitation 29 inches
   Average annual snowfall: greater than 24 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 **1 (or less)** river miles from TNW.
   Project waters are **1 (or less)** river miles from RPW.
   Project waters are **1 (or less)** aerial (straight) miles from TNW.
   Project waters are **1 (or less)** aerial (straight) miles from RPW.

[3] Supporting documentation is presented in Section III.F.
[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Project waters cross or serve as state boundaries. Explain: **Palisades Creek's headwaters originate in Wyoming.**.

Identify flow route to TNW[5]: **Palisades Creek flows into the Snake River**.
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply): **Palisades Creek**
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: **lower sections have been repeatedly armored, relocated and leveed.**

Tributary properties with respect to top of bank (estimate):
Average width: 40 to 70
Average depth: 0.8 to 2 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:	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: stable .
Presence of run/riffle/pool complexes. Explain: yes.
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): 30 plus %

(c) Flow: **Palisades Creek**
Tributary provides for: **perennial**
Estimate average number of flow events in review area/year: **2-5**
Describe flow regime: Perennial flow. High in spring due to snow melt and declining throughout summer..
Other information on duration and volume: .

Surface flow is: **Discrete and confined**. Characteristics: .

Subsurface flow: **Unknown**. Explain findings: .
☐ 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.
☐ tidal gauges	
☐ other (list):	

(iii) Chemical Characteristics:

[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.
[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.

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: .
Identify specific pollutants, if known: .

(iv) Biological Characteristics. Channel supports (check all that apply):
☒ Riparian corridor. Characteristics (type, average width): extremely variable.
☒ Wetland fringe. Characteristics: same as riparian but narrower.
☒ Habitat for:
☐ Federally Listed species. Explain findings: .
☒ Fish/spawn areas. Explain findings: locally well known fishery.
☐ Other environmentally-sensitive species. Explain findings: .
☒ Aquatic/wildlife diversity. Explain findings: waterfowl and other birds use the creek.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW: <u>WETLANDS A, B, C and D.</u>

(i) Physical Characteristics:
(a) <u>General Wetland Characteristics:</u>
Properties:
Wetland size: **Wetland A is 0.31 acres.**
Wetland B is 0.63 acres.
Wetland C is approximately 0.25 acres.
Wetland D is approximately 0.94 acres in size.

Wetland type. Explain:
Wetland A is riverine as the wetland lies below and immediately above ordinary high water mark of Palisades Creek.
Wetland B and C are palustrine emergent and scrub-shrub with stands of hawthorn and willow shrubs mixed with wetland grasses and grass like plants.
Wetland D is palustrine emergent with none or very few shrubs.

Wetland quality. Explain: l**ow to moderate due to extensive grazing impacts and recent hydrologic modifications caused by cessation of pasture irrigation subsequent to conversion to subdivision.**

Project wetlands cross or serve as state boundaries. Explain: **No. However, please note Palisades Creek headwaters are in Wyoming.**

(b) <u>General Flow Relationship with Non-TNW</u>:
Flow is:
Wetland A is contiguous and neighboring Palisades Creek with wetlands both above and below ohwm.

Wetlands B and C have no current surface connection with Palisades Creek. Historically, area is within flood plains of creek. Agricultural settlement of the Palisades Creek valley resulted in alteration of creek's capacity to flood by berm construction. Without irrigation augments Wetland C and part of Wetland B would likely dry up and revert to uplands. A pond in Wetland B intersects Palisades Creek ground water but has no surface connection to the creek.

Wetland D is spring fed, perennial and if there is a connection to Palisades Creek it is infrequent. Discussions with owner of this other property reveal flow is captured into irrigation system and rarely returns to river. Connection cannot be ascertained without field work on another property.

Surface flow is**: Discrete for each wetland.**
Characteristics:
Wetland A. Wetlands are partially inundated during spring run off. Even during dry months of July, August and September a portion of the wetlands remains within river levels.

Wetlands B and C are both ground water and local runoff or irrigation dependent. Surface flow without irrigation will be brief during spring snow melt but ground water evident in small pond in Wetland B will be perennial with fluctuating water table.

Wetland D is a spring system with some overland sheet flow possible during snow melt periods.

Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

(c) <u>Wetland Adjacency Determination with Non-TNW:</u>
☒ **Directly abutting for Wetland A.**

☒ **Not directly abutting for Wetlands B, C and D.**

☒ **Discrete wetland hydrologic connection for a part of Wetland B related to shallow ground water which is part of and flows parallel to Palisades Creek base flow. A potential direct and discrete connection may exist for Wetland D but can not be determined without more ground research**.

☐ Ecological connection. Explain: .

☒ **Separated by berm/barrier for Wetlands B and C. Explain: Based on field examination a gravel and soil berm has been constructed separating Wetlands B and C from Palisades Creek. Without this berm surface flow would exit B and C to Palisades Creek**.

(d) Proximity (Relationship) to TNW: **All wetlands**
Project wetlands are **1 (or less)** river miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Flow is from: **Wetland to navigable waters.**
Estimate approximate location of wetland:
Wetland A starts in the floodway and is starts within the annual event.
Wetlands B, C and D are likely within the 25 year flood elevation.

(ii) Chemical Characteristics:
Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). **no surface water visible at time of inspection in Wetlands C and D and most of B. The shallow pond in B had clear water.**
Identify specific pollutants, if known: **coliform from cattle grazing should be expected.**

(iii) Biological Characteristics. Wetland supports (check all that apply):
☒ Riparian buffer. Characteristics (type, average width): **extremely variable.**
☒ Vegetation type/percent cover. Explain: **emergent and shrub. % cover not measured.**
☒ Habitat for:
☐ Federally Listed species. Explain findings:
☐ Fish/spawn areas. Explain findings:
☐ Other environmentally-sensitive species. Explain findings:
☒ Aquatic/wildlife diversity. Explain findings: **waterfowl, birds and large game use wetlands as well as livestock**.

3. Characteristics of all wetlands adjacent to the tributary:
All wetland(s) being considered in the cumulative analysis:
WETLANDS A B, C AND D on the project site and a downstream palustrine wetland depicted on NWI map on 7.5 minute Thompson Peak quadrangle.

Approximately **(43)** acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

	Directly abuts? (Y/N)	Size (in acres)
WETLAND A	**Y**	**0.31**
WETLAND B	**N**	**0.63**
WETLAND C	**N**	**0.25**
WETLAND D	**N**	**0.94**
unnamed Palustrine	**Y**	**40**

Summarize overall biological, chemical and physical functions being performed:

All site wetlands lie within the probable100 year flood limit of Palisades Creek. Morphologically they are created by water either in the creek (Wetland A) or emerging from the hyporheic zone of Palisades Creek (Wetlands B, C and D) and groundwater discharges from contributing small watersheds (Wetland D). All wetlands provide habitat for wildlife, including aquatic birds and mammals such as ducks and muskrats. All wetlands also provide important chemical functions to uptake and store nutrients in their stems and leaves as well as to release these nutrients through biochemical processes and decay.
Wetland A provides important physical functions helping to trap sediment within Palisades Creek. These wetlands are strongly influenced by beaver which are evident in the area. Beaver consume and use wetland flora, the most obvious is dam and lodge construction using riparian woody vegetation. Wetland A provides cover and food for other aquatic organisms such as invertebrates and fish.
Wetlands A, B, C and D provide flood storage capacity due to their concave physical form on the landscape. Wetland D is the largest and most intact. Its genesis appears to be from hyporheic water upwelling and ground water from the Palisades Valleys western slopes. Per conversation with the adjacent landowner, this wetland/spring is captured offsite and used for stock water before returning to Palisades Creek. Flow back to Palisades Creek is not annual and not verified.

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: .

As stated in B.3 above all the subject site wetlands provide chemical, physical and biological functions which affect Palisades Creek. Palisades Creek in turn affects the Snake River which is a TNW. Palisades Creek is an extremely dynamic creek of steep gradient and high energy. The valley it occupies displays evidence of a meandering channel. Upstream an obvious high flow channel or recent geologic channel remains visible. Based on personal communications over the past 14 years with residents and inspections after high water in 1996 and 1997 this creek is prone to lateral migration and moves boulders over 5 feet in diameter during high water events. The subject site shows signs of substantial creek side alterations and dirt levees/berms as well as attempts to irrigate pastures from wetland D. Wetlands B and C are highly altered from irrigation practices. There is field evidence that Wetland B and C may have been connected in the recent past (50 years) to Palisades Creek.

Wetland B and C currently have no surface connection to Palisades Creek however, there both provide attenuation and buffering functions to reduce upland soils runoff from entering Palisades Creek. Wetland C and parts of Wetland B are likely highly influenced by past irrigation practices and may cease to exist in the near future if irrigation flows are permanently discontinued. Wetland B includes a small pond excavated during 2007 construction activities and is obviously directly connected to the creeks hyporheic zone.

Wetland D is the least altered from past land use practices. It provides a possible direct link to Palisades Creek and clearly provides a discrete function of filtering and trapping sediment and nutrients.

The downstream unnamed palustrine wetland provides similar functions as Wetland A as it either straddles or abuts Palisades Creek.

In combination with Wetlands B, C, and D, Palisades Creek and its abutting Wetland A provide an important biological link to the Snake River. Downstream, of the project the Bureau of Reclamation operates a large irrigation diversion and fish trap. Palisades Creek provides an important link for Cutthroat Trout (CT) recovery of the Snake River. CT migrate from the Snake River and spawn in Palisades Creek. Palisades Creek's adjacent wetlands do provide a matrix of surface water treatment minimizing pollutant entry into the Creek which would adversely affect the CT and other fish. The subject wetlands also provide water for domestic livestock immediately downstream. Downstream are numerous homes, some 50 to 100 years old which likely have shallow wells drawing water from the creeks hyporheic zone. The site wetlands help attenuate pollutant entry into the shallow ground water of the hyporheic zone.

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. PALISADES CREEK**
   - ☒ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: Palisades Creek is perennial based on personal observations, and USGS quad mapping.
   - ☐ 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: .

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: **APPROX. 200 LINEAR FEET WITH WIDTH VARYING BETWEEN 40 AND 70 FEET**
   - ☐ 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.

   Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs. WETLAND A**
   - ☒ 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: **personal observations reveal perennial flow and direct connection to wetlands.**
     - ☐ 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: **0.31 acres**.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs. WETLANDS B, C AND D**
   - ☒ 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: **1.9 acres**.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

7. **Impoundments of jurisdictional waters.[9]**

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]

[8] See Footnote # 3.
[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.*

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

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: Maps provided by agent and wetland consultant.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant. Targhee Pass Wetland Services, Inc.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: .
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **satellite photos from database**.
  or ☒ Other (Name & Date):**ground photos taken by Corps and wetland consultant. Dates of photos vary.**
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify): **Personal observations made over past 14 years and Personal, undocumented conversations with land owners along creek over 14 year period.**.

B. ADDITIONAL COMMENTS TO SUPPORT JD: Palisades Creek is perennial. It is a large and substantial tributary to the South Fork Snake River, also referred to as the Snake River. The Snake River originates in Wyoming and runs through Idaho into Oregon and Washington before merging with the Columbia. The Snake River is navigable under Section 10 of the Rivers and Harbors Act until near Boise. Upstream of Boise it continues to be a traditionally navigable water of the U.S. supporting motorized and non-motorized commercial and private boat use as well as hydropower, commercial aquaculture and substantial irrigation.

Palisades Creek supports abutting wetlands within and immediately above the ordinary high water mark. In addition substantial wetlands are neighboring and proximate to the creek. These wetlands are part of the aquatic environment which provide chemical, biological and physical functions to Palisades Creek and the Snake River.