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 4, 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Walla Walla District, McNeil Development, 2007-993-I01

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Idaho County/parish/borough: Bonneville City: Idaho Falls
Center coordinates of site: Latitude (NAD83) 43.4866417063272; Longitude (NAD83) -112.047510217476
UTM: Zone 12; X Coordinate 415295.815085163; Y Coordinate 4815390.731175
PLSS: Township 2 N, Range 37 E, Section 24, Meridian Boise.
USGS 1:24K Quad Name ID-IDAHO FALLS SOUTH

Name of nearest waterbody: Snake River (Lower Power Plant Reservoir)
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Snake River
Name of watershed or Hydrologic Unit Code (HUC): Idaho Falls. Idaho; 8 Digit Huc 17040201
☒ 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: March 5, 2008
☒ Field Determination. Date(s): September 5, 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
☐ 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 (Lower Power Plant Reservoir)
☐ 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: **9500 feet by average width of about 450 feet.**
Wetlands: **0.38 acres at project site.**

c. Limits (boundaries) of jurisdiction based on: **1987 Delineation Manual and Ordinary High Water Mark**
Elevation of established OHWM (if known): **4676.7 (applicants data)**.

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: .

[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).
[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: **Snake River**.

Summarize rationale supporting determination: **The Snake River is an interstate water that crosses the state boundaries of Wyoming, Idaho, Oregon and Washington. The river supports extensive intrastate as well as interstate boating, kayaking, and rafting as evidenced by numerous private and public boat launches, ramps, and docks along its entire length in Idaho. There are numerous outfitters that offer guided fishing, white water rafting, jet boat, and float trips along the river. The entire river in Idaho is considered navigable in fact for purposes of Section 404 of the Clean Water Act. In addition, downstream and west of Boise the river is also a navigable water of the US for purposes Section 10 of the Rivers and Harbors Act. In addition, the river supports numerous hydroelectric dams, private and federal, which sell electricity on the interstate grid and which are licensed by Federal Energy Regulatory Commission. The introduction of sediment, debris or other pollutants would adversely impact its existing recreation and commercial uses.**

The section of the Snake River that is the subject of this JD is the 95 acres that comprise the Lower Power Plant Reservoir. There is a boat launch on the reservoir at the City of Idaho Falls park (South Tourist Park) that is used by numerous large motorboats for fishing and water skiing activities. The park which is right on the highway south of Idaho Falls, is visited frequently by out of state and foreign visitors as they travel between Boise and Yellowstone National Park and Grand Teton National Park. This use is documented on the web at: http://www.freecampgrounds.com/detail.aspx?id=299. The national parks are only 80 miles from the reservoir and the states of Montana and Wyoming borders. In addition, the dam which blocks the Snake River to create the Lower Power Plant Reservoir is used to generate hydropower for sale of electricity on the interstate grid andis licensed by Federal Energy Regulatory Commission.

A combination of factors listed above demonstrate Lower Power Plant Reservoir (on the Snake River) supports navigation and is susceptible to being used for water-based interstate commerce by interstate or foreign travelers. Collectively, the factors described above demonstrate that the Snake River is navigable-in-fact, and designated as traditionally navigable water (TNW) for purposes of the Clean Water Act jurisdictional determinations. Additional information and sourses are provided in Section IV below.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": **The project review area wetlands (0.38 acres) are very narrow and are contiguous with the river, in spots staring below the ordinary high water mark and extending landward, therefore the wetlands are adjacent to the Snake River.**

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

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

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: Not Applicable in this evaluation.**

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW: Not Applicable in this evaluation.**

3. **Characteristics of all wetlands adjacent to the tributary (if any): Not Applicable in this evaluation.**

C. SIGNIFICANT NEXUS DETERMINATION: Not Applicable in this evaluation.

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: **approximately 9500 linear feet** width (ft).
   ☒ Wetlands adjacent to TNWs: **0.38 acres**.

2. **RPWs that flow directly or indirectly into TNWs. Not Applicable in this evaluation.**

3. **Non-RPWs[5] that flow directly or indirectly into TNWs. Not Applicable in this evaluation.**

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs. Not Applicable in this evaluation.**

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs. Not Applicable in this evaluation.**

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs. Not Applicable in this evaluation.**

7. **Impoundments of jurisdictional waters.[6]**
   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).
   The subject waterway is the Snake River, more specifically the reservoir created by the City of Idaho Falls, aka Idaho Falls Power, Lower Power Plant Reservoir. This is a pool about 95 acres in size, almost 2 miles long. The reservoir provides capacity for the Lower Power Plant hydroelectric generation capacity.

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):[7] Not Applicable in this evaluation.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY): Not Applicable in this evaluation.

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: **Map provided with application**.
- ☐ 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: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.

[5] See Footnote # 3.
[6] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[7] **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.***

☒ U.S. Geological Survey map(s). Cite scale & quad name: **USGS 1:24K Quad Name ID-IDAHO FALLS SOUTH**.
☐ 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): **provided with application.**
or ☒ Other (Name & Date): **provided with application**.
☒ Previous determination(s). File no. and date of response letter: NWW No. 023300220, September 21, 2007.
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify):personal observations of boating use by Robert Brochu, Regulatory Project Manager. Website for information on use by out of state and foreign travelers: :http://www.freecampgrounds.com/detail.aspx?id=299

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Source: Walla Walla District Corps of Engineers, District Flood Response and Recovery Operation Plan, NWWOM 500-1-2, Appendix B, Annex 1, 27 July 2007, B-1-2, edited for suitability, including additional text.

The Snake River is located in the western part of the United States. The Snake River is 1,038 miles (1,670 kilometers) in length and is the Columbia River's main tributary. The Lewis and Clark Expedition (1803-06) was the first major United States exploration of the river, and the Snake River was once known as the Lewis River. The Snake River is the largest tributary of the Columbia River with a mean discharge of 50,000 cubic feet per second. It is divided into the upper, middle, and lower basins.

The Snake River originates near the Continental Divide in Yellowstone National Park in northwest Wyoming and flows south to Jackson Lake in Grand Teton National Park and past the town of Jackson. The river flows down Wyoming's Snake River Canyon, then enters Idaho at the Palisades Reservoir and joins with the Henrys Fork River near Rigby, Idaho.

The Snake River then swings down in an arc across southern Idaho, following the Snake River Plain. In doing so, it passes through the cities of Idaho Falls (and the American Falls Reservoir). Near Twin Falls, Idaho, the river flows into Idaho's Snake River Canyon over Shoshone Falls and under the Perrine Bridge. It then continues towards Boise and the Idaho/Oregon border. It then flows north through Hells Canyon, and past the cities of Lewiston, Idaho, and Clarkston, Washington. It then turns into Washington and finally joins the Columbia River near Pasco, Washington. Tributaries of the Snake include the Teton River, Henrys Fork River, the Boise River, the Salmon River, and the Clearwater River.

The Snake River's many hydroelectric power plants are a major source of electricity in the region. Its watershed provides irrigation for various projects, including the Minidoka, Boise, Palisades, and Owyhee projects by the U.S. Bureau of Reclamation, as well as a variety of private projects such as at Twin Falls.

The Snake River is home to a variety of outdoor sporting activities, including fly-fishing, hiking, biking, golf, and horseback riding. The Snake River runs through a number of gorges, including one of the deepest in the world, Hells Canyon, with a maximum depth of 7,900 feet (2,410 meters).

Dams on the main channel of the Snake River (from headwaters to termination) are the following:

- Wyoming (Upper Snake River):
  - Jackson Lake Dam, Jackson Lake
- Idaho (Upper and Middle Snake):
  - Upper Snake River:
    - Palisades Dam, Palisades Reservoir (federal and private boat launches and several small marinas)
    - Idaho Falls, four municipal dams (and several public boat docks and ramps).
    - American Falls Dam, American Falls Reservoir (several public ramps and docks)
    - Minidoka Dam
  - Middle Snake River:
    - Milner
    - Twin Falls
    - Shoshone Falls
    - Upper Salmon Falls Dam B
    - Upper Salmon Falls Dam A
    - Lower Salmon Falls Dam
    - Bliss Dam
    - C. J. Strike Dam, C. J. Strike Reservoir
    - Swan Falls Dam
    - Brownlee Dam
    - Oxbow Dam
    - Hells Canyon Dam

• Washington (Lower Snake River):
Lower Granite Lock and Dam, Lower Granite Lake
Little Goose Lock and Dam, Lake Bryan
Lower Monumental Lock and Dam, Lake Herbert G. West
Ice Harbor Lock and Dam, Lake Sacajawea

Source: Personal observations of Robert Brochu, Regulatory Project Manger. The Snake River at the project site is accessible by 1 public boat launch operated by the City of Idaho Falls at the South Tourist Park. Mr. Brochu has boated this river and observed numerous large motorboats (18 to 25 feet) using this section of the river for fishing, and water skiing. This section of the river is immediately upstream of a City of Idaho Falls dam and hydropower facility, Lower Power Plant. The boat ramp is located in South Tourist Park which is used by interstate campers. The ramp and park are available for interstate recreational and fishing uses.

Source: The comments below indicate this site is used by interstate and foreign visitors. This information can be found on the web at:http://www.freecampgrounds.com/detail.aspx?id=299

South Tourist Park

State:	Idaho	**Cost:**	Free
Nearest City:	Idaho Falls	**Number of Campsites:**	11-29
Nearest Town:	Idaho Falls	**Max days allowed:**	1
Road:	Paved	**Scenery Rating:**	4 out of 5
Miles from paved road:	Unknown	**Noise Level:**	3 out of 5

Amenities: Water, Dump Station, Restrooms

Status: Official

Months Open: Year Round

Description

A nice park on the Snake River includes drive-through sites for big rigs. No hookups but water is available. Boat ramp/fishing on Snake River. About a mile south of Idaho Falls on Highway 91.

Comments (7) **Post a Comment**

This is on Highway 26, which is Yellowstone Avenue, about 2/10 mile south of the Yellowstone Motel. The area is nice but I wish the city would stop the kids from driving through during the night.

Posted: 8/1/2006 Jim Prentice Colorado Springs Colorado

All I can add is agreement that this is a nice overnight spot. We would stay here again if we're ever in the area.

Posted: 12/20/2005 Linda Hylton Sioux Falls South Dakota

My wife and I spent one day and night here on our return from Alaska. A great place, lots of grass; fishing pier right next to the site. Dog loved it: large area next to the RV to throw frizbee. I didn't notice any night traffic or early morning noise. Hard to find but worth the effort.

Posted: 11/22/2005 Larry Allen San Diego California

This was a great place to spend the night on my way to Montana. It is grassy and very scenic along the Snake River. You also may be able to watch the next door drive-in theater, depending on where you park.

Posted: 8/17/2005 Harvey Barnhart Sandy Utah

This is a nice looking park with trees, grass and on the river. Newer paved area w/long pull-through sites. It is secluded and did seem to have "local" traffic during the night. One night only allowed. The city could easily charge for this campground. Too bad there is no security or camp host to watch over it. We were there September 2004. It's next to the cement plant and drive-In movie theatre.

Posted: 6/23/2005 Carol Thompson Washington

Too much late night traffic passing through. I never slept all night as I had too many things that could be taken stored in the back of my towed pick-up

Posted: 6/14/2005 Gary originally from Idaho Falls Overton Nevada

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It's a great place for overnight camping! Clean and great scenery, colorful sunsets, but don't stay on the lovely sites near the boat ramp: The concrete factory behind the fence starts work early in the morning.

Posted: 5/11/2005 Karin from Germany