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 12, 2017

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, Colorado Outdoors Master Plan Area, SPK-2016-00814, JD - 2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: **Colorado** County/parish/borough: **Montrose** City:
Center coordinates of site (lat/long in degree decimal format): Lat. **38.4858940769649**° Long. **-107.893889389467**°
Universal Transverse Mercator: **13 247585.36 4263697.08**
Name of nearest waterbody: **Uncompahgre River**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Colorado River**
Name of watershed or Hydrologic Unit Code (HUC): **Uncompahgre, 14020006**
☒ 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: **JD - 1 and JD - 3**

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: **02/28/2017**
☒ Field Determination. Date(s): **10/19/2016**

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Pick list** "*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** "*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: 1.41 acres
Non-wetland waters: **3,374.64** linear feet, wide, and/or **0.28** acres
Wetlands: **1.13** acres.

[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).

Aquatic Resource	Cowardin Type	Latitude	Longitude	Length (ft)	Area (ac)
Non-Wetland Water					
Rice Ditch	Riverine	38.480687	-107.8877	2,395.78	0.22
Return Ditch	Riverine	38.479212	-107.885519	978.86	0.06
			Non-Wetland Waters Subtotal	**3,374.64**	**0.28**
Wetland					
Wetland I	Palustrine Emergent	38.479131	-107.885919	--	0.46
Wetland J	Palustrine Emergent	38.478773	-107.885216	--	0.16
Wetland V	Palustrine Emergent	38.480741	-107.887627	--	0.51
			Wetlands Subtotal	--	**1.13**
			Total WoUS	**3,374.64**	**1.41**

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

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**

[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.

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: **1,115 square miles**
Drainage area: **9,007 acres**
Average annual rainfall: **9** inches
Average annual snowfall: **10** inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☒ Tributary flows directly into TNW: **Rice Ditch and Return Ditch are diverted from and return to the Uncompahgre River, a TNW (SPK-2007-002273, 12/13/2007.**
☐ Tributary flows through **0** tributaries before entering TNW.

Project waters are river miles from TNW.
Project waters are river miles from RPW.
Project waters are aerial (straight) miles from TNW.
Project waters are aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain:

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

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain:
☒ Manipulated (man-altered). Explain: **Rice Ditch and Return Ditch are both man-made irrigation ditches. The Uncompahgre River corridor through the review area has been leveled and manipulated by historic land-use practices (i.e., agriculture and mining). Within the review area, the Uncompahgre River bisects soils identified by NRCS as Haplic Torriarents, which are derived from loamy and gravelly alluvium that was transported by human activity.**

Tributary properties with respect to top of bank (estimate):
Average width: **2** feet
Average depth: **2** feet
Average side slopes: **2:1**

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: **Moderate erosion**
Presence of run/riffle/pool complexes. Explain:
Tributary geometry: **Generally straight**
Tributary gradient (approximate average slope): **0-1%**

(c) Flow:
Tributary provides for: **Seasonally**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: **The Rice Ditch and Return Ditch each receive water diverted from the Uncompahgre River, typically from May to September.**
Other information on duration and volume: **Flows in the Rice Ditch and Return Ditch are regulated through diversions. Diversions to these ditches lessen in late summer; however, decreases in hydrology are typically mitigated by late-summer precipitation.**

Surface flow is: **Confined and discrete**. Characteristics: **confined and discrete irrigation conveyance along man-made ditch**

[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.

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
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☐ sediment deposition
☐ water staining
☐ other (list):
☐ the presence of litter and debris
☒ destruction of terrestrial vegetation
☐ the presence of wrack line
☒ sediment sorting
☒ scour
☒ multiple observed or predicted flow events
☐ abrupt change in plant community
☐ 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:
☐ oil or scum line along shore objects
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tidal gauges
☐ other (list):
☐ Mean High Water Mark indicated by:
☐ survey to available datum;
☐ physical markings;
☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: **Highway 550 parallels these ditches and bisects the parent watershed, and therefore, stormwater and wastewater are potential water quality concerns. Downstream of the City of Montrose, the Uncompahgre River (i.e., a receiving RPW) is burdened with salts and selenium, and water quality degrades, due to both natural erosion and as runoff from urban development and agriculture practices, which contribute nutrients, selenium, dissolved solids, and bacteria to the Uncompahgre River.**
Identify specific pollutants, if known: **Salt, selenium**

(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width):
☒ Wetland fringe. Characteristics: **Dominated by native sedges and non-native forage grasses**
☒ Habitat for:
☐ Federally Listed species. Explain findings:
☐ Fish/spawn areas. Explain findings:
☐ Other environmentally-sensitive species. Explain findings:
☒ Aquatic/wildlife diversity. Explain findings: **Rice Ditch and Return Ditch are important biologically as they encourage diversity and the colonization of hydrophytic vegetation through non-wetland areas. The biological functions provided by these seasonal RPWs are expected to be exported downstream to, and provide benefits to, the downstream TNW.**

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:

Wetland	Cowardin Type	Latitude	Longitude	Area (ac)
Wetland I	Palustrine Emergent	38.479131	-107.885919	0.46
Wetland J	Palustrine Emergent	38.478773	-107.885216	0.16
Wetland V	Palustrine Emergent	38.480741	-107.887627	0.51

[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.

Wetland	Cowardin Type	Latitude	Longitude	Area (ac)
			Total Wetlands	1.13

Wetland size: **1.13** acres
Wetland type. Explain:
Wetlands I and J are Palustrine Emergent Wetlands that abut the Return Ditch flow irrigation ditches that cross an abandoned field to connect directly to the Rice Ditch. Water overflows the shallow ditch banks and floods the down-gradient field.
Wetland V is a Palustrine Emergent Wetland associated with and abutting the Rice Ditch.
Wetland quality. Explain: **The subject wetlands are within the floodplain of the Uncompahgre River, are of good quality and provide important functions by protecting and improving water quality, providing wildlife habitats, storing floodwaters and maintaining surface water flow during dry periods.**
Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
Flow is: **Intermittent and Ephemeral**. Explain: **Hydrology is primarily provided by open, unlined irrigation ditches (i.e., Rice Ditch and Return Ditch) that divert from, and return to, the Uncompahgre River, a TNW.**

Surface flow is**:** **Overland Sheetflow**
Characteristics: **Irrigation water is diverted seasonally (i.e., ~May through early-September) from the Uncompahgre River through open-ditches that return to the Uncompahgre River. Surface flows fluctuate in late summer between end-of season irrigation withdrawals and increases from fall precipitation. Elevated surface flows are common in late summer through the review area. Additionally, flows in the Uncompahgre periodically inundate the review area.**

Subsurface flow: **Yes**. Explain findings: **The permeability of soils within the floodplain and average depth to ground-water mean that these ditches are dominated by losing conditions.**
☐ 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:

(d) Proximity (Relationship) to TNW
Project wetlands are **1 (or less)** river miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Flow is from: **Navigable waters to/from wetland.**
Estimate approximate location of wetland as within the **50-100 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: **The adjacent wetlands receive irrigation inputs and flood waters from a large area and have capacity to attenuate water, pollutants and sediment load. Runoff from urban development and agriculture practices may contribute nutrients, selenium, dissolved solids, and bacteria to the Uncompahgre River. These adjacent wetlands attenuate waters and can protect water quality by trapping sediments and retaining excess nutrients and other pollutants such as heavy metals.**
Identify specific pollutants, if known: **Salt, selenium**

(iii) Biological Characteristics. Wetland supports (check all that apply):
☐ Riparian buffer. Characteristics (type, average width):
☒ Vegetation type/percent cover. Explain: **Wetlands I and J - These wetlands have 100% vegetative cover with relatively high species diversity, including manna grass [OBL], rabbitsfoot grass [FACW], redtop bent grass, dagger-leaf rush [FACW], spikerush [OBL], and field mint [FACW].**
Wetland V exhibits 100% cover and is dominated by reed canary grass.

☒ Habitat for:
☐ Federally Listed species. Explain findings:
☐ Fish/spawn areas. Explain findings:
☐ Other environmentally-sensitive species. Explain findings:

☒ Aquatic/wildlife diversity. Explain findings: **The adjacent wetlands provide wildlife habitat (e.g. feeding, nesting, spawning, rearing of young), including habitat for species which move between aquatic and upland environments during their life cycles.**

3. **Characteristics of all wetlands adjacent to the tributary (if any)**
   All wetland(s) being considered in the cumulative analysis: **3**
   Approximately **1.13** acres in total are being considered in the cumulative analysis.

   For each wetland, specify the following:

	Directly abuts? (Y/N)	Size (in acres)
Wetland I	**Y**	**0.46**
Wetland J	**Y**	**0.16**
Wetland V	**Y**	**0.51**

   Summarize overall biological, chemical and physical functions being performed: **Irrigation maintains the adjacent floodplain wetlands which act as buffer zones between agricultural and urban-land uses and the non-wetland waters (e.g., reduce nitrate and phosphate pollution of surface waters). Irrigation supplements the local water table and benefits primary productivity (i.e., vegetation must be productive in order to produce carbon for denitrification reactions. Additionally, these aquatic resources help to maintain seasonal baseflows in the downstream RPW (i.e., the Uncompahgre River), and support local and downstream foodwebs. The biological functions provided by the Rice Ditch, Return Ditch and their adjacent wetlands are expected to be exported downstream to, and provide benefits to, the downstream TNW.**

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:

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:

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, wide, 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: **Rice Ditch and Return Ditch have a historic duration of use from May to September each year.**

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: **3,374.64** linear feet **2-4'** wide.
   - ☐ 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, wide.

[8]See Footnote # 3.

☐ Other non-wetland waters: acres.
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: **A delineation of these resources show that the wetland boundary directly abuts or overlaps with the mapped OHWM of each ditch. Refer to applicant's aquatic resource delineation, dated November 4, 2016.**

Provide acreage estimates for jurisdictional wetlands in the review area: **1.13** 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: acres.

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, wide.
☐ 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.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.

[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.***

☐ 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:
☐ 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, wide.
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands: 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, wide.
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands: 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:
☐ Corps navigable waters' study:
☒ U.S. Geological Survey Hydrologic Atlas:
☐ USGS NHD data.
☒ USGS 8 digit HUC map: **HUC 14020006**
☒ U.S. Geological Survey map(s). Cite scale & quad name: **1:24K; CO-MONTROSE WEST**
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Web Soil Survey, Version 7, Jan. 2, 2014**
☐ 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): **Google Earth 1993, 2005, 2006, 2011, 2012, 2014**
☒ Other (Name & Date): **Appendix C of November 4, 2016 Aquatic Resource Delineation Report, prepared by BIO-Logic, Inc.**
☒ Previous determination(s). File no. and date of response letter: **SPK-2007-02273, December 13, 2007**
☒ Applicable/supporting case law: **Headwaters, Inc. v. Talent Irrigation District, 243 F. 3d 526 (9th Cir. 2001)**
☐ Applicable/supporting scientific literature:
☒ Other information (please specify): **November 4, 2016 Aquatic Resource Delineation Report, prepared by BIO-Logic, Inc.**

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Please note: The Rice Ditch and Return Ditch jurisdictional determinations have been combined on the same AJD form because they possess similar geomorphologic, hydrologic and topographic characteristics. These aquatic resources are co-located and subject to the same water management plan.

REFERENCES:

1. **Regulatory Programs of the Corps of Engineers, as amended (33 CFR 326), dated 13 November 1986.**
2. **CECW-CO, Memorandum for Commanders, Major Subordinate Commands and District, SUBJECT: Updated Standard Operating Procedures for the U.S. Army Corps of Engineers Regulatory Program, 1 July 2009 (Sections 4 and 5).**
3. **Regulatory Guidance Letters (RGL) 08-02 on Jurisdictional Determinations (JD) effective 26 June 2008; RGL 07-01 and the Coordination Memo between EPA and the Corps as modified, for documenting JDs effective 5 June 2007; RGL 05-02 on Expiration of Geographic JDs of WOUS effective 14 June 2005; and RGL 16-01 on Jurisdictional Determinations effective October 2016.**
4. **2013 Uncompahgre Watershed Plan, Uncompahgre Watershed Partnership**
5. **U.S. Army Corps of Engineers Jurisdictional Determinations Form Instructional Guidebook**
6. **November 4, 2016 Aquatic Resource Delineation Report, prepared by BIO-Logic, Inc.**