# 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): 17 May 2012

#### B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENWO-OD-RWY, FJ Management, Inc., Curtis Street Property, NWO-2012-01179

## C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wyoming County/parish/borough:Albany City:Laramie

Center coordinates of site (lat/long in degree decimal format): Lat.41.326568 N; Long.-105.618395 W Universal Transverse Mercator:

PLSS Location: NE1/4 SE 1/4 of Section 30, Township 16 North, Range 73 West, 6<sup>th</sup> PM

Name of nearest waterbody: Laramie River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:Laramie River Name of watershed or Hydrologic Unit Code (HUC):10180010, Upper Laramie

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

 $\square$ 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: May 10, 2012

Field Determination. Date(s): April 10 & May 4, 2012

## 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 "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): <sup>1</sup>
    - TNWs, including territorial seas
    - Wetlands adjacent to TNWs
    - Relatively permanent waters<sup>2</sup> (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: 884linear feet: <1width (ft) and/or acres. Wetlands:up to 15 acres.
  - c. Limits (boundaries) of jurisdiction based on: Not established at this time. Elevation of established OHWM (if known):

#### Non-regulated waters/wetlands (check if applicable):<sup>3</sup> 2.

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

<sup>&</sup>lt;sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>&</sup>lt;sup>2</sup> 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).

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<sup>4</sup> 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: Upper Laramie - 2180 square miles Drainage area: of relevant reach is < 2 sq miles, of Pioneer Canal to review area is 20+ square miles Average annual rainfall: all precipitation is 11.3 inches Average annual snowfall: inches

# (ii) Physical Characteristics:

(a) <u>Relationship with TNW:</u>
 ☑ 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.
Project waters cross or serve as state boundaries. Explain: no.

<sup>&</sup>lt;sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Identify flow route to TNW<sup>5</sup>: The ephemeral irrigation ditch within the review area is a tributary to Laramie River (TNW). Water is diverted from Laramie River, through Pioneer Canal, to supply ditchess and returns to the Laramie River.

Tributary stream order, if known:

(b) <u>General Tributary Characteristics (check all that apply):</u>

Tributary is: Natural

Artificial (man-made). Explain: Lateral supply or "spreader" ditches were created to pull and disseminate irrigation water from the artificial Pioneer Canal

Manipulated (man-altered). Explain: The topography of the area shows a natural drainage pattern through this area which has been manipulated to direct gravity flow of irrigation water and drainage to the Laramie River.

Tributary properties with respect to top of bank (estimate): Average width: 1 feet Average depth: 1 feet Average side slopes: 4:1 (or greater).

Primary tributary substrate composition (check all that apply):

⊠ Silts	Sands
Cobbles	Gravel
Bedrock	□ Vegetation. Type/% cover:
Other. Explain:	

Concrete

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: periodically excavated shallow and narrow ditch channel(s).

Presence of run/riffle/pool complexes. Explain: Tributary geometry: **Relatively straight** Tributary gradient (approximate average slope): 2 %

(c) <u>Flow:</u>

Tributary provides for: Seasonal flow

Estimate average number of flow events in review area/year: 1

Describe flow regime: ephemeral and relatively continuous through the season, higher volumes during rain events. Other information on duration and volume: Pioneer Canal Board Member, Ron Blake reports that Pioneer Canal flows from April 1 to November 1 and water is made available to this property through an open headgate (early water right) to various ephemeral spreader ditches to flow over and effectively subirrigate the properties west of the Laramie River.

Surface flow is: Pick List. Characteristics: gravity fed irrigation through shallow ditches (discrete) and sheet flow.

Subsurface flow: Yes. Explain findings: gravity fed irrigation down gradient, very effective sub-irrigation (Blake, pc,

20	)]	2	).

Dye (or other) test performed:

f

Tributary has (check all that apply):  $\square$  Bed and banks

OHWM <sup>6</sup> (check all indicators that	apply):	
clear, natural line impressed of	in the bank in the presence of litter and debris	
$\boxtimes$ changes in the character of so	il 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	3
water staining	abrupt change in plant community	
other (list):		
Discontinuous OHWM. <sup>7</sup> Explain	wetland dominates review area and obscures RPW OHWM	[; w

Discontinuous OHWM.<sup>7</sup> Explain:wetland dominates review area and obscures RPW OHWM; water flows through in very shallow spreader ditches (< 6 inches deep) and sheet flow.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply): High Tide Line indicated by: O oil or scum line along shore objects High Tide Line indicated by: Hi

al or scum line along shore objects	sur
ine shell or debris deposits (foreshore)	$\Box$ ph

survey to available datum;
 physical markings;

<sup>&</sup>lt;sup>5</sup> 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. <sup>6</sup>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. <sup>7</sup>Ibid.

phy
tida

vsical markings/characteristics al gauges other (list):

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: Standing and flowing water (clear brown) was observed below the property wetland in a wetland drainage ditch located east of the review property and the interstate lanes...

Identify specific pollutants, if known: The actual water quality is unknown, but is suspected to be influenced by ag-based pollutants (herbicides, fertilizers and manure), oil and other petroleum products from heavy interstate and fuel station traffic and semi trucks parked along Curtis Street, other related urban pollutants.

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

Riparian corridor. Characteristics (type, average width):  $\square$ 

- $\overline{\boxtimes}$ Wetland fringe. Characteristics: weland dominates and obscures irrigation waterway(s).
- Π Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings:

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

#### **Physical Characteristics:** (i)

(a) General Wetland Characteristics:

Properties:

Wetland size:up to 15 acres

Wetland type. Explain:persistent palustrine emergent (PEM) wet meadow wetland.

Wetland quality. Explain: large persistent wet meadow dominated by Alopecurus aequalis and Juncus balticus supported by surface and groundwater hydrology.

Project wetlands cross or serve as state boundaries. Explain: no.

#### (b) General Flow Relationship with Non-TNW:

Flow is: Ephemeral flow. Explain: Receives surface and subsurface irrigation seasonally (May- Sept) from Pioneer Canal lateral ditches and culverts, water flows seasonally on surface and subsurface through nearly perennial ditches and interstate culverts to the Laramie River (TNW) located 2,500 feet to the east of the review site. .

#### Surface flow is: Discrete

Characteristics: and overland sheet flow through wetland and shallow ditch/row features.

Subsurface flow: Yes. Explain findings: A drop in elevation approximately 18 feet from Pioneer Canal and accumulation of subsurface waters in this wetland from adjacent higher irrigated property.

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: Portions of the property wetlands are connected via surface water drainage/irrigation.

Ecological connection. Explain: The wet meadow wetlands of the property are all part of a shallow/perched water table complex fed by a culvert from an irrigation ditch and subsurface water table. It likely forms a well vegetated habitat and migration corridor for small to medium sized animals.

Separated by berm/barrier. Explain: The irrigation water is conveyed through a lateral irrigation ditch from Pioneer Canal, along Curtis Street and under Pierce Street into the property and then flows eastward through the property wetlands to a series of Interstate-80 culvets and wetland drainageways to the Laramie River .

(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: Wetland to/from navigable waters. 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: The wetland likely acts as a large filter for surface water introduced from the irrigation culvert and from Curtis Street run-off next to the Petro Fuel Station. Standing and flowing water (clear brown) was

observed below the property wetland in a wetland drainage ditch located east of the review property and the interstate lanes.

Identify specific pollutants, if known: The actual water quality is unknown, but is suspected to be influenced by ag-based pollutants (herbicides, fertilizers and manure), oil and other petroleum products from heavy interstate and fuel station traffic and semi trucks parked along Curtis Street, other related urban pollutants.

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

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain:PEMC, Alopecurus spp. and Juncus balticus dominated.
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

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

All wetland(s) being considered in the cumulative analysis: **3** Approximately (up to 15) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)Size (in acres)Yup to 15

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed: Nutrient cycling and notable water quality benefits on a localized scale. Physically collects sediment and detritus in the immediate area. Small habitat areas for typical terrestrial species such deere and small mamals as well as migratory birds.

# 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:

- Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of 3. 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):
  - TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area: 1. TNWs: linear feet width (ft), Or, acres. Wetlands adjacent to TNWs: acres.
  - RPWs that flow directly or indirectly into TNWs. 2.
    - 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  $\bowtie$ jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: Pioneer Canal Board Member, Ron Blake reports that Pioneer Canal flows from April 1 to November 1 and water is made available to this property through an open headgate (early water right). Water observed draining from the wetland (review area) to the Laramie River has been observed by evaluator and agent year round .
      - Provide estimates for jurisdictional waters in the review area (check all that apply):
      - Tributary waters: est. 884 linear feet<1 width (ft).
      - Other non-wetland waters: acres. Identify type(s) of waters:
  - Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs. 3.
    - 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.

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:
- Ketlands 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: Wetlands occupy much of the review area and occur because of seasonal gravity irrigation flow from lateral and spreader ditches providing a source of surface and subsurface hydrology across the review area as well as an impounding influence by the interstate on-ramp road prism located on the west edge of the property/review area.

Provide acreage estimates for jurisdictional wetlands in the review area: up to 15 acres.

- Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs. 5.
  - 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.

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

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.<sup>9</sup>

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).

## 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:On-site evaluation report and maps; no delineation report was submitted (prior to growing season). 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:  $\overline{\boxtimes}$ Corps navigable waters' study: Spritzer, Donald E., May 9, 1975, Report on the Navigable Status of the Laramie River and Tributaries Colorado and Wyoming, Prepared for the U.S. Army Corps of Engineers. 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:1:24,000, WY-Laramie.  $\boxtimes$ USDA Natural Resources Conservation Service Soil Survey. Citation: National wetlands inventory map(s). Cite name:WY-Laramie. State/Local wetland inventory map(s): FEMA/FIRM maps: 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)  $\bowtie$ Photographs: Aerial (Name & Date):Google Earth Imagery 7/4/2009. or Other (Name & Date):  $\boxtimes$ Previous determination(s). File no. and date of response letter: 199740160, March 12, 2001. Applicable/supporting case law:Headwaters Inc. v. Talent Irrigation District 243 F.3d 526 (9th Cir. 2001) The court concluded that the canals were "navigable waters" because they exchange water with streams and other natural bodies of water. The court determined that the irrigation canals were tributaries because they are "streams which contributes their flow to a larger stream or other body of water."[11] Tributaries are "waters of the United States" and are subject to the requirements of the CWA. . Applicable/supporting scientific literature:  $\overline{\boxtimes}$ Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** Based on the evaluator's site visits and two versions of wetland mapping submitted by the owner's agent, a large percentage of the review area property exibits presence of wetland vegetation. A wetland delineation during the growing season would be required to confirm all 3 wetland parameters throughout the property. Any wetlands within the property would be considered jurisdictional, abutting the ephemeral RPW which is hydrologically connected to its wetlands through continuous seasonal (5/6-month) surface and subsurface flow. The Laramie River is the closest stream (2800 feet from review area) currently considered a Traditional Navigable Water (TNW), based on a Corps Navigational Study.

The evaluator and agent both noted erosional rills carrying runoff and potential contaminants from Curtis Street and the Interstate into the review area wetland and into the RPW tributary to the Laramie River. Both roadways support heavy semi-truck traffic and periodic truck parking. A significant nexus is based on a high probability that pollutants could be present in the ephemeral irrigation ditch because it is in an agricultural and urban area where there is heightened exposure to petroleum products, chemicals, pesticides, and other compounds.

<sup>&</sup>lt;sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

