



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 2/19/2021

ORM Number: NWP-2020-290

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Oregon City: Independence County/Parish/Borough: Polk County

Center Coordinates of Review Area: Latitude 44.896947 Longitude -123.153703

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

| § 10 Name | § 10 Size | § 10 Criteria | Rationale for § 10 Determination |
|-----------|-----------|---------------|----------------------------------|
| N/A.      | N/A.      | N/A.          | N/A.                             |

**C. Clean Water Act Section 404**

| Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup> |             |                 |                                    |  |
|---|-------------|-----------------|------------------------------------|--|
| (a)(1) Name   | (a)(1) Size | (a)(1) Criteria | Rationale for (a)(1) Determination |  |
| N/A.  | N/A.        | N/A.            | N/A.                               |  |

| Tributaries ((a)(2) waters): |             |                 |                                    |  |
|------------------------------|-------------|-----------------|------------------------------------|--|
| (a)(2) Name                  | (a)(2) Size | (a)(2) Criteria | Rationale for (a)(2) Determination |  |
| N/A.                         | N/A.        | N/A.            | N/A.                               |  |

| Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters): |             |                 |                                    |  |
|---|-------------|-----------------|------------------------------------|--|
| (a)(3) Name   | (a)(3) Size | (a)(3) Criteria | Rationale for (a)(3) Determination |  |
| N/A.  | N/A.        | N/A.            | N/A.                               |  |

| Adjacent wetlands ((a)(4) waters): |             |                 |                                    |  |
|------------------------------------|-------------|-----------------|------------------------------------|--|
| (a)(4) Name                        | (a)(4) Size | (a)(4) Criteria | Rationale for (a)(4) Determination |  |
| N/A.                               | N/A.        | N/A.            | N/A.                               |  |

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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**D. Excluded Waters or Features**

| Excluded waters (b)(1) – (b)(12)): <sup>4</sup> |                |   |  |
|---|----------------|---|--|
| Exclusion Name                                  | Exclusion Size | Exclusion <sup>5</sup>  | Rationale for Exclusion Determination  |
| DOGAMI Pit Wetland                              | 0.69 acre(s)   | (b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel. | Situated in the south portion of the study area, this excavation area has been utilized for onsite gravel production since at least 1955. There are no (a)(1)-(3) waters within the Corps Review Area. DOGAMI Pit Wetland does not meet the definition of Waters of the United States. |

| Excluded waters (b)(1) – (b)(12)): <sup>6</sup> |                |   |   |
|---|----------------|---|---|
| Exclusion Name                                  | Exclusion Size | Exclusion <sup>7</sup>  | Rationale for Exclusion Determination   |
| DOGAMI Pit Water                                | 0.5 acre(s)    | (b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel. | Situated in the south portion of the study area, this excavation area has been utilized for onsite gravel production since (at least) 1955. There are no (a)(1)-(3) waters within the Corps Review Area. DOGAMI Pit Water does not meet the definition of Waters of the United States. The pit is excavated within a north-to-south oriented convex landform. Native terrace landforms surrounding the pit and transition to steep escarpments that transition to fringe wetlands surrounding the permanently inundated waters. Wetland fringes are typically ten to fifteen feet below the surrounding terrace landform. |

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

<sup>6</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>7</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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| Excluded waters ((b)(1) – (b)(12)): <sup>8</sup> |                |         |                              |   |
|--|----------------|---------|------------------------------|---|
| Exclusion Name                                   | Exclusion Size |         | Exclusion <sup>9</sup>       | Rationale for Exclusion Determination   |
| Farmed Depression Wetland                        | 0.39           | acre(s) | (b)(1) Non-adjacent wetland. | Situated in the southwest corner of the site, the wetland is a depressional feature within the surrounding alluvial terrace landform that is actively managed for grass seed production and is the low topographic point or geomorphic position in the immediate landscape. There are no (a)(1)-(3) waters within the Corps Review Area. Farmed Depression Wetland does not meet the definition of Waters of the United States. |

### III. SUPPORTING INFORMATION

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: “Aquatic Resources Delineation Report Prepared for the Riverbend Materials Hayden Lake Pit Project (near) Independence, Polk County, Oregon” by Terra Science, Inc. on February 26, 2020.

This information is sufficient for purposes of this AJD.

Rationale: N/A

☐ Data sheets prepared by the Corps: Title(s) and/or date(s).

☒ Photographs: Aerial and Other: Google Earth Images (January 2021, July 2018, July 2014, July 2010, August 2006, and June 1994) and LIDAR.

☐ Corps site visit(s) conducted on: Date(s).

☐ Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).

☒ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.

☒ USDA NRCS Soil Survey: 1/29/2021

☒ USFWS NWI maps: 1/29/2021

☒ USGS topographic maps: 1/29/2021

**Other data sources used to aid in this determination:**

| Data Source (select)       | Name and/or date and other relevant information |
|----------------------------|---|
| USGS Sources               | N/A.  |
| USDA Sources               | N/A.  |
| NOAA Sources               | N/A.  |
| USACE Sources              | N/A.  |
| State/Local/Tribal Sources | N/A.  |
| Other Sources              | N/A.  |

**B. Typical year assessment(s):** The antecedent precipitation tool was utilized for the timing of the wetland delineation performed by the consultant on 26 February 2020 to determine if the site

<sup>8</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>9</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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was reviewed during normal circumstances. The APT determined the review was performed during normal conditions for the time of the year. Therefore, the Corps can conclude site conditions during the delineation of the site were normal for February 2020.

**C. Additional comments to support AJD:** [N/A](#)