

**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): August 4, 2022**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: NWP-2020-283**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Oregon County/parish/borough: Jackson City: Prospect  
Center coordinates of site (lat/long in degree decimal format): Lat. 42.714025° N, Long. 122.402436° W.  
Universal Transverse Mercator:

Name of nearest waterbody: South Fork Rogue River and Middle Fork Rogue River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Rogue River

Name of watershed or Hydrologic Unit Code (HUC):

- ☒ 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: August 4, 2022  
☐ Field Determination. Date(s):

**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: linear feet: width (ft) and/or South Fork Rogue River (SFRR): 1.10 acres. Middle Fork Rogue River (MFRR): 0.07 acres.

Wetlands: Wetland Y: 0.13 acre. Wetland Z: 0.10 acres.

**c. Limits (boundaries) of jurisdiction based on: Established by OHWM**

Elevation of established OHWM (if known): .

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

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: Aquatic features with an artificial hydrological source were identified in the Review Area that do not meet the Corps' wetland criteria outlined in the Corps' 1987 Wetland Delineation Manual and Western Mountains, Valleys, and Coast (WMVC) Regional Supplement (Wetlands A-X). In addition, the Review Area includes an aboveground water pipeline

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

<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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

(Waterways 4 and 6) and concrete lined aqueducts (waterways 3 and 5) that are part of a diversion system used to generate hydropower. The diversion system is currently decommissioned, without any water flowing, and does not fall within the jurisdiction of Section 404 of the CWA. See Section IV (B) for a detailed description of these features.

### **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: **Pick List**

Drainage area: **Pick List**

Average annual rainfall: inches

Average annual snowfall: inches

###### **(ii) Physical Characteristics:**

###### **(a) Relationship with TNW:**

☐ Tributary flows directly into TNW.

☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: .

<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>: .  
Tributary stream order, if known: .

(b) **General Tributary Characteristics (check all that apply):**

**Tributary** is: ☐ Natural  
☐ Artificial (man-made). Explain: .  
☐ Manipulated (man-altered). Explain: .

**Tributary** properties with respect to top of bank (estimate):

Average width: feet  
Average depth: feet  
Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

<input type="checkbox"/> Silts	<input type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover: .	
<input type="checkbox"/> Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .

Presence of run/riffle/pool complexes. Explain: .

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): %

(c) **Flow:**

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: **Pick List**. Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

<input type="checkbox"/> Bed and banks	
<input type="checkbox"/> OHWM <sup>6</sup> (check all indicators that apply):	
<input type="checkbox"/> clear, natural line impressed on the bank	<input type="checkbox"/> the presence of litter and debris
<input type="checkbox"/> changes in the character of soil	<input type="checkbox"/> destruction of terrestrial vegetation
<input type="checkbox"/> shelving	<input type="checkbox"/> the presence of wrack line
<input type="checkbox"/> vegetation matted down, bent, or absent	<input type="checkbox"/> sediment sorting
<input type="checkbox"/> leaf litter disturbed or washed away	<input type="checkbox"/> scour
<input type="checkbox"/> sediment deposition	<input type="checkbox"/> multiple observed or predicted flow events
<input type="checkbox"/> water staining	<input type="checkbox"/> abrupt change in plant community
<input type="checkbox"/> other (list):	
<input type="checkbox"/> Discontinuous OHWM. <sup>7</sup> Explain: .	

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

<input type="checkbox"/> High Tide Line indicated by:	<input type="checkbox"/> Mean High Water Mark indicated by:
<input type="checkbox"/> oil or scum line along shore objects	<input type="checkbox"/> survey to available datum;
<input type="checkbox"/> fine shell or debris deposits (foreshore)	<input type="checkbox"/> physical markings;
<input type="checkbox"/> physical markings/characteristics	<input type="checkbox"/> vegetation lines/changes in vegetation types.
<input type="checkbox"/> tidal gauges	
<input type="checkbox"/> other (list):	

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: .

<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.

Identify specific pollutants, if known: .

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

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: . acres

Wetland type. Explain: .

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ 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 **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** 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: .

Identify specific pollutants, if known: .

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

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☐ 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: **Pick List**

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

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

### 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 width (ft), 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: The Corps determined that the SFRR and MFRR have a perennial flow regime because there is water in the channel during the entirety of a typical year based on Google Earth aerial images from 1994-2021 and data from the May 14, 2020 wetland delineation survey. The SFRR and MFRR appear as a solid blue line streams on U.S. Geological Survey (USGS) maps from 1893-2020. The National Hydrography Dataset (NHD) has also mapped the SFRR and MFRR as a perennial tributaries.

- ☐ Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

☒ Tributary waters: **The MFRR is 87 linear feet (ft). The SFRR is 1,369 linear feet The MFRR is 35 ft in width. SFRR is 35 ft in width (ft).**

☐ Other non-wetland waters: . acres.

Identify type(s) of waters: .

**3. Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs.**

- ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

☐ Tributary waters: . linear feet . width (ft).

☐ Other non-wetland waters: . acres.

Identify type(s) of waters: .

**4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- ☒ 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:

Wetland Y directly abuts the south bank OHWM of the MFRR in the Review Area. Wetland Z is located within the Review Area and extends outside of it. Outside of the Review Area Wetland Z directly abuts the north bank OHWM of the MFRR. Wetlands Y and Z are situated below an aboveground diversion pipe that spans the MFRR via a bridge (Waterway 6). The features receive natural hydrologic inputs from the MFRR’s main channel, surface runoff from the surrounding hillslopes, and incident precipitation. Hydrology has also been artificially influenced by leaks in the pipe. The National Wetlands Inventory (NWI) has mapped palustrine forested wetlands in the vicinity of Wetlands Y and Z.

- ☐ Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: **Wetland Y is 0.13 acre and Wetland Z is 0.10 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 jurisdictional. 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.<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).

<sup>8</sup>See Footnote # 3.

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

**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):<sup>10</sup>**

- ☐ 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 width (ft).
- ☐ 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.
  - ☐ 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): **Waterways 3-6 are considered non-jurisdictional ditches. See Section IV.B for additional details.**

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 width (ft).
- ☐ 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, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: : acres.
- ☐ Wetlands: Wetlands A-X are 0.30 acres, in total.

**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. Dustin Day, Professional Wetland Scientist (PWS) WSP Consultants. Wetland Delineation Report: Prospect 3 Implementation Projects. Prepared for PacifiCorp. June 2020.
  - ☐ Office concurs with data sheets/delineation report.
  - ☒ Office does not concur with data sheets/delineation report. Please see section IV.B. below for details.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters’ study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: USGS. NHD. Online: <https://geoportal.nwp.usace.army.mil/>. Accessed April 2021.
  - ☒ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.

<sup>10</sup> 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. Topoview. Prospect South 24k Topographic Map (2020). Online: <https://ngmdb.usgs.gov/topoview/viewer/#14/42.7268/-122.4241>. Accessed April 2021.
- ☒ USGS. Topoview. Ashland 250k Topographic Map (1897). Online: <https://ngmdb.usgs.gov/topoview/viewer/#14/42.7268/-122.4241>. Accessed April 2021.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Dustin Day, PWS WSP Consultants. Wetland Delineation Report: Prospect 3 Implementation Projects. Prepared for PacifiCorp. Figure 6. June 2020.
- ☒ National wetlands inventory map(s). Cite name: Dustin Day, PWS WSP Consultants. Wetland Delineation Report: Prospect 3 Implementation Projects. Prepared for PacifiCorp. Figures 4A-4B. June 2020.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth Pro Software. Historical aerial images from 1994-2020.  
or ☒ Other (Name & Date): Dustin Day, PWS WSP Consultants. Wetland Delineation Report: Prospect 3 Implementation Projects. Prepared for PacifiCorp. Photographs 1-27. June 2020.
- ☒ Previous determination(s). File no. and date of response letter: The Corps previously completed an approved jurisdictional determination Review Area under the Navigable Waters Protection Rule on August 26, 2021 (Corps File No. NWP 2020-283)..
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify): NRCS. 2010. Field Indicators of Hydric Soils in the United States, Version 7.0.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** : The wetland delineator identified 24 aquatic features (Wetlands A-X) located at the top bank of the SFRR (above the OHWM), along a manmade bench constructed beneath an aboveground diversion pipe (Waterways 4 and 6). The surrounding landscape is steep hillslopes. Water levels are manually controlled within the SFRR in the Review Area for hydropower operations and do not exceed the top of bank.

The aquatic features in the Review Area were delineated based on the presence of hydrophytic vegetation, surface water, and saturated soil. Soil sampling was problematic as a result of a compacted gravel and rock layer occurring at 4 inches below the ground surface. The delineator recorded soil matrix colors as 10YR 3/2 and 7.5YR 3/1, with inclusions having a color of 7.5YR 4/2 down to four inches in the profile in several wetland sample points. The delineator considered the 7.5YR 4/2 color to be indicative of redox depletions, but this hydric soil characteristic must have a value of 5 or more (NRCS 2010). The TF2 indicator for Red Parent Material was also marked for several wetland sample points, but this indicator was not developed for the WMVC region (NRCS 2010). The Corps did not consider these soil characteristics to qualify as hydric soil indicators.

Primary hydrology indicators were present at the time of the survey (May 14, 2021) as a result of leaks in the pipeline above that had been occurring for several years. Water has not been flowing in the pipeline since the summer of 2021 as a result of low water levels in the river and the diversion has now been manually shutdown. Primary indicators of wetland hydrology are no longer present in these features as a result of removing the hydrological input from the leaking pipe.

Hydrophytic vegetation in sample plots within these aquatic features were dominated by shrubs such as red alder (*Alnus rubra*) (FAC), red osier dogwood (*Cornus sericea*) (FAC-wetland), and common snowberry (*Symphoricarpos albus*) (FAC-upland). These shrubs were also found to be dominant in the adjacent upland sample plots. As such, the woody vegetation community composition within the identified aquatic features is part of the riparian corridor along the SFRR rather than part of distinct wetland features. Dominant herbaceous species in the aquatic features included velvet grass (*Holcus lanatus*) (FAC) and common rush (*Juncus effusus*) (FAC-wetland). These herbaceous species are common in understory communities in the WMVC region and can quickly colonize newly formed mesic habitats and are part of the primary succession process.

The Corps determined the aquatic features underneath the pipeline were recently formed in response to an artificial hydrological input and do not meet the wetland criteria outlined in the Corps' 1987 Wetland Delineation manual or the Corps' WMVC Regional Supplement because the hydrological source was artificial, features do not occur within a soil type classified as hydric by the NRCS and hydric soil characteristics were not identified, and the features are not situated in a landscape position typical of wetlands. In addition, the NWI has not mapped wetlands in this area.

Waterways 3-6 are manmade ditches that were constructed in uplands as part of a diversion system used for hydropower generation. Historical USGS topographic maps from 1893-2020 do not indicate the presence of a tributary in the current location of these features. The continuous alignment of Waterways 3-6 in the Review Area runs uphill in some areas which provides further evidence that this system is not functioning as a natural tributary. The Corps determined that Waterways 3-6 do not meet the definition of waters of the U.S. because the features were constructed wholly in uplands, do not currently drain wetlands or tributaries, and are non-RPWs.

Waterways 3 and 5 are daylight, concrete lined channels that extend downstream from the SFRR dam. Prior to the diversion system shutdown, the hydrologic source for Waterways 3 and 5 was the SFRR. Surface water was delivered through the upstream section of the aboveground diversion pipeline (Waterway 4), and water would then flow back into the pipeline (Waterway 6) at the downstream end of the Review Area. Waterways 3 and 5 are non-RPWs that were constructed in uplands, and only convey surface water flow during and immediately following precipitation events now that the diversion system has been shut down and is no longer receiving an input from the SFRR.



Waterways 4 and 6 are sections of the aboveground diversion pipe above the OHWM of the north bank of the SFRR. The pipeline is wooden and entirely enclosed with the exception of open upstream and downstream ends. It was constructed in the 1930s and sits atop a manmade bench. Waterways 4 and 6 are non-RPWs that were constructed in uplands, and no longer convey any flow now that the diversion system has been shut down. The diversion system extends outside the Review Area and reconnects to the main stem of the Rogue River near Mill Creek Drive.