

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): 30 January 2023

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENWP-ODG, Tangent Industrial Park, NWP-2022-349

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Linn County City: Tangent

Center coordinates of site (lat/long in degree decimal format): Lat. 44.553679° N, Long. 123.100619° W.

Universal Transverse Mercator: Refer to Lat./Long. above.

Name of nearest waterbody: Unnamed Tributary to Oak Creek

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

Name of watershed or Hydrologic Unit Code (HUC): 17090003010168

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: 29 December 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):¹

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (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 acres.

Wetlands: 27.66 acres.

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:

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

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: .

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 waterbody⁴ 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: 120 acres
Drainage area: 50 acres
Average annual rainfall: 45 inches
Average annual snowfall: 2 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
- Tributary flows through 2 tributaries before entering TNW.

Project waters are 1-2 river miles from TNW.
Project waters are 1 (or less) river miles from RPW.
Project waters are 1-2 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: .

⁴ 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 TNW⁵: The wetlands flow into the offsite roadside ditch north of the northern Review Area boundary. The roadside ditch flows to the east, into an Unnamed Tributary (HUC# 17090003010168), then it flows into Oak Creek and then into the Calapooia River.

Tributary stream order, if known: Based upon the USGS Map, the Unnamed Tributary is a 1.

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

Tributary is:

Natural

Artificial (man-made). Explain:

Manipulated (man-altered). Explain: Due to agricultural purposes, construction of the highway,

and developments in the region, the offsite roadside ditch carries flows east to the Unnamed Tributary (HUC# 17090003010168). The tributary is located to the east of the delineated wetlands. This tributary functions similar to a swale within the agricultural wetlands located east of the review area and has been manipulated and moved over the landscape and channelized in some regions. As it crosses agricultural fields, farmers typically plow the entire field, including the tributary. Farmers ensure the tributary keeps its general path by keeping soils from building up along its route. Google Earth Photos from Highway 34 reflect the typical agricultural treatment of these seasonal tributaries.

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

Average width: 2-4 feet

Average depth: 0.5-1 feet

Average side slopes: **4:1 (or greater)**.

Primary tributary substrate composition (check all that apply):

Silts

Sands

Concrete

Cobbles

Gravel

Muck

Bedrock

Vegetation. Type/% cover:

Other. Explain: Depending upon the location of review, the tributary has many different compositions. Continual disturbance of the streambed from agricultural use disturbs the entire composition of the waterway.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: The Unnamed Tributary is heavily manipulated in this region. The only portions that are not manipulated are within the ditches along the highway. Flow patterns and destruction of terrestrial vegetation is observed in these undisturbed areas.

Presence of run/riffle/pool complexes. Explain: Due to the Seasonal nature of the Unnamed Tributary, vegetation grows thick and green around the culvert crossing where the tributary pools and run areas are observed along the fence lines where terrestrial vegetation has been removed by flows.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): 0.25 %

(c) Flow:

Tributary provides for: **Seasonal flow**

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

Describe flow regime: As the wet season rainfall begins, soils in the region become saturated and the flows within the Unnamed Tributary begin to flow. As the rainfall tapers off at the end of the wet season, the unnamed tributary's flows recede until it is not obvious. The tributary is disturbed by agricultural use and the riparian area is an agricultural field. The features appear to be similar to a swale than a tributary. However, the USGS has issued a HUC number for the tributary and finds it to be intermittent. Flows in the roadside ditch mimic the flow regime of the swale.

Other information on duration and volume: The USGS hydrological maps reflect the presence of the Unnamed Tributary and the roadside imagery from Google Earth reflect the undisturbed nature of the crossing area between the fenced pastures, the highway, and the culvert crossing.

Surface flow is: **Overland sheetflow**. Characteristics: Due to agricultural use and disturbance, the Unnamed Tributary will flow with 6 inches of water to approximately 1 foot of water and spread out anywhere from 1 foot wide to approximately 30 feet wide. This is similar to a gentle swale with a low slope.

Subsurface flow: **Unknown**. Explain findings:

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks

OHWM⁶ (check all indicators that apply):

clear, natural line impressed on the bank the presence of litter and debris

changes in the character of soil destruction of terrestrial vegetation

shelving the presence of wrack line

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.

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.

- | | |
|---|--|
| <input checked="" type="checkbox"/> vegetation matted down, bent, or absent | <input checked="" type="checkbox"/> sediment sorting |
| <input checked="" type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input checked="" 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): | |

Discontinuous OHWM.⁷ Explain: Due to the constant pressure and use of the streambed for agricultural fields (the Unnamed Tributary typically recedes when agricultural use begins in late spring), the Unnamed Tributary is manipulated and plowed on the fields it flows through. Farmers ensure the characteristics of the tributary remain with a “low” area for the tributary to maintain flows through.

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: Typically when rainfall begins and the tributary begins to pick up flows, the water color is clear. As flows increase from additional rainfall, the water color becomes discolored with sediments and fines being suspended in the disturbed areas. As the rainfall recedes and the wet season comes to an end, the flows recede and less sediments are suspended. Water color becomes clear until the tributary stops flowing for the season.

Identify specific pollutants, if known: Based upon the location of the tributary the point source pollutants known are chemical contaminants from agricultural use (fertilizers, chemical sprays, burns, farm animals), industrial stormwater runoff from nearby areas, and stormwater runoff from the roadway along with debris thrown from cars along the highway.

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

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics: Due to the really low slope in this region, agricultural fields become flooded during the wet season and all of the fields exhibit wetland characteristics. The wetlands drain into the roadside ditch and then into the Unnamed Tributary. The tributary has an indiscernible ordinary high water mark in the disturbed agricultural fields due to the plowing and the vegetation is consistent between the wetland fields and the Unnamed Tributary.
- 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: 27.66 acres (Wetland A and Wetland B)

Wetland type. Explain: Classified as a palustrine emergent, persistent wetland with a saturated water regime (PEM1B) under the Cowardin system and as a slope wetland under the Oregon HGM system.

Wetland quality. Explain: The wetlands are manipulated and part of an active grass seed agricultural field.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: Flows from the wetland are overland sheet flows that pick up with the wet season after soils become saturated and then recede as the wet season comes to an end.

Surface flow is: **Overland sheetflow**

Characteristics: The area is flat with little slope.

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

Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting – There is a culvert providing a direct connection between Wetland A and Wetland B. Both wetlands directly abut the roadside ditch

⁷ibid.

- Not directly abutting
 - Discrete wetland hydrologic connection. Explain: .
 - Ecological connection. Explain: .
 - Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW
 Project wetlands are **1-2** river miles from TNW.
 Project waters are **1-2** aerial (straight) miles from TNW.
 Flow is from: **Wetland to navigable waters**.
 Estimate approximate location of wetland as within the **2-year or less** 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: Typically when rainfall begins and the wetlands become saturated and begin to pick up flows, the water color is clear. As the rainfall and flows increase from the additional rainfall, the water color becomes discolored with sediments and fines being suspended in the disturbed agricultural fields. As the rainfall recedes and the wet season comes to an end, the flows recede and less sediments are suspended. Water color becomes clear.

Identify specific pollutants, if known: Based upon the location of the wetlands the point source pollutants known are chemical contaminants from agricultural use (fertilizers, chemical sprays, burns, farm animals), industrial stormwater runoff from nearby areas, and stormwater runoff from the roadway along with debris thrown from cars along the highway.

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

- Riparian buffer. Characteristics (type, average width): .
- Vegetation type/percent cover. Explain: The review area is heavily manipulated for agricultural uses. The dominant species include tall fescue (*Schedonorus arundinaceus*) and colonial bentgrass (*Agrostis capillaris*) with species such as common dandelion (*Taraxacum officinale*) and red clover (*Trifolium pratense*) occasionally occurring.
- 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: **2**
 Approximately (27.66) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

| <u>Directly abuts? (Y/N)</u> | <u>Size (in acres)</u> | <u>Directly abuts? (Y/N)</u> | <u>Size (in acres)</u> |
|------------------------------|------------------------|------------------------------|------------------------|
| Wetland A Y | 8.67 | Wetland B Y | 18.99 |

Summarize overall biological, chemical and physical functions being performed: See Section C. below for summary.

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: Wetland A and B are performing physical functions such as the storage of stormwater, which prevent storm surges, reduce velocities, and minimize flooding of the downstream waterways and reducing flood risks. Chemical functions being performed include removing source pollutants such as those found in stormwater, heavy metals, and sequestering agricultural pollutants/fertilizers. The biological functions being performed includes providing habitat for non-ESA listed species and providing carbon sources for the downstream food web in the TNW. The resources provided by the wetlands are not insubstantial or speculative.
- 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:
 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: linear feet width (ft).
 Other non-wetland waters: acres.

Identify type(s) of waters:

- 3. Non-RPW⁸ 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:
 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: Wetlands A and B provide flows to the north and the roadside ditch along the north side of the review area. The roadside ditch provides flows to the Unnamed Tributary (HUC# 17090003010168). Flows in the region are documented by the USGS Stream Stats website and Google Earth.

Provide acreage estimates for jurisdictional wetlands in the review area: **27.66** acres.

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

⁸See Footnote # 3.

- 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.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 _____ 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): _____.

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. List type of aquatic resource: _____.
- Wetlands: _____ acres.

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.

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: Tangent Industrial Park Project Wetland Delineation Report completed by Anchor QEA, LLC and dated July 2022.
- 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: Calapooia River.
- U.S. Geological Survey Hydrologic Atlas: HUC #17090003010168.
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24K Tangent.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth 2018.
or Other (Name & Date): Delineation photos 2022, Google Earth Photos 2022.
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): The U.S. Geological Survey Stream Stats website and Google Earth photos were used to identify flow patterns of the site and duration of flows.

B. ADDITIONAL COMMENTS TO SUPPORT JD: N/A.