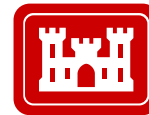




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Regulatory Program



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INTERIM APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in the Interim Approved Jurisdictional Determination Form User Manual.

SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): September 27, 2018

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWP-2017-473

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Hood River County City: Odell

Center coordinates of site (lat/long in degree decimal format): Lat. 45.62776, Long. -121.5196.

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are: attached in report/map titled .

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different jurisdictional determination (JD) form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1): .

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office (Desk) Determination Only. Date: .

Office (Desk) and Field Determination. Office/Desk Dates: 9/17/2018 Field Date(s): 12/22/2017 & 09/07/2018.

SECTION II: DATA SOURCES

Check all that were used to aid in the determination and attach data/maps to this AJD form and/or references/citations in the administrative record, as appropriate.

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: Port of Hood River; Lower Hanel Mill; Hood River County, Odell; Vista Geoenvironmental Services 10/26/2017.

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Data sheets/delineation report are sufficient for purposes of AJD form. Title/Date: Wetland Delineation Report; Port of Hood River Tax Lot 300; Map 02N10E25C; Highway 35; Odell, OR 97031; September 2, 2015 prepared by Mark Yinger Associates.

Data sheets/delineation report are not sufficient for purposes of AJD form. Summarize rationale and include information on revised data sheets/delineation report that this AJD form has relied upon:

Revised Title/Date: .

Data sheets prepared by the Corps. Title/Date: .

Corps navigable waters study. Title/Date: .

CorpsMap ORM map layers. Title/Date: JD Viewer layers 9/17/2018.

USGS Hydrologic Atlas. Title/Date: .

USGS, NHD, or WBD data/maps. Title/Date: .

USGS 8, 10 and/or 12 digit HUC maps. HUC number: Neal Creek watershed (HUC 170701050701).

USGS maps. Scale & quad name and date: .

USDA NRCS Soil Survey. Citation: .

USFWS National Wetlands Inventory maps. Citation: U.S. FWS National Wetland Inventory remote dataset displayed through USACE Portland District web eGIS system as well as the Corps ORM "JD Viewer" 9/17/2018.

State/Local wetland inventory maps. Citation: .

FEMA/FIRM maps. Citation: 4100860050B, 9/24/1984.

Photographs: Aerial. Citation: Google Earth imagery and "street view" 9/17/2018; ewwhs.digitalglobe.com imagery, and www.historicaerials.com imagery. or Other. Citation: .

LIDAR data/maps. Citation: .

- Previous JDs. File no. and date of JD letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

SECTION III: SUMMARY OF FINDINGS

Complete ORM "Aquatic Resource Upload Sheet" or Export and Print the Aquatic Resource Screen from ORM for All Waters and Features, Regardless of Jurisdictional Status – Required

A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:

- "navigable waters of the U.S." within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

- **Complete Table 1 - Required**

NOTE: If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Section 10 navigable waters list, DO NOT USE THIS FORM TO MAKE THE DETERMINATION. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: "waters of the U.S." within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

- (a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters (TNWs))
 - **Complete Table 1 - Required**
 - This AJD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.
- (a)(2): All interstate waters, including interstate wetlands.
 - **Complete Table 2 - Required**
- (a)(3): The territorial seas.
 - **Complete Table 3 - Required**
- (a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.
 - **Complete Table 4 - Required**
- (a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
 - **Complete Table 5 - Required**
- (a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.
 - **Complete Table 6 - Required**
 - Bordering/Contiguous.
 - Neighboring:
 - (c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.
 - (c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.
 - (c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.
- (a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
 - **Complete Table 7 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. - Required**
 - Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.
- (a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 8 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

C. NON-WATERS OF THE U.S. FINDINGS:

Check all that apply.

- The review area is comprised entirely of dry land.
- Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

- Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

- Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):

- **Complete Table 10 - Required**

(b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.

(b)(2): Prior converted cropland.

(b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).

(b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.

(b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.

(b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.¹

(b)(4)(iv): Small ornamental waters created in dry land.¹

(b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.

(b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.¹

(b)(4)(vii): Puddles.¹

(b)(5): Groundwater, including groundwater drained through subsurface drainage systems.¹

(b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.¹

(b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

- Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).

- **Complete Table 11 - Required.**

D. ADDITIONAL COMMENTS TO SUPPORT AJD: The 2015 Mark Yinger Associates delineation report refers to a "small seasonal stream" that enters the review area from a culvert located to the south (highway right of way). Review of historic aerial photography, topographic maps and the National Hydrologic Dataset does not indicate

¹ In many cases these excluded features will not be specifically identified on the AJD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.

presence of a stream channel in this area. Review of Google Earth "streetview" imagery as well as discussion with Port of Hood River staff suggests that the culvert in question transmits over-surface runoff from Highway 30 in part to the review area as well as to the northeast along Highway 35 to Rhodes Creek. A site inspection was conducted by the Corps on September 7, 2018 to review current site under 2015 Rule guidelines. A culvert at the northwest end of Wetland A, and ephemeral Ditch 1 running through it, discharges to Ditch 2, a 500-foot long man-made ditch in upland. Remote data including aerial imagery, field observation and lack of bed and bank or ordinary high water marks suggest that Ditch 2 conveys ephemeral flows. Ditch 2 discharges into a roadside drainage, Ditch 3, along Neal Mill Road. Ditch 3 does not exhibit defined bed and bank or distinct ordinary high water mark but the bottom of the v-shape channel appears to support a different vegetation community than the sides of the channel. Ditch 3 flows into a driveway culvert. Downstream of the culvert entrance, there is a sinkhole just past the driveway. Inspection of the road downstream of the sinkhole did not identify a culvert outlet. Based on this information, Ditch 3 terminates at the sinkhole and does not connect to a TNW, interstate water or territorial sea directly or through another water. Just before Lower Mill Drive, a ditch reappears along Neal Mill Road but connects to a different ditch entering from the southwest. This Ditch 4 then discharges through a culvert under Neal Mill Road and presumably into Lenz Creek (a perennial (a)(5) tributary).

Waters_Name	State	Cowardin Code	Hgm Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude	Local Waterway
NWP-2017-473-AR1	OR	PEM-PALUSTRINE, EMERGENT	Riverine	AREA	0.86	ACRES	OTHERA8F	45.62758	-121.519	Wetland A
NWP-2017-473-AR2	OR	R6-RIVERINE, EPHEMERAL	Riverine	LINEAR	350	FEET	EXCLDB3I	45.62756	-121.52	Ditch 1

ORM Aquatic Resources Exported Data

Jurisdictional Waters of the U.S.

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where applicable for waters/features present in the review area.

Table 1. (a)(1) Traditional Navigable Waters

(a)(1) Waters Name	(a)(1) Criteria	Rationale to Support (a)(1) Designation Include High Tide Line or Ordinary High Water Mark indicators, when applicable.
N/A	Choose an item.	N/A

Table 2. (a)(2) Interstate Waters

(a)(2) Waters Name	Rationale to Support (a)(2) Designation
N/A	N/A

Table 3. (a)(3) Territorial Seas

(a)(3) Waters Name	Rationale to Support (a)(3) Designation
N/A	N/A

Table 4. (a)(4) Impoundments

(a)(4) Waters Name	Rationale to Support (a)(4) Designation
N/A	N/A

Table 5. (a)(5) Tributaries

(a)(5) Waters Name	Flow Regime	(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows	Tributary Breaks	Rationale for (a)(5) Designation and Additional Discussion. Identify flowpath to (a)(1)-(a)(3) water or attach map identifying the flowpath; explain any breaks or flow through excluded/non-jurisdictional features, etc.
N/A	Choose an item.	N/A	Choose an item.	N/A

Table 6. (a)(6) Adjacent Waters

(a)(6) Waters Name	(a)(1)-(a)(5) Water Name to which this Water is Adjacent	Rationale for (a)(6) Designation and Additional Discussion. Identify the type of water and how the limits of jurisdiction were established (e.g., wetland, 87 Manual/Regional Supplement); explain how the 100-year floodplain and/or the distance threshold was determined; whether this water extends beyond a threshold; explain if the water is part of a mosaic, etc.
N/A	N/A	N/A

Table 7. (a)(7) Waters

SPOE Name	(a)(7) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; discuss whether any similarly situated waters were present and aggregated for SND; discuss data, provide analysis, and summarize how the waters have more than speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A

Table 8. (a)(8) Waters

SPOE Name	(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to subject water and aggregated for SND; discuss data, provide analysis, and then summarize how the waters have more than speculative or insubstantial effect the on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A

Non-Jurisdictional Waters

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where applicable for waters/features present in the review area.

Table 9. Non-Waters/No Significant Nexus

SPOE Name	Non-(a)(7)/(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus	Basis for Determination that the Functions DO NOT Contribute Significantly to the Chemical, Physical, or Biological Integrity of the (a)(1)-(a)(3) Water. Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to the subject water; discuss data, provide analysis, and summarize how the waters did not have more than a speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water.
SPOE 1	NWP-2017-473-AR1	Columbia River	<p>NWP-2017-473-AR1 (Wetland A) is a water located outside of any mapped floodplain but within 4,000 feet of Lenz Creek, an (a)(5) water. However, it does not contribute significantly to the chemical, physical or biological integrity of the Columbia River either alone or together with similarly situated waters in the area (SPOE 1).</p> <p>Wetland A is a 0.86 acre palustrine emergent wetland located within the Neal Creek watershed (HUC 170701050701). Review of general topography and aerial imagery indicate that Wetland A receives hydrology from localized direct precipitation and some over-land stormwater drainage from Highway 35. This wetland occurs within "Moderately Drained" soil drainage areas, in "Low Hills" landform areas and "Agricultural vegetation/developed/other human use" cover. No similarly situated waters were identified within the contiguous SVL area. The following outlines evaluation of functions according to 328.3(c)(5) are provided below for Wetland A in combination with similarly situated PEM wetlands identified within SPOE 1:</p> <p>(i) Sediment Trapping: Wetland A discharges to man-made drainage ditches that have no surface hydrologic connections to the larger hydrologic drainage to the Columbia River. Sediment trapping is not expected through the wetland and ditches and such functions could not be considered significant or more than speculative.</p> <p>(ii) Nutrient Recycling: Wetland A discharges to man-made drainage ditches that have no surface hydrologic connections to the larger hydrologic drainage to the Columbia River. Any nutrient recycling is not expected through these ditches and such functions could not be considered significant or more than speculative.</p> <p>(iii) Pollutant trapping, transformation, filtering and transport: Wetland A reside in a setting where they could be subject to pollutant exposure from Highway 35 and the surrounding industrial/mill area. Because Wetland A discharges to man-made drainage ditches that have no surface hydrologic connections to the larger hydrologic drainage to the Columbia River, pollutant trapping, transformation, and filtering could be considered inherent. Due to the lack of hydrologic connections though, such functions could not be considered significant or more than speculative in regards to the Columbia River.</p> <p>(iv) Retention and attenuation of flood waters: Wetland A is located outside of flood areas within the FEMA maps (4100860050B, 9/24/1984). Retention and attenuation of flood</p>

			<p>waters is not expected.</p> <p>(v) Runoff storage: Because Wetland A receives over-land stormwater flows from a limited catchment that also contributes to other drainage paths, runoff storage functions could not be considered significant or more than speculative in regards to the Columbia River.</p> <p>(vi) Contribution of flow: Because Wetland A discharges to man-made drainage ditches that have no surface hydrologic connections to the larger hydrologic drainage to the Columbia River, Wetland A provides no significant contribution to downstream flow.</p> <p>(vii) Export of organic matter: Because Wetland A discharges to man-made drainage ditches that have no surface hydrologic connections to the larger hydrologic drainage to the Columbia River, Wetland A provides no significant contribution to export of organic matter.</p> <p>(viii) Export of food resources: Because Wetland A discharges to man-made drainage ditches that have no surface hydrologic connections to the larger hydrologic drainage to the Columbia River, Wetland A provides no significant contribution to export of food sources.</p> <p>(ix) Provision of life cycle dependant aquatic habitat for species located in (a)(1) through (a)(3) waters: Because Wetland A discharges to man-made drainage ditches that have no surface hydrologic connections to the larger hydrologic drainage to the Columbia River, Wetland A provides no significant contribution to aquatic habitat for species located in the Columbia River.</p>
N/A	N/A	N/A	N/A

Table 10. Non-Waters/Excluded Waters and Features

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.
NWP-2017-473-AR2	Ditch 1. Evidence of the "seasonal stream" to the south of Wetland A and the review area could not be found. A feature resembling a ditch or linear depression was observed at the NW end of Wetland A but its presence along the entire Wetland A feature is assumed as shrub-scrub vegetation obscured direct observation of the small feature. A site inspection conducted 12/22/2017 observed a small amount of outflow from Wetland A as a direct result of a rain event with no evidence of more frequent flows. Investigation of publicly available historic topographic maps and aerial photographs does not indicate that this linear ditch is excavated in or relocated a tributary. This feature qualifies as a (b)(3)(iii) ditch with ephemeral flow that is not a relocated tributary or excavated in a tributary.
N/A	N/A

Table 11. Non-Waters/Other

Other Non-Waters of U.S. Feature/Water Name	Rationale for Non-Waters of U.S. Feature/Water and Additional Discussion.
N/A	N/A