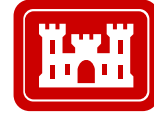




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## Regulatory Program



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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):** October 15, 2018

**B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ):** NWP-2018-355

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

State: Oregon County/parish/borough: Clackamas City: Wilsonville

Center coordinates of site (lat/long in degree decimal format): Lat. 45.315901, Long. -122.792881.

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: October 10, 2018.

Office (Desk) and Field Determination. Office/Desk Dates: Field Date(s):

#### **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: Polygon WLH LLC, SWCA Environmental Consultants, Wetland Delineation Report Revisions: Exhibit 1 (sent 10/5/18).

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: Polygon WLH LLC, SWCA Environmental Consultants, Wetland Delineation Report: Appendix C.

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:

USGS Hydrologic Atlas. Title/Date:

USGS, NHD, or WBD data/maps. Title/Date: Polygon WLH LLC, SWCA Environmental Consultants, Wetland Delineation Report: Figure 1 USGS 1986 topography map; NHD and flowpaths map (SFAM Mapper).

USGS 8, 10 and/or 12 digit HUC maps. HUC number:

USGS maps. Scale & quad name and date:

USDA NRCS Soil Survey. Citation: Polygon WLH LLC, SWCA Environmental Consultants, Wetland Delineation Report: Figure 4 SSURGO Soils Map.

USFWS National Wetlands Inventory maps. Citation: Polygon WLH LLC, SWCA Environmental Consultants, Wetland Delineation Report: Figure 5.

State/Local wetland inventory maps. Citation:

FEMA/FIRM maps. Citation:

Photographs:  Aerial. Citation: Polygon WLH LLC, SWCA Environmental Consultants, Wetland Delineation Report: Appendix A May 2017; Google Earth 2015. 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.<sup>1</sup>

(b)(4)(iv): Small ornamental waters created in dry land.<sup>1</sup>

(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.<sup>1</sup>

(b)(4)(vii): Puddles.<sup>1</sup>

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

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

(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:**

<sup>1</sup> 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.



**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**

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

**Table 2. (a)(2) Interstate Waters**

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

**Table 3. (a)(3) Territorial Seas**

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

**Table 4. (a)(4) Impoundments**

<b>(a)(4) Waters Name</b>	<b>Rationale to Support (a)(4) Designation</b>
N/A	N/A
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.
Ditch A	Intermittent	Willamette River	Yes	This ditch contributes flow downstream to a wetland adjacent to Coffee Lake Creek, and eventually into Coffee Lake Creek which flows into the Willamette River, an a(1) water. This ditch has intermittent flow, and it drains Wetland A. This feature also exhibits bed and bank, and an ordinary high water mark (change in slope). Therefore, the portion of the ditch within Wetland A (in this case, the entire ditch) is an a(5) water of the U.S.
Ditch B	Intermittent	Willamette sRiver	Yes	This ditch contributes flow downstream to Ditch A and Wetland A, a wetland adjacent to Coffee Lake Creek, and eventually into Coffee Lake Creek which flows into the Willamette River, an a(1) water. This ditch has intermittent flow, and it drains Wetland B. This feature also exhibits bed and bank, and an ordinary high water mark (change in slope). Therefore, the portion of the ditch within Wetland B (in this case, the entire ditch) is an a(5) water of the U.S.

Waters_Name	State	Cowardin Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude
NWP-2018-355 Ditch A	OR	R4-RIVERINE, INTERMIT	LINEAR	106	FEET	A5	45.31625	-122.79052
NWP-2018-355 Ditch B	OR	R4-RIVERINE, INTERMIT	LINEAR	50	FEET	A5	45.31583	-122.79056

**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.
Wetland A	Ditch A	The methodology used for determining the presence of wetlands followed the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the

		Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) (United States Army Corps of Engineers [USACE] 2010). Ditch A is within Wetland A, and the Ordinary High Water Mark of Ditch A forms the jurisdictional boundary of Wetland A. Therefore, Wetland A is bordering and contiguous to Ditch A.
Wetland B	Ditch B	The methodology used for determining the presence of wetlands followed the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) (United States Army Corps of Engineers [USACE] 2010). Ditch B is within Wetland B, and the Ordinary High Water Mark of Ditch B forms the jurisdictional boundary of Wetland B. Therefore, Wetland B is bordering and contiguous to Ditch B.

Waters_Name	State	Cowardin Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude
NWP-2018-355 Wetland A	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.07	ACRES	A6BOHWM	45.31624	-122.79054
NWP-2018-355 Wetland B	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.01	ACRES	A6BOHWM	45.31587	-122.79054

**Table 7. (a)(7) Waters**

<b>SPOE Name</b>	<b>(a)(7) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus</b>	<b>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.</b>
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

**Table 8. (a)(8) Waters**

<b>SPOE Name</b>	<b>(a)(8) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus</b>	<b>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.</b>
N/A	N/A	N/A	N/A
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**

<b>SPOE Name</b>	<b>Non-(a)(7)/(a)(8) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus</b>	<b>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.</b>
NWP-2018-355 SPOE 1	Wetland C	Willamette River	<p>This feature does not have a significant nexus to the Willamette River. Within the SPOE watershed, there are no other palustrine wetlands shown on the National Wetlands Inventory (NWI) maps within the SVL overlap area. The SPOE watershed was then searched for other potential a(8) palustrine scrub-shrub (PSS) wetlands. There was one shown on the NWI map but after further investigation using aerial imagery (Google Earth 2015), this PSS was actually a pond.</p> <p>The distance between Wetland C and the nearest a(5) stream, Ditch A, is approximately 1,100 feet. Wetland C has a relatively small drainage area which consists mostly of upland hillslope, a gravel driveway, and a portion of the nearby road. It appears that the landscape position of this wetland is not conducive to contributing flow downslope during normal conditions. For these reasons, Wetland C does not contribute significantly to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(1) Sediment trapping – Due to distance, drainage area, and landscape setting factors, sediment trapping within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(2) Nutrient recycling – Due to distance and landscape setting factors, nutrient recycling within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(3) Pollutant trapping, transformation, filtering, and transport – Due to distance, drainage area, and landscape setting factors, pollutant trapping, transformation, filtering, and transport within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(4) Retention and attenuation of flood waters – Due to distance and drainage area factors, retention and attenuation of flood waters within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(5) Runoff storage – Due to distance and drainage area factors, runoff storage within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(6) Contribution of flow – Due to distance and landscape setting factors, contribution of flow</p>

			<p>within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(7) Export of organic matter – Due to the distance factor, export of organic matter within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(8) Export of food resources – Due to the distance factor, export of food resources within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>(9) Provision of life cycle dependent aquatic habitat for species located in an a(1) – a(3) water – Due to the distance factor, provision of life cycle dependent aquatic habitat within this wetland does not significantly contribute to the chemical, physical, or biological integrity of the Willamette River.</p> <p>These factors, combined with the lack of other potential a(8) wetlands in the SVL and SPOE, were used to determine that Wetland C is not significantly contributing to the chemical, physical, or biological integrity of the Willamette River, and therefore lacks a significant nexus to an a(1) – a(3) water.</p>
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contribute

Waters_Name	State	Cowardin Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude
NWP-2018-355 Wetland C	OR	PSS-PALUSTRINE, SCRUB-SHRUB	AREA	0.07	ACRES	OTHERA8F	45.31719	-122.79482

**Table 10. Non-Waters/Excluded Waters and Features**

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.
N/A	N/A
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