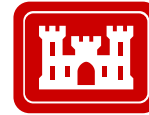




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## Regulatory Program



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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):** November 1, 2018

**B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ):** NWP-2018-393

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

State: Oregon

County/parish/borough: Marion

City: Salem

Center coordinates of site (lat/long in degree decimal format): Lat. 44.896675, Long. -123.013895.

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: 25 October 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: Fairview Park Wetland Delineation Report prepared by Environmental Science Associates (ESA) for the City of Salem, June 2018 (Delineation).

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: Fairview Park Wetland Delineation Report prepared by Environmental Science Associates (ESA) for the City of Salem, June 2018 (Delineation).

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: Referenced Below.

USGS Hydrologic Atlas. Title/Date: ORM Accessed October 2018.

USGS, NHD, or WBD data/maps. Title/Date: ORM Accessed October 2018.

USGS 8, 10 and/or 12 digit HUC maps. HUC number: 170900070301.

USGS maps. Scale & quad name and date: 1:24K, Salem West.

USDA NRCS Soil Survey. Citation: Web Soil Survey and ORM Accessed October 2018. provided as Figure 4 in the Delineation.

USFWS National Wetlands Inventory maps. Citation: ORM Accessed 2018.

State/Local wetland inventory maps. Citation: As provided as Figure 3 in the Delineation.

FEMA/FIRM maps. Citation: FEMA Flood Map Service Center and ORM Accessed October 2018.

Photographs:  Aerial. Citation: As provided as Figure 1, 2, 5A-C, and 6A-C in the Delineation. Google Earth historic imagery accessed October 2018. or  Other. Citation: As provided as Photo 1 - 26 in the Delineation.

- 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): Oregon Explorer ORWAP and SFAM Map Viewer Layers: NWI, NHD, 100 Year Floodplain, Hydric Soils, and Land Cover NLCD 2011, Accessed 2018, [http://tools.oregonexplorer.info/OE\\_HtmlViewer/Index.html?viewer=orwap\\_sfam](http://tools.oregonexplorer.info/OE_HtmlViewer/Index.html?viewer=orwap_sfam).

**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.**

<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.

D. ADDITIONAL COMMENTS TO SUPPORT AJD: The review area is approximately 26.3 acres and the Delineation identified five wetlands (Wetland A - E) totaling approximately 0.17 acres and approximately 2,240 linear feet of one waterway (Middle Fork Pringle Creek). The review area is located near Old Strong Road Southeast and Reed Road Southeast on a portion of the former Fairview Hospital and Training Center in Salem, Marion County, Oregon. The field visit for the wetland delineation was conducted by the consultant on 1 May 2018, follow-up field visits were conducted by the consultant in June and August of 2018.

The site was built as the Fairview Hospital and Training Center and was in operation from 1908 to 2000. After the campus was closed building demolition began around 2008. All buildings within the review area were demolished as of 2017.

Wetland A formed after the daylighting of a section of a stormwater conveyance pipe in 2011. Wetland A exhibits palustrine scrub shrub and riverine characteristics, however would be more accurately described as a vegetated ditch. Wetland A exhibits a bed and bank with an ordinary high water mark throughout its 175 linear feet. It holds water intermittently, after seasonal storm events, which flows from the southwest to northeast. Water enters Wetland A from roadside ditches along Strong Road Southeast outside of the review area through a 24-inch concrete culvert. When flow is present water exits through a 36-inch concrete culvert and is piped to the West Middle Fork Pringle Creek. Observations by the consultant during their field visit in May, one inch of surface water was observed flowing through Wetland A. There was no surface water or surface saturation present during a site visit in August. Abutting the banks are palustrine wetland features, which include vegetation dominated by Pacific willow (*Salix lasiandra* – FACW), Scouler's willow (*Salix scouleriana* – FAC), common rush (*Juncus effusus* – FACW), and perennial ryegrass (*Lolium perenne* – FAC). Soils in Wetland A are non-hydric Santiam silt loam. Although this feature is named "Wetland A" it is classified as a ditch and abutting wetland and will be evaluated as such in this AJD.

Wetland B is a 0.04-acre palustrine emergent depression formed within the steep slopes of a pit formed after excavating the footprint of a prior standing building. Precipitation and groundwater collects in the wetland due to a top layer of clayey soils mixed with gravel and concrete refusal fill. Soils in Wetland B are mapped as non-hydric Santiam silt loam. Pacific willow and black cottonwood (*Populus balsamifera* – FAC) are established around the edge of Wetland B. The interior of the wetland is dominated by creeping spike-rush (*Eleocharis palustris* – OBL).

Wetland C is a 0.05-acre palustrine emergent depression formed in a pit after excavating the footprint of a prior standing building. Precipitation, groundwater, and minimal overland flow collects in the wetland due to cobbles and rock refusal fill mixed in with the soils. Soils in Wetland C are mapped as non-hydric Santiam silt loam. Pacific willow and black cottonwood are established around the edge of Wetland C. The interior of the wetland is dominated by creeping spike-rush.

Wetland D is a 0.03-acre palustrine scrub shrub depression formed within fillslopes after excavating the footprint of a prior standing building. Precipitation, groundwater, and overland flow are the primary sources of hydrology. Soils in Wetland D are mapped as non-hydric Silverton silt loam. Dominant vegetation in the wetland includes black cottonwood, Scouler's willow, annual meadow grass (*Poa annua* – FAC), and creeping spike-rush.

Wetland E is a 0.02-acre palustrine scrub shrub depression formed within a fillslope after excavating the footprint of a prior standing building. Precipitation, groundwater, and overland flow are the primary sources of hydrology. Soils in Wetland E are mapped as non-hydric Santiam silt loam. Dominant vegetation in the wetland includes black cottonwood and Scouler's willow. Wetland E is closest to the nearest (a)(5) water, West Middle Fork of Pringle Creek, at approximately 253 feet away and is not within its floodplain.

No wetlands were mapped on the LWI or NWI for this review area.

West Middle Fork of Pringle Creek flows perennially through the northeast corner of the review area for 2,240 linear feet. In 0.5 miles northwest of the review area West Middle Fork of Pringle Creek flows into Middle Fork Pringle Creek, which flows into Pringle Creek in approximately 1.3 miles, and in approximately 1.6 miles converges into the Willamette River.

**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

**Table 5. (a)(5) Tributaries**

<b>(a)(5) Waters Name</b>	<b>Flow Regime</b>	<b>(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows</b>	<b>Tributary Breaks</b>	<b>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.</b>
NWP-2018-383 West Middle Fork Pringle Creek	Perennial	Willamette River	No	West Middle Fork Pringle Creek (a)(5) flows into Middle Fork Pringle Creek (a)(5) which flows into Pringle Creek (a)(5) to the Willamette River (a)(1)

**Table 6. (a)(6) Adjacent Waters**

<b>(a)(6) Waters Name</b>	<b>(a)(1)-(a)(5) Water Name to which this Water is Adjacent</b>	<b>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.</b>
N/A	N/A	N/A

**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

**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</b> 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**

<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.</b> 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.
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-2018-393 Wetland A	Labelled in the delineation as "Wetland A", this feature exhibits a bed and bank and intermittent flow with abutting wetland features. This water enters the site through a culvert and flows from the southwest to the northeast, exiting the site through a culvert. This feature was originally constructed in uplands as a piped stormwater conveyance. During demolition of the site the stormwater feature was daylighted and began exhibiting wetland characteristics surrounding a bed and bank. Its receiving water is from roadside ditches. When flowing downstream waters are piped to the West Middle Fork Pringle Creek. Although this feature meets ditch characteristics, it was created in dry land to convey stormwater. Therefore this feature meets the definition of a (b)(6) excluded feature.
NWP-2018-393 Wetland B	Wetland B is a water-filled depression which resulted after the demolition of buildings on-site. The depressions left from where foundations once stood hold water. The footprint of this feature was created entirely in dryland. Using historical aerial imagery standing water is observed in this depression after the building was removed starting sometime between 2008 - 2010. Although this feature meets wetland parameters, it was created in dry land incidental to the excavation for the construction activity and therefore this feature meets the definition of a (b)(4)(v) excluded feature.
NWP-2018-393 Wetland C	Wetland C is a water-filled depression which resulted after the demolition of buildings on-site. The depressions left from where foundations once stood hold water. The footprint of this feature was created entirely in dryland. Using historical aerial imagery standing water is observed in this depression after the building was removed starting sometime between 2008 - 2010. Although this feature meets wetland parameters, it was created in dry land incidental to the excavation for the construction activity and therefore this feature meets the definition of a (b)(4)(v) excluded feature.
NWP-2018-393 Wetland D	Wetland D is a water-filled depression which resulted after the demolition of buildings on-site between 2010 - 2011. The depressions left from where foundations once stood hold water. The footprint of this feature was created entirely in dryland. Although this feature meets wetland parameters, it was created in dry land incidental to the excavation for the construction activity and therefore this feature meets the definition of a (b)(4)(v) excluded feature.
NWP-2018-393 Wetland E	Wetland E is a water-filled depression which resulted after the demolition of buildings on-site between 2010 - 2011. The depressions left from where foundations once stood hold water. The footprint of this feature was created entirely in dryland. Although this feature meets wetland parameters, it was created in dry land incidental to the excavation for the construction activity and therefore this feature meets the definition of a (b)(4)(v) excluded feature.

**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



### ORM Aquatic Resources Summary

Waters_Name	State	Cowardin Code	Hgm Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude	Local Waterway	Ohwm Chg In Plant Community	Ohwm Bed And Banks
NWP-2018-393 Site 1	OR	R5-RIVERINE, UNKNOWN PERENNIAL	Riverine	LINEAR	2240	FEET	A5	44.8997	-123.01406	West Middle Fork Pringle Creek	YES	YES
NWP-2018-393 Site 2	OR	PSS-PALUSTRINE, SCRUB-SHRUB	Riverine	LINEAR	175	FEET	EXCLDB6	44.89647	-123.01411	Wetland A		
NWP-2018-393 Site 3	OR	PEM-PALUSTRINE, EMERGENT	Depressional	AREA	0.04	ACRES	EXCLDB4V	44.89705	-123.0149	Wetland B		
NWP-2018-393 Site 4	OR	PEM-PALUSTRINE, EMERGENT	Depressional	AREA	0.05	ACRES	EXCLDB4V	44.89721	-123.01449	Wetland C		
NWP-2018-393 Site 5	OR	PSS-PALUSTRINE, SCRUB-SHRUB	Depressional	AREA	0.03	ACRES	EXCLDB4V	44.8977	-123.01439	Wetland D		
NWP-2018-393 Site 6	OR	PSS-PALUSTRINE, SCRUB-SHRUB	Depressional	AREA	0.02	ACRES	EXCLDB4V	44.89749	-123.01291	Wetland E		