



Regulatory Program

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

SECTION I: BACKGROUND INFORMATION

A.COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): 15 February 2019

B.ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWP-2018-00518

C.PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Multnomah County City: Gresham
Center coordinates of site (lat/long in degree decimal format): Lat. 45.5459°, Long. -122.4743°.
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: January 22, 24, 2019 and December 6, 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: Sandy Boulevard NE 181 Ave to E. Gresham City Limits. Wetland Delineation Report, Dec 2018 prepared by ESA.
- 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: Sandy Boulevard NE 181 Ave to E. Gresham City Limits. Wetland Delineation Report, Dec 2018 prepared by ESA.
 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: Sandy Boulevard NE 181 Ave to E. Gresham City Limits. Wetland Delineation Report, Dec 2018 prepared by ESA.
- USGS 8, 10 and/or 12 digit HUC maps. HUC number: .
- USGS maps. Scale & quad name and date: .
- USDA NRCS Soil Survey. Citation: .
- USFWS National Wetlands Inventory maps. Citation: .
- State/Local wetland inventory maps. Citation: .

- FEMA/FIRM maps. Citation: .
- Photographs: Aerial. Citation: . or Other. Citation: Sandy Boulevard NE 181 Ave to E. Gresham City Limits. Wetland Delineation Report, Dec 2018 prepared by ESA.
- 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): SPOE from JD viewer in ORM 2.0, Sandy Boulevard NE 181 Ave to E. Gresham City Limits. Wetland Delineation Report, Dec 2018 prepared by ESA., Google Earth Pro Map, FEMA Firm Map

SECTION III: SUMMARY OF FINDINGS

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 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.

- (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.
- (b)(4)(vii): Puddles.
- (b)(5): Groundwater, including groundwater drained through subsurface drainage systems.
- (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.
- (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.**

ADDITIONAL COMMENTS TO SUPPORT AJD: Wetland A is 0.364 acre within the review area and extends off-site to the edge of the herbaceous vegetation cover on the same terrace for a total approximate size of 0.50 acres. The wetland does not extend further north down the wooded embankment into the farm field below. Wetland A is approximately 950 feet south of the Columbia Slough, 1,600 feet west of Stormwater Creek, and over 4,000 from the Columbia River. The wetland is not within a 100-year floodplain (FEMA panel 41051C0211H, effective 12/18/2009). The nearest mapped wetlands are artificially created ponds located approximately 1,400 feet to the south in the I-84 median. The wetland has highly disturbed soils and vegetation due to historic filling of the site for equipment since 1939, limited to no capacity to store runoff because of its flat surface, and does not provide foraging, feeding or breeding habitat for aquatic dependent species.

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
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.
NWP-2018-518 Stormwater Creek	Perennial	Columbia River	Yes	The Stormwater Creek flows into Columbia Slough which then flows into the Columbia River
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A
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
NWP-2018-518 Wetland A	Columbia Slough/ River	N/A
N/A	N/A	N/A
N/A	N/A	N/A
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
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
N/A	N/A	N/A	N/A

Non-Jurisdictional Waters

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	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.
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SPOE A	NWP-2018-518 Wetland A	Columbia River	<p>A significant nexus determination was conducted for one feature. In order to complete the significant nexus determination, "similarly situated" waters were located to evaluate their cumulative effect on the chemical, physical, and biological integrity of the downstream a(1)-a(3) water.</p> <p>Wetland A is approximately 1041.7 linear feet from the nearest (a)(5) water (Fairview Creek) and approximately 4,841.3 linear feet from an (a)(1) water (Columbia River). Within the SPOE watershed there are 3 similarly situated wetlands that perform similar functions included into this significant nexus. The wetlands were determinate to be palustrine emergent with similar landform position as wetland A. Based upon the Soil Vegetation Landform map there were no sufficiently close wetlands to be evaluated for the significant nexus determination. The 3 "similarly situated" wetlands and wetland A do not have significant nexus to Fairview Creek or to the Columbia River. Furthermore, the wetland A and the similarly situated wetlands are outside of the 500-year floodplain of the Columbia River.</p> <p>Sediment trapping- due to the landscape, drainage area, and the distance of the wetland, the wetland does not contribute significantly to the chemical, physical, or biological integrity of the Columbia River.</p> <p>Nutrient recycling- the effect of nutrient recycling for the wetland would be considered speculative. The distance of the wetland, the landscape, and vegetation cover the wetland does not likely contribute to the nutrient recycling and to the chemical, physical, or biological integrity of the Columbia River.</p> <p>Pollutant trapping – due to the distance of the wetland to tributary features and the Columbia River, pollutant trapping is likely to be limited due to the landforms and vegetation in the area. The wetland does not significantly contribute to the chemical, physical, or biological integrity of the Columbia River.</p> <p>Retention and attenuation of flood waters – the wetland do not contribute to the retention and attenuation of flood waters from the Columbia River. The wetland's distance of 4760.6 feet and the landscape of the area reduce the wetland in receiving flood waters of the river and contributing to the chemical, physical, or biological integrity of the Columbia River.</p> <p>Runoff storage – The effect of the wetland on runoff storage would be considered insubstantial or speculative. Due to the distance, landscape, and drainage area the wetlands do not contribute to the chemical, physical, or biological integrity of the Columbia River.</p> <p>Contribution of flow - The nearest tributary is 1656 feet to the west and lacks connection to the wetland. The wetland is located 4760 feet south of the Columbia River. Therefore, the wetland does not contribute significantly to the chemical, physical, or biological integrity of the Columbia River.</p> <p>Export of organic matter – the landform and drainage are factors in the export of organic matter within the wetland. Due to the distance of the wetland, it does not contribute significantly to the chemical, physical, or biological integrity of the Columbia River.</p> <p>Export of food resources – due to the distance of the wetland and the landform, the export of food resources does not contribute significantly to the biological, chemical, or physical integrity of the Columbia River.</p> <p>Provision of life cycle dependent aquatic habitat – due to the distance of Wetland A to the Columbia River the wetland is not significantly contributing to the chemical, physical, or biological integrity of the river or providing sufficient habitat for aquatic life and life cycles.</p>
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N/A	N/A	N/A	N/A
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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-2018-518 Ditch 1	The ditch does not flow directly or to another water on the project site. Nor it is connected to the Canal Corp which eventually flows into the Columbia River.
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

ORM TABLE – exported waters from ORM

Waters_Name	State	Cowardin Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude
NWP-2018-00518 Wet A	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.364	ACRES	OTHEREB	45.5459	-122.4743
NWP-2018-00518-Ditch1	OR	R6-RIVERINE, EPHEMERAL	LINEAR	1000	FEET	EXCLDB3III	45.54549	-122.46401
NWP-2018-00518-SWC	OR	R5-RIVERINE, UNKNOWN PERENNIAL	LINEAR	160	FEET	A5	45.54574	-122.46786