

**DRY LAND APPROVED JURISDICTIONAL DETERMINATION FORM<sup>1</sup>**  
**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):** March 20, 2020

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** NewSun Energy, NWP-2018-350/1

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

State: Oregon County/parish/borough: Deschutes City: Bend  
Center coordinates of site (lat/long in degree decimal format): Lat. 44.091423°, Long. -120.989614°  
Universal Transverse Mercator:

Name of nearest waterbody: Dry River

Name of watershed or Hydrologic Unit Code (HUC): 170703050806, Zell Pond-Dry River

- Check if map/diagram of review area is 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. See NWP-2018-350

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- Office (Desk) Determination. Date: March 12, 2020
- 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.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There are **no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**SECTION III: 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: Wetland Determination Report for Alfalfa Solar Farm Access Road for NewSun Energy, Prepared by PBS Engineering and Environmental, 25 June 2019 (Determination)
- 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: N/A
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24K, Horse Butte
- USDA Natural Resources Conservation Service Soil Survey. Citation: Provided in Determination (Figure 4), ORM Accessed January 2020
- National wetlands inventory map(s). Cite name: Provided in Determination (Figure 3), ORM Accessed January 2020
- State/Local wetland inventory map(s): N/A
- FEMA/FIRM maps: Map 41013C0975C dated 2 February 2012, FEMA Flood Map Service Center Accessed March 2020 and ORM Accessed January 20120
- 100-year Floodplain Elevation is: Elevation not listed on FEMA map (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Figure 5 and 6 in Determination
- or  Other (Name & Date): Photo 1 in Determination and additional photo in mapped NWI area provided by the consultant on 15 January 2020.
- Previous determination(s). File no. and date of response letter: NWP-2018-350 response letter dated 16 November 2018
- Applicable/supporting case law: N/A
- Applicable/supporting scientific literature: N/A
- Other information (please specify): NWP-2016-388 delineation received in 2016. Additional information regarding sample plot location provided by consultant in email dated 15 January 2020, described below (See Section B).

**B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD. EXPLAIN RATIONALE FOR DETERMINATION THAT THE REVIEW AREA ONLY INCLUDES DRY LAND:**

<sup>1</sup> This form is for use only in recording approved JDs involving dry land. It extracts the relevant elements of the longer approved JD form in use since 2007 for aquatic areas and adds no new fields.

The review area is located on 6.6 acres at 26720 Horsell Road, Bend, Deschutes County, Oregon. The review area is entirely upland. Soils are mapped as non-hydric and include Clovkamp loamy sand, 0-3 percent slopes and Gosney-Rock outcrop-Deskamp complex 0-15 percent slopes. No surface hydrology was observed in the review area during the site visit on 21 May 2019. However, 75% of the western portion of the review area is within the 100-year floodplain of the Dry River and the NWI documented wetlands within the review area. The determination plot location was chosen based on this information. Furthermore, the data point collected was positioned at the lowest elevation within the NWI polygon. Although within the data point dominant vegetation was *Alopecurus pratensis* (FACW), no other wetland indicators were present.

The review area of NWP-2018-350/1 is on a portion of a larger tax lot. The tax lot previously had a delineation submitted for Corps file number NWP-2016-388 which overlaps the subject review area. There may be waters of the U.S. within the tax lot, however they are outside of the review area for this jurisdictional determination.

Additionally, an area north of the currently requested review area was investigated under NWP-2018-350 and was determined to be entirely uplands.