

**APPROVED JURISDICTIONAL DETERMINATION FORM
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): April 15, 2020

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Portland District, Wilkshire Terrace, NWP-2017-096

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Jackson City: Medford
Center coordinates of site (lat/long in degree decimal format): Lat. 42.347516° N, Long. 122.837788° W.
Universal Transverse Mercator: Refer to Lat./Long above.

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Rogue River

Name of watershed or Hydrologic Unit Code (HUC): HUC #171003080110

- Check if map/diagram of review area and/or potential jurisdictional areas is/are 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.

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

- Office (Desk) Determination. Date: January 28, 2020
 Field Determination. Date(s): March 27, 2018

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. [Required]

- Waters subject to the ebb and flow of the tide.
 Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- TNWs, including territorial seas
 Wetlands adjacent to TNWs
 Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
 Non-RPWs that flow directly or indirectly into TNWs
 Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
 Impoundments of jurisdictional waters
 Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 700 linear feet: 5-6 width (ft) and/or acres.
Wetlands: 0.559 acres.

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Wetland 3 is a 0.054 acre wetland which was delineated along the western edge of the property. The wetland is located between mounded fill materials and has formed onsite from rainfall. The wetland is contained within the review area and does not extend offsite to downstream waters. The 2007 and 2017 wetland delineations were reviewed by the Corps and the Oregon Department of State Lands and the extent of wetlands and waters onsite was verified by a site visit conducted by the Corps in March 2018. The Oregon Department of State Lands using the 87 Corps Manual and the latest version of the Western Mountains, Valleys, and Coast supplement to the Corps manual performed a site visit in January 2018 and in a letter dated January 12, 2018, the Oregon Department of State Lands confirmed the boundaries of all wetlands found within the review area. The Corps also visited the site in March of 2008 and April of 2019. During the site visits the Corps confirmed the boundaries of the wetlands by verifying the different vegetative communities and the presence of hydrology. Wetland 3 is located 90 feet from Roberts Road and residential development to the west. The entire review area is abutted by residential development on all sides and wetland 3 does not have chemical, physical, or biological connections to downstream waterways or TNW's. The site is private property and there is no commerce connection to Wetland 3 as there are no, nor would there be, commercial or recreational uses of the site or the wetland.**

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not

³ Supporting documentation is presented in Section III.F.

perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 6 square miles
Drainage area: 400 square miles
Average annual rainfall: 23 inches
Average annual snowfall: 3 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
 Tributary flows through 3 tributaries before entering TNW.

Project waters are 2-5 river miles from TNW.
Project waters are 1-2 river miles from RPW.
Project waters are 2-5 aerial (straight) miles from TNW.
Project waters are 1 (or less) aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW⁵: The unnamed Tributary flows from stormwater catchments into the on-site drainage and then back into the stormwater catchment before being discharged into Lazy Creek, which discharges into Bear Creek, which then discharges into the Rogue River (a 404 TNW up to William Jess Dam, River Mile 215).

Tributary stream order, if known: 2.

(b) General Tributary Characteristics (check all that apply):

Tributary is: Natural

Artificial (man-made). Explain: .

Manipulated (man-altered). Explain: The tributary path is from upstream areas

and was part of a seep that has been captured with the Rogue Valley Sewer Services stormwater system to move water away from roadways.

Tributary properties with respect to top of bank (estimate):

Average width: 3 feet
Average depth: 1-2 feet
Average side slopes: 2:1.

Primary tributary substrate composition (check all that apply):

- | | | |
|--------------------------------------------|---------------------------------------------------------------|-----------------------------------|
| <input checked="" type="checkbox"/> Silts | <input checked="" type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input checked="" type="checkbox"/> Vegetation. Type/% cover: | |
| <input type="checkbox"/> Other. Explain: . | | |

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: The tributary is stable due to the stormwater catchment system upstream and downstream. It is ditched along the north side of the property.

Presence of run/riffle/pool complexes. Explain: The tributary is ditched.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): 1 %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **2-5**

Describe flow regime: The flows pick up in the tributary as rainfall raises and the springs feed into the system. Water is found sometimes year-round within the tributary.

Other information on duration and volume: .

Surface flow is: **Discrete and confined**. Characteristics: Ditched between two stormwater pipes.

Subsurface flow: **Unknown**. Explain findings: .

Dye (or other) test performed: .

Tributary has (check all that apply):

Bed and banks

OHWM⁶ (check all indicators that apply):

clear, natural line impressed on the bank

the presence of litter and debris

changes in the character of soil

destruction of terrestrial vegetation

shelving

the presence of wrack line

vegetation matted down, bent, or absent

sediment sorting

leaf litter disturbed or washed away

scour

sediment deposition

multiple observed or predicted flow events

water staining

abrupt change in plant

community

other (list):

Discontinuous OHWM.⁷ Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

High Tide Line indicated by:

Mean High Water Mark indicated by:

oil or scum line along shore objects

survey to available datum;

fine shell or debris deposits (foreshore)

physical markings;

physical markings/characteristics

vegetation lines/changes in vegetation types.

tidal gauges

other (list):

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: water color is clear and no other observations were made.

Identify specific pollutants, if known: pollutants which may be in the waterway would come from developed areas upstream.

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics: wetlands directly abut the tributary and were delineated.
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings:

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: 0.559 acres

Wetland type. Explain: Palustrine Emergent.

Wetland quality. Explain: Delineation depicts the area as disturbed.

Project wetlands cross or serve as state boundaries. Explain: NA.

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain:

Surface flow is: **Overland sheetflow**

Characteristics: Wetlands both flow into the tributary.

Subsurface flow: **Unknown**. Explain findings:

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: Overland sheetflow and areas between the directly abutting wetland and the not directly abutting wetland have connectivity during peak storm events which remains connected for several days after the event.

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **2-5** river miles from TNW.

Project waters are **2-5** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters**.

Estimate approximate location of wetland as within the **2-year or less** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: No contaminants have been observed during previous site visits and water color was clear.

Identify specific pollutants, if known: no known contaminants are known.

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain: Alopecurus pratensis (90%) - Pasture grasses.
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **2**

Approximately (0.559) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Y	0.23	N	0.329

Summarize overall biological, chemical and physical functions being performed: The wetlands perform sediment sequestration, water treatment, and water retention for the aquatic ecosystem.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

- 1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .
- 2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .
- 3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: The wetlands appear to be an extension of the wetlands adjacent to the unnamed tributary. Vegetation in both wetlands were the same and flows were not present during a site visit in March 2019, but the areas between the wetlands were moist compared to other areas in the review area.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

- TNWs: linear feet width (ft), Or, acres.
 Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
 Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: Flows in the unnamed tributary have been observed outside of wetter periods of the year and remain continuous until rainfall is absent for several months. This tributary receives collected flows from seeps and springs located west and uphill from the site.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: **700** linear feet **5-6** width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters:

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
 Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: The wetland surrounds the unnamed tributary and extends to the ordinary high water mark.

Provide acreage estimates for jurisdictional wetlands in the review area: **0.23** acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **0.329** acres.

⁸See Footnote # 3.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: _____ acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: _____
- Other factors. Explain: _____

Identify water body and summarize rationale supporting determination: _____

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: _____ linear feet _____ width (ft).
- Other non-wetland waters: _____ acres.
Identify type(s) of waters: _____
- Wetlands: _____ acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: _____
- Other: (explain, if not covered above): _____

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): _____ linear feet _____ width (ft).
- Lakes/ponds: _____ acres.
- Other non-wetland waters: _____ acres. List type of aquatic resource: _____
- Wetlands: 0.054 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): _____ linear feet, _____ width (ft).

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

SECTION IV: 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: Delineation dated February 25, 2019.
 - 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:
 - Corps navigable waters' study:
 - 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 Medford East.
 - USDA Natural Resources Conservation Service Soil Survey. Citation: .
 - National wetlands inventory map(s). Cite name: .
 - State/Local wetland inventory map(s): .
 - FEMA/FIRM maps:
 - 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
 - Photographs: Aerial (Name & Date):Google Earth (various years).
 - or Other (Name & Date):Delineation site photos (2019).
 - Previous determination(s). File no. and date of response letter:NWP-2008-377 & NWP-2017-096 April 16, 2018.
 - Applicable/supporting case law: .
 - Applicable/supporting scientific literature: .
 - Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetland 3 is a 0.054 acre wetland located along the western side of the site and has no chemical, biological, physical, or hydrological connections to any other waterway, wetland or aquatic feature and receives insufficient rainfall to provide overland sheetflow to other downstream locations. This wetland is isolated and partially impounded by abutting fill material and residential development to the west. Previously the site was delineated on April 4, 2007 by Agate Engineering which found Wetland 3 as the same size and boundaries. The Corps authorized the discharge of fill into 0.38 acres of wetland to construct a residential development under Nationwide Permit 29 on August 18, 2008. The developer did not develop the site as proposed and the wetlands were not filled. Since the original authorization by the Corps, there has been no changes to the size and extent of wetland 3. The previous delineation from 2008 reflects the same extent of wetland 3. Because the delineator used the Western Mountain, Valleys, and Coast supplement in the 2019 delineation, the extent of the other wetlands identified on the north corner of the site along the drainage has been updated. Soils and hydrology were present along the unnamed tributary and the facultative plant community is what altered the findings for the boundaries. Though the boundaries of the wetland along the unnamed tributary have changed due to the use of the supplement, the actual vegetation communities in the sample plots from the 2007 delineation to the 2017 delineation did not change. Wetland 3 is the same size and does not connect to downstream locations and does not have any connections to other regulated water bodies. There are no commerce connections to Wetland 3 as there are no commercial or recreational uses of the site or the wetland. After the initial review of the site and site visits conducted in 2008 and 2019, the Corps has determined wetland 3 is isolated from all other waterways. The Oregon Department of State Lands has also reviewed the wetland delineations from 2007 and 2017 and concur with the findings of the reports for the extent of wetlands onsite. The size and extent of wetlands do appear to be adequately captured and complies with the 87 Corps Manual and the latest version of the Western Mountains, Valleys, and Coast supplement.

In summary, the waterway and wetlands depicted below have had their boundaries confirmed by the Oregon Department of State Lands in a letter dated January 12, 2018 and confirmed by the Corps:

The Unnamed Tributary to Lone Pine Creek is an RPW which contains flows from upstream areas and stormwater runoff and flows through an open channel on the property before flowing into Rogue Valley Sewer Services Stormwater system. Once flows go in the stormwater system, the pipe ends and discharges flows into Lone Pine Creek approximately 1,200 linear feet from the inlet location. Characteristics of this water are depicted in Section III. B. 1. above. This tributary is a Section 404 jurisdictional water of the U.S.

Wetland 1 directly abuts the Unnamed Tributary to Lone Pine Creek and is 0.23 acres in size. Characteristics of the wetland are depicted in Section III. B. 2. above. This wetland is a Section 404 jurisdictional water of the U.S.

Wetland 2 is adjacent to the Unnamed Tributary, within 10 feet of wetland 1, and is 0.329 acres in size. Characteristics of the wetland are depicted in Section III. B. 2 above. This wetland is a Section 404 jurisdictional water of the U.S.

Wetland 3 is 0.054 acres in size and a non-regulated wetland as depicted in Section II. B. 2 above.

In an email dated 10 April 2020 the Approved Jurisdictional Determination was coordinated with EPA and Corps Headquarters. On 10 April 2020 Corps Headquarters responded and concurred with the Districts findings. On 15 April 2020 the EPA Region 10 responded and concurred with the Districts findings.