



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 7/7/2020

ORM Number: NWP-2020-215

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Oregon City: White City County/Parish/Borough: Jackson County

Center Coordinates of Review Area: Latitude 42.43338 Longitude -122.828347

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):			
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.	N/A.	N/A.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**D. Excluded Waters or Features**



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Ditch 1	0.056	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 1 appears to have been excavated in uplands or non-jurisdictional features. The excavation of the ditch does not appear to have relocated a tributary and the ditch does not appear to have been constructed in an adjacent wetland. In addition, Ditch 1 does not meet the (a)(2) definition because it is not a naturally occurring tributary. Ditch 1 is an excavated ditch that did not relocate a tributary. See Section III(C) below for additional information.
Ditch 2	0.096	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 2 appears to have been excavated in uplands or non-jurisdictional features. The excavation of the ditch does not appear to have relocated a tributary and the ditch does not appear to have been constructed in an adjacent wetland. See Section III(C) below for additional information.
Ditch 3	0.023	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 3 appears to have been excavated in uplands or non-jurisdictional features. The excavation of the ditch does not appear to have relocated a tributary and the ditch does not appear to have been constructed in an adjacent wetland. See Section III(C) below for additional information.
Ditch 4	0.001	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 4 appears to have been excavated in uplands or non-jurisdictional features. The excavation of the ditch does not appear to have relocated a tributary and the ditch does not appear to have been constructed in an adjacent wetland. See Section III(C) below for additional information.
Vernal Pool 6	0.073	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 6 is a palustrine emergent (PEM) wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 6 does not meet the definition of adjacent wetland.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

---

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS**  
**REGULATORY PROGRAM**  
**APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)**  
**NAVIGABLE WATERS PROTECTION RULE**

Vernal Pool 7	0.023	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 7 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 7 does not meet the definition of adjacent wetland.
Vernal Pool 8	0.006	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 8 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 8 does not meet the definition of adjacent wetland.
Vernal Pool 9	0.04	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 9 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 9 does not meet the definition of adjacent wetland.
Vernal Pool 10	0.025	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 10 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 10 does not meet the definition of adjacent wetland.
Vernal Pool 11	0.018	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 11 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 11 does not meet the definition of adjacent wetland.
Vernal Pool 12	0.03	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 12 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 12 does not meet the definition of adjacent wetland.
Vernal Pool 13	0.06	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 13 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 13 does not meet the definition of adjacent wetland.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Vernal Pool 14	0.007	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 14 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 14 does not meet the definition of adjacent wetland.
Vernal Pool 15	0.06	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 15 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 15 does not meet the definition of adjacent wetland.
Vernal Pool 16	0.008	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 16 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 16 does not meet the definition of adjacent wetland.
Vernal Pool 17	0.013	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 17 is a PEM wetland located in the northern 1/3 <sup>rd</sup> of the study area north of Ditch 1. The wetland appears to be a closed depression and would not be flooded by Ditch 1 in a typical year. Vernal Pool 17 does not meet the definition of adjacent wetland.
Vernal Pool 18	0.02	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 18 is a PEM wetland located in the northern 1/3 <sup>rd</sup> of the study area north of Ditch 1. The wetland appears to be a closed depression and would not be flooded by Ditch 1 in a typical year. Vernal Pool 18 does not meet the definition of adjacent wetland.
Vernal Pool 19	0.027	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 19 is a PEM wetland located in the center of the study area between Ditch 1 and Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 1 or any other ditch within the study area in a typical year. Vernal Pool 19 does not meet the definition of adjacent wetland.
Vernal Pool 20	0.013	acre(s)	(b)(1) Non-adjacent wetland.	Vernal Pool 20 is a PEM wetland located in the southern 1/3 <sup>rd</sup> of the study area south of Ditch 2. The wetland appears to be a closed depression and would not be flooded by Ditch 2 in a typical year. Vernal Pool 20 does not meet the definition of adjacent wetland.

**III. SUPPORTING INFORMATION**



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Vernal pool assessment \(Appendix B\) and wetland delineation reports for Avenue E, Tax Lot 1000, Jackson County, Oregon \(27 August 2019, 4 February 2020\) \(Appendix D\) as submitted with the project application on 12 May 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [N/A](#)

Photographs: [Aerial and Other: Aerial photographs and ground-level photographs as submitted in the wetland delineation reports received with the project application on 12 May 2020. Additional ground-level photographs of Ditch 1 received 11 June 2020.](#)

Corps site visit(s) conducted on: [N/A](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [U.S. Army Corps of Engineers eGIS tool review on 26 May 2020.](#)

USFWS NWI maps: [U.S. Army Corps of Engineers eGIS tool review on 26 May 2020.](#)

USGS topographic maps: [U.S. Army Corps of Engineers eGIS tool review on 26 May 2020.](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	<a href="#">U.S. Geologic Survey Stream Stats tool review on 20 May 2020; U.S. Army Corps of Engineers eGIS tool review on 26 May 2020.</a>
USDA Sources	<a href="#">U.S. Army Corps of Engineers eGIS tool review on 26 May 2020.</a>
NOAA Sources	<a href="#">U.S. Army Corps of Engineers eGIS tool review on 26 May 2020.</a>
USACE Sources	<a href="#">U.S. Army Corps of Engineers eGIS tool review on 26 May 2020.</a>
State/Local/Tribal Sources	<a href="#">Oregon Department of Geology and Mineral Industries online mapping tool review on 26 May 2020 and 28 May 2020; Rogue Valley Sewer Services online mapping tool review on 28 May 2020 and additional information received from RVSS staff on 16 June 2020;</a>
Other Sources	<a href="#">Coordination and communication with the applicant's agent/jurisdictional determination requestor dated 28 May 2020, 10 June 2020, 11 June 2020, and 12 June 2020. Historic aerial photographs obtained from <a href="http://www.historicaerials.com">www.historicaerials.com</a> on 1 July 2020; 1956, 1982</a>

**B. Typical year assessment(s):** [The Corps utilized the Antecedent Precipitation Tool \(APT\) to evaluate Ditch 1 on 23 June 2020. The APT demonstrated that for the two months preceding 23 June 2020 Ditch 1, and in general, the site, were in a mild drought. However, the APT demonstrated the climatic conditions of Ditch 1, and the site, represent normal climatic conditions.](#)

**C. Additional comments to support AJD:**

[The site and study area generally slopes west to northwest. The site is located approximately 1,353 feet above sea level.](#)

[The project site is not located in a floodplain per the Federal Emergency Management Agency Floodrate Insurance Map.](#)



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Four historical ditches extend across the site from east to west. The ditches possess palustrine emergent wetland characteristics. The ditches were likely constructed in the 1940's possibly vernal pool wetland areas and have since developed wetland characteristics where depressions remain. The ditches are not identified on any USGS maps.

Ditch 1 (0.056 acres) is located at the northern third of the property. Ditch 1 appears to have been excavated in uplands or non-jurisdictional features. The excavation of the ditch does not appear to have relocated a tributary and the ditch does not appear to have been constructed in an adjacent wetland. In addition, Ditch 1 does not meet the (a)(2) definition because it is not a naturally occurring tributary. Ditch 1 is an excavated ditch that did not relocate a tributary. The ditch possesses an active channel of approximately three to five feet wide and is approximately two to four feet lower in elevation than the surrounding land area. Vegetation within the ditch is sparse however, the ditch possesses a bed, banks and discernable ordinary high water mark. Surface water hydrology to this ditch enters the ditch from the eastern border of the study area and flows west through the ditch and off-site. The requestor states the ditch likely possesses intermittent flow and is the only feature within the study area which supports regular surface water flow. Hydrology for the ditch is likely associated with urban runoff and functions in response to both rain events and more than in direct response to precipitation (e.g. seasonally when the groundwater table is elevated). The requestor conducted a functional assessment of this ditch using a combination of best professional judgment guided by the Oregon Stream Flow Assessment Method. The requestor states surface water flows from the ditch enter a 30-inch storm drain located along the western extent of the study area. The Corps has determined this storm drain then runs north along the western property boundary and maintains a direct hydrologic surface water connection to the White City storm drain system located on the south side of Falcon Street. From this point surface water flows west in a culvert system along Falcon Street, across Division Road, and into a tributary feature located on the east side of Highway 62. Surface water flows then route south under Antelope Road and Avenue A where they discharge into the North Fork of Whetstone Creek. This fork of Whetstone Creek runs south under Highway 140 via a culvert and then west via a culvert under Highway 62. From this point the North Fork of Whetstone Creek generally flows west until it connects with Whetstone Creek and ultimately, the Rogue River at Kendall Slough near Tolo, Oregon. While the ditch does maintain a direct hydrologic surface water connection to downstream surface waters the Corps has determined the ditch meets the (b)(5) exclusion and is not recognized as an (a)(2) waterbody. Ditch 1 is not a water of the U.S.

Ditch 2 (0.096 acres) does not possess an inlet or an outlet. Hydrology is related to perched water table conditions. Vegetation within the ditch is predominantly foxtail barley (*Hordeum jubatum*, FAC), common spikerush (*Eleocharis palustris*, OBL) and curly dock (*Rumex crispus*, FAC). The requestor states that in some cases, vegetation is sparse within the depressions and included upland vegetation such as elegant cluster lily (*Brodiaea elegans*, FACU) and little barley (*Hordeum pusillum*, FACU). While this ditch possesses wetland characteristics the ditch does not contribute surface water flows directly or indirectly to downstream surface waters and it is not flooded in a typical year. Ditch 2 appears to have been excavated in uplands or non-jurisdictional features. The excavation of the ditch does not appear to have relocated a tributary and the ditch does not appear to have been constructed in an adjacent wetland. The Corps has determined the ditch meets the (b)(5) exclusion. Ditch 2 is not a water of the U.S.

Ditch 3 (0.023 acres) does not possess an inlet or an outlet. While this ditch possesses wetland characteristics the ditch does not contribute surface water flows directly or indirectly to downstream surface



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

waters and it is not flooded in a typical year. Ditch 3 appears to have been excavated in uplands or non-jurisdictional features. The excavation of the ditch does not appear to have relocated a tributary and the ditch does not appear to have been constructed in an adjacent wetland. The Corps has determined the ditch meets the (b)(5) exclusion. Ditch 3 is not a water of the U.S.

Ditch 4 (0.001 acres) does not possess an inlet or an outlet. The requestor states this ditch is less than a foot wide and less than a foot deep, possesses well-defined banks and is unvegetated. This ditch does not contribute surface water flows directly or indirectly to downstream surface waters and it is not flooded in a typical year. Ditch 4 appears to have been excavated in uplands or non-jurisdictional features. The excavation of the ditch does not appear to have relocated a tributary and the ditch does not appear to have been constructed in an adjacent wetland. The Corps has determined the ditch meets the (b)(5) exclusion. Ditch 4 is not a water of the U.S.

The vernal pool wetlands on-site are of varying size. None of the vernal pool wetlands appear they would be flooded or filled by overland surface water flows in a typical year by Ditch 1-4 and, as such, meet the (b)(1) exclusion. The Corps has determined vernal pools 6-20 are not waters of the U.S.