



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): 8/6/2020

ORM Number: NWP-2020-00179

Associated JDs: N/A

Review Area Location¹:

State/Territory: OR City: near the City of Dallas County/Parish/Borough: Polk County

Center Coordinates of Review Area: Latitude 44.924376 Longitude -123.292394

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 or describe rationale.
- 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)²

§ 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)³

(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
NWP-2020-179 Ditch	1,075 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	A roadside ditch was delineated on the east side of SE Hawthorne Avenue within the review area. The ditch crosses beneath the SE Hawthorne Avenue street stub by culvert where a small portion of the ditch along the west side of the road is located within the review area. The roadside ditch is referred to as Ditch 1 & 2 in the delineation. The ditch meets the definition of an (a)(2) Tributary. The ditch is an intermittent tributary with a direct surface connection to a downstream tributary to Rickreall Creek. The ditch is approximately 1,075 linear

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			<p>feet located on the west property boundary of the review area. The intermittent ditch is approximately 209 linear feet from the offsite intermittent tributary to Rickreall Creek and contributes flows southerly through two 12-inch diameter concrete culverts located under driveways and continues offsite to the south through an 36-inch diameter concrete culvert at the end of the SE Hawthorne Avenue street stub to the intermittent tributary to Rickreall Creek.</p> <p>The roadside ditch channel bed is approximately 2 feet wide with half-foot tall grassy banks. The channel bed contained angular gravels and cobbles within the silt loam substrate. Approximately 1 inch of continuous flow was observed within the onsite upper portions of the ditch during the March 2019 site visits.</p> <p>The roadside ditch does not relocate a tributary or was not constructed in a tributary; however, the roadway was constructed in an adjacent wetland creating the current site conditions. Thus, the roadside ditch is constructed in adjacent wetlands and satisfies the flow conditions of a tributary (a)(2) while being contiguous with the onsite adjacent wetland in at least one point. The intermittent surface flows are transported downstream to a TNW by culverts that extend offsite to an intermittent tributary to Rickreall Creek. Rickreall Creek is a natural perennial tributary that has a direct surface water connection to the Willamette River (the nearest TNW).</p>
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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
NWP-2020-179 Wetland A	0.65 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	A palustrine emergent (PEM) wetland was delineated in the lowest elevation (southern portion) of the review area. Wetland conditions extend offsite to the south near the southeast corner of the review area. The wetland receives hydrology from direct precipitation and a seasonally high groundwater table. Slope hydrogeomorphic (HGM) subclassification. An outlet channel appears to form in wetland offsite to the south. The wetland has a direct surface connection to and abuts an intermittent tributary to Rickreall Creek. No inlet channel was present within the wetland. All wetland plots contain a groundwater table within 12 inches of the surface during our site visits. Scattered shallow isolated ponding up to ½-inch in depth were

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			<p>observed throughout the wetland during both March 2019 site visit dates.</p> <p>The wetland boundary is defined by a slight change in the landform from low elevation concave in the wetland to slightly higher elevation with convex landform in the upland. The change in landform coincided with a change in vegetation from a higher percentage of bentgrass (FAC) and meadow foxtail (FAC) in the wetland to a higher percentage of facultative upland cover in the upland [Queen Anne's lace, hairy cat's-ear (<i>Hypochaeris radicata</i>), English plantain (<i>Plantago lanceolata</i>).</p> <p>The wetland (a)(4) abuts and drains to the intermittent roadside ditch, which flows offsite to join an intermittent tributary to Rickreall Creek. The unnamed tributary to Rickreall Creek contained flow during our March 2019 site visit and is mapped on the USGS map. Rickreall Creek is a natural perennial tributary that has a direct surface water connection to the Willamette River (the nearest TNW).</p>
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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
N/A	N/A	N/A	N/A

III. SUPPORTING INFORMATION

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: *520 SE Hawthorne Avenue Dallas, Oregon Wetland Delineation Report dated April 16, 2019 was submitted by : AKS Engineering and Forestry Salem-Keizer, LLC on behalf of JDV Investments LLC.* This information *is and is not* sufficient for purposes of this AJD. Rationale: *Additional maps were collected to determine flow path and proximity to a TNW (a)(1) water. The wetland delineation included datasheets, soil maps, and precipitation data used for the AJD determination.*

_____ Data sheets prepared by the Corps: *N/A*

- Photographs: *(NA, aerial, other, aerial and other) Historic Aerials dates include 1944, 1955, 1963,1970, 1979,1994, 2000, 2003, 2004, 2012, and 2017.*

_____ 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: *NRCS Soil Survey Map – 508 SE Hawthorn Avenue – Dallas*

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Wetland Delineation Report, Map dated March 1, 2019.

- X USFWS NWI maps: *NWP-2020-179 Project Area Zoomed in Map and Zoomed out Map, dated July 26, 2020.*
- X USGS topographic maps: *Six USGS Maps generated for NWP-2020-179, dated July 26, 2020.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	NWP-2005-82 (individual permit along the tributary to Rickreall Creek that is directly connected to the onsite ditch). The permit conditions require that the historic tributary's hydrologic connection be maintained to Rickreall Creek as part of an enforcement voluntary restoration action. The ditch is directly connected to the tributary to Rickreall Creek and thus Rickreall Creek permit the NWP-2005-82 permit conditions.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. **Typical year assessment(s):** N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD. The review area was visited by AKS Engineering and Forestry, LLC (AKS) on March 12 and 22, 2019 with a follow up site visit on April 3, 2019 to check hydrology. All three dates are within the wet season per the Antecedent Precipitation Tool (Tool). The Tool reports the 30-day running total as drier than normal for all three dates when compared against the 30-year normal range. The review area does not have a Drought Index (PDSI) reported on the Tool.
- C. **Additional comments to support AJD:** The review area is approximately 4.98 acres in size located at 520 SE Hawthorne Avenue in Dallas, Polk County, Oregon on tax lot 700. Existing development within the review area includes a home with a detached shop and small, shed-like outbuilding. The remainder of the site is an undeveloped open field. Topography in the review area is flat with a subtle southwesterly slope (<5%), with the highest elevation located in the northeast corner of the review area.

Historic aerial photographs dating from 1944 to 2017 were included in the delineation. The site was used for agriculture since as early as 1944. The hazelnut farm was cleared, and a home was constructed on the site around 1955. Two additional buildings were added around 1979. No additional structures were added to the site since 1979. A linear signature extending north/south is present in the middle of the open field starting on the 1994 aerial. This feature may be a buried French drain or drain tile. It is not a ditch and data plots 6 and 11 document upland conditions in this feature. A residential subdivision was constructed to the south and east of the review area starting in 2016.

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A groundwater table was observed within 12 inches of the surface in most of the upland plots, but they lacked hydric soil indicators. The top of banks were delineated, and according to Streamnet, the roadside ditch does not support food or game fish.

The open field was dominant in field meadow-foxtail (*Alopecurus pratensis*, FAC), tall false rye grass (*Schedonorus arundinaceus*, FAC), a bentgrass species (*Agrostis* species, FAC), and non-native Queen Anne's-lace (*Daucus carota*, FACU), with lesser amounts of invasive Himalayan blackberry (*Rubus armeniacus*, FAC) and other non-native grasses and forbs. The field appears to be mowed regularly. Mapped soils within the review area, according to the Natural Resources Conservation Service (NRCS) include; (Unit 33) Holcomb silt loam; Non-hydric, with 2% of hydric Concord and 2% of hydric Dayton inclusions in terraces; (Unit 48A) McAlpin silty clay loam, 0% to 3% slopes; Non-hydric, with 1% of hydric Aquolls inclusions in terraces; and (Unit 77A) Woodburn silt loam, 0% to 3% slopes; Non-hydric, with 1% of hydric Aquolls inclusions in terraces.

The National Weather Service (NWS) Salem, Oregon weather station precipitation data were obtained. The closest WETS (short for wetlands climate analysis) station is the Salem station. The rainfall received day of, two weeks prior to the site visits and the water year to date were typical (i.e. normal) when compared to WETS. The antecedent rainfall according to the WETS Salem station for the three months prior to our March 2019 site visits was typical (normal) conditions.

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