



**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): 8/26/2020  
 ORM Number: NWP-2020-224  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Oregon City: Millersburg County/Parish/Borough: Linn  
 Center Coordinates of Review Area: Latitude 44.683274 Longitude -123.078224

**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)<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.



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**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland A	1.23	acre(s)	(b)(1) Non-adjacent wetland.	This palustrine emergent (PEM) seasonally flooded/saturated wetland extends beyond the study area to the north. The wetland delineation report describes a “stream” next to the wetland, but it appears to be a swale and part of the wetland. Drainage from the wetland collects in the railroad ditch, flows south to an unnamed creek which drains to Fourth Lake, which is a tributary to the Willamette River. The drainage goes through one road culvert just south of the study area at Conser Road NE. A ditch cannot render an otherwise isolated wetland an adjacent wetland. The railroad ditch located outside of the study area is not a tributary. Wetland A is physically isolated from any (a)(1)-(3) water and does not meet the definition of an adjacent wetland.
Wetland B	1.05	acre(s)	(b)(1) Non-adjacent wetland.	This palustrine forested (PFO) seasonally flooded/saturated wetland extends beyond the study area to the north. The wetland delineation report describes a “stream” next to the wetland, but it appears to be a swale and part of the wetland. Drainage from the wetland collects in the railroad ditch, flows south to an unnamed creek which drains to Fourth Lake, which is a tributary to the Willamette River. The drainage goes through one road culvert just south of the study area at Conser Road NE. A ditch cannot render an otherwise isolated wetland an adjacent wetland. The railroad ditch located outside of the study area is not a tributary. Wetland B is physically isolated from any (a)(1)-(3) water and does not meet the definition of an adjacent wetland.

**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: [“Westwoods Project/Perlenfein Development, Inc – Wetland Delineation Report”](#) dated September 23, 2019

This information is sufficient for purposes of this AJD.

<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.



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Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*

- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: *Select. Title(s) and/or date(s).*
- Corps site visit(s) conducted on: *Date(s).*
- Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *included in report*
- USFWS NWI maps: *included in report*
- USGS topographic maps: *included in report*

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

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<i>N/A.</i>
<a href="#">USDA Sources</a>	<i>N/A.</i>
<a href="#">NOAA Sources</a>	<i>N/A.</i>
<a href="#">USACE Sources</a>	<i>N/A.</i>
<a href="#">State/Local/Tribal Sources</a>	<i>N/A.</i>
<a href="#">Other Sources</a>	<i>N/A.</i>

**B. Typical year assessment(s):** *N/A*

**C. Additional comments to support AJD:** *Methods used to delineate wetlands are discussed in the above referenced Wetland Delineation Report.*