



**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): 9/23/2020

ORM Number: NWP-2020-208

Associated JDs: N/A

Review Area Location¹: State/Territory: Oregon City: Tualatin/Sherwood

County/Parish/Borough: Washington

Center Coordinates of Review Area: Latitude 45.367780, 45.377869 Longitude -122.833153, -122.782038

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
Stream A	0.01 acre(s)	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	This stream contributes flow to WQ Swale A which is then piped to Hedges Creek, a tributary to the Tualatin River, a navigable waterway. It has intermittent flow, discernable streambed, banks, and ordinary high water mark.

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

² 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.

³ 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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Stream B	0.03	acre(s)	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	This stream contributes flow to Hedges Creek, a tributary to the Tualatin River, a navigable waterway. It has intermittent flow, discernable streambed, banks, and ordinary high water mark.

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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	0.72	acre(s)	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	This palustrine emergent (PEM) wetland is a water quality area constructed from wetland that extends south and is inundated by flooding from Rock Creek, which is an (a)(2) water (tributary) in a typical year. The floodplain on the east side of Rock Creek is predominantly wetland and connected to Wetland A in the study area.
Wetland B	0.02	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	This PEM wetland abuts Stream A, which is an (a)(2) water (tributary to Hedges Creek, which flows to Tualatin River, a navigable water).
Wetland C	0.07	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	This PEM wetland abuts Stream B, which is an (a)(2) water (tributary to Hedges Creek, which flows to Tualatin River, a navigable water).

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch D-1	24	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland, constructed originally as a culvert outfall adjacent to but outside of Rock Creek.

⁴ 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.

⁵ 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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ditch D-2	420	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Upland Ditch D-2-1	167	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Upland Ditch D-2-2	630	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Upland Ditch D-2-6a	563	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Upland Ditch D-2-6b	50	linear feet	(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	Not constructed in tributary, does not relocate tributary, constructed in upland.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			conditions of (c)(1).	
Upland Ditch D-2-3	368	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Wetland Ditch D-2-4	428	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Wetland Ditch D-2-5	128	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Wetland Ditch D-M4-1	96	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Ditch D-3	66	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an	Not constructed in tributary, does not relocate tributary, constructed in upland.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			(a)(4) water that do not satisfy the conditions of (c)(1).	
Ditch D-4	101	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Ditch D-5	678	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Ditch D-6	100	linear feet	(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).	Not constructed in tributary, does not relocate tributary, constructed in upland.
Pond A	1	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Lacustrine limnetic, aquatic bed pond; excavated from upland based on LWI and hydric soils maps.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WQ Swale A	0.11	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Constructed in uplands to convey, treat, and infiltrate surrounding stormwater runoff from Stream A before being piped to Hedges Creek.
Swale B	0.01	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Constructed in uplands to convey stormwater runoff from ditch running east and west, collects water from pipe running south, but end of pipe unknown.
WQ Swale C	20	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Constructed in uplands to convey stormwater runoff.
Upland Stormwater Swale	N/A.	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Constructed or excavated in uplands to convey, treat, infiltrate, or store stormwater runoff.

III. SUPPORTING INFORMATION



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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: *“Wetland Delineation Report, SW Tualatin-Sherwood Road, Road Improvements Project” prepared by David Evans and Associates, Inc. dated May 2020*

This information is sufficient for purposes of this AJD.

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: *Title(s) and/or date(s).*
- USFWS NWI maps: *Title(s) and/or date(s).*
- USGS topographic maps: *Title(s) and/or date(s).*

Other data sources used to aid in this determination:

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

B. Typical year assessment(s): *The APT was run for the field visit dates of February 17, 2020 and March 9, 2020 when the consultants delineated the site. The APT determined these dates were just on the outside of the normal range and were within the “wetter than normal” range (refer to APT Graph file in project folder). However, since they were close to the normal range, we are considering them within the range of a “typical year” for the purposes of the above assessments.*

C. Additional comments to support AJD: *Wetland A was coordinated with EPA, and they provided an email dated 23 September 2020 stating concurrence with the Corps’ determination.*