



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): October 8, 2020  
ORM Number: NWP-2020-00127  
Associated JDs: N/A  
Review Area Location<sup>1</sup>:  
State/Territory: OR City: Happy Valley County/Parish/Borough: Clackamas County  
Center Coordinates of Review Area: Latitude 45.428346 Longitude -122.482745

**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 independent 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.

<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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**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
NWP-2020-127 Wetland 1	0.78 acres	(b)(1) Non-adjacent wetland	<p>Wetland 1 is a palustrine emergent wetland located in the northern portion of the study area. This wetland flows west towards the western property boundary where the wetlands appears to flow off-site. There is an intermittent roadside ditch to the north of the project site which continues west along SE Vogel Road. The applicant has stated that Wetland 1 connects to a wetland off-site, west of the project site. This wetland is currently being filled as authorized by another Corps permit, and this wetland connects to the roadside ditch along SE Vogel Road. The roadside ditch that the downstream wetlands connect to was not constructed in a tributary, does not relocate a tributary, and was not constructed in adjacent wetlands. Therefore, this off-site ditch is not a jurisdictional tributary. There are no other aquatic resources adjacent to Wetland 1. Therefore, there is no direct hydrologic surface connection between the wetlands and an (a)(1) – (a)(3) water.</p> <p>Wetland 1 does not meet the definition of an adjacent wetland. Wetland 1 is excluded under paragraph (b)(1), and is not a jurisdictional water of the U.S.</p>
NWP-2020-127 Wetland 2	0.15 acres	(b)(1) Non-adjacent wetland	<p>Wetland 2 is a palustrine emergent wetland located in the southern portion of the study area. This wetland extends outside of the study area to the southwest, but per the applicant does not have a surface water connection to any other aquatic resources.</p> <p>Wetland 2 does not abut a territorial sea (a)(1), a tributary (a)(2), or an impoundment of jurisdictional waters (a)(3). It is not separated from a water identified in paragraph (a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature. It is not inundated by flooding from a water identified in paragraph (a)(1), (2), or (3) in a typical year. Wetland 2 does not meet the definition of an adjacent wetland. Wetland 2 is excluded under paragraph (b)(1), and is not a jurisdictional water of the U.S.</p>

**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: *Jurisdictional Wetland Delineation Report for SE Vogel Road, dated June 2019.*  
This information is sufficient for purposes of this AJD.  
Rationale: *N/A.*
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: *Jurisdictional Wetland Delineation Report for SE Vogel Road, dated June 2019, Figure 5a (7/16/2018); Figure 5b (7/6/1994).*
- 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: *Jurisdictional Wetland Delineation Report for SE Vogel Road, dated June 2019, Figure 4.*



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- USFWS NWI maps: *Jurisdictional Wetland Delineation Report for SE Vogel Road, dated June 2019, Figure 3.*
- USGS topographic maps: *1911 and 2020 topographic maps.*

**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	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

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

**C. Additional comments to support AJD:** The requestor utilized the U.S. Army Corps of Engineers 1987 wetland delineation manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region to delineate the boundaries of ditches and wetlands within the study area.