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): 10/13/2020
ORM Number: NWP-2020-390
Associated JDs: N/A
Review Area Location[1]: State/Territory: Oregon City: Bandon County/Parish/Borough: Coos County
Center Coordinates of Review Area: Latitude 43.102422 Longitude -124.423782

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)[2]

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

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Wetland C	0.062	acre(s)	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Wetland C is located in the northern third of the study area and transmits surface water flow from west to east across the study area. Wetland C is a ditched intermittent surface water channel and tributary which was constructed in wetlands. The tributary is approximately 225 feet long, 5 feet in wide and encompasses 0.062 acres of surface area within the study area. Wetland C is recognized by the National Wetland Inventory and the consulting firm which conducted the delineation as a seasonal riverine channel. Surface water flow within Wetland

[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.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
				C routes east off-site and outside of the study area. East and outside of the study area a surface water channel is present in aerial and Lidar imagery. This channel is located east of Franklin Avenue. The surface water channel routes south and flows under Seabird Drive where it maintains a downstream hydrologic surface water connection with Johnson Creek approximately 1,240 feet south of Seabird Drive. Surface water flow in Johnson Creek routes southwest and west under Beach Loop Drive for approximately 4,400 feet where Johnson Creek maintains a downstream hydrologic surface water connection with the Pacific Ocean. The Pacific Ocean is recognized as an (a)(1) water of the U.S. because it is a territorial sea and is subject to the ebb and flow of the tide. Based on the Corps evaluation using the Antecedent Precipitation Tool (APT), use of wetland delineation data, photos, and aerial imagery, Wetland C exhibits observable intermittent surface water flow within the study area in a typical year. Because Wetland C contributes surface water flow directly or indirectly to an (a)(1) water in a typical year Wetland C meets the criteria to be recognized as an (a)(2) water of the U.S. pursuant to the Navigable Waters Protection Rule (NWPR).

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	0.028	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland A is a palustrine scrub-shrub wetland located in the eastern third of the study area. Wetland A abuts Wetland C within the study area. Wetland C is recognized as an (a)(2) water of the U.S. within the study area. Wetland C is a ditched intermittent surface water channel and tributary which was constructed in wetlands. This tributary maintains a downstream hydrologic surface water connection to Johnson Creek south and outside of the study area. Because Wetland A abuts an (a)(2) water of the U.S.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
				in the study area Wetland A meets the criteria to be recognized as an (a)(4) water of the U.S. pursuant to the NWPR.
Wetland B	0.04	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland B is a palustrine forested wetland located along the northwestern edge of the study area. Wetland B abuts Wetland C within the study area. Wetland C is a ditched intermittent surface water channel and tributary which was constructed in wetlands. This tributary maintains a downstream hydrologic surface water connection to Johnson Creek south and outside of the study area. Because Wetland B abuts an (a)(2) water of the U.S. in the study area Wetland B meets the criteria to be recognized as an (a)(4) water of the U.S. pursuant to the NWPR.

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.	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: Wetland delineation for Mitchell Residence, conducted by New Millennium Consulting received by the U.S. Army Corps of Enigineers Regulatory Branch, North Bend Field Office on October 6, 2020.

This information is sufficient for purposes of this AJD.

Rationale: The delineator completed a wetland delineation which followed the U.S. Army Corps of Engineers 1987 wetland delineation manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region to determine the boundaries of the aquatic resrouces within the review area.

☐ Data sheets prepared by the Corps: N/A

☒ Photographs: Aerial and Other: Aerial and ground level photographs as submitted with the wetland delineation.

☐ 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: N/A

[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.

- ☐ USFWS NWI maps: N/A
- ☐ USGS topographic maps: N/A

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Stream stats	U.S. Geologic Survey Stream Stats review on October 6, 2020.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other information (specify)	Google Earth aerial imagery review on October 6, 2020.
FEMA/FIRM maps	Federal Emergency Management Agency Floodrate Insurance Map review on October 6, 2020.
Other information (specify)	Oregon Department of Geology and Mineral Industries Lidar imagery review on October 6, 2020.

B. Typical year assessment(s): On October 7, 2020, the Corps utilized the APT to conduct a typical year analysis of the study area via a single point method for two distinct time periods as discussed below. The APT is an automation tool that evaluates three climatological parameters at a given location to assist in documenting the various determinations required by policy for the execution of the Corps Regulatory Program. The APT is one tool that the Corps may use to determine and document typical year conditions. The APT analysis determines if the date-specific observation falls within the normal periodic range for the geographic area based on a rolling thirty-year period. A single point method using the latitude and longitude coordinates identified in Section (I) above was utilized because the single point method adequately represents the data sources available via the APT to conduct an appropriate analysis of climatic conditions on-site. The APT is publicly available at this web site: https://github.com/jDeters-USACE/Antecedent-Precipitation-Tool/releases/tag/v1.0.13.

1) May 9, 2019. The APT was run for the date of the most recent Google Earth aerial imagery for the study area (May 9, 2019). The APT demonstrated the site conditions on this date represent a time of year referenced as the wet season, that the general region and site were in a mild drought, and that site conditions were normal in climatic conditions. The Corps can draw the conclusion from the use of the APT, wetland delineation data, and aerial imagery that site conditions on this day represent a time period when site conditions were seasonally wetter than normal climatic conditions but relatively consistent with normal climatic conditions. The wetland delineation photos and aerial imagery demonstrate that Wetland C possesses observable surface water flow during this time period.

2) March 10, 2020. The APT was run for the date wetland delineation data was captured by the consulting firm representing the requestor (March 10, 2020). The APT demonstrated the site conditions on this date represent a time of year referenced as the wet season, that the general region and site were in a moderate drought, and that site conditions were normal in climatic conditions. The Corps can draw the conclusion from the use of the APT, wetland delineation data, and aerial imagery that site conditions on this day represent a time period when site conditions were seasonally wetter than normal climatic conditions but relatively consistent with normal climatic conditions. The wetland delineation photos and aerial imagery demonstrate that Wetland C possesses observable surface water flow during this time period.

Summary: When evaluating the study area via the APT, wetland delineation data and photographs, and

aerial imagery the evidence demonstrates Wetland C possesses observable intermittent surface flow in the study area in a typical year. This surface water flow is hydrologically connected to Johnson Creek south and outside of the study area.

C. **Additional comments to support AJD:** The study area is geomorphically located on a landform that slopes east and south. The site is located at approximately 76 feet above sea level. The project is not located in a floodplain per the Federal Emergency Management Agency Floodrate Insurance Map.