



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): 10/16/2020

ORM Number: NWP-2020-00297

Associated JDs: N/A

Review Area Location¹:

State/Territory: OR City: McMinnville County/Parish/Borough: Yamhill County

Center Coordinates of Review Area: Latitude 45.211857 Longitude -123.24042

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
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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Drainage 1	0.01 acre	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the	The surface water connection between Drainage 1 and a(1)-a(3) waters downstream is severed whereby flow dissipates into the soil. Non-channelized, diffuse stormwater and



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		other (b)(1) sub-categories	overland sheet flow cannot sustain a regular or predictable surface water connection between upstream and downstream waters and therefore cannot maintain jurisdiction between such waters.
Drainage 2	0.01 acre	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	There is no surface water connection between Drainage 2 and downstream waters, therefore Drainage 2 is not an (a)(2) tributary. Drainage 2 does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year.
Wetland A	0.22 acre	(b)(1) Non-adjacent wetland	Wetland A does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year.

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: *Hillcrest – Phase 7 McMinnville, Oregon Wetland & Water Delineation Report, AKS Engineering and Forestry, June 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 waters within the review area. The delineation included site photos, vegetation and soil surveys, and site plans provide sufficient documentation to assess Wetland A under the Navigable Waters Protection Rule.*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

Photographs: *Aerial: Google Earth 1994*

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: *<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>, accessed 10/13/2020*

USGS topographic maps: *McMinnville, OR 1:24K, 2017.*

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.



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

C. Additional comments to support AJD: The review area is 7.77 acres and consists of a portion of Tax Lot 801 located west of the intersection of NW Mt Mazama Street and NW Horizon Drive in McMinnville, Yamhill County, Oregon. The review area contains three aquatic features that were determined not to be waters of the U.S.

Drainage 1 is a 0.01-acre swale that terminates when flows dissipate into the soil. The swale is vegetated and Himalayan blackberry (*Rubus armeniacus*, FAC) is the dominant species. The surface water connection between drainage and any a(1)-a(3) waters downstream is severed where indicators of surface water flow cease to be apparent. Groundwater, including groundwater drained through subsurface drainage systems, is excluded under the NWPR.

Drainage 2 is an intermittent stream that is fed by a groundwater seep at the base of the adjacent slope. Drainage 2 possesses a bed and banks and an unvegetated channel. Drainage 2 flows into Wetland A, at which point it loses terminates as there are is no longer a defined bed and banks or channel. Drainage 2 terminates before reaching any downstream a(1)-a(3) waters and therefore does not possess a surface water connection to downstream waters. Historic aerial photos indicate that no surface water connection existed historically and that no a(1)-a(3) waters were historically present in the review area and Drainage 2 does not appear on National Wetlands Inventory maps.

Wetland A is a non-adjacent 0.22-acre palustrine emergent wetland that flows into a culvert under SW 2nd Street and then flows through a piped underground stormwater system for several hundred feet before flowing to a detention facility. A wetland that drains into a pipe, which then flows for some distance to an a(1)-a(3) water, is not physically separated by an artificial structure and as such is not adjacent. The surface water connection between Wetland A and downstream waters is severed whereby Wetland A flows underground. Groundwater, including groundwater drained through subsurface drainage systems, is excluded under the NWPR.