



**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): 1/13/2021  
 ORM Number: NWP-2020-226  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Oregon City: Albany County/Parish/Borough: Benton  
 Center Coordinates of Review Area: Latitude 44.655137 Longitude -123.138732

**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)<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
Ditch 1	160	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).	Ditch 1 is excluded under Paragraph (b)(3) of the Navigable Waters Protection Rule (NWPR) because the feature identified as Ditch 1 in the wetland delineation does not meet the definition of ditch defined at (c)(2) of the NWPR. Ditch 1 is a shallow (eight-inch deep), 18-inch wide erosional feature within the Review Area formed by overland flow.
Wetland A	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A is a physically remote, closed depressional feature which would not be flooded during a typical year by Ditch 1. Wetland A does not meet the criteria for an adjacent wetland at 33 CFR 328.3(c)(1)(ii) because there is no direct or indirect connection to an (a)(1) through (a)(3) water. Wetland A is recognized as an excluded water feature pursuant to (b)(1) of the NWPR.
Wetland B	1.64	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B is a depressional feature that extends from the north end of Ditch 1 to form a 1.64-acre wetland feature within the Review Area. Ditch 1 lacks a hydrologic surface connection to a downstream (a)(1) through (a)(3) water. Wetlands abutting water features which do not contribute flow directly or indirectly to an (a)(1) water in a typical year are considered non-jurisdictional water features pursuant to the NWPR. Wetland B has no direct or indirect connection to an (a)(1) through (a)(3) water, thus, Wetland B does not meet the criteria for an adjacent wetland at 33 CFR 328.3(c)(1)(ii). Wetland B is recognized as an excluded water feature pursuant to (b)(1) of the NWPR.

**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 Report, Benton County Tax Lot 200, Map 10S04W35DB, Albany, OR 97321 prepared by Mr. Allen Martin of Geo Resources dated 27 July 2014.

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: Use of an older delineation is not prohibited in the preamble to the Navigable Waters Protection Rule. Use of wetland delineations more than five years old is appropriate where surrounding conditions have not changed.

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Other: Photo 9 and Photo 10 of the delineation above; Google Earth Pro photos dated 6 May 1994, 31 March 2006; and 14 July 2014](#)
- 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: [U.S. Army Corps of Engineers GeoPortal tool review on 3 December 2020](#)
- USFWS NWI maps: [U.S. Army Corps of Engineers GeoPortal tool review on 3 December 2020](#)
- USGS topographic maps: [U.S. Army Corps of Engineers GeoPortal tool review on 3 December 2020](#)

**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>	<a href="#">U.S. Army Corps of Engineers GeoPortal tool review on 3 December 2020.</a>
<a href="#">USDA Sources</a>	<a href="#">U.S. Army Corps of Engineers GeoPortal tool review on 3 December 2020.</a>
<a href="#">NOAA Sources</a>	N/A.
<a href="#">USACE Sources</a>	<a href="#">U.S. Army Corps of Engineers GeoPortal tool review on 3 December 2020.</a>
<a href="#">State/Local/Tribal Sources</a>	N/A.
<a href="#">Other Sources</a>	<a href="#">Stormwater system, topography and Local Wetland Inventory data from the City of Albany at <a href="https://infohub.cityofalbany.net/infohub/">https://infohub.cityofalbany.net/infohub/</a>; Oregon Department of Geology and Minerals Industries (DOGAMI) LiDAR Viewer, Bare earth slope and Bare earth hillside layers.</a>

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

**C. Additional comments to support AJD:** The Review Area is 7.44 acres in size. Within the Review Area two polygons, Wetland A (0.05 acre) and Wetland B (1.64 acres), and one 160 linear foot long, 0.005-acre erosional feature exist. Wetland A shows no signs of connection to an (a)(1) through (a)(3) water and is not discussed further. Wetland B physically abuts an erosional feature located south of the wetland shown on Figure 6 of the wetland delineation report referenced in Section II(A) above. The Corps determined that because site conditions had not appreciably changed since 2014, and the use of an older delineation is not prohibited in the preamble to the NWPR, use of a wetland delineations more than five years old is appropriate where surrounding conditions have not changed.

The wetland delineation presents a 160 linear foot erosional feature which abuts Wetland B. Review of U.S. Geologic Survey topographic mapping and DOGAMI LiDAR data does not show a defined channel connected to (a)(1) through (a)(3) waters within the Review Area. The data supports the premise the feature is a shallow, erosional feature formed as the result of overland flow from adjacent, previously plowed upland. The erosional feature is described as 160 linear feet by 18 inches wide by eight inches deep (Photo 9 and 10). Based on the publicly available mapping resources and data available in the delineation, overland flow collects in the erosional



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feature and collects in Wetland B, a depression feature. The delineation ascribes hydrology within the Review Area to precipitation, runoff and a shallow, seasonally perched water table on two percent slopes.

The term “tributary” would not include Ditch 1 because Ditch 1 is not a relocated tributary and there is insufficient evidence that Ditch 1 was constructed in a tributary in the past.