



**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): 2/25/2021

ORM Number: NWP-2020-285

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Oregon City: Happy Valley County/Parish/Borough: Clackamas

Center Coordinates of Review Area: Latitude 45.45252012 Longitude -122.4886942

**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
Wetland 1/Ditch 1	0.007	acre(s)	(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).	<p>Wetland 1/Ditch 1 is an approximately 150-foot long constructed east-west oriented ditch which abuts and runs parallel with a driveway located within the northern portion of the Review Area. Surface water flow within the ditch is ephemeral and drains east, outside of the Review Area. Outside of the Review Area Wetland 1/Ditch 1 maintains a hydrologic surface connection with a north-south oriented constructed ditch located west of SE 172 Ave outside of the Review Area. Surface water flow within this ditch drains south along SE 172 Ave eventually reaching a tributary to Rock Creek or Rock Creek.</p> <p>There are no (a)(1)-(3) waters within the Review Area. Wetland 1/Ditch 1 does not meet the surface water flow conditions to be recognized as (a)(2) water. There is no evidence that Wetland 1/Ditch 1 is a relocated tributary or was constructed in adjacent wetlands (c)(1). The Corps has determined Wetland 1/Ditch 1 is recognized as an excluded water feature pursuant to (b)(5) of the Navigable Waters Protection Rule (NWPR).</p>
Ditch 2	0.014	acre(s)	(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).	<p>Ditch 2 is an approximately 250-foot long constructed east-west oriented ditch located in the middle eastern portion of the Review Area. Surface water flow within the ditch is ephemeral and drains east, outside of the Review Area. Outside of the Review Area Ditch 2 maintains a hydrologic surface connection with a north-south oriented constructed ditch located west of SE 172 Ave outside of the Review Area. Surface water flow within this ditch drains south along SE 172 Ave eventually reaching a tributary to Rock Creek or Rock Creek.</p> <p>There are no (a)(1)-(3) waters within the Review Area. Wetland 1/Ditch 1 does not meet the surface water flow conditions to be recognized as (a)(2) water. There is no evidence that Wetland 1/Ditch 1 is a relocated tributary or was</p>

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			constructed in adjacent wetlands (c)(1). The Corps has determined Wetland 1/Ditch 1 is recognized as an excluded water feature pursuant to (b)(5) 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: “Jurisdictional Wetland Delineation For 9747 and 9757 SE 172nd Avenue” dated November 2018 by Schott and Associates, Inc.

This information is not sufficient for purposes of this AJD.

Rationale: A request for additional information was sent to the consultant for additional wetland delineation data points. The data points were used to determine if the SE section of tax lot 500 and the offsite roadside ditch of SE 172nd Avenue are wetlands.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial and Other: Google Earth Pro Images (July 1994, July 2007, August 2011, July 2014, May 2017, May 2019) and LIDAR.
- Corps site visit(s) conducted on: 19 January 2021
- 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 2021.
- USFWS NWI maps: U.S. Army Corps of Engineers GeoPortal tool review on 3 December 2021.
- USGS topographic maps: U.S. Army Corps of Engineers GeoPortal tool review on 3 December 2021.

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	U.S. Geologic Survey Stream Stats Raindrop Flowpath Tool review on 24 February 2021.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	Oregon Department of Geology and Mineral Industries LIDAR review on 24 February 2021.
Other Sources	N/A.

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

**C. Additional comments to support AJD:** N/A