



**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): 2/26/2021

ORM Number: NWP-2020-247

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Oregon City: Medford County/Parish/Borough: Jackson

Center Coordinates of Review Area: Latitude 42.336286° Longitude -122.779736°

**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
Waterway 1	144	linear feet	<p>(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.</p> <p>Waterway 1 is located within the steep, converging slopes of Roxy Ann Peak. The hydrologic sources for Waterway 1 are runoff from the upper mountain slopes, incidental precipitation, and runoff from roadways and residences. Waterway 1 converges with Waterway 2 (Lazy Creek) in the Review Area. Waterway 2 continues offsite and flows into a subsurface stormwater system. Lazy Creek possesses a hydrologic connection through surface water to Bear Creek. Bear Creek possesses a hydrologic connection through surface water to the Rogue River. Per the Corps Portland District 1993 list of navigable riverways within the State of Oregon, the Portland District recognizes the Rogue River as a navigable water of the U.S. to river mile 27.1.</p> <p>Waterway 1 is mapped by the National Wetland Inventory (NWI) as an intermittent seasonally flooded streambed and the National Hydrography Dataset (NHD) classifies the section of the stream in the Review Area as ephemeral. This portion of Waterway 1 does not appear on U.S. Geological Survey (USGS) topographic maps.</p> <p>Photographs from April 21, 2020 and data provided by the consultant show that the streambed was dry during the site visit. Ordinary high water mark (OHWM) field indicators are present in some areas, but not consistent for the entire length of the feature. The streambed is approximately 2 feet (ft) wide and comprised of rock and shallow soils. Surface water is not evident from Google Earth aerial imagery from 1994 to 2020.</p> <p>The consultant utilized the Streamflow Duration Assessment Method (SDAM) to determine the flow regime of this feature. The SDAM indicates that Waterway 1 is ephemeral based on the lack</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
				<p>of macroinvertebrates and slopes greater than 10.5 percent. The Corps concurs with the consultant’s SDAM analysis for Waterway 1.</p> <p>OHW field indicators in Waterway 1 have formed in response to large flashy, episodic flows following significant precipitation events. The Corps determined that Waterway 1 is a feature that is not identified in paragraph (a)(1), (a)(2), (a)(3) or (a)(4). Waterway 1 qualifies for the (b)(3) exclusion because it is an ephemeral feature pursuant to the Navigable Waters Protection Rule (NWPR).</p>
Waterway 2	456	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>Waterway 2 is the headwater of Lazy Creek, located within steep, converging slopes of Roxy Ann Peak. The hydrologic sources for Waterway 2 are runoff from the upper mountain slopes, incidental precipitation, and runoff from nearby roadways and residences. Waterway 1 converges with Waterway 2 in the Review Area. Waterway 2 continues offsite and flows into a subsurface stormwater system outside of the Review Area. Lazy Creek possesses a hydrologic connection to Bear Creek through surface water. Bear Creek possesses a hydrologic connection through surface water to the Rogue River. Per the Corps Portland District 1993 list of navigable riverways within the State of Oregon, the Portland District recognizes the Rogue River as a navigable water of the U.S. to river mile 27.1.</p> <p>Waterway 2 is mapped by the NWI as an intermittent seasonally flooded streambed and the NHD classifies the section of the stream in the Review Area as ephemeral. This portion of Waterway 2 does not appear on USGS topographic maps.</p> <p>Photographs from April 21, 2020 and data provided by the consultant show that the streambed was dry during the site visit. OHWM field indicators are present in some areas, but not consistent for the entire length of the feature. The streambed is narrow (roughly 2 ft wide) and comprised of rock and shallow soils. Surface water is not evident from Google Earth aerial imagery from 1994 to 2020.</p>



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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
				<p>The consultant utilized SDAM to determine the flow regime of this feature. The SDAM indicates that Waterway 2 is ephemeral based on the lack of macroinvertebrates and slopes greater than 10.5 percent. The Corps concurs with the consultant's SDAM analysis for Waterway 2.</p> <p>OHWM field indicators in Waterway 2 have formed in response to large flashy, episodic flows following significant precipitation events. The Corps determined that Waterway 2 is a feature that is not identified in paragraph (a)(1), (a)(2), (a)(3) or (a)(4). Waterway 2 qualifies for the (b)(3) exclusion because it is an ephemeral feature pursuant to the NWPR.</p>
Waterway 3	432	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>Waterway 3 is located within steep, converging slopes of Roxy Ann Peak. The hydrologic sources for Waterway 3 are runoff from the upper mountain slopes, incidental precipitation, and runoff from Roxy Ann Road. Waterway 3 continues offsite and flows into a subsurface stormwater system that maintains a hydrologic connection to Lazy Creek outside of the Review Area. Lazy Creek possesses a hydrologic connection through surface water to Bear Creek. Bear Creek possesses a hydrologic connection through surface water to the Rogue River. Per the Corps Portland District 1993 list of navigable riverways within the State of Oregon, the Portland District recognizes the Rogue River as a navigable water of the U.S. to river mile 27.1.</p> <p>Waterway 3 is mapped by the NWI as an intermittent seasonally flooded streambed and the NHD classifies the stream as ephemeral. Waterway 3 does not appear on USGS topographic maps.</p> <p>Photographs from April 21, 2020 and data provided by the consultant show that the streambed was dry during the site visit. OHWM field indicators are present in some areas, but not consistent for the entire length of the feature. The streambed is narrow (roughly 2 ft wide) and comprised of rock and shallow soils. Surface water is not evident from Google Earth aerial imagery from 1994 to 2020.</p>



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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
				<p>The consultant utilized SDAM to determine the flow regime of this feature. The SDAM indicates that Waterway 3 is ephemeral based on the lack of macroinvertebrates and slopes greater than 10.5 percent. The Corps concurs with the consultant’s SDAM analysis for Waterway 3.</p> <p>OHWM field indicators in Waterway 3 have formed in response to large flashy, episodic flows following significant precipitation events. The Corps determined that Waterway 3 is a feature that is not identified in paragraph (a)(1), (a)(2), (a)(3) or (a)(4). Waterway 3 qualifies for the (b)(3) exclusion because it is an ephemeral feature pursuant to the NWPR.</p>
Waterway 4	950	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>Waterway 4 is located within steep, converging slopes of Roxy Ann Peak. The hydrologic sources for Waterway 4 are runoff from the upper mountain slopes, incidental precipitation, and runoff from nearby roads and residences. Waterway 4 converges with Waterway 5 and flows into a subsurface stormwater system that maintains a hydrologic connection to Lazy Creek outside of the Review Area. Lazy Creek possesses a hydrologic connection through surface water to Bear Creek. Bear Creek possesses a hydrologic connection through surface water to the Rogue River. Per the Corps Portland District 1993 list of navigable riverways within the State of Oregon, the Portland District recognizes the Rogue River as a navigable water of the U.S. to river mile 27.1.</p> <p>Waterway 4 is mapped by the NWI as an intermittent seasonally flooded streambed and the NHD classifies the stream as ephemeral. Waterway 4 does not appear on USGS topographic maps.</p> <p>Photographs from April 21, 2020 and January 4, 2021 and data provided by the consultant show that the majority of the streambed was dry and covered with leaf litter during site visits. Photographs provided by the consultant show that a manmade berm impounds Waterway 4. Surface water appeared to be present downstream of the berm, but flows did not reach</p>



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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
			<p>the confluence with Waterway 5.</p> <p>Photographs from April 21, 2020 and January 4, 2021, and data provided by the consultant show that the majority of the streambed was dry and covered with leaf litter during site visits. Small areas of surface water are severed by overland sheet flow, which lack OHWM indicators. As such, OHWM field indicators are not consistent for the entire length of the feature. The streambed is narrow (roughly 2 ft wide) and is predominantly rocky. Surface water is not evident from Google Earth aerial imagery from 1994 to 2020.</p> <p>The consultant utilized SDAM to determine the flow regime of this feature. The SDAM indicates that Waterway 4 is ephemeral based on the lack of macroinvertebrates and slopes greater than 10.5 percent. The Corps concurs with the consultant's SDAM analysis for Waterway 4.</p> <p>OHWM field indicators in Waterway 4 have formed in response to large flashy, episodic flows following significant precipitation events. The Corps determined that Waterway 4 is a feature that is not identified in paragraph (a)(1), (a)(2), (a)(3) or (a)(4). Waterway 4 qualifies for the (b)(3) exclusion because it is an ephemeral feature pursuant to the NWPR.</p>
Waterway 5	1399	linear feet	<p>(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.</p> <p>Waterway 5 is located within steep, converging slopes of Roxy Ann Peak. The hydrologic sources for Waterway 5 are runoff from the upper mountain slopes, incidental precipitation, and runoff from nearby roads and residences. Waterway 5 flows into a subsurface stormwater system that maintains a hydrologic connection to Lazy Creek outside of the Review Area. Lazy Creek possesses a hydrologic connection through surface water to Bear Creek. Bear Creek possesses a hydrologic connection through surface water to the Rogue River. Per the Corps Portland District 1993 list of navigable riverways within the State of Oregon, the Portland District recognizes the Rogue River as a navigable water of the U.S. to river mile 27.1.</p> <p>Upstream of the confluence with Waterway 4,</p>



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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
				<p>Waterway 5 is mapped by the NWI as an intermittent seasonally flooded streambed and the NHD classifies the stream as ephemeral. This portion of Waterway 5 does not appear on USGS topographic maps.</p> <p>Downstream of the confluence with Waterway 4, Waterway 5 is mapped by the NWI as an intermittent seasonally flooded streambed and is mapped by the NHD as intermittent. USGS topographic maps have also mapped this location as an intermittent stream.</p> <p>Photographs from April 21, 2020 and data provided by the consultant show that the majority of the streambed was dry and covered with leaf litter during site visits. Small areas of surface water are severed by overland sheet flow, which lack OHWM indicators. As such, OHWM field indicators are not consistent for the entire length of the feature. The streambed is narrow (roughly 2 ft wide) and is predominantly rocky. Surface water is not evident from Google Earth aerial imagery from 1994 to 2020.</p> <p>The consultant utilized SDAM to determine the flow regime of this feature. The SDAM indicates that Waterway 5 is ephemeral based on the lack of macroinvertebrates and slopes greater than 10.5 percent. The Corps concurs with the consultant’s SDAM analysis for Waterway 5.</p> <p>The intermittent stream shown on USGS topographic maps in the NHD is depicted as a surface water channel for roughly 100 feet before entering a subsurface stormwater system. Saturation is evident within this portion of Waterway 5 in a Google Earth aerial image from June 2018, but additional aerial images from 1994 through 2020 do not show surface water in the channel. A photograph provided by the consultant shows that the streambed was colonized by upland vegetation.</p> <p>OHWM field indicators in Waterway 5 have formed in response to large flashy, episodic flows following significant precipitation events. The Corps determined that Waterway 5 is a</p>



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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	
				feature that is not identified in paragraph (a)(1), (a)(2), (a)(3) or (a)(4). Waterway 5 qualifies for the (b)(3) exclusion because it is an ephemeral feature pursuant to the NWPR.
Waterway 6	15	linear feet	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	<p>Waterway 6 begins at a culvert and enters a subsurface stormwater system. Waterway 6 is located downstream of Waterway 5. The hydrologic sources for Waterway 6 are Waterways 4 and 5 and runoff from nearby roadways and residences. The Corps determined that Waterways 4 and 5 are ephemeral streams (see rationale above). Waterway 6 maintains a hydrologic connection to Lazy Creek. Lazy Creek possesses a hydrologic connection through surface water to Bear Creek. Bear Creek possesses a hydrologic connection through surface water to the Rogue River. Per the Corps Portland District 1993 list of navigable riverways within the State of Oregon, the Portland District recognizes the Rogue River as a navigable water of the U.S. to river mile 27.1.</p> <p>Waterway 6 is mapped by the NWI as an intermittent seasonally flooded streambed and is mapped by the NHD as intermittent. USGS topographic maps have also mapped this location as an intermittent stream.</p> <p>Water flow within Waterway 6 is contained within a subsurface culvert located below the existing ground surface within the Review Area. Because the flow in this culvert is located underground the Corps has determined this feature meets the criteria to be recognized as an excluded water pursuant to (b)(1) of the NWPR.</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: [Schott & Associates, Inc. June 2020 2020. Wetland Delineation for Corps Application ID Number: NWP-2020-247; Project Name: City of Medford, Jackson County, Oregon Tax Lot 1500.](#)

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)





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- Photographs: Aerial and Other: Schott & Associates, Inc. June 2020 2020. Wetland Delineation for Corps Application ID Number: NWP-2020-247; Project Name: City of Medford, Jackson County, Oregon Tax Lot 1500. Photopoints 1-15.
- Corps site visit(s) conducted on: Date(s).
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Schott & Associates, Inc. June 2020 2020. Wetland Delineation for Corps Application ID Number: NWP-2020-247; Project Name: City of Medford, Jackson County, Oregon Tax Lot 1500. Figure 4.
- USFWS NWI maps: Schott & Associates, Inc. June 2020 2020. Wetland Delineation for Corps Application ID Number: NWP-2020-247; Project Name: City of Medford, Jackson County, Oregon Tax Lot 1500. Figure 3.
- USGS topographic maps: USGS. Topoview. Historical Topographic Maps: 2020 Medford East, 1:24k. Online: <https://ngmdb.usgs.gov/topoview/>. Accessed January 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. Army Corps of Engineers Portland District eGIS Information Portal. National Hydrography Database. Online: <a href="https://geoportal.nwp.usace.army.mil/g2portal/apps/webappviewer/">https://geoportal.nwp.usace.army.mil/g2portal/apps/webappviewer/</a> . Accessed January 2021.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	<p>Local Wetland Inventory for Medford, Oregon: Schott &amp; Associates, Inc. June 2020. Wetland Delineation for Corps Application ID Number: NWP-2020-247; Project Name: City of Medford, Jackson County, Oregon Tax Lot 1500. Figure 3.</p> <p>Oregon Department of Wildlife Stream Inventory: Schott &amp; Associates, Inc. June 2020. Wetland Delineation for Corps Application ID Number: NWP-2020-247; Project Name: City of Medford, Jackson County, Oregon Tax Lot 1500. Figure 3.</p> <p>U.S. Army Corps of Engineers Portland District eGIS Information Portal. LiDar Map Viewer. Online: <a href="https://geoportal.nwp.usace.army.mil/g2portal/apps/webappviewer/">https://geoportal.nwp.usace.army.mil/g2portal/apps/webappviewer/</a>. Accessed January 2021.</p> <p>Google Earth Pro, software version 7.3.3.7692. Historical Aerial Images from 1994 to 2020. Accessed June and September 2020.</p>

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



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- C. Additional comments to support AJD:** *Wetlands do not occur within the Review Area. Small patches of *Juncus patens* (a facultative-wetland species) were observed, but these locations did not exhibit hydric soil indicators or wetland hydrology.*