



**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): 3/10/2021

ORM Number: NWP-2020-385

Associated JDs: N/A

Review Area Location¹: State/Territory: Oregon City: Hillsboro County/Parish/Borough: Washington

Center Coordinates of Review Area: Latitude 45.550071 Longitude -122.945626

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.

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.

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.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	1.40	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland 1 is excluded as a non-adjacent wetland. Based on a desktop review of the site and information provided by the requestor the review area contains a 1.40 acre depressional wetland located along the southwestern portion of the review area and continuing offsite to the west. The wetland identified on site does not directly abut an (a)(1) - (a)(3) water as it is surrounded by uplands that have a history of disturbance from agricultural activities as indicated in background information provided by the requestor's consultant.</p> <p>This wetland is not inundated by flooding from an (a)(1) - (a)(3) water in a typical year or separated from an (a)(1) - (a)(3) water only by a natural feature. Furthermore, this wetland is not separated from an (a)(1) - (a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1) - (a)(3) water in a typical year. The next closest off-site aquatic feature (unnamed tributary to McKay Creek) is separated from the Wetland 1 by uplands, roadways and adjacent developments. There is a surface stormwater facility adjacent to the southern property boundary which drains to the west, but there is no evidence that this wetland is inundated by stormwater facility nor that the stormwater facility replaces the historic function of a natural tributary. Aerial imagery and Google Street View images, including historic imagery, support this determination.</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: [NE 33rd Development, Wetland Delineation Report by Environmental Science and Assessment, LLC, March 12, 2020](#)

This information is and is not sufficient for purposes of this AJD.

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.



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Rationale: Provided report included historical images and rainfall data, but additional information including the USGS topographic maps and the SACE Antecedent Precipitation Tool were used to supplement information in the provided report.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial and Other: Site photographs provided by requestor dated 11/26/2019, 01/03/2020, 02/27/2020, 03/10/2020, Historical images sourced from Google Earth provided by requestor dated July 1990, July 2001, July 2008, July 2013
- 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: NRCS Web Soil Survey, 11/01/2019, included in wetland delineation report provided by requestor
- USFWS NWI maps: USFWS Wetlands Mapper, accessed 02/03/2021
- USGS topographic maps: Title(s) and/or date(s).

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS Stream Stats review, accessed 02/03/2021
USDA NRCS WETS tables	Provided with requestor delineation report, supplemented by USACE APT
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The Corps utilized the Antecedent Precipitation Tool (APT) to evaluate the study area via a single point method for the evaluation area. The APT was generated for dates that correlate with field work conducted by the requestor for the dates provided in the requestor delineation report. 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 (1) above were utilized because the single point method adequately represents the data sources available via the APT to conduct an analysis of climatic conditions within the study area. The APT indicated the dates of the January and February field investigations were during the wet season with normal conditions.

C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.