



**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): 3/12/2021

ORM Number: NWP-2020-257

Associated JDs: N/A

Review Area Location¹: State/Territory: Oregon City: Medford County/Parish/Borough: Jackson County

Center Coordinates of Review Area: Latitude 42.365242° Longitude -122.840356°

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
Waterway 1	0.03 acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Waterway 1 receives stormwater and irrigation runoff from residential neighborhoods to the southeast (upstream) of the Review Area. In the Review Area, surface water flows from Waterways 2 and 4 into Waterway 1. Water within Waterway 1 flows west as described below. Surface water was observed in Waterway 1 during field visits to the review area on January 16, 2019, March 18, 2019, and February 9, 2021. Because this channel continuously conveys water during the dry season and possesses a streambed, stream banks and

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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
				<p>ordinary high water mark (OHWM) the Corps determined that its flow regime is perennial within the Review Area.</p> <p>Upon exiting the Review Area, Waterway 1 flows westward in an open surface water channel through a residential neighborhood and then enters a subsurface stormwater system near Springbrook Road. Data from U.S. Geological Survey (USGS) Stream Stats and the U.S. Fish and Wildlife's (USFWS) National Wetland Inventory (NWI) show that the stormwater system possesses a hydrologic connection with Hopkins Canal through culverts near Webfoot Drive, approximately 0.25 mile outside of the Review Area. Hopkins Canal possesses a hydrologic connection through surface water and culverts with Upton Slough. Upton Slough possesses a hydrologic connection through surface water with the Rogue River near Tolo, Oregon. The Rogue River is a listed on the Portland District 1993 list of navigable riverways within the State of Oregon as a navigable water of the U.S. to river mile 27.1.</p> <p>Surface water levels in Hopkins Canal are controlled by the Medford Irrigation District. The channel conveys water used for irrigation in the dry season and collects incident rainfall in wet season. The Corps determined that its flow regime is perennial because there is water in the canal during the entirety of a typical year.</p> <p>The Corps concluded that Waterway 1 meets the definition of an (a)(2) tributary because it has a perennial flow regime in a typical year within the Review Area and exhibits a downstream connection to an (a)(1) navigable water through surface water and culverts.</p>

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.	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.	N/A.

D. Excluded Waters or Features



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Wetland 1	0.86	acre(s)	(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>Wetland 1 is a former irrigation pond that was constructed in the Review Area between 1969 and 1971. The Corps concluded Wetland 1 was originally constructed in a non-jurisdictional waterway and wetland based on the lack of clear signatures of surface water in historic aerial images from 1939 to 2020 and the absence of perennial or intermittent streams from USGS topographic maps of the Review Area from 1891 to 1974. See Section C below for an expanded discussion on the Corps' review of historic maps and imagery.</p> <p>From circa 1971 to 2017, Wetland 1 functioned as an irrigation pond. A subsurface pipe and control valve were located in the current location of Waterway 4 and served as an outlet for water in the pond. The control valve remained closed the majority of the time unless there was a need to drain the pond. In 2017, the subsurface pipe and control valve were replaced by a channel that was excavated aboveground to drain the pond. Wetland 1 is now be considered a wetland since it is no longer ponded or used for irrigation purposes.</p> <p>The hydrologic source for Wetland 1 is incidental precipitation. Prior to 2020, Wetland 1 also received a hydrologic input as surface water flow derived from Waterway 3. Waterway 3 flowed into the Review Area from the east at the time the wetland delineation survey was conducted in 2016 and 2019. A Google Earth aerial image from October 2020 shows that the upstream portion of Waterway 3 was filled and disconnected the feature from the wetland mitigation site that previously conveyed water into Waterway 3 via an offsite culvert.</p> <p>Wetland 1 is considered a seasonal feature that now ponds only during and immediately following rainfall events in a typical year. The Corps determined that Wetland 1 is a feature</p>

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			that is not identified in paragraph (a)(1), (a)(2), (a)(3) or (a)(4). Wetland 1 qualifies for the (b)((1) exclusion because it does not meet the definition of adjacent wetland under the Navigable Waters Protection Rule (NWPR).
Waterway 2	0.02	acre(s)	<p>(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> <p>Waterway 2 was constructed between 1971 and 1973 in a non-jurisdictional waterway and wetland. The Corps concluded that Waterway 2 relocated a non-jurisdictional waterway and wetland based on the lack of clear signatures of surface water in historic aerial images from 1939 to 2020 and the absence of perennial or intermittent streams from USGS topographic maps of the Review Area from 1891 to 1974. See Section C below for an expanded discussion on the Corps' review of historic maps and imagery.</p> <p>The hydrologic source for Waterway 2 is only incidental precipitation as the feature does not connect to Wetland 1. Waterway 2 flows into Waterway 1.</p> <p>Ongoing site manipulations can be seen in the Review Area as early as early as 1952. Waterway 2 has been cleared of vegetation and re-excavated over time. The feature has not reverted to wetland and does not function as a natural tributary.</p> <p>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)(5) exclusion per the NWPR because it was not originally constructed in a water of the U.S. or adjacent wetland, and does not relocate a water of the U.S.</p>
Waterway 3	0.07	acre(s)	<p>(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> <p>Waterway 3 was constructed between 1971 and 1973 in a non-jurisdictional waterway and wetland. The Corps concluded that Waterway 3 relocated a non-jurisdictional waterway and wetland based on the lack of clear signatures of surface water in historic aerial images from 1939 to 2020 and the absence of perennial or intermittent streams from USGS topographic maps of the Review Area from 1891 to 1974. See Section C below for an expanded</p>



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			<p>discussion on the Corps' review of historic maps and imagery.</p> <p>Waterway 3 flowed into the Review Area from the east at the time the wetland delineation survey was conducted in 2016 and 2019. A Google Earth aerial image from October 2020 shows that the upstream portion of Waterway 3 was filled and disconnected the feature from the wetland mitigation site that previously conveyed water into Waterway 3 via an offsite culvert.</p> <p>Ongoing site manipulations can be seen in the Review Area as early as early as 1952. Waterway 3 has been cleared of vegetation, re-excavated, and filled over time. The feature has not reverted to wetland and does not function as a natural tributary.</p> <p>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)(5) exclusion per the NWPR because it was not originally constructed in a water of the U.S. or adjacent wetland and does not relocate a water of the U.S.</p>
Waterway 4	<0.01	acre(s)	<p>(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> <p>Waterway 4 was constructed between 1971 and 1973 in a non-jurisdictional waterway. The Corps concluded that Waterway 4 relocated a non-jurisdictional waterway based on the lack of clear signatures of surface water in historic aerial images from 1939 to 2020 and the absence of perennial or intermittent streams from USGS topographic maps of the Review Area from 1891 to 1974. See Section C below for an expanded discussion on the Corps' review of historic maps and imagery.</p> <p>As described above under the rationale for Wetland 1, a subsurface pipe and control valve were located in the current location of the upstream portion of Waterway 4 from the time of its construction to 2017. The control valve remained closed for the majority of this time unless there was a need to drain the former irrigation pond. In 2017, the subsurface pipe and control valve were replaced by a channel that was excavated aboveground to drain the pond.</p>



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			<p>The area of excavation began at the OHWM of Wetland 1. This upstream section of Waterway 4 connected the feature to a downstream relict channel. Photographs provided by the consultant from 2016 show that prior to the 2017 manipulations, the relict channel had been colonized by upland vegetation and lacked OHWM indicators. Daylighting the upstream section of Waterway 4 restored surface water flows from Wetland 1 to Waterway 4. Surface water is impounded by a manmade berm that was constructed in Waterway 4 under normal circumstances.</p> <p>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)(5) exclusion per the NWPR because it was not originally constructed in a water of the U.S. or adjacent wetland and does not relocate a water of the U.S.</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 16, 2020. Wetland Delineation for Corps Application ID Number: NWP-2020-257; Project Name: City of Medford, Jackson County, Oregon Tax Lots 1101 and 1102.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Schott & Associates, Inc. June 16, 2020. Wetland Delineation for Corps Application ID Number: NWP-2020-257; Project Name: City of Medford, Jackson County, Oregon Tax Lots 1101 and 1102. Photopoints 1-3.](#)
- [Google Earth Pro, software version 7.3.3.7692. Historical Aerial Images from 1994 to 2020. Accessed October 2020 and March 2021.](#)
- 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: [National Resource Conservation Survey \(NRCS\). Web Soil Survey. Online: https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx. Accessed August 2020.](#)
- USFWS NWI maps: [USFWS. NWI Mapper. Online: https://www.fws.gov/wetlands/data/Mapper.html. Accessed August 2020.](#)



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USGS topographic maps: [USGS. Topoview. Historical Topographic Maps: 1897 Ashland 1:250k, 1957 Medford 1:250k, 1978 Medford 1:100k. Online: <https://ngmdb.usgs.gov/topoview/>. Accessed November 2020](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS. Earth Explorer. Online: https://earthexplorer.usgs.gov/. Accessed January 2021
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

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

C. Additional comments to support AJD: [The Review Area is bound by historic orchards and farmland. Grasslands are periodically hayed, but no other farming activities currently take place in the review area. Site topography is relatively flat. Residential neighborhoods occur to the southeast and southwest.](#)

[Historic aerial images of the Review Area from 1939, 1952, 1973, 1974 were obtained by the consultant from Environmental Data Resources Inc. and reviewed by the Corps. The Corps obtained Earth Explorer historic aerial images of the Review Area from August 8, 1951 and June 29, 1971, and also reviewed all available Google Earth historic aerial images from 1994 to 2020. The historic image from 1939 showed that a natural tributary and an abutting area of ground saturation occurred in the Review Area and flowed into Hopkins Canal. Historically, Waterway 1 was a tributary that flowed from the south into Hopkins Canal. The hydrologic sources of this tributary were wetlands at the current location of a mitigation site at Abraham Lincoln Elementary School to the southeast of the Review Area, runoff and overland sheetflow from Roxy Anne Peak, and incidental precipitation. Clear signatures of surface water are not apparent in historic aerial images. Waterways 2-4 relocated the historic tributary. Wetland 1 was constructed within the historic tributary. Site manipulations, such as excavating ditches can be seen in the Review Area as early as early as 1952. These ditches have been continuously filled in, reexcavated, and rerouted from 1952 to 2020.](#)

[The NRCS soil survey shows that the western half of the site is underlain by hydric soil \(Padigan Clay, 0-3 percent slopes\). This evidence allowed the Corps to determine that Wetland 1 and Waterways 1 and 4 were constructed in a historic tributary and abutting wetland. The eastern portion of the Review Area where Waterways 2 and 3 are located is underlain by Carney Clay, 1 to 5 percent slopes. This soil type is moderately well drained and may contain hydric inclusions.](#)

[To determine the flow regime of the historic waterway that flowed through the site, the Corps reviewed 19 historic, geo-referenced USGS topographic maps from 1891 to 1974 from USGS Topoview. Perennial or intermittent streams were not mapped in the Review Area in any of these historic topographic maps. Intermittent streams occurred over 0.25 mile to the north and south of the Review Area; however, none of the topographic maps reviewed depict waterways within or closer to Review Area.](#)

[There is no evidence that the historic waterway and abutting wetland would have satisfied the flow](#)



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characteristics of a perennial or intermittent stream. As such, the historical waterway would have qualified for the (b)(3) exclusion for ephemeral features, and the historic, abutting wetland would have qualified for the (b)(1) exclusion because it was abutting a non-jurisdictional feature and did not have an upstream connection to a relatively permanent water.