



**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): 4/7/2021
 ORM Number: NWP-2021-049
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Oregon City: Albany County/Parish/Borough: Linn
 Center Coordinates of Review Area: Latitude 44.601166° Longitude -123.089385°

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
Wetland A	0.05	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.
			Wetland A is located in the southern portion of the Review Area and extends offsite to a wetland system that abuts Oak Creek, a perennial waterbody

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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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
			located approximately 0.30 miles south of the Review Area. Oak Creek is not subject to the Corps review for purposes of this Approved Jurisdictional Determination (AJD) but is recognized as an (a)(2) water of the U.S. pursuant to the Navigable Waters Protection Rule (NWPR). See Section III(b) below for a typical year assessment.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland B/C	13.81	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland B is located in the eastern portion of the Review Area and extends offsite to the northwest and connects to Wetland C, located in the western portion of the Review Area, offsite. For this reason, Wetlands B and C function as one hydrologic system. There are ditches associated with the railroad located approximately 825 feet north of the northern terminus of Wetland C. Based on a review of aerial imagery, lidar, and other remote tools, Wetland B/C does not abut these ditches nor is Wetland B/C inundated by their flow in a typical year. Furthermore, historic aerials and topographic maps indicate these ditches were constructed in uplands, are not rerouted tributaries, and direct precipitation flow produced on or along the railroad tracks west toward a roadside ditch associated with Lochner Road.</p> <p>Wetland B/C also extends offsite to the south. Utilizing information obtained by the U.S. Army Corps of Engineers (USACE) staff during a 23 March 2021 site visit, the USACE determined Wetland B/C terminates prior to the forested area located south of the Review Area. For this reason, Wetland B/C does not directly abut Oak Creek and is surrounded by uplands that are higher in elevation.</p> <p>Wetland B/C does not meet the definition of an adjacent wetland pursuant to the NWPR.</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
Wetland D	0.35 acre(s)	(b)(1) Non-adjacent wetland.	Wetland D is surrounded by uplands that are higher in elevation and does not meet the definition of an adjacent wetland pursuant to 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 Lochner Road SE Property Albany, Oregon” by Pacific Habitat Services, Inc. dated 14 January 2021. Received by USACE Staff on 20 January 2021.](#)

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

Rationale: [Additional information was requested on 17 February 2021 and received by the USACE on 1 March 2021.](#)

Data sheets prepared by the Corps: [N/A](#)

Photographs: [Aerial and Other: Aerial Images dated 8/2020, 7/2017, 7/2012, 7/2011, were retrieved from Google Earth Pro by USACE staff on 8 February 2021. A Google Street View image from July 2019 was obtained by USACE staff on 25 March 2021. Ground level photographs were included within the wetland delineation report materials.](#)

Corps site visit(s) conducted on: [23 March 2021.](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [WebSoil Survey retrieved by USACE staff on 4 February 2021 from https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx](#)

USFWS NWI maps: [U.S. Fish and Wildlife Service National Wetland Inventory Map retrieved by USACE staff from the USACE Regulatory WebViewer on 4 February 2021.](#)

USGS topographic maps: [U.S. Geologic Survey Tangent Quadrangle Map retrieved by USACE staff on 4 February 2021 from https://ngmdb.usgs.gov/topoview/viewer/#15/44.5368/-123.2713](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset information obtained by USACE staff on 4 February 2021 from the USACE Regulatory WebViewer.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	Oregon Department of Geology and Mineral Industries Lidar data obtained by USACE staff on 8 February 2021 from https://gis.dogami.oregon.gov/maps/lidarviewer/
Other Sources	N/A.

B. Typical year assessment(s): [The USACE ran a typical year analysis for the Review Area vicinity for 15 October 2020 \(date of the wetland delineation field work\) and 12 August 2020, 3 July 2017, 14 July 2014, 8 July 2010 \(dates of Google Earth imagery that show the presence and absence of surface waters\) utilizing](#)



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the USACE's "Antecedent Precipitation Tool (APT)" (<https://github.comjDeters-USACE/Antecedent-Precipitation-Tool/releases/tag/v1.0.13>).

10/15/2020 (Delineation Field Work – "Normal Conditions." Normal conditions were present during the delineation field work.

Oak Creek (Outside of Review Area):

08/12/2020 (Google Earth Aerial) – "Wetter Than Normal." Based on Google Earth imagery, surface water is present within the Oak Creek at this time. Surface water is not present in the railroad or Lochner road ditches.

07/03/2017 (Google Earth Aerial) – "Wetter Than Normal." Based on Google Earth imagery, surface water is present within the Oak Creek at this time. Surface water is not present in the railroad or Lochner Road ditches.

07/14/2014 (Google Earth Image) – "Normal Conditions." Based on Google Earth imagery, surface water is present within the Oak Creek at this time. Surface water is not present in the railroad or Lochner Road ditches.

07/08/2010 (Google Earth Image) – "Normal Conditions." Based on Google Earth imagery, surface water is present within the Oak Creek at this time. Surface water is not present in the railroad or Lochner Road ditches.

Based upon the surface water presence within Oak Creek during the dry season and under normal conditions the USACE has determined Oak Creek to have perennial flow. Based on the lack of surface water presence within the railroad and Lochner Road ditches under normal conditions, the USACE had determined these ditches are not (a)(1-3) waters.

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