



**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): 4/22/2021
 ORM Number: NWP-2021-127
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Oregon City: Albany County/Parish/Borough: Benton
 Center Coordinates of Review Area: Latitude 44.6358° Longitude -123.1832°

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
NWP-2021-127 Ditch A	0.01	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).	Ditch A is part of a stormwater drainage between US20 and the Railroad track. Based on review of aerial images and historical topography maps, there is no evidence that Ditch A relocated a tributary, was constructed in a tributary or was constructed in an adjacent wetland.
NWP-2021-127 Ditch B	0.38	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).	Ditch B is part of a stormwater drainage between US20 and the Railroad track. Based on review of aerial images and historical topography maps, there is no evidence that Ditch B relocated a tributary, was constructed in a tributary or was constructed in an adjacent wetland.
NWP-2021-127 Ditch C	0.16	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).	Ditch C is part of a stormwater drainage between US20 and the Railroad track. Based on review of aerial images and historical topography maps, there is no evidence that Ditch C relocated a tributary, was constructed in a tributary or was constructed in an adjacent wetland.
NWP-2021-127 Ditch D	0.16	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).	Ditch D is part of a stormwater drainage between US20 and the Railroad track. Based on review of aerial images and historical topography maps, there is no evidence that Ditch A relocated a tributary, was constructed in a tributary or was constructed in an adjacent wetland.
NWP-2021-127 Ditch E	.009	acre(s)	(b)(5) Ditch that is not an (a)(1) or	Ditch E is located between Wetland C and Frazier Creek. Based on review of aerial images

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	
		(a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	and historical topography maps, there is no evidence that Ditch E relocated a tributary, was constructed in a tributary or was constructed in an adjacent wetland.	
NWP-2021-127 Wetland A	0.92	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A extends outside the Review Area to the south until the vegetation changes into a farmed field and does not directly abut an (a)(1)-(a)(3) water as it is surround by uplands. There are no (a)(1)-(3) waters within the Review Area and Wetland A is not inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water only by a natural feature or an artificial structure. Wetland A does not meet the definition of an adjacent wetland under the Navigable Waters Protection Rule (NWPR).
NWP-2021-127 Wetland B	0.34	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B extends outside the Review Area to the southwest until the road crossing and does not directly abut an (a)(1)-(a)(3) water as it is surround by uplands. There are no (a)(1)-(3) waters within the Review Area and Wetland B is not inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water only by a natural feature or an artificial structure. Wetland B does not meet the definition of an adjacent wetland under the Navigable Waters Protection Rule (NWPR).
NWP-2021-127 Wetland C	0.82	acre(s)	(b)(1) Non-adjacent wetland.	Wetland C does not directly abut an (a)(1)-(a)(3) water as the wetland abuts Ditch E, which was documented as a (b)(5) excluded ditch above. There are no (a)(1)-(3) waters within the Review Area and Wetland C is not inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water only by a natural feature or an artificial structure. Wetland C does not meet the definition of an adjacent wetland under the Navigable Waters Protection Rule (NWPR).
NWP-2021-127 Wetland D	0.005	acre(s)	(b)(1) Non-adjacent wetland.	Wetland D does not directly abut an (a)(1)-(a)(3) water as it is surround by uplands. There are no (a)(1)-(3) waters within the Review Area and Wetland D is not inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water only by a natural feature or an artificial structure. Wetland D does not meet the



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			definition of an adjacent wetland under the Navigable Waters Protection Rule (NWPR).
NWP-2021-127 Wetland E	0.007	acre(s)	(b)(1) Non-adjacent wetland. Wetland E does not directly abut an (a)(1)-(a)(3) water as it is surround by uplands. There are no (a)(1)-(3) waters within the Review Area and Wetland E is not inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water only by a natural feature or an artificial structure. Wetland E does not meet the definition of an adjacent wetland under the Navigable Waters Protection Rule (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: [US20: Safety Upgrades \(Albany to Corvallis\) Phase 1 dated May 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [The delineator completed a wetland delineation which followed the U.S. Army Corps of Engineers 1987 wetland delineation manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region to determine the boundaries of the waters within the review area.](#)

- Data sheets prepared by the Corps: [N/A](#)
- Photographs: [Aerial: Aerial Images dated 2/2003, 12/2014, 7/2016, 7/2017, 1/2020, were retrieved from Google Earth Pro by USACE staff on 30 March 2021. Ground level photographs were also included within the wetland delineation report materials.](#)
- Corps site visit(s) conducted on: [N/A](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Delineation contains soil information and types.](#)
- USFWS NWI maps: [NWI map provided in delineation and with site maps created by USACE staff on 30 March 2021.](#)
- USGS topographic maps: [USGS map provided in delineation and with site maps created by USACE staff on 30 March 2021. Additional historical topography maps were also included.](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS 8, 10, 12 digit HUC maps	HUC#170900030609 Fraizer Creek-Willamette River, USGS Topoviewer historic topography maps.
USDA Sources	N/A.
NOAA Sources	N/A.
Corps Navigable Waters Study	Willamette River
State/Local/Tribal Sources	N/A.



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Data Source (select)	Name and/or date and other relevant information
Other Sources	N/A.

B. Typical year assessment(s): The typical year assessment was calculated for the timeframe the delineation was completed on January 28, 2020 and for the Google Earth aerial imagery dated July 3, 2017, July 23, 2016, December 31, 2014, and February 8, 2003.

01/28/2020 (Delineation Field Work Timeframe) – “Normal Conditions.” Based on site photos some of the wetland areas and ditches had water after a rainfall, but were absent shortly thereafter the event. Flows were not observed in ditches A, B, C, D, or E.

07/03/2017 (Google Earth Aerial) – “Wetter Than Normal.” Based on Google Earth imagery, there are no direct hydrological connection of the wetlands in the review area to the Willamette River or to Frazier Creek. In the region next to the Willamette River, there appears to be a high flood stage with water present and flows are also discharging from Fraizer Creek into the Willamette River. No direct hydrological connections were observed with the wetlands onsite or the ditches to either Frazier Creek or the Willamette River. Surface water is not observed the ditches A, B, C, D, or E.

07/23/2016 (Google Earth Aerial) – “Drier than Normal Conditions.” Based on Google Earth imagery, the wetlands located in southeast of the review area and next to the Willamette River do not have as much water present. Hydrology is present with obvious wet areas that extend from this region. No flows are observed from the wetlands to Frazier Creek or to the Willamette River. Surface water is not observed the ditches A, B, C, D, or E. Flows are observed in Fraizer Creek and are discharging into the Willamette River.

12/31/2014 (Google Earth Aerial) – “Normal Conditions.” Based on Google Earth imagery, the Willamette River is near full flood stage during the timing of the aerial photo of the site and surface water is not observed directly connecting wetlands A, B, C, D, or E to the Willamette River or Frazier Creek. Surface water is not observed the ditches A, B, C, D, or E. Flows are observed in Fraizer Creek and are discharging into the Willamette River.

02/08/2003 (Google Earth Aerial) – “Normal Conditions.” Based on Google Earth imagery, the wetlands located southeast of the review area and next to the Willamette River do have water present and the wetland patterns are persistent in this region. Surface water is not observed the ditches A, B, C, D, or E. Flows are observed in Fraizer Creek and are discharging into the Willamette River. No hydrological or direct surface connectivity is observed from the wetlands to the Willamette River.

Based upon the ordinary high water mark and observed aerial photographs of the review area under normal conditions, the USACE has determined Willamette River and Fraizer Creek have perennial flows and they do not inundate wetlands A, B, C, D, or E in a typical year. Based upon the lack of surface water present within ditches A, B, C, D, and E under normal conditions, the USACE had determined the ditches are not (a)(1-3) waters.

C. Additional comments to support AJD: N/A