



**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): 5/12/2021

ORM Number: NWP-2004-803-2

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 44.892094 Longitude -122.96402

**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 or describe rationale.
- 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.

**D. Excluded Waters or Features**

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
Wetland A	0.18	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A borders the north end of the Review Area by the Aumsville Highway and extends 50 feet east outside the Review Area. This wetland does not directly abut an (a)(1)-(a)(3) water as it is surrounded by uplands. 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. 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 wetlands and the (a)(1)-(a)(3) water in a typical year. Wetland A does not meet the definition of an adjacent wetland under the NWPR.
Wetland B	0.001	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B lies in the northeast side of the Review Area and extends 20 feet offsite to the west. This wetland does not directly abut an (a)(1)-(a)(3) water as it is surrounded by uplands. 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. 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 wetlands and the (a)(1)-(a)(3) water in a typical year. Wetland B does not meet the definition of an adjacent wetland under the NWPR.
Wetland C	0.93	acre(s)	(b)(1) Non-adjacent wetland.	Wetland C lies in the center of the Review Area at the base of a west facing slope and extends offsite to the north and south. The southwest end of the wetland boundary abuts Ditch 1 which flows along a fence. The wetland originates 50 feet east offsite of the review area. The northern boundary of the wetland extends 600 feet west offsite flowing through a ditch underneath an unnamed road to a mitigation site. The mitigation site is self-contained and does not have a direct hydrologic connection to an (a)(1)-(a)(3) water. This wetland does not directly abut an (a)(1)-(a)(3) water as it is surrounded by uplands. 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.

<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
			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 wetlands and the (a)(1)-(a)(3) water in a typical year. Wetland C does not meet the definition of an adjacent wetland under the NWPR.
Wetland D	0.02	acre(s)	(b)(1) Non-adjacent wetland. Wetland D lies in the south end of the Review Area and extends offsite to the southeast 50 feet. This wetland does not directly abut an (a)(1)-(a)(3) water as it is surrounded by uplands. 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. 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 wetlands and the (a)(1)-(a)(3) water in a typical year. Wetland C does not meet the definition of an adjacent wetland under the NWPR.
Wetland E	0.12	acre(s)	(b)(1) Non-adjacent wetland. Wetland E lies in the south end of the Review Area and continues 50 feet to the east and 200 feet to the southwest of the review area before drying up. This wetland does not directly abut an (a)(1)-(a)(3) water as it is surrounded by uplands. 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. 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 wetlands and the (a)(1)-(a)(3) water in a typical year. Wetland E does not meet the definition of an adjacent wetland under the NWPR.
Ditch 1	0.02	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 1 lies in the southern portion of the Review Area and abuts Wetland C. Ditch 1 is 4 feet wide and 50 feet long within the review area. Ditch 1 begins 50 feet east offsite and continues 450 feet west offsite to a convert underneath an unnamed road and into a mitigation site. Ditch 1 is not considered a tributary under (a)(2) because at the time the ditch was originally constructed, the ditch did not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland.



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**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 for the PacTrust Mill Creek, Salem, Oregon" by Joe Thompson on June 14, 2019.

This information is sufficient for purposes of this AJD.

Rationale: The requestor utilized the methods described in 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 Wetland A-E.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial and Other: Google Earth Images (8/2020, 10/2017, 7/2012, 5/1994), Historic Aerial Images (1936, 1944, 1967, and 1972) and LIDAR.
- Corps site visit(s) conducted on: 03/17/2021
- 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: 3/10/2021
- USFWS NWI maps: 3/10/2021
- USGS topographic maps: 3/10/2021

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
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):** The antecedent precipitation tool was utilized for the timing of the wetland delineation performed by the consultant on 17 March 2021 and 10 April 2019 to determine if the site was delineated during drier or wetter than normal circumstances. The APT determined the delineation was performed during normal conditions for the time of the year. Therefore, the Corps can conclude site conditions during the delineation of the site were normal for March 2021 and wetter than normal for April 2019.

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