



**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-2021-075
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Oregon City: Falls City County/Parish/Borough: Polk
 Center Coordinates of Review Area: Latitude 44.865670 Longitude -123.423526

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)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
Little Luckiamute River	23 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The Little Luckiamute River possesses a bed, bank, and ordinary high water mark (OHWM). Only the OHWM along the left descending bank is contained within the requested review area. The normal wetted channel and OHWM along the right descending bank are excluded from the review area. Based upon remote sensing tools and the aerial imagery identified in Section III A, the average observed wetted channel width is approximately 40 feet during the dry period. Based upon the Corps evaluation using the Antecedent Precipitation Tool,

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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REGULATORY PROGRAM
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NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
			<p>aerial imagery, and USEPA WATERS drainage measurement, the Little Luckiamute River exhibits observable perennial surface water flow within the review area in a typical year. The stream channel contained within the review area has an upstream drainage of approximately 78 square kilometers.</p> <p>The requestor utilized field indicators to determine the boundary of the OHWM along the left descending bank. The requestor provided clarification and revised mapping regarding the location of the OHWM and the boundary of the review area on 28APR2020.</p> <p>Little Luckiamute River maintains a hydrologic surface water connection with the Willamette River, which is recognized as an (a)(1) water located approximately 15.7 aerial miles downstream of the study area. The Little Luckiamute River discharges into the Luckiamute River which discharges into the Willamette River. The Willamette River is recognized by the U.S. Army Corps of Engineers, Portland District, as a navigable water pursuant to the Corps 1993 list of Navigable Riverways within the State of Oregon. Because the Little Luckiamute River contributes surface water flow directly or indirectly to an (a)(1) water in a typical year, the Little Luckiamute meets the criteria to be recognized as a water of the U.S. pursuant to (a)(2).</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.

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



**U.S. ARMY CORPS OF ENGINEERS
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APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Wetland A	0.98	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland A is a PFO wetland located in the southeastern portion of the larger, overall review areas. The Corps has determined Wetland A is not separated by a natural feature nor adjacent to an (a)(1)-(a)(3) water. Wetland A is not separated by an artificial structure allowing a direct hydrologic surface connection between the wetland and an (a)(1)-(a)(3) water, in a typical year. The location of Wetland A in the overall landscape does not allow for inundation by flooding from an (a)(1)-(a)(3) water in a typical year.</p> <p>The requestor utilized the U.S. Army Corps of Engineers 1987 wetlands delineation manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region.</p>
Wetland B	0.01	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland B is a PFO wetland located in the southeastern portion of the larger, overall review areas and south of Wetland A. The Corps has determined Wetland B is not separated by a natural feature nor adjacent to an (a)(1)-(a)(3) water. Wetland B is not separated by an artificial structure allowing a direct hydrologic surface connection between the wetland and an (a)(1)-(a)(3) water, in a typical year. The location of Wetland A in the overall landscape does not allow for inundation by flooding from an (a)(1)-(a)(3) water in a typical year.</p> <p>The requestor utilized the U.S. Army Corps of Engineers 1987 wetlands delineation manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region.</p>
Site 1	110	linear feet	(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	<p>Site 1 is identified as Ditch 1 in the requestor's jurisdictional report. A review of current and historic topographic maps provides no evidence Site 1 is a relocated tributary. The Corps has determined Site 1 was constructed in uplands and exhibits ephemeral flow therefore, Site 1 does not meet the conditions of an (a)(2) water.</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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			do not satisfy the conditions of (c)(1).	This determination is based upon the description in the jurisdictional report, site photographs, historic aerial imagery, topographical maps, and APT analysis. See Section III B for additional discussion regarding typical year assessments.
Site 2	490	linear feet	(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).	Site 2 is identified as Ditch 2 in the requestor’s jurisdictional report. A review of current and historic topographic maps provides no evidence Site 2 is a relocated tributary. The Corps has determined Site 2 was constructed in uplands in conjunction with Fair Oaks Street, a two-lane paved residential road, and exhibits ephemeral flow therefore, Site 2 does not meet the conditions of an (a)(2) water. This determination is based upon the description in the jurisdictional report, site photographs, historic aerial imagery, topographical maps, and APT analysis. See Section III B for additional discussion regarding typical year assessments.
Site 3	1,020	linear feet	(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).	Site 3 is identified as Ditch 3, 6, & 7 in the requestor’s jurisdictional report. Ditch 3, 6, & 7 are one feature, which was incorrectly identified in the jurisdictional report as three separate features, and therefore is referred to as Site 3. A review of current and historic topographic maps provides no evidence Site 3 is a relocated tributary. The Corps has determined Site 3 was constructed in uplands in conjunction with Falls City Road, a two-lane paved residential road, and exhibits ephemeral flow therefore, Site 2 does not meet the conditions of an (a)(2) water. The requestor’s jurisdictional report stated a stream channel from outside the review area flowed into Site 3 at the downstream (west) portion converting the flow regime to intermittent. The Corps has determined, based upon the provided site photographs, historic aerial imagery, and topographical maps, that there is no evidence of a confluence with an (a)(2) water at this location. The requestor’s jurisdictional report did not identify a confluence from a stream or ditch coming into the review area from the adjacent uplands. The characteristics of the roadside ditch, as shown in Photos 8 & 9 from the requestor’s jurisdictional report, fail to show characteristics of a stream channel. This determination is based upon the description in the jurisdictional report, site photographs,



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			historic aerial imagery, topographical maps, and APT analysis. See Section III B for additional discussion regarding typical year assessments.
Site 4	170	linear feet	(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). Site 4 is identified as Ditch 5 in the requestor’s jurisdictional report. A review of current and historic topographic maps provides no evidence Site 4 is a relocated tributary. The Corps has determined Site 4 was constructed in uplands in conjunction with Falls City Road, a two-lane paved road. Photo 16 from the requestor’s jurisdictional report shows Site 4 as a slight depressional area at the edge of a cut hillside and the edge of pavement. Site 4 would only receive overland sheet-flow from the hillside and exhibit ephemeral flow therefore, Site 4 does not meet the conditions of an (a)(2) water. This determination is based upon the description in the jurisdictional report, site photographs, historic aerial imagery, topographical maps, and APT analysis. See Section III B for additional discussion regarding typical year assessments.
Site 5	770	linear feet	(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). Site 5 is identified as Ditch 4 in the requestor’s jurisdictional report. A review of current and historic topographic maps provides no evidence Site 5 is a relocated tributary. The Corps has determined Site 5 was constructed in uplands in conjunction with Falls City Road, a two-lane paved road, and exhibits ephemeral flow therefore, Site 5 does not meet the conditions of an (a)(2) water. This determination is based upon the description in the jurisdictional report, site photographs, historic aerial imagery, topographical maps, and APT analysis. See Section III B for additional discussion regarding typical year assessments.

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: Falls City Wastewater System Improvement Project Wetland and Waters Delineation Report prepared by SWCA Environmental Consultants dated JAN2021 and revised drawing/clarified description of the review area provided via email dated 28APR2021.

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

Rationale: The report did not use NWPR criteria to describe wetlands and non-wetlands within the review areas. The report did not contain an Antecedent Precipitation Tool analysis for typical year assessment(s). The report did not include a Regional Streamflow Duration Assessment Method



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

(SDAM) report to support the streamflow characteristics identified in the report. The report did include wetland datasheets, site photographs, and other pertinent information which facilitated the Corps review and determination of jurisdiction in accordance with the NWPR.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial and Other: Google Earth Pro aerial imagery dated 8JUL2010, 9JUL2012, 23JUL2016, 3JUL2017, & 12AUG2020 and site photographs dated 18AUG202 & 19AUG2020 included in the Falls City Wastewater System Improvement Project Wetland and Waters Delineation Report.
- 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: As submitted with the jurisdictional report received 20JAN2021 and viewed online via the NRCS Web Soil Survey on 26APR2021.
- USFWS NWI maps: As submitted with the jurisdictional report received 20JAN2021 and viewed online via the USFWS NWI Mapper on 26APR2021.
- USGS topographic maps: 2020 edition of the Falls City, Oregon and Socialist Valley, Oregon 1:24,000 topographic maps viewed online via USGS Topoview on 26APR2021 and the 1977 edition of the Falls City, Oregon 7.5' topographic map submitted with the jurisdictional report received 20JAN2021.

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.
EPA sources (specify)	USEPA Watershed Assessment, Tracking, and Environmental Results (WATERS) Google Earth Pro add-in was used to identify the boundary and size of catchments for the review areas along with drainage areas for Sites 1-5, Wetlands A & B, and Little Luckiamute River.

B. Typical year assessment(s): The Corps completed typical year assessments using the Antecedent Precipitation Tool (APT). The APT analysis was performed for five dates where historic aerial imagery provided clear views of stream channels. The APT analysis was also performed for August 18 & 19, 2020, the dates during which fieldwork was completed upon which the requestor's wetland and waters delineation report was based. The dates for both the field work and historical aerial imagery are limited to the dry season for the review areas due to limited available historical imagery. The drought index for the seven APT assessments span from mild drought to severe wetness.

19AUG2020: Dry season, drier than normal, mild drought. Surface water was not observed to be present in Sites 1-5 nor in Wetlands A & B.

18AUG2020: Dry season, drier than normal, mild drought. Surface water was not observed to be present in Sites 1-5 nor in Wetlands A & B.

12AUG2020: Dry season, drier than normal, mild drought. Surface water was not observed to be present in Sites 1-5 nor in Wetlands A & B.

03JUL2017: Dry season, normal conditions, incipient drought. Surface water was not observed to be present in Sites 1-5 nor in Wetlands A & B.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

23JUL2016: Dry season, normal conditions, mild drought. Surface water was not observed to be present in Sites 1-5 nor in Wetlands A & B.

09JUL2012: Dry season, wetter than normal, severe wetness. Surface water was not observed to be present in Sites 1-5 nor in Wetlands A & B. The site conditions for this date, as demonstrated by the APT analysis, provided the best opportunity for surface water to have been observed with the available aerial imagery.

08JUL2010: Dry season, normal conditions, moderate wetness. Surface water was not observed to be present in Sites 1-5 nor in Wetlands A & B.

Streams flows were observed for the Little Luckiamute River in all historical aerial imagery as identified in Section III A. The observed stream flows during the periods identified for the APT assessments indicate the stream channel repeatedly carried surface flows during the dry season during mild droughts. The upstream drainage of approximately 78 square kilometers provides sufficient drainage and storage of surface water to provide for perennial flows.

Summary: The APT analyses were limited to the dry season due to available aerial imagery and the timing of the fieldwork for the requestor's jurisdictional report. Although in the dry season, the July 9, 2012 APT analysis identified site conditions were wetter than normal with severe wetness. No surface water was observed to be present in Sites 1-5 nor in Wetlands A & B indicating that not even ephemeral flows were present during a period of severe wetness in channels the requestor identified as intermittent.

C. Additional comments to support AJD: The landscape within and adjacent to the review areas has been heavily modified and impacted by conversion to semi-urban/rural residential development. A review of USGS topographical maps and historical aerial imagery did not provide evidence that historic stream channels had been diverted or converted into ditches. Typical year assessments did not provide evidence of intermittent stream flow or adjacency of wetlands to (a)(1)-(a)(3) waters. The Corps has determined Sites 1-5 and Wetlands A & B are not jurisdictional waters under the NWPR. The Corps has determined the Little Luckiamute River is a (a)(2)water and jurisdictional under the NWPR.