



**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): 5/13/2021

ORM Number: NWP-2021-086

Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE).

Review Area Location¹: State/Territory: Oregon City: Manzanita County/Parish/Borough: Tillamook

Center Coordinates of Review Area: Latitude 45.708497 Longitude -123.934266

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
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
Wetland 1	0.11	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland 1 is a PFO wetland located in the center, and occupying almost the entire review area. The Corps has determined Wetland 1 is not separated by a natural feature nor adjacent to an (a)(1)-(a)(3) water. Wetland 1 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. A review of the Corps EGIS mapping data and FEMA FIRM maps show the site is not subject to flooding and/or inundation by the Pacific Ocean, an (a)(1) water located approximately 0.5 mile west of the review area.</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>

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: [Jurisdictional Wetland Delineation Report for Pelican Lane prepared by Schott & Associates for David Moore dated February 2021.](#)

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

Rationale: [The report did not use NWPR criteria to describe the wetlands within the review area.](#)

[Information for determining \(a\)\(4\) criteria was not sufficient. The scale of maps for soils and wetlands were too narrow. The report did not include a USGS topography map, Antecedent Precipitation Tool analysis, and determination of flows from the wetland to potential \(a\)\(1\)-\(a\)\(3\) waters. 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 3SEP1994, 29JUL2000, 6JUL2012, 23AUG2016, and 22JUN2017 along with site photographs included in the requestor's jurisdictional report taken during site visit on 23DEC2020.](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

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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- 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 08FEB2021 and viewed online via the NRCS Web Soil Survey on 28APR2021.](#)
- USFWS NWI maps: [As submitted with the jurisdictional report received 20JAN2021 and viewed online via the USFWS NWI Mapper on 28APR2021.](#)
- USGS topographic maps: [2020 edition of the Nehalem, Oregon 1:24,000 topographic map viewed online via USGS Topoview on 28APR2021.](#)

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	NWP EGIS online regulatory mapping review completed 27APR2020
LiDAR data/maps	Department of Oregon Geology and Mineral Industries (DOGAMI) 2010 LiDAR data provided in requestor's Jurisdictional Wetland Delineation Report for Pelican Lane.
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 (a)(4) waters determination.
FEMA/FIRM maps	FEMA online map service accessed 28APR2021 for the Tillamook County Unincorporated Area FIRM map.

B. Typical year assessment(s): The Corps completed a typical year assessment using the Antecedent Precipitation Tool (APT) for 23DEC2020, the date for which the site visit was reported in the requestor's jurisdictional report. Additional APT assessments were not completed for available historic aerial imagery as woody vegetation, both within and adjacent to the review area, prevented viewing potential stream channels and the ground surface. The APT analysis identified the review area was in the wet season with a mild drought, but within normal conditions. Neither the requestor's jurisdictional report, nor available historical imagery, was able to identify a hydrologic connection to a (a)(1)-(a)(3) water.

C. Additional comments to support AJD: The landscape within and adjacent to the review areas has been heavily modified and impacted by conversion to historic and ongoing residential development. A review of the USGS topographical map and historical aerial imagery did not provide evidence that hisotoric stream channels had been diverted or converted into ditches to provide the necessary adjacency for Wetland 1 to be a jurisdictional (a)(4) water. The typical year assessment combined with aerial imagery and site photographs did not provide evidence of intermittent stream flow or adjacency of wetlands to (a)(1)-(a)(3) waters. The Corps has determined Wetland 1 is not a jurisdictional water under the NWPR.