



**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): 6/2/2021

ORM Number: NWP-2021-234

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 45.584513° Longitude -117.540909°

**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)<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
NWP-2021-234 Site 1 Wallowa River	0.7 acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Delineation photos of the site in April 2021 observed surface water within Site1 Wallowa River, as shown in drawings and GIS drawings. Field observations determined the Wallowa River has a defined bed and bank. The duration of the flows are perennial based upon the Oregon Streamflow Duration Assessment Method (SDAM). Wallowa River enters into the review area from the Southeast flowing to the Northwest where it discharges into Grande Ronde River, and then directly flows into the Snake River. The Snake River is not subject to the U.S.

<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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
				Army Corps of Engineers (Corps) Approved Jurisdictional Determination (AJD) for this AJD but is an (a)(1) navigable water of the U.S. per the Corps Portland District's 1993 List of Navigable Riverways within the State of Oregon.
NWP-2021-234 Site 4 Bear Creek	0.2	acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Delineation photos of the site in April 2021 observed surface water within Site 4 Bear Creek, as shown in drawings and GIS drawings. Field observations determined the Bear Creek has a defined bed and bank. The duration of the flows are perennial based upon the Oregon SDAM. Bear Creek flows into the review area from the South and discharges into the Wallowa River within the review area. The Wallowa River and its flow path are documented above.

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.	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.	N/A.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
NWP-2021-234 Site 2 Wetland 1	0.11	acre(s)	(b)(1) Non-adjacent wetland.	There are no (a)(1)-(3) waters near Wetland 1. Wetland 1 is surrounded by uplands that are higher in elevation and there is no evidence that wetland 1 meets the definition of an adjacent wetland pursuant to the NWPR. The wetland is separated from the Wallowa River by an irrigation canal, documented below as a (b)(5) ditch.
NWP-2021-234 Site 3 Wetland 2	0.01	acre(s)	(b)(1) Non-adjacent wetland.	There are no (a)(1)-(3) waters near Wetland 2. Wetland 2 is surrounded by uplands that are higher in elevation and there is no evidence that wetland 2 meets the definition of an adjacent wetland pursuant to the NWPR.
NWP-2021-234 Site 5 Irrigation Canal	450	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and	The irrigation canal originates outside of the review area from a diversion on the Wallowa River. This diversion has fish screens and is

<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
		those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	closed during winter months. The canal flows offsite and discharges the flows across various fields located northwest of the review area. No flows return from the irrigation ditch to the Wallowa River. There is no evidence the ditch is a relocated a tributary, was constructed in a tributary, or was constructed in an adjacent wetland; therefore, the ditch meets the (b)(5) exclusion pursuant to the NWPR.
NWP-2021-234 Site 6 Roadside Ditch	400	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).  The roadside ditch originates outside of the review area to the south along OR82. The ditch does not connect to any downstream waters and appears to retain all of the rainfall and stormwater onsite. No flows were observed moving from the ditch to the Wallowa River. There is no evidence the ditch is a relocated a tributary, was constructed in a tributary, or was constructed in an adjacent wetland; therefore, the ditch meets the (b)(5) exclusion 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: [OR 82: Bear Creek \(Wallowa River\) Bridge Replacement Wallowa County, Oregon and dated April 2021.](#)

This information is sufficient for purposes of this AJD.

Rationale: [The wetland delineation was conducted in accordance with the US Army Corps of Engineers Wetlands Delineation Manual \(Environmental Laboratory, 1987\), the Arid West Region Supplement to the Manual V2.0 \(ERDC 2008\). The delineation identified several wetlands and waters within the review area.](#)

- Data sheets prepared by the Corps: [N/A](#)
- Photographs: [Other: Delineation site photos dated April 2021.](#)
- 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: [WebSoil Survey retrieved for Medford Build Grant delineation report and dated April 2021.](#)
- USFWS NWI maps: [U.S. Fish and Wildlife Service National Wetland Inventory Map provided in delineation and dated April 2021.](#)
- USGS topographic maps: [U.S. Geologic Survey Newport North Quadrangle Map in delineation dated April 2021.](#)

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



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Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset information obtained by USACE staff on 24 May 2021 from the USACE Regulatory WebViewer.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	U.S. Army Corps of Engineers 1987 wetland delineation manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

**B. Typical year assessment(s):** N/A

**C. Additional comments to support AJD:** The Oregon Streamflow Duration Assessment Manual was used to determine the flows within the identified aquatic features. 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: Arid West Region to determine the boundaries of the aquatic resources within the Review Area.