



**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): 6/21/2021  
 ORM Number: NWP-2021-073  
 Associated JDs: NWP-1997-203  
 Review Area Location<sup>1</sup>: State/Territory: Oregon City: Sweet Home County/Parish/Borough: Linn  
 Center Coordinates of Review Area: Latitude 44.400078° Longitude -122.692930°

**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
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.

<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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**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
Wetland 1a	0.464	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland 1a is a forested wetland located in the northwest corner of the Review Area and flows offsite to the north and west (as indicated by the USGS raindrop flow tool and topographic maps). It is adjacent to uplands and Wetland 1b to the east and Wetland 1b to the south. This wetland is documented on National Wetland Inventory (NWI) and Local Wetland Inventory (LWI) maps. Aerial images indicate there are two wetlands located offsite and west of Wetland 1a, however, no remote tools indicate that these wetlands could have a direct surface connection to an (a)(1-3) feature in a typical year, could be inundated by an (a)(1-3) water in a typical year, nor are they separated by only a natural feature from an (a)(1-3) water.</p> <p>Furthermore, there are numerous residential homes and structures surrounding these wetlands, which would break any jurisdictional connections. Therefore, Wetland 1a does not meet the definition of an adjacent wetland under the Navigable Waters Protection Rule (NWPR).</p>
Wetland 1b	0.448	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland 1b is an emergent wetland located immediately south and east of Wetland 1a. Because Wetland 1a meets the (b)(1) exclusion, Wetland 1b also meets the (b)(1) exclusion.</p>
Wetland B	0.064	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland B is located in the southeastern portion of the Review Area and extends offsite to the east. It is surrounded on all sides by uplands which are higher in elevation, including the portion of the wetland located outside the Review Area. Wetland B does not have a direct surface connection to an (a)(1-3) feature in a typical year, isn't inundated by an (a)(1-3) water in a typical year, nor is it separated by only a natural feature from an (a)(1-3) water. The project agent provided additional information and ground level photographs documenting the lack of offsite connection to Wetland 2b (see Wetland 2b below). Therefore, Wetland B does not meet</p>

<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
Wetland 2a and 2b (considered to be one wetland, Wetland 2, for this analysis)	0.005	acre(s)	(b)(1) Non-adjacent wetland.
			<p>the definition of an adjacent wetland under the NWPR.</p> <p>Wetland 2a is connected to Wetland 2b by four culverts in the central portion of the Review Area. Because these two wetlands are part of the same hydrologic system, the Corps will refer to both Wetland 2a and Wetland 2b as Wetland 2.</p> <p>Based on an review of available aerial imagery, Corps’ aerial imagery, historic topographic maps, and the City of Sweet Home’s stormwater management plan, there is no conclusive evidence suggesting these wetlands have a direct surface connection to an (a)(1-3) feature in a typical year, could be inundated by an (a)(1-3) water in a typical year, nor are they separated by only a natural feature from an (a)(1-3) water.</p> <p>Furthermore, the Corps assessed the possibility that the small channel forming in the center of these wetlands may be a rerouted perennial or intermittent tributary. Upon review of available aerial imagery, Corps’ aerial imagery, topographic maps, nor the City of Sweet Home’s stormwater management plan, there is no conclusive evidence suggesting that this channel provides a direct surface water connection to an (a)(1-3) water in a typical year.</p> <p>Therefore, Wetland 2 does not meet the definition of an adjacent wetland nor tributary under the NWPR.</p>
Wetland 3	0.002	acre(s)	(b)(1) Non-adjacent wetland.
			<p>Wetland 3 is surrounded by uplands that are higher in elevation on all sides. Wetland 3 is not inundated by flooding from an (a)(1)-(3) water in a typical year. Therefore, Wetland 3 does not meet the definition of an adjacent wetland under the NWPR.</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: Two wetland delineations entitled, “Duck Hollow LLC, Sweet Home, OR” dated 10 April 2017 and “Duck Hollow III/Creekside DKV, LLC- Wetland Delineation Report” dated 23 November 2020 were submitted to the Corps on 3 February 2021.

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



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Rationale: On 17 February 2021, the Corps requested additional information. On 5 March 2021, the project agent provided the necessary information to complete this determination. The provided wetland delineation adheres to the procedures outlined within the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and 2010 Western Mountains, Valleys, and Coasts Regional Supplement.

- Data sheets prepared by the Corps: N/A
- Photographs: Aerial and Other: Aerial image dated 12 December 2020 was retrieved from Digital Globe by the Corps on 9 March 2021. An aerial image from Google Earth dated 14 July 2014 was retrieved by the Corps on 29 April 2021. Aerial photographs from the Corps' collection dated 1939, 17 August 1955, and 13 June 1961 were retrieved by the Corps on 16 March 2021. Ground level photographs were provided within the wetland delineations and Response to Additional Information.
- Corps site visit(s) conducted on: N/A
- Previous Jurisdictional Determinations (AJDs or PJDs): NWP-1997-203 dated 24 July 1997.
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: N/A
- USFWS NWI maps: United States Fish and Wildlife Service (USFWS) NWI maps obtained by the Corps on 17 February 2021 from the Regulatory eGIS WebViewer.
- USGS topographic maps: USGS topographic maps obtained by the Corps on 8 March 2021 from <https://ngmdb.usgs.gov/topoview/viewer/>.

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS National Hydrography Dataset (NHD) information obtained by the Corps on 17 February 2021 from the Regulatory eGIS WebViewer. USGS StreamStats Raindrop Path tool information obtained by the Corps on 17 February 2021 from <a href="https://streamstats.usgs.gov/ss/">https://streamstats.usgs.gov/ss/</a> .
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	Oregon Department of Geology and Mineral Industries (DOGAMI) lidar information obtained by the Corps on 8 March 2021 from <a href="https://gis.dogami.oregon.gov/maps/lidarviewer/">https://gis.dogami.oregon.gov/maps/lidarviewer/</a> .
Other Sources	City of Sweet Home's "Proposed Master Storm Drainage Plan" by Devco Engineering, Inc. dated April 1980.

**B. Typical year assessment(s):** On 8 and 9 March 2021, 17 March 2021, and 29 April 2021 the Corps utilized the Antecedent Precipitation Tool (APT) to conduct typical year analyses of the Review Area via a single point method for the dates the wetland delineation field data was collected and the dates of aerial photography. The APT is an automation tool that evaluates three climatological parameters at a given location to assist in documenting the various determinations required by policy for the execution of the Corps Regulatory Program. The APT analysis determines if the date-specific observation falls within the normal periodic range for the geographic area based on a rolling thirty-year period. A single point method using the latitude and longitude coordinates identified in Section (I) above was utilized because the single point method adequately represents the data sources available via the APT to conduct an appropriate analysis of climatic conditions onsite. The Corps ran a typical year analysis for the Review Area vicinity utilizing the Corps' "Antecedent Precipitation Tool (APT)" (<https://github.com/jDeters-USACE/Antecedent-Precipitation-Tool/releases/tag/v1.0.13>).



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Specifically, the Corps' ran an APT Analysis for the following dates:

12/12/2020 (aerial) – “normal conditions”.  
10/15/2020 (site visit) – “normal conditions”.  
03/22/2017 (site visit) – “wetter than normal conditions”.  
8/17/1955 (aerial) – “wetter than normal conditions”.  
6/13/1961 (aerial) – “normal conditions”.  
7/14/2014 (aerial) – “normal conditions”.

In conclusion, the Corps has determined from the use of the APT, wetland delineation data, aerial imagery, and other sources identified above that the provided information is representative of normal conditions.

**C. Additional comments to support AJD: N/A**