



**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): 6/23/2021

ORM Number: NWP-2021-303

Associated JDs: N/A

Review Area Location¹: State/Territory: Oregon City: White City County/Parish/Borough: Jackson

Center Coordinates of Review Area: Latitude 42.423155° N Longitude 122.831474° W

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)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
Ditch 1	200	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 within the Review Area along the east side of Lakeside Drive and flows typically would move south. No vernal pools were observed to be adjacent or abutting the ditch. No flows were observed moving from the ditch to the Whetstone Creek. There is evidence the ditch may have been constructed through the upland components around a vernal pool complex, however there is no evidence the ditch 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.
Ditch 2	200	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 ditch originates within the Review Area approximately 100 feet west of Lakeside Drive and flows typically would move south. No vernal pools were observed to be adjacent or abutting the ditch. No flows were observed moving from the ditch to the Whetstone Creek. There is no evidence the ditch was constructed in a vernal pool, 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.
Vernal Pool Complex 1	0.21	acre(s)	(b)(1) Non-adjacent wetland.	There are no (a)(1)-(3) waters near Vernal Pool Complex 1. Vernal Pool Complex 1 is surrounded by uplands that are higher in elevation and there is no evidence that Vernal Pool Complex 1 meets the definition of an adjacent wetland pursuant to the NWPR.
Vernal Pool Complex 2	0.001	acre(s)	(b)(1) Non-adjacent wetland.	There are no (a)(1)-(3) waters near Vernal Pool Complex 2. Vernal Pool Complex 2 is surrounded by uplands that are higher in elevation and there is no evidence that Vernal Pool Complex 2 meets the definition of an adjacent wetland pursuant to the NWPR.
Vernal Pool Complex 3	0.02	acre(s)	(b)(1) Non-adjacent wetland.	There are no (a)(1)-(3) waters near Vernal Pool Complex 3. Vernal Pool Complex 3 is surrounded by uplands that are higher in elevation and there is no evidence that Vernal Pool Complex 3 meets the definition of an adjacent wetland pursuant to the NWPR.

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Vernal Pool Complex 4	0.36 acre(s)	(b)(1) Non-adjacent wetland.	There are no (a)(1)-(3) waters near Vernal Pool Complex 4. Vernal Pool Complex 4 is surrounded by uplands that are higher in elevation and there is no evidence that Vernal Pool Complex 4 meets the definition of an adjacent wetland 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 140: Lakeview Drive Left Turn Lane dated June 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 vernal pools and ditches 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 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:

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	National Hydrography Dataset information obtained by USACE staff on 15 June 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): 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.



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The Corps reviewed the output from the Antecedent Precipitation Tool (APT) for the Review Area using a single point method on DATES (dates of Google Earth Pro aerial imagery which demonstrate the presence of surface water within the Review Area). The APT is an automation tool that rapidly evaluates climatic parameters for a given location. The APT is one tool that the Corps may use to determine and document typical year conditions. The APT is available online (<https://github.com/jDeters-USACE/Antecedent-Precipitation-Tool>).

04/29/2021 (Delineation Field Work) - "Drier than Normal Conditions." Drier than normal conditions were present during the delineation field work. The field work was completed during the dry season.

10/25/2020 (Google Earth Aerial Image) - "Drier than Normal Conditions." Drier than normal conditions were present when this aerial image was taken during the dry season.

05/27/2016 (Google Earth Aerial Image) - "Drier than Normal Conditions." Drier than normal conditions were present when this aerial image was taken during the dry season.

11/20/2003 (Google Earth Aerial Image) - "Normal Conditions." Normal conditions were present when this aerial image was taken during the wet season. No surface water was observed within the ditches or flowing from the Review Area.

Based upon the Streamflow Duration Assessment Method for Oregon and the lack of surface water presence within Ditch 1 and Ditch 2 during normal conditions during the wet season, the ditches do not meet any of the (a)(1-3) waters or jurisdictional ditch findings. The ditches are non-jurisdictional waters of the U.S. The USACE has also determined Vernal Pool Complex 1, 2, 3, and 4 are not adjacent to, abut, or provide any direct flows to any (a)(1-3) waters or jurisdictional ditches. Therefore, Vernal Pool Complex 1, 2, 3, and 4 are non-jurisdictional waters of the U.S.

C. Additional comments to support AJD: Vernal Pools in the Agate desert area act as a series of collection points where the flow from one or more pools outflow into another pool in a cascade effect. The vernal pools are reviewed as a complex since this is how they function in the landscape. Prior to 1939, site alterations were limited to agricultural practices and a majority of the Review Area was grazed (evidence of cattle trails and feeding stations in 1939 photo). Intact vernal pool complexes are discernible throughout the Review Area. Lakeview Drive is a visible access point in 1939 and appears to be impeding water from flowing along vernal pools. This appears to have increased pool inundation to the east of Lakeview Dr and reduced the extent of vernal pools to the west. In 1941, the Army began looking for potential sites for a training facility in the Medford area, focusing on a flat area seven miles east of Medford known as the Agate Desert. This area was selected due to the flat topography which would be perfect for the needed buildings, infrastructure, and parade grounds. In May of 1941, the War Department announced that Camp White was one of 9 new training camps. The 27.5 million dollar Camp covered 77 square miles of Agate Desert. The Camp was deactivated after WWII. Many of the buildings were auctioned off but the Camp's Hospital and several blocks of supporting buildings were eventually taken over by the Veterans Administration. Alterations in the Review Area are apparent to the North and South during the 50's and 60's as home sites are developed and agricultural activity increase. The vernal pools are difficult to see due to timing of the photographs and it is not apparent how these wetlands were impacted as rural development expanded. The alignment of Highway 140 is apparent in 1979 aerial photographs. This further



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impacted vernal pool complexes and prevented flows to the south of the highway and resulted in additional grading of the landscape.