



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): July 20, 2021

ORM Number: NWP-2021-00331

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: OR City: Sumpter County/Parish/Borough: Baker County

Center Coordinates of Review Area: Latitude 44.712962 Longitude -118.165317

**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 and 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 independent 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.

<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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**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 A	0.66 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Wetland A does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year. Wetland A is not physically separated from a(1)-a(3) water by natural feature or artificial structure. See Section III(c) below. Wetland A is an excluded water feature pursuant to the NWPR.
Wetland B	0.58 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Wetland B does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year. Wetland B is not physically separated from a(1)-a(3) water by natural feature or artificial structure. See Section III(c) below. Wetland B is an excluded water feature pursuant to the NWPR.
Wetland C	0.7 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Wetland C does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year. Wetland C is not physically separated from a(1)-a(3) water by natural feature or artificial structure. See Section III(c) below. Wetland C is an excluded water feature pursuant to the NWPR.
Wetland D	0.09 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Wetland D does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year. Wetland D is not physically separated from a(1)-a(3) water by natural feature or artificial structure. See Section III(c) below. Wetland D is an excluded water feature pursuant to the NWPR.
Wetland E	0.13 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Wetland E does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year. Wetland E is not physically separated from a(1)-a(3) water by natural feature or artificial structure. See Section III(c) below. Wetland E is an excluded water feature pursuant to the NWPR.
Wetland F	0.03 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Wetland F does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year. Wetland F is not physically separated from a(1)-a(3) water by natural feature or artificial structure. See Section III(c) below. Wetland F is an excluded water feature pursuant to the NWPR.
Wetland G	0.02 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-	Wetland G does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year. Wetland G is not physically separated from a(1)-a(3) water by natural feature or artificial structure.

<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 independent 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.

<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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NAVIGABLE WATERS PROTECTION RULE

		jurisdictional water to obtain fill/sand/gravel	See Section III(c) below. Wetland G is an excluded water feature pursuant to the NWPR.
Wetland H	0.002 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Wetland H does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water in a typical year. Wetland H is not physically separated from a(1)-a(3) water by natural feature or artificial structure. See Section III(c) below. Wetland H is an excluded water feature 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: *Delineation of Wetlands and Other Waters for Proposed Sumpter Valley Tailings Reclamation Operations, Baker County, Oregon, WHPacific, Inc. March 24, 2021*  
This information is sufficient for purposes of this AJD.  
Rationale: *The delineator completed a wetland delineation which followed the U.S. Army Corps of Engineers 1987 wetland delineation manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region to determine the boundaries of the waters within the review area. The delineation included site photos, vegetation and soil surveys, and site plans provide sufficient documentation to assess Wetlands A-H under the Navigable Waters Protection Rule.*
- Data sheets prepared by the Corps: *N/A.*
- Photographs: *Google Earth Pro aerial photos 2001, 2004, 2005, 2006, 2011, 2012, 2013 University of Oregon Knight Library historic aerial photos 1954, 1964, 1971, 1979, 1994.*
- 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: *https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx, accessed 6/24/2021*
- USFWS NWI maps: *https://www.fws.gov/wetlands/data/mapper.html, accessed 6/24/2021*
- USGS topographic maps: *Sumpter, OR 1:24K, 2017.*

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrologic Dataset mapper <a href="https://hydro.nationalmap.gov/arcgis/rest/services/nhd/MapServer">https://hydro.nationalmap.gov/arcgis/rest/services/nhd/MapServer</a> accessed 6/24/2021
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	<a href="https://gis.dogami.oregon.gov/maps/lidarviewer/">https://gis.dogami.oregon.gov/maps/lidarviewer/</a> , accessed 6/24/2021
Other Sources	N/A.

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

**C. Additional comments to support AJD:** The Review Area is approximately 35 acres in size and is located south of the intersection of Oregon Route 410 and Oregon Route 7 near Sumpter, Baker County, Oregon. The Powder River is located outside of the Review Area directly to the south. The Review Area contains 8 wetlands which appear to have been created by large scale and intensive excavation related to historic gold mining. The unnatural topography and orientation of these wetlands on the landscape indicate they formed in depressions left by mining activities. Aerial photographs reviewed by the Corps indicate none of the wetlands within the Review Area are adjacent to any a(1)-a(3) waters and are not physically separated from a(1)-a(3) water by natural feature or artificial structure. No evidence was found to indicate any of the wetlands within the Review Area are inundated by flooding, either from the nearby Powder River or any other aquatic source.

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