



**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): [7/23/2021](#)
 ORM Number: [NWP-2021-77](#)
 Associated JDs: [N/A](#)
 Review Area Location¹: State/Territory: [Oregon](#) City: [Bly](#) County/Parish/Borough: [Klamath](#)
 Center Coordinates of Review Area: Latitude [42.388.85](#) Longitude [-121.044384](#)

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
Water 1	200	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. Water 1 enters the Review Area from the south and continues north through the review area. Under drought conditions hydric vegetation and channel development can be seen extending from Henwas Street to the edges of an irrigated field where it crosses through two culverts before entering Fishhole Creek, a perennial (a)(2) water before entering the Sprague River which drains to the Klamath River, entering the Pacific Ocean near the town of Requa in Del Norte County, California. Water 1 is a natural channel which is visible on the

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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
			Bly, Oregon map associated with this review. Gauge data is unavailable for this unnamed tributary, however, APT data referenced in Section B shows consistent flows over the 30-year period.

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
Wetland 1	0.018 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1 is described as a roadside ditch which extends into Water 1 in an area of low gradient topography. Thus, it abuts Water 1. Based on the Navigable Waters Protection Rule, wetlands that abut an (a)(1) – (a)(3) waters are jurisdictional.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	N/A.

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: “Bly Water Line Distribution Project, Bly, Oregon Wetland Delineation” prepared by Rabe Consulting and dated September 2020.

This information is sufficient for purposes of this AJD.

Rationale: 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 resource within the Review Area

- Data sheets prepared by the Corps: N/A
- Photographs: Aerial: Google Earth photos dated 28 June 2005, 2 September 2012 and 27 May 2017
- 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: N/A
- USFWS NWI maps: N/A
- USGS topographic maps: Bly, Oregon, 1988 1:24,000

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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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	U.S. Army Corps of Engineers GeoPortal tool review on 3 June 2021
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The delineation occurred during the dry season. The delineation described normal conditions for the dry season. The drought index shows the delineation occurred under a period of moderate drought. APT data describes typical conditions during the dry season in an area with a maximum reported three-inches of precipitation per year. Three comparison aerial photos taken during drought, normal conditions and wetter than normal conditions all confirm the presence of flow and channel development.

2 September 2012 Google Earth aerial shows minor channel development typical of channels in low gradient conditions. APT data for this date identified drier than typical conditions during the dry season during incipient drought. Incipient drought is defined as the first level of drought prior to designations of moderate, severe or extreme. It represents increasing drought characteristics.

27 May 2017 Google Earth shows broad water staining with little channel development, however, channel development resumes within 300 feet to the north. APT data for this date are normal conditions during the dry season under normal conditions, thus, although channel would exhibit very low flows, the data supports an intermittent channel which contributes flows to an (a)(1) - (a)(3) water in a typical year.

28 June 2005 Google Earth confirms the APT data showing wetter than normal conditions during the dry period during a period of mild wetness. Features that are visible during normal and drought conditions in the aerial photos above are more clearly defined.

C. Additional comments to support AJD: The wetland vegetation in Wetland 1 within the 10.617 acre study area extends into the intermittent channel. The low gradient topography of the Review Area prevents a break in slope between channel and wetland from severing jurisdiction. Channel development north of Wetland 1 is less well defined for 700 linear feet, however, it remains visible or as an area of temporary subsurface wetness. The intermittent channel continues on along the edge of irrigated farmland, enters a culvert under Highway 140, continues under one additional roadway before entering Fishhole Creek.