



**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): 8/5/2021  
 ORM Number: NWP-2020-483  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Oregon City: Eugene County/Parish/Borough: Lane  
 Center Coordinates of Review Area: Latitude 44.0635 Longitude -123.1654

**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 A	0.53 acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland A does not directly abut an (a)(1)-(a)(3) water as it is separated from the nearest (a)(1)-(a)(3) water by roadways, upland developments, and constructed ditches.</p> <p>There is no evidence Wetland A is inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water by only a natural feature. Furthermore, Wetland A is not separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between Wetland A and an (a)(1)-(a)(3) water in a typical year. Wetland A does not meet the definition of an adjacent wetland under Navigable Waters Protection Rule (NWPR).</p>
Wetland B	0.18 acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland B does not directly abut an (a)(1)-(a)(3) water as it is separated from the nearest (a)(1)-(a)(3) water by roadways, upland developments, and constructed ditches.</p> <p>There is no evidence Wetland B is inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water by only a natural feature. Furthermore, Wetland B is not separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between Wetland B and an (a)(1)-(a)(3) water in a typical year. Wetland B does not meet the definition of an adjacent wetland under NWPR.</p>
Wetland C	1.72 acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland C does not directly abut an (a)(1)-(a)(3) water as it is separated from the nearest (a)(1)-(a)(3) water by roadways, upland developments, and constructed ditches.</p> <p>There is no evidence Wetland C is inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water by only a natural feature. Furthermore, Wetland C is not separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface</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
				connection between Wetland C and an (a)(1)-(a)(3) water in a typical year. Wetland C does not meet the definition of an adjacent wetland under NWPR.
Wetland D	0.24	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland D does not directly abut an (a)(1)-(a)(3) water as it is separated from the nearest (a)(1)-(a)(3) water by roadways, upland developments, and constructed ditches.</p> <p>There is no evidence Wetland D is inundated by flooding in a typical year nor separated from an (a)(1)-(a)(3) water by only a natural feature. Furthermore, Wetland D is not separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between Wetland D and an (a)(1)-(a)(3) water in a typical year. Wetland D does not meet the definition of an adjacent wetland under NWPR.</p>
Drainage Channel 1	0.20	acre(s)	(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).	Drainage Channel 1 is a ditch located along the southern boundary of the Review Area. Based on a review of U.S. Geological Survey (USGS) topographic maps and historic aerial imagery, there is not sufficient evidence that documents the ditch is a relocated tributary, was constructed in a tributary, or was constructed in an adjacent wetland; therefore the ditch meets the (b)(5) exclusion pursuant to 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: [Wetland Delineation for the Way to Bee, LLC Property in Eugene, Oregon by Pacific Habitat Services, Inc. September 23, 2019](#)

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

Rationale: [Provided report included aerial and ground-level images and rainfall data, but additional information including the USGS topographic maps, Google Earth Pro aerial imagery, U.S. Army Corps of Engineers \(USACE\) eGIS and the USACE Antecedent Precipitation Tool \(APT\) were used to supplement information in the 2019 report. The requestor utilized the methods described in the USACE 1987 Wetland Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region to determine the boundaries of Wetlands A-D and Drainage Channel 1.](#)

- Data sheets prepared by the Corps: [N/A](#)



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- Photographs: Aerial and Other: Aerial and ground-level photographs in provided report, Google Earth Pro aerials (05/1994, 07/2000, 02/2003, 06/2005, 08/2011, 06/2018, 07/2019, 10/2019, 03/2020) accessed by Corps staff on 02 August 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: Natural Resources Conservation Service Web Soil Survey 2016, provided by requestor
- USFWS NWI maps: U.S. Fish and Wildlife Service National Wetland Inventory Wetland Mapper, accessed by Corps staff 2 August 2021
- USGS topographic maps: USGS Topoview, map dates 1967, 1977, 1987, 2011, 2014, 2020, accessed by Corps staff on 28 July 2021

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS Stream Stats, accessed by Corps staff on 28 July 2021, USGS Earthexplorer, accessed by Corps staff on 04 August 2021
USDA NRCS WETS tables	Provided in requestor report, supplemented by USACE APT
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

**B. Typical year assessment(s):** The 23 September 2019 wetland delineation report stated the wetland delineation was performed by the consultant on 15 August 2019. The USACE APT was utilized by the Corps via a single point method for 15 August 2019 to determine if the Review Area was delineated during drier or wetter than normal circumstances. The APT analysis determines if the date-specific observations fall within the normal periodic range for the geographic area based on a rolling thirty-year period. A single point method using latitude and longitude coordinates identified in Section (1) above were utilized because the single point method adequately represents the data sources available via the APT to conduct an analysis of climatic conditions within the study area. The APT is available online (<https://github.com/jDeters-USACE/Antecedent-Precipitation-Tool>).

The APT determined the delineation was performed during slightly drier than normal conditions for the time of the year. Google Earth Pro aerial imagery from 21 July 2019 depicts dry conditions with brown vegetation in the weeks prior to the August 2019 delineation, consistent with the APT determination. Google Earth Pro aerial imagery from 4 October 2019 depicts wetter conditions with green vegetation, which is more representative of a wet season condition. Therefore, the Corps can conclude site conditions during the delineation of the site were drier than normal for August 2019.

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