



**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): 8/17/2021

ORM Number: NWP-2021-302

Associated JDs: N/A.

Review Area Location¹: State/Territory: Oregon City: Yachats County/Parish/Borough: Lincoln

Center Coordinates of Review Area: Latitude 44.30413388° Longitude -124.10678227°

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
Wetland 1 - Ditch	0.03	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water. Wetland 1 is located along the southern boundary of the project site and extends offsite to the northeast, southeast, and southwest. During the wetland

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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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
			<p>delineation, a pipe and small wetland ditch were noted within the northern boundary of Wetland 1. Wetland 1 and the ditch exhibited clear indicators of wetland vegetation, hydrology, and soils.</p> <p>Based on a review of Oregon Department of Geology and Mineral Industries' (DOGAMI) Lidar, Corps site visit, and aerial photographs depicting consistent vegetation from within Wetland 1 to Gregory Creek, Wetland 1 abuts Gregory Creek.</p> <p>Immediately to the northeast of the study area is an (a)(2) perennial stream (known as Gregory Creek) flowing toward the northwest, through a culvert under Yachats Ocean Road, over coastal rocks and into the Pacific Ocean. As evidenced in Google Earth aerial photos and the Corps' 13 July 2021 site visit, the stream produces enough hydrology to visibly discharge into the Pacific Ocean (an (a)(1) water) during the summer dry season (July and August) under normal conditions over multiple years (see Section III. B.).</p> <p>Based on the above information the Corps as determined Wetland 1 abuts an (a)(2) water and is jurisdictional under the Navigable Waters Protection Rule (NWPR).</p>	
Wetland 2	0.10	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	<p>Wetland 2 is located along the northeastern Review Area boundary and extends out of the Review Area to the northeast toward Gregory Creek. Based on a review of DOGAMI Lidar, National Wetland Inventory (NWI) maps, and the Corps observations during the July 13, 2021 site visit, Wetland 2 slopes downhill to the northeast and abuts Gregory Creek offsite. Furthermore, aerial imagery depicts consistent vegetation from the eastern portions of Wetland 2 to the Gregory Creek Channel. For that reason, Wetland 2 directly abuts an (a)(2) water.</p>

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.	N/A.

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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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: “Jurisdictional Wetland Delineation Report for Yachats Ocean Road” prepared by Schott & Associates, Inc. dated May 2021 and “Delineation Addendum S&A #2865 Yachats Ocean Road” prepared by Schott & Associates, Inc. dated 9 August 2021.

This information is sufficient for purposes of this AJD.

Rationale: The provided wetland delineation and delineation addendum 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 to determine the boundaries of wetlands.

- Data sheets prepared by the Corps: N/A
- Photographs: Aerial and Other: Aerial photographs dated 18 August 2018 and 24 July 2019 obtained from Google Earth by Corps staff on 15 June 2021. Ground level photographs submitted within the wetland delineation.
- Corps site visit(s) conducted on: 13 July 2021
- 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: United States Fish and Wildlife Service NWI maps obtained by Corps staff on 7 June 2021 from the Corp’s Regulatory WebViewer.
- USGS topographic maps: United States Geologic Survey (USGS) topographic maps obtained by Corps staff on 7 June 2021 from <https://ngmdb.usgs.gov/topoview/viewer/#15/44.3053/-124.1067>

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) flowline information obtained by Corps staff on 7 June 2021 from the Corps Regulatory WebViewer. USGS Streamstats RainDrop tool information obtained on 15 June 2021 by Corps staff from https://streamstats.usgs.gov/ss/
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	DOGAMI Lidar information obtained by Corps staff on 7 June 2021 from https://gis.dogami.oregon.gov/maps/lidarviewer/ .
Other Sources	N/A.

B. Typical year assessment(s): On 15 June 2021, the Corps utilized the Antecedent Precipitation Tool (APT) to conduct a typical year analysis of the Review Area via a single point method for the dates the wetland delineation field data was collected and of aerial imagery. 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 fro the geographic area based on a rolling thirty-year period. A single point method adequately represents the data sources available via the APT to conduct an appropriate analysis of climatic conditions onsite.

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



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18 August 2018 (aerial photograph): "normal conditions:" observations of surface water.
24 July 2019 (aerial photograph): "normal conditions:" observations of surface water.
10 October 2020 (Agent site visit): "normal conditions:" limited offsite investigation.
13 July 2021 (Corps site visit): "normal conditions:" observations of surface water.

In conclusion, the Corps has determined from the use of the APT, the wetland delineation data, aerial imagery, and other sources identified above that the flow of Gregory Creek is perennial.

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