

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): November 10, 2021

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENWP-ODG, 24514 NW Sauvie Island Road JD, NWP-2021-417

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Multnomah City: Portland

Center coordinates of site (lat/long in degree decimal format): Lat. 45.6999455° N, Long. 122.8606180° W.

Universal Transverse Mercator:

Name of nearest waterbody: Jack Slough

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Gilbert River

Name of watershed or Hydrologic Unit Code (HUC): Multnomah Channel, 170900120305

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: September 23, 2021

Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs **Wetland 4**

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: linear feet: width (ft) and/or acres.

Wetlands: **Wetland 4: 3.52 acres.**

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: **Wetlands 1, 2, and 3. See Section III F and Section IV B for additional information.**

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”:

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: **Pick List**

Drainage area: **Pick List**

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW⁵: .

Tributary stream order, if known: .

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

(b) General Tributary Characteristics (check all that apply):

- Tributary is: Natural
 Artificial (man-made). Explain: _____
 Manipulated (man-altered). Explain: _____

Tributary properties with respect to top of bank (estimate):

Average width: _____ feet
Average depth: _____ feet
Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

- | | | |
|--|--|-----------------------------------|
| <input type="checkbox"/> Silts | <input type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input type="checkbox"/> Vegetation. Type/% cover: _____ | |
| <input type="checkbox"/> Other. Explain: _____ | | |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: _____

Presence of run/riffle/pool complexes. Explain: _____

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): _____ %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: _____

Other information on duration and volume: _____

Surface flow is: **Pick List**. Characteristics: _____

Subsurface flow: **Pick List**. Explain findings: _____

Dye (or other) test performed: _____

Tributary has (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Bed and banks | |
| <input type="checkbox"/> OHWM ⁶ (check all indicators that apply): | |
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> shelving | <input type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): _____ | |
| <input type="checkbox"/> Discontinuous OHWM. ⁷ Explain: _____ | |

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by: | <input type="checkbox"/> Mean High Water Mark indicated by: |
| <input type="checkbox"/> oil or scum line along shore objects | <input type="checkbox"/> survey to available datum; |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings; |
| <input type="checkbox"/> physical markings/characteristics | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges | |
| <input type="checkbox"/> other (list): _____ | |

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: _____

Identify specific pollutants, if known: _____

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings:

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW (Wetland 4)**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: 3.52 acres

Wetland type. Explain: palustrine emergent seasonally flooded/saturated (PEME) / depressional

Wetland quality. Explain: Vegetation was disturbed onsite.

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **No Flow**. Explain: The wetland is depressional within the landscape and collects water during the rainy season. The elevation of the wetland is approximately 8 feet, whereas surrounding areas to the north, south, and east are above 10 feet.

Surface flow is: **Not present**

Characteristics: Surface flows from the wetland do not connect offsite.

Subsurface flow: **Unknown**. Explain findings: The island has a levee around this section and is pumped to maintain water levels. Wetlands are at an elevation below the non-RPW and RPW.

Dye (or other) test performed:.

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are 1-2 river miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: General wetland characteristics – Wetland 4 is a heavily disturbed farm field which drains a small area of surrounding uplands due to its topographic position on the landscape.

Identify specific pollutants, if known: unknown.

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain: Site is a mowed farm field. Herbaceous species are the majority of the vegetation onsite and covered from 13% to 43% of the bare ground. Herbaceous stratum species include *Phalaris arundinacea*, *Cirsium arvense*, *Sisymbrium altissimum*, *Matricaria discoidea*, *Agrostis capillaris*, *Trifolium repens*, and *Rumex crispus*. One plot noted *Salix sp* in the tree stratum (absolute percent cover is 15%) and *Rubus armeniacus* is noted in the shrub stratum (absolute percent cover is 10%).

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings:

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: 1

Approximately (3.52) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Wetland 4 (onsite) (N)	3.52 acres		

Summarize overall biological, chemical and physical functions being performed: **The wetland does not flow into the intermittent tributary to the south as it is a depressional wetland. Onsite biological functions are minimal as the site is maintained for farming and vegetation is disturbed.**

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

Wetland 4 is a 3.58-acre PEME wetland. It is defined as a depressional hydrogeomorphic (HGM) class wetland. It is located on the eastern portion of the site and north of an offsite intermittent tributary to Jack Slough. Vegetation was a mix of disturbed species and the delineator followed problematic vegetation procedures. The primary determining factors in the field were hydric soils and topographic position. Inundation and saturation were observed in aerial photographs were used as a primary hydrology indicator (B7). Wetland 4 is defined on the south by a gravel road and higher topography.

Based on a review of topography maps and LIDAR, there are rises in topography between the wetland and the surrounding areas. There are no surface water drainage features between the wetland and the nearest aquatic resource, which is the offsite non-RPW, intermittent tributary to Jack Slough to the south. The wetland is depressional and approximately 2 feet lower in elevation than the surrounding landscape. There are no man-made berms between Wetland 4 and the offsite non-RPW. The wetland is approximately 100-feet north of the offsite, non-RPW intermittent tributary to Jack Slough. The wetland is approximately 350-feet west of Jack Slough, with an elevation increase from approximately 8.5 feet at Wetland 4 to 14 feet at the slough. The source hydrology is primarily precipitation and overland sheet flow. Because the water levels within much of Sauvie Island are maintained by a pump station, the water from the non-RPW would not top its banks and overflow into the wetland. The wetland would not overflow into the RPW or non-RPW intermittent tributary due to an increase in elevation to get to those waters. The mapped soil is Rafton silt

loam, 97% hydric inclusions. The floodplain designation for the area is "Area with Reduced Risk due to Levee". Wetland 4 is an isolated wetland.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

- TNWs: linear feet width (ft), Or, acres.
 Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
 Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters: .

3. Non-RPWs⁸ that flow directly or indirectly into TNWs.

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
 Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

⁸See Footnote # 3.

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: .
- Other factors. Explain: .

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters: .
- Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce. **(Wetlands 1, 2, and 3)**
 - Prior to the Jan 2001 Supreme Court decision in “*SWANCC*,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: **Wetland 4. See explanation above under Section 3, Part 3c.**
- Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: **Wetland 1 = 0.16 acres, Wetland 2 = 0.12 acres, Wetland 3 = 5.05 acres.**

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: **Wetland 4 = 3.52 acres.**

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: *Jurisdictional Wetland Delineation Report for Multnomah Farms, 24514 NW Sauvie Island Road, Portland, Oregon.* Conducted by Schott & Associates. July 2021
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters’ study: *Navigable Riverways within the State of Oregon, Portland District, Corps of Engineers, 1993.*
- U.S. Geological Survey Hydrologic Atlas: Corps EGIS, accessed 26 September 2021, 7 October 2021.
- USGS NHD data.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Sauvie Island, Scale 1:24,000, dates 2020, 1990, 1961, 1654.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Corps EGIS, accessed 7 October 2021.
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: Corps EGIS, accessed 4 October 2021. Area marked as “Area with Reduced Risk Due to Levee”.
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): dated 1990, 2021 in *Jurisdictional Wetland Delineation Report for Multnomah Farms, 24514 NW Sauvie Island Road, Portland, Oregon.*
- or Other (Name & Date): on site photos in *Jurisdictional Wetland Delineation Report for Multnomah Farms, 24514 NW Sauvie Island Road, Portland, Oregon.*
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): Oregon Solutions District Tour PPT, SDIC pump station dated 2 October 2015 2015.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

The 23-acre study site encompassed the entirety of tax lot 500 east of 24514 NW Sauvie Island Rd. The relatively flat site is located east of the Multnomah Channel of the Willamette River with the western study site boundary defined by NW Sauvie Island Rd.

Sauvie Island has historically been drained and levee protected for agricultural use. An intermittent ditch ran east-west connecting to the slough, just offsite of the southern property boundary (non-RPW). The offsite intermittent tributary flows to Jack Slough. Jack Slough is perennial and is an RPW, which drains to the Gilbert River (TNW). The Gilbert River is navigable from RM 0.0 to RM 5.8. The Gilbert River connects to the Multnomah Channel via a pump station. Water levels within Sauvie Island Drainage District are controlled by the pump station. There is a levee around the outside of the island to protect from flooding.

Wetland 1: Wetland 1 was a 0.16-acre palustrine emergent wetland located in western portion of the property north of the farm building. Vegetation was dominated by reed canary grass (*Phalaris arundinacea*; FACW) and annual bluegrass (*Poa annua*; FAC). The wetland was classified as a depressional HGM class and a seasonally saturated palustrine emergent (PEMB) Cowardin class. The wetland was depressional with no apparent connection to any other wetlands or waters. There are no surface drainage features from Wetland 1 to other wetlands or waters of the U.S as indicated from delineation notes, LIDAR, or aerial views. The wetland sits in a depression and does not abut a berm, physical barrier, or the Sauvie Island levee. Wetland 1 is approximately 2,300 feet from the nearest RPW Jack Slough. The wetland is at an elevation of around 15-feet, the upland areas surrounding the wetland area at 17 feet. The hydrology source is primarily precipitation and overland sheet flow. Because the water levels within Sauvie Island are maintained by a pump station, the water from the non-RPW tributary would not top its banks and overflow into the wetland. The wetland would not overflow into the RPW or non-RPW tributary due to an increase in elevation to get to those waters. The mapped soil is Sauvie silt loam, 95% hydric inclusions. The floodplain designation for the area is “Area with Reduced Risk due to Levee”. The wetland does not have an interstate commerce connection. It is not used by interstate or foreign travelers for recreational purposes. It does not produce fish, shellfish, agriculture or silviculture which would be sold in interstate or foreign commerce. It does not have an industrial purpose for which the waters would be used by interstate or foreign parties. Wetland 1 is an isolated wetland.

Wetland 2: Wetland 2 consisted of a 0.12-acre swale extending northwest-southeast through the western portion of the property. The northern portion of the swale was forested, with an overstory of Oregon ash (FACW) and mostly bare ground in the understory. The southern end was dominated by reed canary grass. Adjacent vegetation included a mix of weedy grass, forb species, and Himalayan blackberry (*Rubus armeniacus*; FAC). The wetland was classified as a depressional HGM class and seasonally saturated/flooded palustrine forested wetland (PFOE) Cowardin class. The feature was topographically distinct and isolated. The wetland does not extend offsite and is well defined at the southern end. There is a gravel access road that extends along the southern property which defines the southern boundary. There are no surface drainage features from Wetland 2 to other wetlands or waters of the U.S as indicated from site notes, LIDAR, and aerial images. The wetland sits in a depression and does not abut a berm or physical barrier. Wetland 2 is approximately 1,750 feet from the nearest RPW Jack Slough. The wetland is at an elevation of around 14-feet, the upland areas surrounding the wetland area at 18-21 feet. The source hydrology is primarily precipitation and overland sheet flow. Because the water levels within Sauvie Island are maintained by a pump station, the water from the non-RPW tributary would not top its banks and overflow into the wetland. The wetland would not overflow into the RPW or non-RPW tributary due to an increase in elevation to get to those waters. The mapped soil is Rafton silt loam, 97% hydric inclusions. The floodplain designation for the area is “Area with Reduced Risk due to Levee”. The wetland does not have an interstate commerce connection. It is not used by interstate or foreign travelers for recreational purposes. It does not produce fish, shellfish, agriculture or silviculture which would be sold in interstate or foreign commerce. It does not have an industrial purpose for which the waters would be used by interstate or foreign parties. Wetland 2 is an isolated wetland.

Wetland 3: Wetland 3 was a 5.26-acre wetland located in the central portion of the site. Boundaries for this wetland were primarily based on hydric soil indicators. Clearly defined areas of inundation and saturation were observed in historical aerial photographs, especially May 2010. The primary hydrology indicator of B7 (Inundation Visible on Aerial Imagery) was met. Vegetation was disturbed and problematic. Hydrology indicators in the field were generally limited to the secondary indicator of geomorphic position. The wetland was defined as a depressional HGM class. The Cowardin class is palustrine emergent seasonally flooded/saturated (PEME). The wetland does not extend offsite and is well defined at the southern end. There is a gravel access road that extends along the southern property and most of the northern

property boundary. The feature is bounded by both access roads and the increase in topography that occurs outside the wetland boundaries. There are no surface drainage features from Wetland 3 to other wetlands or waters of the U.S as indicated from site notes, LIDAR, or aerial views. The wetland sits in a depression and does not abut a berm or physical barrier. The wetland is approximately 1,200 feet west of Jack Slough, the nearest RPW. The elevation goes from approximately 10-feet in the wetland area to 14 feet near Jack Slough. The hydrology source is primarily precipitation and overland sheet flow. Because the water levels within Sauvie Island are maintained by a pump station, the water from the non-RPW tributary would not top its banks and overflow into the wetland. The wetland would not overflow into the RPW or non-RPW tributary due to an increase in elevation to get to those waters. The mapped soil is Rafton silt loam, 97% hydric inclusions. The floodplain designation for the area is "Area with Reduced Risk due to Levee". The wetland does not have an interstate commerce connection. It is not used by interstate or foreign travelers for recreational purposes. It does not produce fish, shellfish, agriculture or silviculture which would be sold in interstate or foreign commerce. It does not have an industrial purpose for which the waters would be used by interstate or foreign parties. Wetland 3 is an isolated wetland.

On October 19, 2021, we coordinated this JD with EPA Region 10 and Corps HQ. On November 4, 2021, the EPA concurred with our findings. Corps HQ did not provide any response within the required timelines.