

- 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: **3**

Approximately (4.549) 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 1 (N)	3.019		
Wetland 2 (N)	1.318		
Wetland 3 (N)	0.212		

Summarize overall biological, chemical and physical functions being performed: These wetlands are located in an active, maintained agricultural setting and are regularly disturbed by agricultural activities. Wetlands 1 and 3 have a direct surface connection to the Long Tom River via Bear Creek and a culvert under High Pass Road. Wetland 2 is separated from a direct hydrologic connection to the Long Tom River by a man-made levee. The wetlands reduce the amount of stormwater and other non-point source pollutants that reach the Long Tom River.

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: Wetlands 1 and 3 have a direct surface connection to the Long Tom River via Bear Creek and a culvert under High Pass Road. Wetland 2 is separated from a direct hydrologic connection to the Long Tom River by a man-made levee. The wetlands reduce the amount of stormwater and other non-point source pollutants that reach the Long Tom River. The review area is located entirely in Flood Hazard Zone A, in absence of the man-made levee, floodwaters from the Long Tom River would reach all of the review area wetlands in a typical flood event. The review area is located at an approximate 318 foot ground surface height and is described as being entirely located in Zone A, associated with the Long Tom River, as recognized by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM). Per FEMA, flood hazard areas identified on their FIRM's are identified as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood. SFHAs are labeled as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30. The review area location occurs in Zone A, a SFHA, as defined by FEMA which indicates the review area is located within an area subject to inundation by the 1-percent-annual-chance flood event generally determined using approximate methodologies.

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: **4.549** 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.

- 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

⁸See Footnote # 3.

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

- 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.
 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: .
 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: 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: 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: Delineation report completed by Wetlands and Wildlife, LLC dated 23 December 2020.
 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: .
 U.S. Geological Survey Hydrologic Atlas: Accessed via USACE eGIS 15 March 2022.
 USGS NHD data.
 USGS 8 and 12 digit HUC maps.

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.

- U.S. Geological Survey map(s). Cite scale & quad name:1:24K Cheshire, OR (1984 and 2020) .
- USDA Natural Resources Conservation Service Soil Survey. Citation:Provided with requestor delineation report.
- National wetlands inventory map(s). Cite name:Provided with requestor delineation report.
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps:41039C0600F, accessed 15 March 2022.
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):Provided in requestor delineation report, Google Earth Pro aerial imagery (06 May 1994, 08 February 2003, 01 August 2011, 31 December 2014, 28 July 2018, 22 July 2021) accessed 15 March 2022.
or Other (Name & Date):Google Street View image dated August 2011, ground-level photographs provided with requestor delineation report. .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify):USGS StreamStats report for Long Tom River retrieved 15 March 2022, Oregon Department of Geology and Mineral Industries (DOGAMI) LiDAR accessed 15 March 2022.

B. ADDITIONAL COMMENTS TO SUPPORT JD: .