

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): 28 July 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENWP-ODG, Hayden Homes - 5400 Mt. Vernon Road, NWP-2021-474

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Lane City: Springfield
Center coordinates of site (lat/long in degree decimal format): Lat. 44.0369° **N**, Long. 122.9399° **W**.
Universal Transverse Mercator:

Name of nearest waterbody: Springfield Mill Race

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

Name of watershed or Hydrologic Unit Code (HUC): 170900011003 (Mill Race Middle Fork Willamette River)

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: July 6, 2022

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 and are not** "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 B and C*

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

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: 5.92 acres. *Wetland B = 5.75 ac, Wetland C = 0.17 ac*

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: **Wetland A (1.27 ac), see Section III F 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: 12,666 acres

Drainage area: 72.8 acres

Average annual rainfall: 50 inches

Average annual snowfall: 4 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 3 tributaries before entering TNW.

Project waters are 1-2 river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

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

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

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

Identify flow route to TNW⁵: Wetlands B and C extend offsite to the south. Their southern boundaries extend offsite into the a privately owned railroad right-of-way which hydrologically connects through a culvert under Jasper Road to a RPW located south of Jasper

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.

Road. This RPW is Jasper Slough and flows west along the southern side of Jasper Road, eventually connecting with the Springfield Mill Race and, ultimately, the Middle Fork Willamette River (jurisdictional as a Traditional Navigable Water).

Tributary stream order, if known: .

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

Tributary is: Natural
 Artificial (man-made). Explain: .
 Manipulated (man-altered). Explain: Tributary likely altered to do construction of Jasper Road.

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

Average width: 3 feet
Average depth: 1 feet
Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

Silts Sands Concrete
 Cobbles Gravel Muck
 Bedrock Vegetation. Type/% cover:
 Other. Explain: .

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

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

Tributary geometry: Meandering

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: slough flows in response to storm events.

Other information on duration and volume: .

Surface flow is: **Discrete and confined.** Characteristics: .

Subsurface flow: **Unknown.** Explain findings: .

Dye (or other) test performed: .

Tributary has (check all that apply):

Bed and banks
 OHWM⁶ (check all indicators that apply):
 clear, natural line impressed on the bank the presence of litter and debris
 changes in the character of soil destruction of terrestrial vegetation
 shelving the presence of wrack line
 vegetation matted down, bent, or absent sediment sorting
 leaf litter disturbed or washed away scour
 sediment deposition multiple observed or predicted flow events
 water staining abrupt change in plant community
 other (list):
 Discontinuous OHWM.⁷ Explain: .

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

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

(iii) Chemical Characteristics:

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.

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Jasper Slough is a headwater reach and the nearest RPW. Water would be turbid when fall, winter, and spring freshets occur.
Identify specific pollutants, if known: Jasper Slough would contain stormwater runoff from surrounding developments.

(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: Headwater stream reach provides habitat for chinook salmon (*Oncorhynchus tshawytscha*), steelhead trout (*Oncorhynchus mykiss*), and bull trout (*Salvelinus confluentus*).
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings: Amphibians.
 - Aquatic/wildlife diversity. Explain findings: Habitat for terrestrial animals such as rodents and small mammals.

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW Wetlands B and C**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: Wetland B = 5.75 acres, Wetland C = 0.17 acres

Wetland type. Explain: Wetland B is a palustrine emergent (PEM) wetland with an hydrogeomorphic (HGM) classification of Slope. Wetland C is a palustrine emergent / scrub-shrub wetland with an HGM classification of Slope.

Wetland quality. Explain: The upper soil profile and natural location and orientation of the wetlands have been degraded due to past agricultural use within the review area.

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: As seasonal rains begin, the wetlands retain water until their retention capacity is reached. Surface water flows from Wetlands B and C south off site, then flow through one of multiple culverts under the rail line and then through one culvert under Jasper Road into the RPW, Jasper Slough. Jasper Slough is a tributary of Springfield Mill Race, which is a tributary to the Middle Fork Willamette River (TNW).

Surface flow is: **Discrete and confined**

Characteristics: Based on a review of aerial and ground level imagery, surface water flows from Wetlands B and C are directed through one of several culverts under the rail line and one culvert under Jasper Road to Jasper Slough.

Subsurface flow: **Unknown**. Explain findings:

- Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: Wetlands B and C share a direct surface connection to the Jasper Slough and the downstream Springfield Mill Race.

Ecological connection. Explain:

Separated by berm/barrier. Explain: Railway is built up as is Jasper Road above natural elevations. Wetlands connect through one of several culverts under the rail line and one culvert under Jasper Road to Jasper Slough, an RPW located south of Jasper Road. This RPW flows west along the southern side of Jasper Road, eventually connecting with the Mill Race and, ultimately, the Middle Fork Willamette River. Wetland C also extends offsite to the north.

(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: **Wetland to navigable waters**.

Estimate approximate location of wetland as within the **500-year or greater** 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: Unknown. Specific sources of pollution potentially include runoff containing pesticides from past agricultural uses and runoff from asphalt and gravel roads.

Identify specific pollutants, if known:

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

- Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain: Wetland B is dominated with pasture grasses including common velvet grass (*Holcus lanatus*), meadow foxtail (*Alopecurus pratensis*), tall fescue (*Schedonorus arundinaceous*), bentgrass (*Agrostis sp.*), and bluegrass (*Poa sp.*). Path rush (*Juncus tenuis*) is also dominant in some areas. Along the fence row, young Oregon Ash (*Fraxinus latifolia*) and swamp rose (*Rosa pisocarpa*) also occur.

Wetland C is dominated by bentgrass (*Agrostis sp.*) and sedge (*Carex sp.*) along with young Oregon ash (*Fraxinus latifolia*).

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: **2**

Approximately (5.92) 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 B (N)	5.75 ac		
Wetland C (N)	0.17 ac		

Summarize overall biological, chemical and physical functions being performed: These wetlands are located in a historical agricultural setting. Wetlands B and C continue offsite to the south. Their southern boundaries extend offsite into the rail line right of way, which connects through one of several culverts under the rail line and one culvert under Jasper Road to Jasper Slough, the RPW; Jasper Slough is located south of Jasper Road. This RPW flows west along the southern side of Jasper Road, eventually connecting with the Springfield Mill Race and, ultimately, the Middle Fork Willamette River. The wetlands provide habitat for amphibians and small mammals, reduce the amount of stormwater runoff and other non-point source pollutants that reach the Middle Fork Willamette River via filtration, and retain and maintain surface water onsite following precipitation-driven storm events.

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 C and D have a direct surface connection to the Middle Fork Willamette River. Their southern boundaries extend offsite into the railroad right of way, which connects through one of several culverts under the rail line and one culvert under Jasper Road to Jasper Slough, an RPW located south of Jasper Road. This RPW flows west along the southern side of Jasper Road, eventually connecting with the Springfield Mill Race and, ultimately, the Middle Fork Willamette River. The wetlands reduce the amount of sheet flow, stormwater, and other non-point source pollutants that reach the Middle Fork Willamette River. The review area has a southern slope with a highest elevation of 558 feet on the northern escarpment to the lowest elevation of 500 feet along the southwest corner of the site. The wetlands provide habitat to species, including birds and amphibians, which would use the downstream waters during their lifecycle. The wetlands would store detritus and carbon, releasing these nutrients to downstream waters during high water events.

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: **5.92 acres. Wetland B = 5.75 ac, Wetland C = 0.17 ac.**

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

⁸See Footnote # 3.

- 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:

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
 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): **Wetland A is a 1.27 acre a palustrine emergent wetland located in the western most part of the study area. It occurs on the lower toeslope and flatter bottom landform adjacent to the rail line (offsite). The wetland extends offsite to the west and south but stops at increased topography changes. Primary hydrology for Wetland A is from runoff from the upgradient lands, precipitation, and shallow groundwater. There is no evidence of surface water outflows from Wetland A to any waters, including Jasper Slough. The Corps did not identify information demonstrating Wetland A possess a shallow subsurface or hydrologic surface water connection to the Jasper Slough. Jasper Slough is located 0.07 miles to the south of the review area. Jasper South would not inundate Wetland A during high water events. The soil type within Wetland A is mapped as Salkum silty clay loam, which is identified as a non-hydric in Lane County, Oregon per the U.S. Department of Agriculture Natural Resources Conservation Service. An impermeable soil layers was not found in Wetland A during the wetland delineation. The dominant vegetation within this wetland is mostly pasture grasses including common velvet grass (*Holcus lanatus*, facultative (FAC)), meadow foxtail (*Alopecurus pratensis*, FAC), tall fescue (*Schedonorus arundinaceus*, FAC), bentgrass (*Agrostis sp.*, FAC estimated), and bluegrass (*Poa sp.*, FAC estimated). Along the fence row, young Oregon ash (*Fraxinus latifolia*, FACW) and swamp rose (*Rosa pisocarpa*, FAC) occur.**

The Review Area is not located in a floodplain as recognized by the Federal Emergency Management Agency.

Wetland A lacks an interstate commerce connection. Wetland A is not used by interstate or foreign travelers for recreational purposes, and lacks habitat, resources, birds and wildlife of special significance which would attract interstate or foreign travelers. Wetland A lacks fish or shellfish which could be taken or sold in interstate or foreign commerce. Wetland A lacks the ability to be used for water withdrawal for industrial use and agriculture and silviculture which could be sold or used by interstate or foreign travelers.

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

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*.

Wetland A has been determined to be an isolated water.

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: 1.27 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: Wetland Delineation Report Tax Lot 2800, July 2021, Conducted by Terra Science, Inc., in March 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: 1993 Navigable Riverways within the State of Oregon, Portland District – Corps of Engineers. .
- U.S. Geological Survey Hydrologic Atlas: .
 - USGS NHD data. Corps EGIS accessed June 23, 2022
 - USGS 8 and 12 digit HUC maps. Corps EGIS accessed June 23, 2022
- U.S. Geological Survey map(s). Cite scale & quad name: .
- USDA Natural Resources Conservation Service Soil Survey. Citation: Wetland Delineation Report.
- National wetlands inventory map(s). Cite name: Corps EGIS accessed June 23, 2022.
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: Corps EGIS mapping tool accessed June 23, 2022.
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Wetland Delineation Report.
or Other (Name & Date): Google Earth street view, accessed June 23, 2022.
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD:

The Corps coordinated this JD with EPA on July 7, 2022. The Corps did not receive a response from EPA after 21 days. Therefore, the Corps has assumed concurrence.