

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): February 7, 2023

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: NWP-2023-33, Turnstone Environmental Consultants, Inc., Salty Dog Drive and Shearwater Circle Approved JD

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Coos City: Bandon
Center coordinates of site (lat/long in degree decimal format): Lat. 43.100197° **N**, Long. -124.41969° **W**.
Universal Transverse Mercator:

Name of nearest waterbody: Johnson Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Johnson Creek
Name of watershed or Hydrologic Unit Code (HUC): China Creek-Crooked Creek-Frontal Pacific Ocean (171003060107)
 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: January 17, 2023
 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 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: 833 linear feet: 5 width (ft) and/or acres.
Wetlands: 0.26 acre.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual and established by OHWM.

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 1. See Section III.F below.**

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: 9,068 acres

Drainage area: 9,068 acres

Average annual rainfall: 59 inches

Average annual snowfall: 0.5 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 1 tributaries before entering TNW.

Project waters are 1 (or less) 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: Waterway 1 possesses a hydrologic surface connection under Seabird Drive south of the Review Area and with Johnson Creek located approximately 1,300 feet south of Seabird Drive. Johnson Creek is a

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.

perennial waterway which flows west for approximately 3,000 feet before crossing under Beach Loop Road. Johnson Creek then flows west for approximately 800 feet where it enters the Pacific Ocean. The lower reach of Johnson Creek is tidally influenced and is by definition a TNW.

Tributary stream order, if known: 1.

(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: 5 feet
Average depth: 2 feet
Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

Silts Sands Concrete
 Cobbles Gravel Muck
 Bedrock Vegetation. Type/% cover: 75
 Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Most portions of Waterway 1 are narrow, generally between 4 and 6-feet wide, with widths up to 12 feet wide where the alluvial terrace broadens; these broader sections of Waterway 1 are only shallowly incised upon the alluvial terrace, likely due to accumulation of sediments deposited by slackening flows in these sections.

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Meandering**

Tributary gradient (approximate average slope): 1 %

(c) Flow:

Tributary provides for: **Seasonal flow**

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

Describe flow regime: Intermittent.

Other information on duration and volume: U.S. Geological Survey (USGS) StreamStats basin report for the drainage basin encompassing Waterway 1 identifies surface water flow present within Waterway 1 nine out of twelve months during the calendar year.

Surface flow is: **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

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.

other (list):

(iii) Chemical Characteristics:

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

Explain: Waterway 1 receives stormwater and potential agricultural contamination input from the surrounding developed and agricultural landscape south of Bandon, Oregon. The water color of Waterway 1 is clear but potentially darkened by tannins from leaf litter at certain times of the calendar year.

Identify specific pollutants, if known:

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

Riparian corridor. Characteristics (type, average width): The riparian corridor abutting Waterway 1 in the northern portion of the Review Area is approximately 7 feet wide on average and appears to be affected by vegetation mowing practices. The riparian corridor abutting Waterway 1 in the southern portion of the Review Area increases in width and is approximately 80 to 100 feet wide as south to the southern extent of the Review Area.

Wetland fringe. Characteristics: A wetland fringed abuts some portions of Waterway 1 within the Review Area. Wetland 2, as described below, is a fringe wetland abutting Waterway 1 within the Review Area.

Habitat for:

Federally Listed species. Explain findings: Waterway 1 does not support habitat for federally listed species. Johnson Creek, approximately 1,300 feet south of the Review Area supports Coho salmon (*Oncorhynchus kisutch*) and their designated critical habitat.

Fish/spawn areas. Explain findings: Streamnet.org does not identify Waterway 1 as supporting habitat for fish species, however. Johnson Creek, approximately 1,300 feet south of the Review Area supports Coho salmon (*Oncorhynchus kisutch*) and their designated critical habitat as well as Coastal cutthroat trout (*Oncorhynchus clarkii clarkii*).

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: Small mammals, amphibians, insects, and avian species all use Waterway 1 during their life history.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

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

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 **Pick List** river miles from TNW.

Project waters are **Pick List** 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:

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: .
- 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 (0.26) 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 2 (Y)	0.26		

Summarize overall biological, chemical and physical functions being performed:

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:

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: USGS StreamStats basin report for the drainage basin encompassing Waterway 1 identifies surface water flow present within Waterway 1 nine out of twelve months during the calendar year.

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

- Tributary waters: **833** linear feet **5** 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:

Wetland 2 is a palustrine scrub-shrub, hydrogeomorphic class slope and riverine wetland located on the east side of the Review Area. The wetland continues outside of the Review Area to the east and is composed of four polygons totaling 0.26 acre within the Review Area due to the wetland extending beyond and reentering the Review Area. Wetland 2 within the Review Area includes portions of a larger contiguous wetland that abuts Waterway 1. The most interior portions of the wetland possess waterway channel morphology (bed and bank); these areas host seasonally flowing water and are mapped as Waterway 1. Most of the wetland-upland boundary is located along a break between the grassland terrace and the narrow alluvial terrace of Waterway 1. Slopes are often quite steep along this boundary area and U.S. Department of Agriculture Natural Resources Conservation Service soil maps model slope angles in the vicinity as 30-50% slopes within and outside of the Review Area. Wetland hydrology is sustained by ground water emergences exposed along the slope face and compounded by a seasonal high-water table along the alluvial terrace of Waterway 1. Overbank flooding beyond the ordinary high water mark of Waterway 1 is limited by the steep slopes that surround that channel, however, the northern wetland polygon features gentler grades surrounding the channel.

Wetland vegetation is dominated by an overstory of red alder and a shrubby understory of salmonberry and invasive blackberry (*Rubus armeniacus*, *R. laciniatus*). Understories host reed canarygrass (*Phalaris arundinacea*), slough sedge (*Carex obnupta*), small-fruited bulrush (*Scirpus microcarpus*), skunk cabbage (*Lysichiton americanus*), lady fern (*Athyrium filix-femina*), and water parsley (*Oenanthe sarmentosa*). Adjacent upland slopes feature dense stands of gorse (*Ulex sp.*) and scattered patches of conifers, of which sitka spruce (*Picea sitchensis*) and shore pine (*Pinus contorta*) are the most common.

Soils in the northern portion of Wetland 2 feature dark surfaces (10YR 2/2, 3/1), while depleted layers (10YR 4/2, 5/2) were more common in plots and informal probes in the southern portion of the wetland. All wetland plots contained distinct or prominent redoximorphic features in the form of matrix concentrations and root pore linings, meeting either the Depleted Matrix (F3) or the Redox Dark Surface (F6) hydric soil indicator. Primary indicators of wetland hydrology included Oxidized Rhizospheres on Living Roots (C3), High Water table (A2) and Saturation (A3) surface. Secondary wetland hydrology indicators present at wetland sampling locations included Geomorphic Position⁷ (D2) and the facultative (FAC)-neutral Test (D5).

Provide acreage estimates for jurisdictional wetlands in the review area: **0.26** acre.

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.

⁸See Footnote # 3.

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
- 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: 0.09 acre.

Wetland 1:

Wetland 1 is a 0.09-acre depressional palustrine emergent wetland located in the western portion of, and contained entirely within, the Review Area. Wetland 1 is located approximately 1,050 feet west of Waterway 1 within the Review Area. Wetland 1 is not located in a floodplain as mapped by the Federal Emergency Management Agency (FEMA).

The hydrology source for Wetland 1 is direct precipitation and road runoff. Contributing factors to the presence of Wetland 1 include soils disturbed by adjacent road construction, runoff from adjacent paved roads that reach the wetland via a curb cut, direct precipitation, and the shallow concave topography of the area. The wetland occupies a shallow closed depression that is surrounded by a gently undulating terrace.

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.

Vegetation within Wetland 1 includes slough sedge, tapered rosette grass and pasture grasses. The interior of Wetland 1 is largely devoid of the gorse that dominates the vicinity of the Review Area.

Soils within Wetland 1 feature dark surfaces (10YR 2/2, 3/1) underlain by depleted layers (10YR 4/1, 5/1). Soil plots and informal probes placed by the delineator in Wetland 1 contained distinct or prominent redoximorphic features in the form of matrix concentrations and root pore linings, meeting either the Depleted Matrix (F3) and/or the Redox Dark Surface (F6) hydric soil indicator. Oxidized Rhizospheres on Living Roots (C3) were present to between 5 and 10 inches below the soil surface, providing the main primary indicator of wetland hydrology. Geomorphic Position (D2) was noted as a secondary wetland hydrology indicator (swale area on terrace).

There is no information to indicate Wetland 1 exhibits a shallow subsurface connection to the Waterway 1 or any other waterway. Wetland 1 would not overflow or connect to the nearest waterway during extreme flood events. Wetland 1 lacks an interstate commerce connection, is not used by interstate or foreign travelers for recreational purposes, and lacks habitat, resources, birds, wildlife of special significance which would attract interstate travelers.

The Corps has determined Wetland 1 is not a water of the U.S.

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 for tax lot 28S15W36TL04100 as submitted by Turnstone Environmental Consultants, Inc. on January 9, 2023.
- 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: .
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: U.S. Geological Survey (USGS) 1:24,000 scale quadrangle maps for Bandon, Oregon dated 1970 and 2020 accessed by Corps staff on January 10, 2023.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: FEMA Flood Insurance Rate Map pane 681 of 1200 for Coos County, Oregon as accessed by Corps staff on January 10, 2023.
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Aerial photographs as submitted with the wetland delineation and as obtained by Corps staff via Google Earth Pro on January 10, 2023.
or Other (Name & Date): Ground level photographs as submitted with the wetland delineation and as obtained by Corps staff via Google Maps Streetview on January 10, 2023.
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): USGS StreamStats basin report, Streamnet.org mapping, and the Corps e-GIS tool accessed by Corps staff on January 10, 2023.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The Review Area is 21.8 acres in size. On January 18, 2023 we coordinated this JD with the U.S. Environmental Protection Agency (EPA) Region 10 and Corps Headquarters (HQ). Corps HQ responded in an email dated January 30, 2023 with no comments. EPA Region 10 responded in an email dated February 6, 2023 concurring with the Corps determination.