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Regulatory Program



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

SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): 24-May-19

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWP- 2008-00489/2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County: Lane County City: Florence

Center coordinates of site (lat/long in degree decimal format): Lat. 44.008358°, Long. -124.099352°

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas were applicable is/are: attached in report/map titled Wetland Delineation for Cannery Station, Florence, Oregon dated April 2, 2018.

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different jurisdictional determination (JD) form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1): .

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office (Desk) Determination Only. Date: 22-May-19

Office (Desk) and Field Determination. Office/Desk Date(s): Field Date(s):

SECTION II: DATA SOURCES

Check all that were used to aid in the determination and attach data/maps to this AJD form and/or references/citations in the administrative record, as appropriate.

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: Wetland Delineation for Cannery Station, Florence, Oregon dated April 2, 2018.

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Data sheets/delineation report are sufficient for purposes of AJD form. Title/Date: Wetland Delineation for Cannery Station, Florence, Oregon dated April 2, 2018.

Data sheets/delineation report are not sufficient for purposes of AJD form. Summarize rationale and include information on revised data sheets/delineation report that this AJD form has relied upon:

Revised Title/Date:

Data sheets prepared by the Corps. Title/Date:

Corps navigable waters study. Title/Date:

CorpsMap ORM layers. Title/Date:

USGS Hydrologic Atlas. Title/Date:

USGS, NHD, or WBD data/maps. Title/Date:

USGS 8, 10, and/or 12 digit HUC maps. HUC number: HUC #171002060804

USGS maps. Scale & quad name and date: 1:24K Mercer Lake

USDA NRCS Soil Survey. Citation:

USFWS National Wetlands Inventory maps. Citation:

State/Local wetland inventory maps. Citation:

FEMA/FIRM maps. Citation:

Photographs: Aerial. Citation: Google Earth 2018. or Other. Citation: Delineation Photos 2018 & 2019

LIDAR data/maps. Citation:

Previous JD's. File no. and date of JD letter: NWP-2008-489 dated 11 March 2009.

Applicable/supporting case law:

Applicable/supporting scientific literature:

Other information (please specify):

SECTION III: SUMMARY OF FINDINGS

A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION

“navigable waters of the U.S.” within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

• **Complete Table 1 – Required**

NOTE: If the navigable water is not subject to the ebb and flow of the tide or included in the District’s list of Section 10 navigable waters list, DO NOT USE THIS FORM TO MAKE THE DETERMINATION. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: “waters of the U.S.” within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

(a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters (TNWs))

• **Complete Table 1 – Required**

This AJD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.

(a)(2): All interstate waters, including interstate wetlands.

• **Complete Table 2 – Required.**

(a)(3): Territorial Seas.

• **Complete Table 3 – Required.**

(a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.

• **Complete Table 4 – Required.**

(a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

• **Complete Table 5 – Required.**

(a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

• **Complete Table 6 – Required.**

Bordering/Contiguous.
Neighboring:

(c)(2)(i): All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.

(c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.

(c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.

(a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

• **Complete Table 7 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. – Required.**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

(a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of CFR part 328.3.

• **Complete Table 8 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. – Required.**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

C. NON-WATERS OF THE U.S. FINDINGS:

Check all that apply.

- The review area is comprised entirely of dry land.
- Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
 - **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. – Required.**
 - Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.
- Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
 - **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. – Required.**
 - Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.
- Excluded Waters (Non-Waters of U.S.), Even where they otherwise meet the terms of paragraph (a)(4)-(a)(8):
 - **Complete Table 10 – Required.**
 - (b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.
 - (b)(2): Prior converted cropland.
 - (b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
 - (b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, or excavated in a tributary, or drain wetlands.
 - (b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).
 - (b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.
 - (b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.
 - (b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.¹
 - (b)(4)(iv): Small ornamental waters created in dry land.¹
 - (b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.
 - (b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.¹
 - (b)(4)(vii): Puddles.¹
 - (b)(5): Groundwater, including groundwater drained through subsurface drainage systems.¹
 - (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.¹
 - (b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater distributary structures built for wastewater recycling.
- Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).
 - **Complete Table 11 – Required.**

D. ADDITIONAL COMMENTS TO SUPPORT AJD: The wetland delineation named Wetland Delineation for Cannery Station, Florence, Oregon dated April 2, 2018 identified five wetlands on-site and one ditch within the review area. An updated topographic map, drawings, site photos, and soil analysis provided additional information to substantiate the review of the jurisdictional determination for the site. This documentation is part of a memorandum dated 22 October 2018 and performed by KPFF engineering. The report documented 4 separate basin areas within the delineated site. Wetlands A-D were located in Basin A and Wetland E was located in Basin D. Wetlands A-D are located within 100 linear feet of the ditch and due to the porosity of the soils (sand), flows from the wetlands move through the Roadside Ditch into Munsel Creek and then into the Siuslaw River. The exact path for the flows in the Roadside Ditch is unclear as the ditch has been piped over a 1,200 linear foot section of its path along Munsel Lake Road and is outside of the review area. An outfall into Munsel Creek is located downslope from the site and along a roadway. Basin A with

¹ In many cases these excluded features will not be specifically identified on the AJD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.

Wetlands A-D includes a Roadside Ditch along Munsel Lake Road. The ditch has ordinary high water mark indicators and shows signs of relative permanence and is an unnamed tributary to Munsel Creek.

Basin D is located in the southwest corner of the Property and measures approximately 152,525 square feet in size. Basin D is surrounded by steep slopes on its north, south, and east boundaries. The western boundary is highway 101. Sand dunes to the north and east rise to elevations that range from 112 to 116 feet. The southern boundary of Basin D rises to an elevation of approximately 98 feet. Flows into Basin D do not flow offsite and outside of the review area the ditch along highway 101 and along the western boundary of this basin does not provide flows. The elevation of the ditch rises to the north and to the south from Wetland E. No discernable ordinary high water mark or signs of flow occurrences were identified within the western ditch.

Jurisdictional Waters of the U.S.

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where the applicable for waters/features present in the review area.

Table 1. (a)(1) Traditional Navigable Waters

(a)(1) Waters Name	(a)(1) Criteria	Rationale to Support (a)(1) Designation Include High Tide Line or Ordinary High Water Mark indicators, when applicable.
N/A	Choose an item.	N/A

Table 2. (a)(2) Interstate Waters

(a)(2) Waters Name	Rationale to Support (a)(2) Designation
N/A	N/A

Table 3. (a)(3) Territorial Seas

(a)(3) Waters Name	Rationale to Support (a)(3) Designation
N/A	N/A

Table 4. (a)(4) Impoundments

(a)(4) Waters Name	Rationale to Support (a)(4) Designation
N/A	N/A
N/A	N/A

Table 5. (a)(5) Tributaries

(a)(5) Waters Name	Flow Regime	(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows	Tributary Breaks	Rationale for (a)(5) Designation and Additional Discussion. Identify flowpath to (a)(1)-(a)(3) water or attach map identifying the flowpath; explain any breaks or flow through excluded/non-jurisdictional features, etc.
Roadside Ditch	Intermittent	Siuslaw River	Yes	This unnamed tributary is a drainage ditch with an ordinary high water mark and more permanent flows. The ordinary high water mark is lost as the tributary flows to the east and into Munsel Creek. Approximately 1,200 linear feet of the tributary has been piped and discharges into Munsel Creek and then flows into the Siuslaw River. Four wetlands within the review area provide water storage and flows to the creek within 100 linear feet of the ditch.

Table 6. (a)(6) Adjacent Waters

(a)(6) Waters Name	(a)(1)-(a)(5) Water Name to which this Water is Adjacent	Rationale for (a)(6) Designation and Additional Discussion. Identify the type of water and how the limits of jurisdiction were established (e.g., wetland, 87 Manual/Regional Supplement); explain how the 100-year floodplain and/or the distance threshold was determined; whether this water extends beyond a threshold; explain if the water is part of a mosaic, etc.
Wetland A	Roadside Ditch	Wetland A was delineated in 2008 and again in 2018 using the 87 Corps Manual and the Western Mountain Valley Coastal Supplement. The area is outside of the 100 year floodplain and the drawings with the scale provided reflect the wetland is located within 100 linear feet of the North Drainage Ditch which discharges into Munsel Creek. Munsel Creek discharges into the Siuslaw River. This wetland is contained within the review area.
Wetland B	Roadside Ditch	Wetland B was delineated in 2008 and again in 2018 using the 87 Corps Manual and the Western Mountain Valley Coastal Supplement. The area is outside of the 100 year floodplain and the drawings with the scale provided reflect the wetland is located within 100 linear feet of the North Drainage Ditch which discharges into Munsel Creek. Munsel Creek discharges into the Siuslaw River. This wetland is contained within the review area.
Wetland C	Roadside Ditch	Wetland C was delineated in 2008 and again in 2018 using the 87 Corps Manual and the Western Mountain Valley Coastal Supplement. The area is outside of the 100 year floodplain and the drawings with the scale provided reflect the wetland is located within 100 linear feet of the North Drainage Ditch which discharges into Munsel Creek. Munsel Creek discharges into the Siuslaw River. This wetland is contained within the review area.

Wetland D	Roadside Ditch	Wetland D was delineated in 2008 and again in 2018 using the 87 Corps Manual and the Western Mountain Valley Coastal Supplement. The area is outside of the 100 year floodplain and the drawings with the scale provided reflect the wetland is located within 100 linear feet of the North Drainage Ditch which discharges into Munsel Creek. Munsel Creek discharges into the Siuslaw River. This wetland extends outside of the review area.
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Table 7. (a)(7) Waters

SPOE Name	(a)(7) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; discuss whether any similarly situated waters were present and aggregated for SND; discuss data, provide analysis, and summarize how the waters have more than speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Table 8. (a)(8) Waters

SPOE Name	(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to subject water and aggregated for SND; discuss data, provide analysis, and then summarize how the waters have more than speculative or insubstantial effect the on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Non-Jurisdictional Waters

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where the applicable for waters/features present in the review area.

Table 9. Non-Waters/No Significant Nexus

SPOE Name	Non-(a)(7)/(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus	Basis for Determination that the Functions DO NOT Contribute Significantly to the Chemical, Physical, or Biological Integrity of the (a)(1)-(a)(3) Water. Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to the subject water; discuss data, provide analysis, and summarize how the waters did not have more than a speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water.
	Wetland E	Siuslaw River	A custom soil survey report completed for the review area found this wetland to be located within Basin D, which is isolated by rising landscape around the wetland. The landscape rises as much as 30 feet in elevation and the lowest point is 10 feet in elevation. The nearest (a)(1)-(a)(3) waterway is located over 4,000 feet away from this wetland. The Roadside Ditch to the north located south of Munsel Lake Road is located over 1,500 feet away, in a separate basin, and is not located within a 100-year floodplain. The flows from this wetland remain in the wetland. The soil survey found the wetland is hydrologically isolated and runoff sources are exclusively limited to stormwater flows generated within the boundary of Basin D. The soil at the site absorbs rainfall at a rate that is approximately 100 times the anticipated 24 hour, 100 year event level. There is a drainage ditch along highway 101 and abutting the western side of Wetland E that is not shown in the wetland delineation. However, this ditch is reflected in the hydrological flow study. As the western ditch is followed from the wetland to the north and to the south, it is depressional as the ditch raises in elevation in both directions and all of the flows in the ditch continue to the lowest point which is the wetland. The flows in the ditch along highway 101 would move to the lowest portion of the ditch and continue into the wetland and pass through the porous soils in the wetland area and into the water table. This wetland functions as a depression with everything flowing to Wetland E within Basin D and has no significant nexus on the physical, chemical, or biological integrity of the Siuslaw River.

Table 10. Non-Waters/Excluded Waters and Features

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.
N/A	N/A
N/A	N/A

Table 11. Non-Waters/Other

Other Non-Waters of U.S. Feature/Water Name	Rationale for Non-Waters of U.S. Feature/Water and Additional Discussion.
N/A	N/A

ORM Table Data

Waters Name	State	Cowardin Code	Hgm Code	Meas Type	Amount	Units	Waters Type	Latitude	Longitude	Local Waterway
NWP-2008-00489 Site 1	OR	PEM-PALUSTRINE, EMERGENT	Slope	AREA	0.095	ACRES	A6N1WB	44.0094	-124.099	Wetland A
NWP-2008-00489 Site 2	OR	PEM-PALUSTRINE, EMERGENT	Slope	AREA	0.017	ACRES	A6N1WB	44.00919	-124.1	Wetland B
NWP-2008-00489 Site 3	OR	PEM-PALUSTRINE, EMERGENT	Slope	AREA	0.01	ACRES	A6N1WB	44.00908	-124.099	Wetland C
NWP-2008-00489 Site 4	OR	PEM-PALUSTRINE, EMERGENT	Slope	AREA	0.052	ACRES	A6N1WB	44.00922	-124.099	Wetland D
NWP-2008-00489 Site 5	OR	PEM-PALUSTRINE, EMERGENT	Depressional	AREA	0.983	ACRES	OTHERA8F	44.00728	-124.101	Wetland E
NWP-2008-00489 Site 6	OR	R4-RIVERINE, INTERMIT	Riverine	LINEAR	500	FEET	A5	44.00985	-124.1	Roadside Ditch