

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): March 21, 2017

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Portland District, Murphy Family LLC (Wetland Delineation) NWP-2016-548

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Jackson County City: Medford
Center coordinates of site (lat/long in degree decimal format): Lat. 42.31655° N, Long. -122.85730° W.
Universal Transverse Mercator: Zone 10N, 511759.32264E, 4684933.24020N

Name of nearest waterbody: Crooked Creek

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

Name of watershed or Hydrologic Unit Code (HUC): Larson Creek-Bear Creek, HUC-12: 171003080110

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: 02/08/2017

Field Determination. Date(s): 12/01/2016

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

Waters subject to the ebb and flow of the tide.

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

Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- 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: 0.134 acres.

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

Elevation of established OHWM (if known): N/A.

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 is connected to Crooked Creek by an approximately 240-foot-long (2-foot-wide) stormwater conveyance, as detailed below. This stormwater system is a "non-jurisdictional hydrologic conveyance".**

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: 52.5 square miles

Drainage area: 52.5 square miles

Average annual rainfall: 18.28 inches

Average annual snowfall: NA inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

Project waters are 15-20 river miles from TNW.

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

Project waters are 15-20 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: The wetland flows into a stormwater conveyance at its northern end, travels approximately 240 feet, and out of the review area, to Crooked Creek (a perennial RPW). In approximately 0.13 miles, Crooked Creek

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.

flows into Bear Creek (also a perennial RPW and the watershed to which the data in section IIIB(1)(i) above corresponds). Bear Creek flows approximately 17 miles until its confluence with the Rogue River (at approximately River Mile 127). The Rogue River is recognized by the U.S. Army Corps of Engineers, Portland District, as a navigable water at River Mile 27.1. The Rogue River's Clean Water Act 404 traditionally navigable water (404 TNW) limits extend from River Mile 27.1 to River Mile 157.5.
 Tributary stream order, if known: .

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

Tributary is: Natural
 Artificial (man-made). Explain: .
 Manipulated (man-altered). Explain: Crooked Creek is a perennial stream that is culverted for

most of its flow path near the review area, though the site where the wetland's stormwater conveyance system empties into the Creek is not culverted (for a total length of approximately 106 feet).

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

Average width: unknown feet
 Average depth: unknown 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: Culverted for most of its path near the review area.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Culverted for the vast majority of its flow near the review area. The open area is unknown as it is outside the review area and therefore has not been inspected.

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

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): unknown %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **1**

Describe flow regime: Perennial flow.

Other information on duration and volume: .

Surface flow is: **Discrete and confined.** Characteristics: Mostly culverted with a short open flow portion (approximately 106 feet long) between culverts where the stormwater conveyance empties into Crooked Creek. This portion of Crooked Creek flow is also discrete due to perennial flow and confined by topography.

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): The Creek is mostly culverted near the review area and has not been inspected (off-site), but is

listed by USGS as a perennial stream.

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;

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.

- fine shell or debris deposits (foreshore)
- physical markings/characteristics
- tidal gauges
- other (list):
- physical markings;
- vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
 Explain: Unknown, though stormwater flows and runoff from nearby development (commercial and transportation) would impact water quality.
 Identify specific pollutants, if known:

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

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: 0.134 acres
 Wetland type. Explain: Palustrine, emergent, seasonally flooded/saturated.
 Wetland quality. Explain: The wetland appears to collect water from stormwater runoff and other land use runoff (i.e.,

irrigation) from surrounding commercial properties and Interstate 5. Also, stormwater pipes from surrounding areas empty into the wetland.

Project wetlands cross or serve as state boundaries. Explain: NA.

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: The wetland is categorized as seasonally flooded/saturated. Surface water was observed in the wetland during the September 28, 2016 wetland delineation, though almost no precipitation had fallen in the two weeks prior to the investigation. The wetland delineation investigation also found primary hydrology indicators of saturation and a high water table. An unbroken hydrologic connection is maintained from the wetland into Crooked Creek. Water flows from the wetland into the stormwater conveyance, and therefore Crooked Creek, in response to both rainfall events and other land use practices, as well as seasonal flooding/saturation.

Surface flow is: **Discrete and confined**

Characteristics: Water flows from the wetland directly into a stormwater conveyance pipe and then into Crooked Creek.

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: Water flows from the wetland directly into a stormwater conveyance pipe and then into Crooked Creek.
 - Ecological connection. Explain:
 - Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **15-20** river miles from TNW.
 Project waters are **15-20** aerial (straight) miles from TNW.
 Flow is from: **Wetland to navigable waters**.
 Estimate approximate location of wetland as within the **100 - 500-year** 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: The wetland is a stormwater and overland flow collection area for the surrounding uplands. Land use surrounding the review area, though the site itself is vacant, includes commercial development to the south and west, and Interstate 5 along the northeastern side. The wetland itself is man-made and appears to have been

constructed as part of a larger stormwater treatment system for the former off-ramp/on-ramp surfaces that were on-site (the impervious surfaces were removed more than five (5) years ago, though the older fill remains). Runoff from the adjacent areas would impact the quality of the wetland. Also, flow from the stormwater pipes into the wetland would impact the waterbody.

Identify specific pollutants, if known: unknown.

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

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

Vegetation type/percent cover. Explain: 100% vegetative cover, emergent, dominant wetland species include mainly reed canarygrass (*Phalaris arundinacea*) with some cattail (*Typha latifolia*).

Habitat for:

Federally Listed species. Explain findings: .

Fish/spawn areas. Explain findings: .

Other environmentally-sensitive species. Explain findings: .

Aquatic/wildlife diversity. Explain findings: In an otherwise mostly developed area, the site may provide habitat for species.

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

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

Approximately (0.134) 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>
N	0.134		

Summarize overall biological, chemical and physical functions being performed: The vegetated wetland collects runoff from surrounding developed areas and stormwater pipes, settling, detaining, and treating it prior to it entering Crooked Creek. The wetland primarily serves as a stormwater and land use runoff treatment system for downstream waters.

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: Although the wetland does not directly abut Crooked Creek, the nearest RPW, it flows directly into it through an approximately 240-foot-long stormwater conveyance system, approximately 0.13 miles above its confluence with Bear Creek. The system does not alter water quality or quantity from the wetland, so the outflow from the wetland would directly impact downstream waters. The closest RPW is Crooked Creek, approximately 240 feet from the wetland, and the closest TNW is the Rogue River, just over 17 miles away, as detailed in section IIIB(1)(ii)(a) above. Crooked Creek and Bear Creek are both perennial streams. A significant nexus exists between the wetland and the nearest TNW. Crooked Creek and Bear Creek have the capacity to carry pollutants (for example, herbicides, pesticides, oil, grease, and stormwater from the surrounding commercial and transportation land uses) to the TNW. The wetland has the capacity to capture these pollutants by slowing, detaining, and treating the water to reduce the amount of pollutants that would reach the Rogue River. The flow from the wetland into Crooked Creek is intermittent, including both stormwater and other land use runoff (i.e., irrigation of the surrounding properties), as well as direct stormwater flow and seasonal saturation/flooding. The effects to the TNW are not insubstantial or speculative.

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: **0.134** 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
- Demonstrate that water is isolated with a nexus to commerce (see E below).

⁸See Footnote # 3.

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

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: Wetland delineation report, dated October 2016.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: Navigable Riverways Within The State Of Oregon, Portland District - Corps of Engineers, October 1993.
- U.S. Geological Survey Hydrologic Atlas: Larson Creek-Bear Creek, HUC-12 171003080110.
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000, Medford East.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Included in the October 2016 wetland delineation report.
- National wetlands inventory map(s). Cite name: USFWS NWI, included in the October 2016 wetland delineation report.

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.

- State/Local wetland inventory map(s): Medford Local Wetland Inventory, included in the October 2016 wetland delineation report.
- FEMA/FIRM maps: FEMA map number 41029C1978F, effective 05/03/2011.
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): 1956, 1963, 1971, 1994, 2005, 2010, 2014 - all included in the October 2016 wetland delineation report.
- or Other (Name & Date): Photos from the September 28, 2016 site visit included in the October 2016 wetland delineation report.
- 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 on-site wetland has a direct hydrologic connection to a perennial RPW, without intermediate water quality or quantity control. Aerial imagery, topographic maps, and the National Hydrography Dataset detail the location of the nearest RPWs and TNW to the wetland. The nearest traditionally navigable water is the Rogue River. As described in Section IIIB(1)(ii)(a) above, the Rogue River is recognized as navigable under Section 10 of the Rivers and Harbors Act of 1899 to river mile 27.1. The Rogue River's Clean Water Act 404 traditionally navigable water (404 TNW) limits extend from River Mile 27.1 to River Mile 157.5. Bear Creek flows into the Rogue River at River Mile 127. Approximately 17 miles upstream of its confluence with the Rogue River, Bear Creek flows less than one-tenth of a mile to the northeast of the review area. Crooked Creek flows into Bear Creek just north of the review area on the other side of Interstate 5. The wetland drains, through the stormwater pipe, into Crooked Creek approximately 0.13 miles upstream of its confluence with Bear Creek.

Natural Resources Conservation Service (NRCS) soil mapping indicates that the on-site soils consist of Medford silty clay loam. However, the review area has been extensively disturbed in the past resulting in the presence of fill material and reworking of the natural topography. The October 2016 wetland delineation report described gravelly mucky clay loam, as well as gravels and cobbles associated with compacted fill material, on-site.

The Federal Emergency Management Agency (FEMA) map indicates that the wetland is outside of the 100-year floodplain but does indicate that Crooked Creek, immediately off-site, would be within the flood hazard zone.

The Corps has determined the wetland in question is not part of a waste treatment system as defined by 33 CFR 328.3(a)(8). The requestor did not provide a copy of a Section 402 National Pollutant Discharge Elimination System permit or other information which recognizes the wetland as designed to meet waste treatment requirements of the Clean Water Act.