



Regulatory Program

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

SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): 21 December 2018

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWP-2018-478

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Marion County City: Salem
Center coordinates of site (lat/long in degree decimal format): Lat. 44.8955104°, Long. -123.0143471°.
Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are: attached in report/map titled .
 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: 18 December 2018.
- Office (Desk) and Field Determination. Office/Desk Dates: 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 Report for Mountain West Fairview Apartments, Salem, Oregon; Prepared by Turnstone Environmental; July 2018 (Delineation).
- 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: Delineation, July 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 map layers. Title/Date: Referenced below.
- USGS Hydrologic Atlas. Title/Date: .
- USGS, NHD, or WBD data/maps. Title/Date: ORM Accessed October 2018.
- USGS 8, 10 and/or 12 digit HUC maps. HUC number: 170900070301.
- USGS maps. Scale & quad name and date: 1:24K, Salem West .
- USDA NRCS Soil Survey. Citation: NRCS Web Soil Survey Website and ORM accessed December 2018. Provided as Figure 4 in Delineation .
- USFWS National Wetlands Inventory maps. Citation: ORM accessed December 2018. Provided as Figure 3B in Delineation .
- State/Local wetland inventory maps. Citation: Provided as Figure 3A in Delineation.
- FEMA/FIRM maps. Citation: FEMA Flood Map Service Center and ORM Accessed October 2018.

- Photographs: Aerial. Citation: Provided as Figures 5 and 6 in the Delineation . or Other. Citation: Plot photos provided in the Delineation.
- LiDAR data/maps. Citation: .
- Previous JDs. File no. and date of JD letter: .
- 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 on 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): The 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 (OHWM) 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 33 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 paragraphs (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, 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

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.

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 recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water 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.**

ADDITIONAL COMMENTS TO SUPPORT AID: The review area is approximately 9.6 acres and the Delineation identified one wetland (Wetland 1) totaling approximately 0.051 acres and approximately 20 linear feet of one waterway (Ditch A). The review area is located between Old Strong Road Southeast and Stagecoach Way Southeast west of Reed Road Southeast on a portion of the former Fairview Hospital and Training Center in Salem, Marion County, Oregon. The field visit for the wetland delineation was conducted by the consultant on 4 April 2018.

The site was built as the Fairview Hospital and Training Center and was in operation from 1908 to 2000. After the campus was closed building demolition began around 2008. All buildings within the review area were demolished between 2006-2010.

Wetland 1 is a 0.051-acre palustrine emergent slope formed within the slopes of a prior building footprint after demolition and excavation. Precipitation and groundwater collects in the wetland due to compaction of the substrate post-demolition. Soils in Wetland 1 are mapped as non-hydric Santiam silt loam 3 to 6 percent slopes. Dominant wetland vegetation includes meadow foxtail (*Alopecurus pratensis* - FAC) and colonial bentgrass (*Agrostis capillaris* - FAC).

Ditch A formed after the daylighting of a section of a stormwater conveyance pipe in 2011. Ditch A exhibits an ordinary high water mark throughout its 20 linear feet. It holds water intermittently, after seasonal storm events, which flows from the southwest to northeast. Water enters Ditch A from roadside ditches along Strong Road Southeast outside of the review area. When flow is present in the ditch water exits the ditch through a concrete culvert and is piped to the West Middle Fork Pringle Creek located northeast of the study area. Observations by the consultant during their field visit in April identified flowing surface water in the ditch. Dominant vegetation abutting the banks is primarily Himalayan blackberry (*Rubus armeniacus* - FAC). Soils in Wetland A are non-hydric Santiam silt loam.

No wetlands were mapped on the LWI or NWI for this review area.

Jurisdictional Waters of the U.S.

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where 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

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.
N/A	Choose an item.	N/A	Choose an item.	N/A

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.
N/A	N/A	N/A

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

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

Non-Jurisdictional Waters

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where 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.
N/A	N/A	N/A	N/A

Table 10. Non-Waters/Excluded Waters and Features

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.
Wetland 1	Wetland 1 is a water-filled depression which resulted after the demolition of buildings on-site. The depressions are left from areas where foundations once stood and do seasonally hold water. The footprint of this feature was created entirely in dry land. Although this feature meets wetland parameters, it was created in dry land incidental to the excavation for the construction activity and therefore this feature meets the definition of a (b)(4)(v) excluded feature.
Ditch A	Ditch A exhibits a bed and bank and intermittent flow. This water enters the site through a culvert and flows from the southwest to the northeast, exiting the site through a culvert. This feature was originally constructed in uplands as a piped stormwater conveyance. During demolition of the site the stormwater feature was daylighted. The ditch receives water from roadside ditches. Water leaving the study area is piped to the West Middle Fork Pringle Creek. This feature is a ditch with intermittent flow that is not a relocated tributary, excavated in a tributary, or drains wetlands, and it was created in dry land to convey stormwater. Therefore this feature meets the definition of a (b)(3)(ii) excluded feature.

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

Aquatic Resources Summary Table

Waters_Name	State	Cowardin Code	Hgm Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude	Local Waterway
NWP-2018-478 Site 1	OR	PEM-PALUSTRINE, EMERGENT	Slope	AREA	0.051	ACRES	EXCLDB4V	44.89522	-123.01464	Wetland 1
NWP-2018-478 Site 2	OR	R4-RIVERINE, INTERMIT	Riverine	LINEAR	20	FEET	EXCLDB3II	44.89619	-123.01446	Ditch A