



- 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.<sup>1</sup>
  - (b)(4)(iv): Small ornamental waters created in dry land.<sup>1</sup>
  - (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.<sup>1</sup>
  - (b)(4)(vii): Puddles.<sup>1</sup>
  - (b)(5): Groundwater, including groundwater drained through subsurface drainage systems.<sup>1</sup>
  - (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.<sup>1</sup>
  - (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:**

<sup>1</sup> 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.

**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**

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

**Table 2. (a)(2) Interstate Waters**

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

**Table 3. (a)(3) Territorial Seas**

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

**Table 4. (a)(4) Impoundments**

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

**Table 5. (a)(5) Tributaries**

<b>(a)(5) Waters Name</b>	<b>Flow Regime</b>	<b>(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows</b>	<b>Tributary Breaks</b>	<b>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.</b>
N/A	Choose an item.	N/A	Choose an item.	N/A

**Table 6. (a)(6) Adjacent Waters**

<b>(a)(6) Waters Name</b>	<b>(a)(1)-(a)(5) Water Name to which this Water is Adjacent</b>	<b>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.</b>
NWP-2018-600 Wetland A	Willow Creek	The methodology used for determining the presence of wetlands followed the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) (United States Army Corps of Engineers [USACE] 2010). Wetland A continues off-site to the west of the project boundary, and the western boundary of Wetland A is the Ordinary High Water Mark of Willow Creek. Therefore, Wetland A is bordering and contiguous to Willow Creek.
NWP-2018-600 Wetland B	Willow Creek	The methodology used for determining the presence of wetlands followed the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) (United States Army Corps of Engineers [USACE] 2010). There is a small berm between Wetland B and Willow Creek, but there are wetlands on either side of the berm. The Corps did not have permission to investigate off-site, but based on available maps it appears that Wetland B continues off-site to the north and west and connects to the ordinary high water mark of Willow Creek. Therefore, Wetland B is bordering and contiguous to Willow Creek.













