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): 18-Apr-19

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWP- 2019-50

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County: Washington County City: Beaverton
Center coordinates of site (lat/long in degree decimal format): Lat. 45.512477 °, Long. -122.895128 °
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 .
☐ 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: <DATE>
☒ Office (Desk) and Field Determination. Office/Desk Date(s): 11-Mar-19 Field Date(s): 8-Apr-19

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: "Jurisdictional Wetland Determination and Delineation of the Phillis Subdivision" (Delineation Report), dated March 9, 2017
☒ 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:
  ☒ 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: New data sheets were submitted for Drainage A data points, and a revised data sheet was submitted for data point SP 9
  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: viewed in eGIS on March 11, 2019 (map saved in admin record)
☐ USGS 8, 10, and/or 12 digit HUC maps. HUC number:
☐ USGS maps. Scale & quad name and date:
☒ USDA NRCS Soil Survey. Citation: in Delineation Report
☒ USFWS National Wetlands Inventory maps. Citation: viewed in eGIS on March 11, 2019 (map saved in admin record)
☐ State/Local wetland inventory maps. Citation:
☐ FEMA/FIRM maps. Citation:
☒ Photographs: ☒ Aerial. Citation: . or ☒ Other. Citation: in Delineation Report
☐ LIDAR data/maps. Citation:
☐ Previous JD's. 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 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 review area is approximately 3.5 acres, defined as the entire Tax Lot 1100, which has been in residential use for many years. Two single-family residences and an unpaved driveway are located on the property as well as several outbuildings. The ditch flowing through the middle of the property is interrupted by a 12-inch concrete culvert that directs flow underneath the driveway. The SW end of the property was used by the neighbors to dump their commercial yard waste (approximately 6 inches to 3 feet deep). The western part of the property was used as a go cart track in the past, and evidence of berms, ruts, etc. are present in the soil.

[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.

Topographically most of the site gently slopes to the north with the exception of the steeply banked sections of two onsite drainage channels. One drainage flows from the SE corner of the site, north to a culvert that lies under Brackenwood Lane. The second originates in the southern portion of the site, NE of the end of SW 213th Avenue, and flows north to a culvert extending beneath the unpaved driveway. Stormwater runoff outflows from the north end of the culvert and flows N-NE and offsite. The topo map indicates a convergent slope located on the east side of the property.

A wetland (0.06 acre PEM) was delineated within the review area. It sits in a depression in the southwest corner of the site. It was evaluated for an a8 signficant nexus determination (see table 8 below).

Two well defined stream channels were found within the review area. Neither drainage channel met wetland criteria due to lack of wetland vegetation. It appears that the water is outlet controlled. The outlet pipe is several inches higher than the existing channel. Both drainages converge offsite NE of Brackenwood Lane and SW 211th Avenue intersection.

Drainage A (0.05 acre, ephemeral) flows SW to NE across the middle of the site; it originates onsite and flows offsite to the NE. It was determined to be a non-water because it is not an a5 tributary and is not a wetland (see table 11).

Drainage B (0.03 acre, perennial) flows along the eastern property boundary; it is an a5 tributary (see table 5).
.

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.
Drainage B	Perennial	Tualatin River	No	Drainage B (0.03 acre, perennial) flows along the eastern property boundary; it originates onsite but receives offsite run on from a 12-inch CSP, 27-inch CSP, and 36-inch CMP that converge and direct stormwater runoff onto the SE corner of the site. The 36-inch CMP extends across the entire southern property boundary. Drainage B flows to Beaverton Creek, then Rock Creek, then to the Tualatin River (an a3 water). Drainage B has a defined bed and bank and also an ordinary high water mark. Therefore, it is an a5 tributary.

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
N/A	N/A	N/A
N/A	N/A	N/A
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
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.
SPOE 1	PEM Wetland	Tualatin River	A wetland (0.06 acre PEM) was delineated within the review area. It sits in a depression in the southwest corner of the site. It is approximately 180 feet to Drainage A and 460 feet to Drainage B. Therefore, it is not considered adjacent. It was evaluated for an a8 significant nexus determination because it is within 4,000 feet of the OHWM of an a5 water (460 feet to Drainage B and 2800 feet to Beaverton Creek). It was determined the wetland, alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of an a3 water (Tualatin River). Below is the full analysis. -Sediment trapping – The wetland would most likely contribute to sediment trapping since it is sitting in a depression. Based on the topography, the wetland would drain during high flows to the nearest resource which connects to the Tualatin River. The dense vegetation will allow sediment to drop out effectively. -Nutrient recycling – The wetland would most likely contribute to nutrient recycling for the same reasons as above. -Pollutant trapping, transformation, filtering, and transport – The wetland would likely contribute to trapping of pollutants and filtering them prior to any pollutants being transported downstream to the Tualatin River. It has dense vegetation which would reduce surface water velocity and allow for great infiltration and filtration of particulates. -Retention and attenuation of flood waters – The wetland would likely contribute to retention and attenuation of flood waters which would eventually make their way to the Tualatin River. The landscape position would allow the wetland to hold waters until high water events which would drain to the nearest resource which connects to the Tualatin River. -Runoff storage – The wetland would likely contribute to storing runoff which would eventually make its way to the Tualatin River for the same reasons as above. -Contribution of flow – The wetland would most likely contribute to flow which would eventually travel downstream due to its position in the landscape and nearby waters which flow to the Tualatin River. -Export of organic matter – The wetland would likely contribute to export of organic matter to the Tualatin River for the reasons stated above. -Export of food resources – The wetland would likely contribute to export of food resources to the Tualatin River for the reasons stated above. -Provision of life cycle dependent aquatic habitat for species located in an a1 to a3 water – The wetland would likely contribute to the aquatic habitat for species in the Tualatin River for the reasons stated above.

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.
N/A	N/A	N/A	N/A
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.
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.
Drainage A	Drainage A (0.05 acre, ephemeral) flows SW to NE across the middle of the site; it originates onsite and flows offsite to the NE. It does not have a well-defined bed and bank and does not have an ordinary high water mark. It does not have any wetland characteristics. Therefore, it is not an a5 tributary or wetland.

ORM Table Data

Waters_Name	Cowardin Code	Amount	Units	Waters_Type	Latitude	Longitude
NWP-2019-50 Drainage A	RP-RIPARIAN	0.05	ACRES	OTHEREB	45.51258	-122.89486
NWP-2019-50 Drainage B	R5-RIVERINE, UNKNOWN PERENNIAL	0.03	ACRES	A5	45.51235	-122.89425
NWP-2019-50 PME Wetland	PEM-PALUSTRINE, EMERGENT	0.06	ACRES	A8OWB	45.51232	-122.89621