



# 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): 22 February 2019

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWP-2019-81

### C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Multnomah County City: Gresham  
Center coordinates of site (lat/long in degree decimal format): Lat. 45.513257°, Long. -122.472282°.  
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: 2-11-2019.
- 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: Report titled "Wetland Delineation Report for the Vance Property – 1400 SE 182<sup>nd</sup> Avenue and 1541 SE 190<sup>th</sup> Avenue, Gresham, Oregon." Dated December 11, 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: Report titled "Wetland Delineation Report for the Vance Property – 1400 SE 182<sup>nd</sup> Avenue and 1541 SE 190<sup>th</sup> Avenue, Gresham, Oregon." Dated December 11, 2017.
  - 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: .
- USGS Hydrologic Atlas. Title/Date: .
- USGS, NHD, or WBD data/maps. Title/Date: .
- USGS 8, 10 and/or 12 digit HUC maps. HUC number: .
- USGS maps. Scale & quad name and date: .
- USDA NRCS Soil Survey. Citation: .
- USFWS National Wetlands Inventory maps. Citation: .
- State/Local wetland inventory maps. Citation: .
- FEMA/FIRM maps. Citation: .

- Photographs:  Aerial. Citation: . or  Other. Citation: .
- 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): Report titled "Wetland Delineation Report for the Vance Property – 1400 SE 182<sup>nd</sup> Avenue and 1541 SE 190<sup>th</sup> Avenue, Gresham, Oregon." Dated December 11, 2017..

### **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. <sup>1</sup>
- (b)(4)(iv): Small ornamental waters created in dry land.
- (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.

<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.

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

D.ADDITIONAL COMMENTS TO SUPPORT AJD: The site is a former rock quarry that was excavated over many decades. A review of historical aerial imagery from the University of Oregon indicates the following chronology onsite:

1935 – Study area appears mostly wooded and partially in agriculture. Some clearing of trees is evident. No onsite surface water is evident.

1948 - Much of the study area and surrounding lands are similar to 1935; however, quarry activities have initiated on tax lots 1S3E05BD-03100 and 1S3E05CA-00300. No onsite surface water is evident.

1956 - Similar to 1956. Onsite quarry activities are more extensive. Surface water is evident in a mine pond on tax lot 1S3E05BD-03100. Surrounding lands becoming more urbanized. Lands to the east of the study area are in active mining

1964 - Onsite quarry expanding into tax lots 1S3E05BC-04000 and 1S3E05CB-00100. No onsite surface water is evident. Higher density of residences on surrounding lands. Quarry to the east of the study area continuing to expand.

1970 - Similar to 1964. No onsite surface water is evident. Higher density of residences on surrounding lands.

1980 – Onsite quarry continuing to expand to the west. Landfill appears to be present in the south part of tax lot 1S3E05CA-00300. Possible areas of onsite surface water in tax lot 1S3E05BC-04000.

1990 – Similar to 1980. Areas of onsite surface water in tax lot 1S3E05BC-04000 but in different locations as 1980.

1996 - Minor westward expansion of the onsite quarry. Areas of onsite surface water in tax lot 1S3E05BC-04000 more extensive than 1990.

2009 – Quarry activities appears ongoing. Surface water similar to 1990.

2016 - Similar to 2009. No onsite surface water is evident.

**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**

<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
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A
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>
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**

<b>SPOE Name</b>	<b>(a)(7) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus</b>	<b>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.</b>
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

**Table 8. (a)(8) Waters**

<b>SPOE Name</b>	<b>(a)(8) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus</b>	<b>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.</b>
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 applicable for waters/features present in the review area.

**Table 9. Non-Waters/No Significant Nexus**

<b>SPOE Name</b>	<b>Non-(a)(7)/(a)(8) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus</b>	<b>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.</b>
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

**Table 10. Non-Waters/Excluded Waters and Features**

<b>Paragraph (b) Excluded Feature/Water Name</b>	<b>Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.</b>
NWP-2019-81 Ditch A	(b)(4)(v) – This is a 0.02-acre linear created wetland feature at the base of the slope on the southeastern side of the landfill. Soils contain cut and fill material. Wetland vegetation was predominantly mowed reed canary grass ( <i>Phalaris arundinacea</i> ) throughout; upland vegetation consisted of Himalayan blackberry ( <i>Rubus armeniacus</i> ) and Kentucky bluegrass ( <i>Poa pratensis</i> ).
NWP-2019-81 Ditch B	(b)(4)(v) – This is a 0.19-acre excavated linear feature. Predominant wetland vegetation along the excavated edges of the feature includes yellow poplar ( <i>Populus balsamifera</i> ) and red alder ( <i>Alnus rubra</i> ). Soils did not conform to hydric soil criteria. Primary indicators of hydrology are present. Ditch B appears to receive water from a neighboring lot via a 30-inch corrugated metal pipe near the southern end and discharges via a 24-inch pipe towards Pond B.
NWP-2019-81 Ditch C	(b)(6) – This is a small 0.002-acre stormwater conveyance constructed adjacent to a gravel access road. The ditch varies in width from 10 to 24 inches. Ditch C has no vegetation growing within the bed and banks of the feature; over grown Himalayan blackberry covers a majority of the ditch. Vegetation and topographic break were used to delineate the feature.
NWP-2019-81 Ditch D	(b)(6) – Measures 0.003-acres, stormwater conveyance ditch constructed adjacent to a concrete pad. The ditch is approximately 6 to 10 inches in width for its entire length. Ditch D appears to receive surface runoff from the concrete pad and conveys the drainage into a 12-inch pipe near the north end and likely discharges to Ditch B. Ditch D has no vegetation growing within the bed and banks of the feature; over grown Himalayan blackberry and Kentucky bluegrass covers this feature. Vegetation and topographic break were used to delineate the feature.



NWP-2019-81 Pond A	(b)(4)(v) – Pond A measures 0.44-acres. It is excavated and is a former quarry settling basin. It does not contain wetland vegetation around the edge and is surrounded by blackberry. It has a clear topographic break distinguishing it from surrounding lands.
NWP-2019-81 Pond B	(b)(4)(v) – A 0.62 acre excavated former quarry settling basin. Hydrology appears to come from Ditch B. Vegetation and slope break were used to delineate the feature. The first observation of the feature is in historical aerials from 1980 where bed and banks are clearly visible.
NWP-2019-81 Wetland A	(b)(4)(v) – Wetland A is a 0.07-acre palustrine, emergent wetland. Dominant hydrophytic vegetation includes water purslane ( <i>Didiplis diandra</i> ), western marsh cudweed ( <i>Gnaphalium palustre</i> ) and spotted lady's thumb ( <i>Persicaria maulosa</i> ). No source inlets or outlets for hydrology was observed.
NWP-2019-81 Wetland B	(b)(4)(v) – Wetland B is a 0.35-acre palustrine, emergent wetland. The wetland is bounded by the former quarry walls to the north. Dominant hydrophytic vegetation includes yard knotweed ( <i>Polygonum aviculare</i> ), western marsh cudweed and water purslane. No source inlets or outlets for hydrology was observed. The boundary was defined by a topographic break created by the steep pit wall along the north edge, an artificial berm along the east, and a slight topographic break along the east, southeast and western edges.
NWP-2019-81 Wetland C	(b)(4)(v) – Wetland C is a 0.63-acre palustrine, emergent wetland. The C-shaped feature is bounded by the former pit walls to the north and west. Dominant hydrophytic vegetation includes water purslane, western marsh cudweed and spotted lady's thumb. No source inlets or outlets for hydrology was observed. The boundary was defined by a topographic break created by the steep pit wall along the north edge and a slight topographic break along the south, east and southwest edges.

#### ORM TABLE

Waters_Name	State	Cowardin Code	Meas Type	Amount	Units	Waters_Type	Latitude	Longitude
NWP-2019-81 Ditch A	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.02	ACRES	EXCLDB4V	45.50857	-122.46837
NWP-2019-81 Ditch B	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.19	ACRES	EXCLDB4V	45.51235	-122.47058
NWP-2019-81 Ditch C	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.002	ACRES	EXCLDB6	45.51357	-122.46956
NWP-2019-81 Ditch D	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.003	ACRES	EXCLDB6	45.51142	-122.47018
NWP-2019-81 Pond A	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.44	ACRES	EXCLDB4V	45.51266	-122.47133
NWP-2019-81 Pond B	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.62	ACRES	EXCLDB4V	45.51326	-122.47155
NWP-2019-81 Wetland A	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.07	ACRES	EXCLDB4V	45.51383	-122.47223
NWP-2019-81 Wetland B	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.35	ACRES	EXCLDB4V	45.51404	-122.47109

NWP-2019-81 Wetland C	OR	PEM-PALUSTRINE, EMERGENT	AREA	0.63	ACRES	EXCLDB4V	45.51323	-122.47267
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**Table 11. Non-Waters/Other**

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