

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** August 21, 2015.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, Sterling Design, Inc., NWS-2008-993.  
Name of water being evaluated on this JD form: Wetlands and tributaries that drain to Whipple Creek.

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Washington County: Clark City: Vancouver

Center coordinates of site (lat/long in degree decimal format): Lat: 45.74627 **N**, Long: -122.64851 **W**

Universal Transverse Mercator: \_\_\_\_\_

Name of nearest waterbody: Whipple Creek.

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

Name of watershed or Hydrologic Unit Code (HUC): 170800010901.

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. List other JDs: \_\_\_\_\_

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

Office (Desk) Determination. Date: \_\_\_\_\_.

Field Determination. Date(s): January 6, 2014; May 19, 2015.

**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):<sup>1</sup>**

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (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: 780 linear feet 3 width (ft) and/or 0.05 acres.

Wetlands: 4.09 acres.

**c. Limits (boundaries) of jurisdiction based on:** **1987 Delineation Manual**, and **Established by OHWM**.

Elevation of established OHWM (if known): NA.

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: **Upland Depression 1 is 1.68 acres in size, and is a waterfilled depression that was constructed in dry land, incidental to construction of stormwater facilities. Soil was excavated from this area to obtain fill to create onsite stormwater treatment facilities. The soils within this area were also compacted by equipment operation during**

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

construction. Per the November 13, 1986 Regulations, 328.3 (e), Upland Depression 1 is not a water of the United States.

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs – NOT APPLICABLE**

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):**

**1. Characteristics of non-TNWs that flow directly or indirectly into TNW**

**(i) General Area Conditions:**

Watershed size: **140 acres**  
Drainage area: **140 acres**  
Average annual rainfall: **43 inches**  
Average annual snowfall: **2 inches**

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

- Tributary flows directly into TNW.  
 Tributary flows through **1** tributaries before entering TNW.

Project waters are **5-10** river miles from TNW.  
Project waters are **1 (or less)** river miles from RPW.  
Project waters are **5-10** 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: Not Applicable.

Identify flow route to TNW<sup>4</sup>: The onsite wetlands drain to, and abut, tributaries that flow to Whipple Creek, which is a perennial RPW. Whipple Creek flows into Lake River, which is a Section 10 Navigable Water.  
Tributary stream order, if known: **2.**

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

**Tributary is:**  Natural  
 Artificial (man-made). Explain: \_\_\_\_\_.  
 Manipulated (man-altered). Explain: \_\_\_\_\_.

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

Average width: **3** feet  
Average depth: **0.3** feet  
Average side slopes: **4:1 (or greater).**

**Primary tributary substrate composition (check all that apply):**

Silts  Sands  Concrete  
 Cobbles  Gravel  Muck  
 Bedrock  Vegetation. Type/% cover: \_\_\_\_\_  
 Other. Explain: \_\_\_\_\_.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: The banks and bed of Streams 1 and 2 are stable, and show no signs of active scour or erosion.

Presence of run/riffle/pool complexes. Explain: The stream morphology consists primarily of shallow runs with interspersed shallow pools. Riffles are absent.

Tributary geometry: **Relatively straight**  
Tributary gradient (approximate average slope): **≤5 %**

**(c) Flow:**

Tributary provides for: **Seasonal flow**  
Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: Streams 1 and 2 are not perennial, but flow consistently from fall through mid summer.  
Other information on duration and volume: The stream flow volume is less than 1 cubic feet per second.

<sup>4</sup> 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.  
Version 2-8-08 Seasonal RPW and Abutting Only 2 of 4

Surface flow is: **Discrete and confined**. Characteristics: The surface flow is confined by shallow banks. During high flow events, surface waters may extend into adjacent uplands and wetlands.

Subsurface flow: **Unknown**. Explain findings: \_\_\_\_\_.

Dye (or other) test performed: \_\_\_\_\_.

Tributary has (check all that apply):

Bed and banks

OHWM<sup>5</sup> (check all indicators that apply):

clear, natural line impressed on the bank

changes in the character of soil

shelving

vegetation matted down, bent, or absent

leaf litter disturbed or washed away

sediment deposition

water staining

other (list): \_\_\_\_\_

the presence of litter and debris

destruction of terrestrial vegetation

the presence of wrack line

sediment sorting

scour

multiple observed or predicted flow events

abrupt change in plant community

Discontinuous OHWM.<sup>6</sup> 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:

oil or scum line along shore objects

fine shell or debris deposits (foreshore)

physical markings/characteristics

tidal gauges

other (list): \_\_\_\_\_

Mean High Water Mark indicated by:

survey to available datum;

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: Water color is clear, with no signs of contaminants. The water source is from wetlands, adjacent uplands, and treated stormwater discharges from residential development.

Identify specific pollutants, if known: None known.

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

Riparian corridor. Characteristics (type, average width): The riparian corridors consist of an Oregon ash and black cottonwood dominated overstory, with an understory of scrub-shrub and herbaceous vegetation, including slough sedge, water parsley and skunk cabbage.

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: Onsite streams provide both feeding and breeding habitat for amphibians and aquatic invertebrates. The associated riparian corridor provides nesting, breeding, feeding and hiding cover for a diversity of wildlife, including songbirds, raptors, small mammals, and reptiles.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW – NOT APPLICABLE

3. Characteristics of all wetlands adjacent to the tributary (if any) – NOT APPLICABLE

C. SIGNIFICANT NEXUS DETERMINATION – NOT APPLICABLE

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

2. RPWs that flow directly or indirectly into TNWs.

Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide rationale indicating that tributary flows 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: Direct observations during field inspections confirm that flows are persistent from fall through late spring/early summer.

<sup>5</sup>A 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.

<sup>6</sup>Ibid.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: 780 linear feet 3 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: Wetland A continues offsite to the north and is contiguous with, and drains into, Tributary 2. Wetlands B, C and D all converge immediately east of the property line, and are contiguous with, and drain into, Tributary 1.

Provide acreage estimates for jurisdictional wetlands in the review area: Wetland A is a 1.87 acre PFO/SS/EM wetland; Wetland B is a 0.21 acre PFO/EM wetland; Wetland C is a 0.09 acre PFO/EM wetland; and Wetland D is a 1.92 acre PEM Wetland. Total: 4.09 acres.

**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 - NOT APPLICABLE**

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS - NOT APPLICABLE**

**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: July 18, 2015 letter from Ecological Land Services, Inc., with attached wetland delineation data sheets and photos; wetland delineation report titled "Wetland Delineation Report for Velveteen Meadows Subdivision, Clark County, WA", prepared by Ecological Land Services, Inc. and dated April 2015; and, July 20, 2015 letter from Ecological Land Services, Inc., with Appendix A and associated exhibits.
- 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: The waterbody is on the Section 10 Navigable Waterway List for Seattle District.
- U.S. Geological Survey Hydrologic Atlas: \_\_\_\_\_.
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: \_\_\_\_\_
- USDA Natural Resources Conservation Service Soil Survey. Citation: \_\_\_\_\_.
- National wetlands inventory map(s). Cite name: \_\_\_\_\_.
- State/Local wetland inventory map(s): \_\_\_\_\_
- FEMA/FIRM maps: \_\_\_\_\_.
- 100-year Floodplain Elevation is: \_\_\_\_\_ (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): \_\_\_\_\_  
or  Other (Name & Date): \_\_\_\_\_.
- Previous determination(s). File no. and date of response letter: \_\_\_\_\_.
- Applicable/supporting case law: \_\_\_\_\_.
- Applicable/supporting scientific literature: \_\_\_\_\_.
- Other information (please specify): Previous wetland delineation titled "Wetland Boundary Delineation Report & Habitat Review at the NE 175<sup>th</sup> Street Subdivision Site "Ne 175<sup>th</sup> Street and (approximately) NE 20<sup>th</sup> Avenue", prepared by MRM Consulting LLC and dated October 19, 2007.

**B. ADDITIONAL COMMENTS TO SUPPORT JD: None.**