

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 9/6/16.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, Munson, Lowell and Jacqueline, NWS-2014-514.

Name of water being evaluated on this JD form: Wetlands A, B, C, D, E, F, and Z

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

State: Washington County: Pierce City: Puyallup

Center coordinates of site (lat/long in degree decimal format): Lat: 47.09546 **N**, Long: -122.32483 **W**

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

Name of nearest waterbody: Clower Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Not Applicable.

Name of watershed or Hydrologic Unit Code (HUC): 171100190302.

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): 22 June 2016.

**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 no** “*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

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.  
Version 2-8-08 Isolated & Non-Waters Only

- 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: \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft) and/or \_\_\_\_\_ acres.

Wetlands: \_\_\_\_\_ acres.

**c. Limits (boundaries) of jurisdiction based on: Pick List and Pick List**

Elevation of established OHWM (if known): \_\_\_\_\_.

**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: Seven wetlands, Wetlands A-F and Z, were assessed during a field investigation on 22 June 2016 and determined to be non-regulated wetlands. These wetlands do not have a surface water connection, shallow subsurface water connection, or ecological connectivity to navigable or interstate waters of the U.S. There are no habitats, resources, or wildlife species of interest present within the vicinity of the wetlands to attract interstate or foreign travelers. Aquaculture cannot be conducted because of the terrestrial location. Commercial agriculture and/or silvicultural practices for interstate commerce would not be viable onsite because of the small parcel size. Thus, Wetlands A-F and Z are hydrologically isolated and does not have an interstate commerce connection. See Section B for additional information.

**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: NOT APPLICABLE**

**C. SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE**

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE: NOT APPLICABLE**

**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 (CHECK ALL THAT APPLY):<sup>4</sup>**

<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.

<sup>4</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: \_\_\_\_\_.
- Other factors. Explain: \_\_\_\_\_.

Identify water body and summarize rationale supporting determination: \_\_\_\_\_

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

- Tributary waters: \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).
- Other non-wetland waters: \_\_\_\_\_ acres.  
Identify type(s) of waters: \_\_\_\_\_.
- Wetlands: \_\_\_\_\_ acres.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: \_\_\_\_\_.
- Other: (explain, if not covered above): \_\_\_\_\_.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).
- Lakes/ponds: \_\_\_\_\_ acres.
- Other non-wetland waters: \_\_\_\_\_ acres. List type of aquatic resource: \_\_\_\_\_.
- Wetlands: 0.63 acres.

**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: \_\_\_\_\_.
- 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: \_\_\_\_\_.
- U.S. Geological Survey Hydrologic Atlas: Accessed 7 July 2016.
- 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: Accessed online 7 July 2016.
- National wetlands inventory map(s). Cite name: Accessed online 7 July 2016.
- State/Local wetland inventory map(s): \_\_\_\_\_
- FEMA/FIRM maps: \_\_\_\_\_.
- 100-year Floodplain Elevation is: \_\_\_\_\_ (National Geodetic 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): Letter to the Seattle District Corps of Engineers from Soundview Consultants regarding "NWS-2014-0514 Munson, Lowell and Jacqueline", dated 25 May 2016.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Purpose: To determine whether or not wetlands within the project site are waters of the U.S.

Site Visit: The Corps conducted a site inspection on 22 June 2016 between 0900 and 1100 hours. The weather was partially sunny with a temperature around 70 degrees Fahrenheit. Attendees were: Kaitlyn White, Kristina Tong, and Daniel Krenz (Corps); and, Jeremy Downs, Don Babineau (Soundview Consultants, LLC).

Project Site Description: The 4.58-acre project site is located in unincorporated Puyallup, Washington. It is bordered by 176th Street East to the north, 78th Avenue East to the west, and residential development to the south and east. Topography generally slopes downward to the south and east to a series of depressions along the southeast border, which expend off the project site. These depressions are several feet lower in elevation than the rest of the project site. Seven wetlands (Wetlands A, B, C, D, E, F, and Z) were delineated within these depressions, totaling 0.63 of an acre. The site is vacant and historic aerial imagery indicates that it has not been used for development and/or agricultural practices in the past.

The nearest mapped stream, Clover Creek, is approximately 1.0 mile northwest of the project site. The nearest wetlands mapped by the National Wetland Inventory is over 0.34 mile to the north, separated from the project site by an arterial road and residential/commercial development.

Soils: The National Resources Conservation Service mapped soils are Kapowsin Gravelly Loam, 0 to 6 percent slopes, and Everett Gravelly Sandy Loam, 0 to 6 percent slopes. Observed upland soil colors were: 7.5 YR 3/2, 7.5YR 4/3, no redox features. Observed wetland soil colors were: 10YR 2/1, 10YR 3/1, with redox concentrations of 2.5YR 4/8 and 5YR 5/8.

Vegetation: The project site consists of second-growth, mature trees and shrubs. Dominant upland vegetation included Douglas fir, western red cedar, big-leaf maple, sword fern, and black cottonwood. Dominant wetland vegetation included: hardhack, red alder, red-osier dogwood, lady fern, water parsley, and salmonberry.

Site Inspection: The inspection included the following: reviewing data sheets and maps provided by Soundview Consultants, LLC.; looking for the three wetland parameters onsite (hydrology, hydric soil, and hydrophytic vegetation); and looking for surface and subsurface hydrologic connections to waters of the U.S.

The Corps verified the presence of all seven wetlands, Wetland A-F and Z. All seven wetlands are located in natural depressions in the landscape. Their boundaries were identified by slight changes in topography and noticeable transitions in vegetation communities. No observable surface outlets were noted, except for the outfall pipe explained below. Their hydrology likely stems from a high groundwater table, precipitation, and stormwater from the residential development to the east of the project site.

During the site inspection, the Corps noted an outfall drain along the eastern boundary draining from the residential development east of the project site (Thornbury Development) onto the subject property. Soundview Consultants, LLC provided an as-built drawing (attached) of the Thornbury Development, titled Thornbury: Storm Drainage Plan and Profile, prepared by C.E.S. NW, Inc, the civil engineering firm that designed the residential development for Regent Mahan, LLC. The as-built drawing illustrates that the stormwater for the Thornbury Development is detained in a self-contained underground vault and does not flow into the roadside ditch. This vault would overflow into Wetland Z during high flow events.

Jurisdictional Determination (JD): Wetlands A-F and Z are located in topographical depressions and their hydrology infiltrates directly into the ground. Wetlands A-F and Z are not adjacent and/or abutting any waters of the U.S. Based on mapped soil characteristics (i.e., upland well drained soils), distance (nearest water of the U.S. is a mile away), and numerous intervening developments that have altered subsurface soil composition, there is no likelihood of water from Wetlands A-F and Z moving through subsurface soils and into nearby streams or wetlands. Wetlands A-F and Z do not have a surface water or subsurface connection to a water of the U.S.

Wetlands A-F and Z are not used by interstate or foreign travelers for recreation purposes, do not have habitat or resources of special significance which would attract interstate or foreign travelers, lack birds and wildlife species of special significance which would attract interstate or foreign travelers, support no fish or shellfish which could be taken or sold in interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce.

Thus, Wetlands A-F and Z are hydrologically isolated and do not have an interstate or foreign commerce connection. Wetlands A-F and Z are not waters of the U.S. and not regulated under Section 404 of the Clean Water Act. The Corps will begin coordination with Corps Headquarters and the Environmental Protection Agency.

The JD was coordinated with Corps Headquarters (HQ) and the Environmental Protection Agency (EPA) on 12 August 2016. Twenty-one days were allotted for review and comment. Within the comment period, no comments were received from the EPA or Corps HQ. Because no objections were received, this JD has been finalized.

Please note: While the presence of Wetlands A-F and Z were verified, their exact boundaries were not delineated by the Corps. Other state and local agencies with jurisdiction will need to verify the wetland boundaries.