

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 3/14/2008.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, Smith, Don, 200600797  
Name of water being evaluated on this JD form: Unnamed tributary to Selah Valley Stream

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

State: Washington County: Yakima City: Selah

Center coordinates of site (lat/long in degree decimal format): Lat: 46.6758 N, Long: -120.5113 W

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

Name of nearest waterbody: Selah.

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

Name of watershed or Hydrologic Unit Code (HUC): 17030001.

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: 3/14/2008.

Field Determination. Date(s): 6/28/2006.

**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: \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft) and/or 0.5 acres.

Wetlands: 0.5 acres.

**c. Limits (boundaries) of jurisdiction based on: **Established by OHWM**, 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: \_\_\_\_\_.

<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.

**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:

**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: The pond and wetlands on the subject property are located in a gully that collect water from a stream channel in the plateau area around the gully, including water piped into the pond from above. Some of the water source is runoff and return water from irrigation activities in the vicinity. Based on observations during the June 2006 site visit when flow was observed, and observations of Yakima County Planning staff, water flows in this tributary for at least several months of the year, with higher flows during irrigation season. Describe flow path to a TNW: The pond and abutting wetland on Mr. Smith's property flow through a vertical pipe, into an unnamed stream, through a culvert underneath SR-182, onto the Zirkle Fruit Companies property, into a pipe that runs underneath the Zirkle Fruit Company property and into a large wetland system with channels which drain into the Selah Valley Stream. The Selah Valley Stream flows into the Yakima River, which flows into the Columbia River, a navigable water of the U.S. The Yakima River is also a navigable water, per Seattle District's list of navigable waters, for its lower 8 miles..

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

- Tributary waters: **3,000** linear feet \_\_\_\_\_ width (ft).
  - Other non-wetland waters: **0.1** acres.
- Identify type(s) of waters: **Pond.**

**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: Field observation 6/2006

Provide acreage estimates for jurisdictional wetlands in the review area: .7 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 (CHECK ALL THAT APPLY): 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):**

- 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: \_\_\_\_\_.
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Selah, WA
- 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): Yakima County GIS
  - 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): Critical Areas Mapping, Yakima County GIS.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** At applicant's request, a site visit was conducted 6/2006 and a preliminary determination was made that the pond, wetlands, and stream were jurisdictional. However, the jurisdictional determination was not finalized due to pending guidance from Corps headquarters responding to court cases, Rapanos v. United States and Carabell v. United States. The site has been reevaluated in light of this guidance and it is determined that the pond, wetlands, and tributary stream are jurisdictional.