U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 2/1/2021
ORM Number: NWS-2021-57
Associated JDs: N/A
Review Area Location[1]: State/Territory: WA City: Friday Harbor County/Parish/Borough: San Juan County
Center Coordinates of Review Area: Latitude 48.500278 N Longitude -123.133056 W

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)[2]

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters):[3]				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

[1] Map(s)/figure(s) are attached to the AJD provided to the requestor.
[2] If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.
[3] A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Drainage Ditch	N/A.	N/A.	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The existing drainage ditch on the north end of the property does not meet the definition for an (a)(2) water; the ditch is not a relocated tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. The ditch does not contribute perennial or intermittent flow to an (a)(1) water either directly or indirectly through one or more (a)(2) through (4) waters.
Storm Water Detention Pond C			(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The storm water detention pond was constructed in uplands to store stormwater runoff.
Wetland B	0.759	acre(s)	(b)(1) Non-adjacent wetland.	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details
Wetland A	0.143	acre(s)	(b)(1) Non-adjacent wetland.	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and

[4] Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.
[5] Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details
Existing High Flow Easement			(b)(4) Diffuse stormwater run-off over upland or directional sheet flow over upland.	Based on the available information, the existing high flow easement on the southeast side of the property conveys overflow stormwater across uplands to Haro Straits.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: 69 West Side Road Wetland Delineation Prepared for John Brasino; August 2020, and Wetland Exhibit Binder; 5 January 2021.
This information is sufficient for purposes of this AJD.
Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

☐ Data sheets prepared by the Corps: Title(s) and/or date(s).

☒ Photographs: Other: Provided by applicant via email on 29 January 2021

☐ Corps site visit(s) conducted on: Date(s).

☐ Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).

☐ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.

☒ USDA NRCS Soil Survey: August 2020

☒ USFWS NWI maps: 25 January 2021

☒ USGS topographic maps: Roche Harbor 7.5 Quad, 1994

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	San Juan County Polaris Property Search; 22 January 2021 WDFW Salmon Scape; 25 January 2021 WA ST Dept of Ecology Costal Atlas; 25 January 2021 WSDOT Fish Passage Inventory; 25 January 2021
Other Sources	N/A.

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: Storm water detention pond C was excavated in uplands in the 1990s. The drainage ditch on the north portion of the property was constructed in uplands. There is no information available that indicates the ditch relocated a tributary, was constructed in a tributary, or was constructed in an adjacent wetland. The ditch conveys stormwater from a culvert under West Side Road into Wetland B.

Wetland A and B were delineated in 2020. Wetland A was determined to be a palustrine emergent wetland and wetland B was determined to be a palustrine forested/palustrine aquatic bed wetland. Both wetlands receive hydrogyologic input from the stormwater ditch as well as direct precipitation. Wetland A is approximately 200 feet from the shoreline, does not abut Haro Strait or an (a)2 tributary, is not flooded by water from Haro Strait or an (a)2 tributary, is not separated from Haro Strait or an (a)2 tributary by a natural berm, bank, dune, or similar natural feature, and is not separated from Haro Strait or an (a)2 tributary by an artificial dike, barrier, or similar artificial structure. Wetland A may received overflow, via shett flow across uplands, from the southern end of Wetland B. Wetland B is approximately 600 feet from the shoreline, does not abut Haro Strait or an (a)2 tributary, is not flooded by water from Haro Strait or an (a)2 tributary, is not separated from Haro Strait or an (a)2 tributary by a natural berm, bank, dune, or similar natural feature, and is not separated from Haro Strait or an (a)2 tributary by an artificial dike, barrier, or similar artificial structure.

During high precipitation events, stormwater overflow from Wetland B flows across an offsite easement southeast towards Haro Strait. Photo evidence provided by the applicant on 29 January 2021 depicted no channelized surface water connection across the high flow easement and into Haro Strait. In addition, the high flow easement did not appear to exhibit channelized flow characteristics (bed, bank, and ordinary high water mark). Based on further information provided by the applicant on 29 January 2021, it appears that the high flow easement only experiences ephemeral flow in the peak rainy season typically between December and February.