

Regulatory Program

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

This form should be completed by following the instructions provided in the Interim Approved Jurisdictional Determination Form User Manual.

SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): 16-Apr-2019

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWS-2018-1114

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State:Washington County/parish/borough: Pierce County City: DuPont

Center coordinates of site (lat/long in degree decimal format): Lat. 47.119763, Long. -122.64934.

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: 4/4/2019.
- Office (Desk) and Field Determination. Office/Desk Dates:

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.

Field Date(s):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date:
- 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: "Data Form 1" for Plots K1 through K6 dated 7/31/2007.

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: "Maps, Photos and Other Supporting Information" package dated April 4, 2019.

- 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: https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx.
- USFWS National Wetlands Inventory maps. Citation: https://www.fws.gov/wetlands/data/Mapper.html.

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- 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):

SECTION III: SUMMARY OF FINDINGS

Complete ORM "Aquatic Resource Upload Sheet" or Export and Print the Aquatic Resource Screen from ORM for All Waters and Features, Regardless of Jurisdictional Status – Required

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.

<u>B.</u>	CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: "waters of the U.S." within
	(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). An interstate waters, including interstate wetlands.
	(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)(b): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, exhows, 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) of (a)(3) of 33 CER part 328 3, and all waters within 1,500 feet of the OHWM of the Great Lakes
	(a)(3) of 35 of 10 part 520.5, and an waters within 1,500 feet of the of twin of the ofeat 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 flood lain 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.

 \square 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.¹
- (b)(4)(iv): Small ornamental waters created in dry land.¹
- (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.

(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.¹ (b)(4)(vii): Puddles.¹

(b)(5): Groundwater, including groundwater drained through subsurface drainage systems.¹

(b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.1

(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:

¹ 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.

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

(a)(1) Waters Name	(a)(1) Criteria	Rationale to Support (a)(1) Designation Include High Tide Line or Ordinary High Water Mark indicators, when applicable.
N/A	Choose an item.	N/A

Table 2. (a)(2) Interstate Waters

(a)(2) Waters Name	Rationale to Support (a)(2) Designation
N/A	N/A

Table 3. (a)(3) Territorial Seas

(a)(3) Waters Name	Rationale to Support (a)(3) Designation
N/A	N/A

Table 4. (a)(4) Impoundments

(a)(4) Waters Name	Rationale to Support (a)(4) Designation
N/A	N/A
N/A	N/A

Table 5. (a)(5)Tributaries

(a)(5) Waters Name	Flow Regime	(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows	Tributary Breaks	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.
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

(a)(6) Waters Name	(a)(1)-(a)(5) Water Name to which this Water is Adjacent	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.
N/A	N/A	N/A

Table 7. (a)(7) Waters

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

Table 8. (a)(8) Waters

SPOE Name	(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	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.
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

SPOE Name	Non-(a)(7)/(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus	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.
SPOE	Kettle Wetland (KW)	Puget Sound (PS) or Sequalitchew Creek (SC)	See MFR in the administrative record for this project for Similarly Situated Waters and Significant Nexus Determination dated April 5, 2019 for further rationale to support a finding of no significant nexus.

Table 10. Non-Waters/Excluded Waters and Features

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.		
N/A	N/A		
N/A	N/A		

Table 11. Non-Waters/Other

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

CENWS-ODR Reference: NWS-2018-1114; Small, John (AJD (JD Only))

MEMORANDUM FOR RECORD

SUBJECT: Similarly Situated Waters and Significant Nexus Determination

The waters specified at paragraph (a)(8) require a determination whether they are similarly situated. Under this step, the agencies apply factors in the determination of when waters evaluated under paragraph (a)(8) should be considered either individually or in combination for purposes of a significant nexus analysis. A determination of "similarly situated" requires an evaluation of whether a group of waters in the region that meet the distance thresholds set out under paragraph (a)(8) can reasonably be expected to function together in their effect on the chemical, physical, or biological integrity of downstream traditional navigable waters, interstate waters, or the territorial seas. Similarly situated waters can be identified as sufficiently close together for purposes of this paragraph of the regulation when they are within a contiguous area of land with relatively homogeneous soils, vegetation, and landform (*e.g.*, plain, mountain, valley, etc.).

A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (a)(1) through (3).

1. Subject Wetland

a. Soils: Per the USDA's "Web Soil Survey" mapper, the soils at the location of the Kettle Wetland (KW) are classified as "Spanaway sandy loam," which is not a hydric soil. Per the ORM JD viewer, the KW is "well drained." A site visit was not conducted by the Corps for this AJD, therefore no soil samples were taken, but a site visit was conducted for a previous AJD for this wetland (NWS-2008-911). Kettle wetlands, such as the subject wetland, exist within glacially carved, static depressions, so they do not tend to change quickly as other types of wetlands might. Therefore, it is appropriate to consider previous soil findings at the KW. In the 2007 soil study, soil was described as following: "Soils consist of 16 to 20 inches of black peat above a layer of lower permeability silty clay. The peat contained low chroma (less than 1) with slightly decomposed wood fragments indicative of extended periods of inundation. Some areas beneath the peat also contained organic lenses within the silty clay layer. The silty clay layer appears to correspond with the "dead ice" phenomenon associated with the formation of kettle wetlands. Upland soils adjacent to the wetland boundary are composed of high chroma (greater than or equal to 2), dry, brown Spanaway gravelly sandy loam. The wetland boundary corresponded with a clear change in soils from gravelly sandy loam to peat." It was also previously noted that surface saturation was often present, but soils were not always saturated to a depth of 12 inches.

b. Vegetation: PEM1F, Palustrine, Emergent, Persistent, Semipermanently Flooded. Per ORM JD Viewer, the "GAP Landcover – Vegetation Class" of the KW is mostly "Forest and Woodland" but also contains "Developed and Other Human Use." Per the 2007 data sheets, wetland vegetation included pacific dogwood, red elderberry, shining willow, rose spirea, Douglas fir, Scouler's willow, beaker hazelnut and other native species.

c. Landform: Per ORM JD viewer, the landform surrounding the KW is classified as "Irregular Plains." The KW is 1.7 acres in size and sits within a 40-foot, glacially carved depression. Relatively flat topography exists east of the KW, but to the west is a large slope leading down into a large, manmade depression that exists from mining activity on the property. West of the large mining pit, topography slopes upward again, then an approximately 200-foot forested buffer exists before reaching escarpment features that drop 200 feet to Puget Sound (PS). The topography between the KW and Sequalitchew Creek (SC) is flat to slightly concave.

d. Proximity: The KW is approximately 2,900 feet east of the PS. The KW is approximately 2,500 feet north of SC. It is also 200 feet above Puget Sound in elevation. There are other kettle wetlands within the geographic area, but there are no other waters within the SPOE or the review area.

2. Similarly Situated Characteristics

a. wetland of peat soils atop lesser permeable silty/clay soils, surrounded by well drained soils

b. within forested woodlands, containing native shrubs and other native vegetation

c. wetland surrounded by irregular plains

d. within 3,000 feet of PS

3. Similarly Situated Waters Identified

a. There are no other waters within the small SPOE, therefore, no similarly situated waters were identified.

4. Significant Nexus Determination

The subject water alone, does not significantly affect the chemical, physical, or biological integrity of Puget Sound or Sequalitchew Creek based on the discussion below:

Because of the concave topography between the KW and PS, it is unlikely that surface water sheet-flowing through the KW makes its way to PS. Therefore, it is unlikely that the KW is performing filtration or sediment trapping functions for PS.

Because of the lesser-permeable layer of silty clay under the KW, it is unlikely that there is measurable ground water connection to the PS.

CENWS-ODR SUBJECT: NWS-2018-1114; Small, John (AJD (JD Only))

Because of disconnectivity and the heavily mined/disturbed nature of the immediately surrounding area, it is unlikely that wildlife would use the KW, therefore, it is likely that the KW is performing very low wildlife habitat functions.

There are no features (drainages, flow paths, sloped topography) to suggest that surface water running through the KW would then reach SC. Additionally, an approximate 200-foot forested buffer exists around SC. It is unlikely that the KW is performing filtration or sediment trapping functions for SC, or contributing any kind of organic input to SC.

The KW is not performing functions in flood attenuation. The KW contains a small 100-year flood plain in its center but it is not within a floodplain associated with another water and it is not in close-enough proximity to SC to attenuate flood water associated with overflow of the creek. The depression was created after glacial carving, and saturated wetland conditions came to exist in response to this topography, not in response to recurrent saturation from flood waters.

5. Conclusion: Because there is not a significant nexus, Kettle Wetland is not a water of the U.S.

Valio Enducott

5 April 2019

Date

Halie Endicott Project Manager

Kristina y. Jong

Reviewed by: Kristina G. Tong, Section Chief

16 April 2019

Date



National Wetlands Inventory surface waters and wetlands

O ABOUT

BAS	SEMAPS >
MAP	LAYERS >
🗷 Wetlands	00
🗆 Riparian	00
🗆 Riparian Mapping Areas	00
🗹 Data Source	
O Source Type	
O Image Scale	
O Image Year	
Areas of Interest	θ
FWS Managed Lands	
Historic Wetland Data	00



Search			
4ap Unit	Legend		
Joint Ba Parts of Pierce	se Lewis-McChor Pierce and Thurst County Area, Wa	d Area, Wa on Countie shington (shington, s (WA777) WA653)
Joint Ba Washin Countie	ase Lewis-McCh gton, Parts of P s (WA777)	ord Area, ierce and [·]	(8) Thurston
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
110	Spanaway gravelly sandy loam, 0 to 3 percent slopes	65.2	5.6%
996	Dumps	136.3	11.7%
Subtotals for Soil 201.5 17 Survey Area		17.3%	
Pierce ((WA653	County Area, Wa 3)	ashington	8
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
41A	Spanaway gravelly sandy loam	632.4	54.2%
47F	Xerochrepts, 45 to 70 percent slopes	94.6	8.1%
PITS	Pits	175.4	15.0%





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ORM Landform Map April 5, 2019

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ploneer-Avenue-

Kettle Wetland

E

Legend





Sheet 10 of 15

Clean Water Rule Web App

Q

3



ZameA

ZoneA

-122.640 47.122 Degrees





AREA OF MINIMAL FLOOD HAZAR

Legend

- Spillway StreamRiver
- Submerged Stream
- Wash
- Water IntakeOutflow

Waterbody - Large Scale

Estuary Ice Mass LakePond Playa Reservoir SwampMarsh

National Flood Hazard Layer (Existing)

Flood Hazard Zones

1% Annual Chance Flood Hazard Regulatory Floodway Special Floodway Area of Undetermined Flood Hazard 0.2% Annual Chance Flood Hazard Future Conditions 1% Annual Chance Flood 25 Hazard Area with Reduced Risk Due to Levee

National Flood Hazard Layer (Pending)

Pending Flood Hazard Zones

- 1% Annual Chance Flood Hazard
- Regulatory Floodway
- Special Floodway
- Area of Undetermined Flood Hazard
- 0.2% Annual Chance Flood Hazard
- Future Conditions 1% Annual Chance Flood 3 Hazard
- Mrea with Reduced Risk Due to Levee

National Flood Hazard Layer (Preliminary)

Preliminary Flood Hazard Zones

- 1% Annual Chance Flood Hazard
- Regulatory Floodway
- Special Floodway
- Area of Undetermined Flood Hazard
- 0.2% Annual Chance Flood Hazard
- Future Conditions 1% Annual Chance Flood Hazard
- Area with Reduced Risk Due to Levee

USDA FSA, DigitalGlobe, GeoEye | USGS TNM - National Hydrography Dataset, Data refre

April 4, 2019

Sheet 11 of 15







Wetland Perimeter Photo 1







