

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

Isolated: Wetlands A, B, BB, and C, Ditch 3

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 4 February 2015.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, Gregory Real Estate Three (Pacific Heights), NWS-2013-463.

Name of water being evaluated on this JD form: Wetlands A, C, B, and BB, and Ditch 3.

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

State: Washington County: King City: Des Moines

Center coordinates of site (lat/long in degree decimal format): Lat: 47.3499 N, Long: -122.31402 W

Universal Transverse Mercator: 10 T, 551810.71m E, 5244275.99m W.

Name of nearest waterbody: Unnamed Tributary to Redondo Creek.

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

Name of watershed or Hydrologic Unit Code (HUC): 171100190204.

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): 1 May 2014.

**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
- 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): \_\_\_\_\_.

<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).

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: Wetlands A, B, BB, and C (total of 1.28 acres) and Ditch 3 (225 linear feet) were evaluated and determined to be isolated waters. Although these isolated waters are hydrologically interconnected, they are not adjacent to waters of the U.S. (See Section IV.B for site inspection details on these wetlands and their position in the landscape).

Based on a review of available information and the Corps' on-site inspection, the Corps has determined that these wetlands and the ditch do not have a surface water or shallow subsurface connection or flow path to other waters or wetlands. The site, wetlands, and Ditch 3 are not located in a floodplain. The mapped soil series for the site are Norma sandy loam and Alderwood gravelly sandy loam. Norma sandy loam is poorly drained soil on 0 to 2 percent slopes, and the isolated wetlands are associated with the Norma series. Alderwood gravelly sandy loam is a moderately well drained soil, with 0 to 6 percent slopes for much of the site, and 6 to 15 percent slopes along the eastern portion of the site. Wetlands A, B, BB and C are scrub-shrub wetlands located in a predominately forested area. Wetlands B and BB are small depressional/slope wetlands (total 0.06 acre), Wetland C is a small depressional wetland (0.03 acre), and Wetland A is a larger depressional wetland (1.19 acres). Ditch 3 is approximately 225 feet long, and it appears to have been excavated westward from Wetland C. The isolated wetlands and ditch are located on intra-state private property that is primarily forested, and they do not provide public recreation, a commodity crop, fish, shellfish, or other resources that could be used in interstate or foreign commerce, and therefore, are not waters of the U.S.

**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>**

- 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):

<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.

- Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).
- Lakes/ponds: \_\_\_\_\_ acres.
- Other non-wetland waters: 225 linear feet acres. List type of aquatic resource: Excavated Ditch 3 extends approximately 225 feet westward from Wetland C where flow infiltrates into the soil.
- Wetlands: A, B, BB, and C, total of 1.27 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: contained in the "Wetland Delineation and Habitat Assessment Report and Draft Mitigation Plan, Gregory Real Estate Three - Pacific Heights", dated January 2014.
- 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: \_\_\_\_\_
- USDA Natural Resources Conservation Service Soil Survey. Citation: \_\_\_\_\_.
- National wetlands inventory map(s). Cite name: \_\_\_\_\_.
- State/Local wetland inventory map(s): King County iMAP
- FEMA/FIRM maps: \_\_\_\_\_.
- 100-year Floodplain Elevation is: \_\_\_\_\_ (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Google Earth image date 4 May 2013.  
or  Other (Name & Date): Site visit photographs dated 1 May 2014.
- Previous determination(s). File no. and date of response letter: \_\_\_\_\_.
- Applicable/supporting case law: \_\_\_\_\_.
- Applicable/supporting scientific literature: \_\_\_\_\_.
- Other information (please specify): Corps Site Visit Memorandum (see Section IV.B).

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** See attached MFR: 1 May 2014 Site Inspection NWS-2013-463 Gregory Real Estate Three (Pacific Heights); review area and current delineation map dated 30 April 2014; the two previous delineation maps by Altmann Oliver Associates, LLC (pages 2 and 3 dated March 27, 2013); and site photos and photo location map. The wetland boundaries shown on the 27 March 2013 maps appear to be more accurate than the wetland boundaries shown on the 30 April 2014 maps. However, regardless of the location of the wetland boundaries, Wetlands A, C, B, and BB and Ditch 3 are not waters of the U.S.

**Summary of Coordination:**

EPA: This JD form and the attachments listed in paragraph B above were forwarded to EPA on 13 January 2015, and concurrence was received on 22 January 2015.

USACE Headquarters: This JD form and the attachments listed in paragraph B above were forwarded to HQUSACE on 13 January 2015. No response was received from HQUSACE within 21 days. The review period has ended, coordination is complete.