

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): April 27, 2015.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, Affordable Community Environments (Isabella Court), NWS-2015-0154.

Name of water being evaluated on this JD form: Isolated Wetland

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: Vancouver

Center coordinates of site (lat/long in degree decimal format): Lat: 45.64479 N, Long: -122.62026 W

Universal Transverse Mercator: _____

Name of nearest waterbody: Burnt Bridge Creek.

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

Name of watershed or Hydrologic Unit Code (HUC): 1708000010901.

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: None

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: _____.

Field Determination. Date(s): April 7, 2015.

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):¹

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters² (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: 1987 Delineation Manual, and Pick List

Elevation of established OHWM (if known): Not Applicable.

2. Non-regulated waters/wetlands (check if applicable):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: The project site supports a 0.03 acre, seasonally saturated palustrine emergent wetland. This wetland is

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² 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).

³ Supporting documentation is presented in Section III.F.

situated within a swale feature that extends from north to south, in the north half of the property. Based on the rationale provided in Section III F below, this wetland is isolated and is therefore not jurisdictional.

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):⁴

- 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): The project site consists of a currently vacant and frequently mowed field that is surrounded on all sides by high density residential and commercial development. The onsite wetland is a 0.03 acre depressional, seasonally saturated palustrine emergent wetland. The wetland is situated within a swale that extends from north to south in the north half of the property. Vegetation is dominated by non-native, FACW and FAC species. The delineation and site observations indicate the wetland supports a seasonally high water table, but evidence of standing water is lacking. Hydrology is provided by precipitation and runoff from the upslope development, and infiltrates onsite. There are no surface water connections between the wetland and waters of the U.S. or offsite drainage infrastructure, even during heavy precipitation events. In addition, the site is not located within a FEMA floodplain. Mapped soils consist of Hillsboro loam, 3 to 8 percent slopes. This soil type is non-hydric. The onsite wetland is not of sufficient size or quality to support wildlife resources of significance to interstate or foreign travel, fish or shellfish, industrial water supplies, or agricultural or silvicultural uses. The nearest water of the U.S. is Burnt Bridge Creek, which is situated 0.70 miles to the south. The intervening property does not support any natural surface waters and consists of commercial, residential and institutional development and related transportation infrastructure. Stormwater runoff from the intervening development is captured by constructed stormwater infrastructure on project sites, and is eventually routed to treatment and detention facilities before entering Burnt Bridge Creek. Because of the small wetland size, highly urbanized landscape, and distance to Burnt Bridge Creek, there is little to no potential for shallow subsurface connection to waters of the U.S.. The nearest known wetlands are located 0.39 miles east of the site and have also been deemed isolated (Corps Reference Number NWS-1993-1457).

⁴ 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.

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: _____ 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: Aerial photos submitted by the applicant with the December 14, 2014 wetland delineation entitled "Wetland Delineation and Preliminary Wetland Assessment for the ACE Senior Housing Project, Vancouver, Washington, prepared by Pacific Habitat Services.
- 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: Seattle District Corps list of Section 10 Navigable Waters.
- 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: NRCS Web Soil Survey (online).
- National wetlands inventory map(s). Cite name: _____.
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: FEMA FIRM Flood Rate Insurance Map for Clark County, WA, Map Number 53011C0388D, dated September 5, 2012.
- 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): Google Earth aerial photos.

B. ADDITIONAL COMMENTS TO SUPPORT JD: EPA, Office of Counsel and Headquarters concurred with the isolated determination.