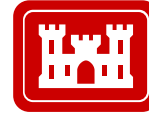




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Regulatory Program



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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): 25 October 2018

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWS-2007-1848

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: WA

County/parish/borough: Mason

City: Shelton

Center coordinates of site (lat/long in degree decimal format): Lat. 47.23061, Long. -123.13474.

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: 25 October 2018.

Office (Desk) and Field Determination. Office/Desk Dates: . Field Date(s): .

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.

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 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: .

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: 16 October 2018.

USFWS National Wetlands Inventory maps. Citation: 05 October 2018.

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: 12 May 2018.

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.

B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: "waters of the U.S." within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

(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): All interstate waters, including interstate wetlands.

• **Complete Table 2 - Required**

(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)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, 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) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great 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 floodplain 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.
- 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
N/A	N/A	N/A
N/A	N/A	N/A
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.
Goldsborough Creek Basin	Wetland C	Oakland Bay	See MFR in the administrative record for this project for Similarly Situated Waters and Significant Nexus Determination dated 25 October 2018 for rationale to support a finding of no significant nexus.
N/A	N/A	N/A	N/A

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-2007-1848; Hall Equities Group

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 C

a. Soils: Based on USDA Soils Survey Data, soils at and immediately around the project site are mapped as Grove gravelly sandy loam, 0 to 15 percent slopes (non-hydric), Mukilteo peat 0 to 2 percent slopes (hydric), and Shelton gravelly sandy loam 5 to 15. The site is in an area identified as “well-drained soils” (non-hydric) (USDA NRCS Web Soil Survey; accessed 16 October 2018).

b. Vegetation: Based on information from the National Wetlands Inventory, Wetland C is a 3.7 acres palustrine scrub-shrub, deciduous wetland and is located approximately 3900 aerial feet from the ordinary high water mark (OHWM) of Goldsborough Creek ((a)(5) tributary). Vegetation in Wetland C is dominated by cottonwood, scouler willow, douglas spirea, slough sedge, northern clustered sedge, pacific willow, and alder species. National Land Cover Database mapping at and immediately around the wetland is classified as developed open space, herbaceous shrubs, and deciduous forest.

c. Landform: Based on ESRI GIS mapping software, Wetland C sits slightly elevated above the 100-year floodplain in the smooth plains landform.

d. Proximity: Wetland C is situated approximately 3,900 aerial feet from the OHWM of Goldsborough Creek, a fish bearing (a)(5) tributary. Goldsborough Creek then flows for approximately 3.3 river miles to Oakland Bay an (a)(1) water.

CENWS-ODR

SUBJECT: NWS-2007-1848; Hall Equities Group

2. Similarly Situated Characteristics

a. The NWS-2007-1848 Single Point of Entry (SPOE) basin is delineated in the attached figure. The SPOE basin extends from the foothills of the Olympic Mountains in the northwest, to the Oakland Bay in the southeast.

b. Similarly situated waters would be palustrine scrub-shrub (PSS), seasonally-flooded wetlands found elevated above the 100-year flood plain in the smooth plains landform, between 1,500 and 4,000 aerial feet of the OHWM of an (a)(5) tributary that drains to the Oakland Bay, and are located in areas identified as having well-drained soils.

3. Similarly Situated Waters Identified

Using the NWI Maps, and ORM maps, seven similarly situated wetlands totaling approximately 37 acres were identified. These waters are identified in the attached figure.

1. Wetland 1 is a 1.62 acre PSS wetland that shares all the same landform, vegetation, and soil drainage characteristics as the subject wetlands, and as it is approximately 2,950 aerial feet away from North Fork Goldsborough Creek.

2. Wetland 2 is a 2.01 acre PSS wetland that shares all the same landform, vegetation, and soil drainage characteristics as the subject wetlands, and as it is approximately 2,995 aerial feet away from North Fork Goldsborough Creek.

3. Wetland 3 is a complex of three wetlands PSS wetlands totaling 5.08 acres that share all the same landform, vegetation, and soil drainage characteristics as the subject wetlands, and as it is approximately 5,600 aerial feet away from Winter Creek.

4. Wetland 4 is a 0.56 acre PSS wetland that shares all the same landform, vegetation, and soil drainage characteristics as the subject wetlands, and as it is approximately 2,720 aerial feet away from East Fork Winter Creek.

5. Wetland 5 is a 20 acre PSS wetland that shares all the same landform, vegetation, and soil drainage characteristics as the subject wetlands, and as it is approximately 1,880 aerial feet away from Winter Creek. NOTE: only the eastern half of the wetland occupies the same landform and soil drainage class as the subject wetland.

6. Wetland 6 is a 1.84 acre PSS wetland that shares all the same landform, vegetation, and soil drainage characteristics as the subject wetlands, and as it is approximately 3,840 aerial feet away from Winter Creek.

CENWS-ODR

SUBJECT: NWS-2007-1848; Hall Equities Group

7. Wetland 7 is a 5.82 acre PSS wetland that shares all the same landform, vegetation, and soil drainage characteristics as the subject wetlands, and as it is approximately 1,520 aerial feet away from South Fork Goldsborough Creek.

Other wetlands in the SPOE basin were excluded because they were not situated within the same land cover, landform class, and soil drainage class. Also, many of the mapped wetlands are bordering, contiguous, or neighboring and (a)(5) tributary, and are therefore, do not meet the distance range (between 1,500 and 4,000 aerial feet of the OHW) for consideration as an (a)(8) water necessary for a similarly situated analysis.

4. Significant Nexus Determination

The subject waters either alone or in combination with other similarly situated waters in the SPOE basin, do not significantly affect the chemical, physical, or biological integrity of the Oakland Bay, an (a)(1) water, based on the discussion below:

Based on topographic maps, National Hydrography dataset (ESRI & USGS), and National Flood Hazard data, the wetlands identified above are situated above 100-year floodplains and are relatively distant from the OHWM of their nearest tributaries. These wetlands are not identified as “seasonally flooded”. Therefore, it can be assumed that no flow is occurring between the wetlands and their associated tributaries. In addition, land use and infrastructure (roads) have separated many of the wetlands from the nearest tributary. While many of the subject wetlands are located within 500 feet of a road and could be contributing to runoff storage and pollutant trapping, the impact to water quality in Oakland Bay would be negligible at best.

As such, Wetland C and the similarly situated wetlands working in combination are not providing significant contributions to flow, sediment and toxin trapping, nutrient recycling, retention and attenuation of flood waters, export of organic matter, or export of food resources at a level that would significantly affect the downstream (a)(1) water.

The Goldsborough Creek/Winter Creek system contains Essential Fisheries Habitat for anadromous salmonids that utilize the waters of Oakland Bay. In addition, the system provides rearing and spawning habitat for ESA listed steelhead and chinook salmon that utilize the waters of Oakland Bay, the latter in the lower reaches of Goldsborough Creek only. The subject waters either alone or in combination with other similarly situated waters in the SPOE basin, do not contribute to fish habitat conditions through primary food support, water quality protection, and/or moderation of flow regimes.

CENWS-ODR
SUBJECT: NWS-2007-1848; Hall Equities Group

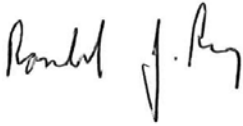
5. Conclusion: Because there is not a significant nexus, Wetland C is not a water of the U.S.



Jordan Bunch
Project Manager

25 October 2018

Date



Randel Perry
Senior Project Manager

25 October 2018

Date

Attachments:
Vicinity Map
Site Map
SPOE Map
National Wetland Inventory Map
Soil Drainage Map
Landform Map