

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

Form 1 of 2 - Wetlands A, B, C, D, and E

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 23 May 2018.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, Singh, Joe, NWS-2017-716.

Name of water being evaluated on this JD form: Wetlands A, B, C, D, and E

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: King City: Des Moines

Center coordinates of site (lat/long in degree decimal format): Lat: 47.35671 N, Long: -122.315452 W

Universal Transverse Mercator: _____

Name of nearest waterbody: Puget Sound.

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

Name of watershed or Hydrologic Unit Code (HUC): 14110019.

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: 11 April 2018.

Field Determination. Date(s): 15 March 2018.

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: **Pick List** and **Pick List**

Elevation of established OHWM (if known): _____

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: **Wetlands A, B, C, D, and E do not have a surface water or shallow subsurface connection or ecological**

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.

connectivity to other navigable or interstate waters of the U. S. or tributaries of waters of the U. S. These wetland are not used by interstate or foreign travelers for recreational purposes, have no habitat or resources of special significance which would attract interstate or foreign travelers, lacks bird and wildlife species of special significance which would attract interstate or foreign travelers, supports no fish or shellfish which could be taken or sold in interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce. See Section B for additional information.

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): _____.

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: 0.49 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: Wetland Delineation Report for Crestwood Park – 272 Street (Wetland Resources, Incorporated, dated 10 January 2018).
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.

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.

- 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: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.
- National wetlands inventory map(s). Cite name: <https://www.fws.gov/wetlands/data/Mapper.html>.
- State/Local wetland inventory map(s): <https://gismaps.kingcounty.gov/iMap/>
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
or Other (Name & Date): Photographs by Jim Carsner (Corps), taken 13 March 2018.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): _____.

B. ADDITIONAL COMMENTS TO SUPPORT JD: ___

Site Visits 13 February 2018 and 13 March 2018

Jim Carsner (Corps); Doug Gresham (WDOE); Joe Singh (Applicant); Jeff Mallahan (Consultant), and Brenda Fodge (Polygon)

Site Visits: The site was visited twice; the 13 March 2018 site visit included the Corps, applicant, and consultant. A second site visit was conducted on 23 March 2018 site visit and included all above listed personnel.

Site Description: The roughly 12.5-acre site is bounded on the north by South 272nd Street, on the east by commercial and residential property and 16th Avenue South, on the south by residential property, and the west by residential and public development. The property is mostly undeveloped forested land with undulating topography. The property is roughly rectangular in shape with general slopes to the northwest and northeast. An east-west access/maintenance road extends west from 16th Avenue South, near the mid-point of the property, to allow access to the City water system that is located approximately 650 feet west and upslope of the western property boundary. A driveway in found near the southeast corner of the property, providing access to a single-family residence that has been demolished. A north-south access/maintenance road is found near the west property boundary, providing access to an offsite storm pond near 16th Place South.

Vegetation is dominated by deciduous trees (big-leaf maple, red alder, and black cottonwood) with a few coniferous trees (western red cedar and Douglas fir). The shrub and herbaceous understory is dominated by salmonberry, oso-berry, beaked hazelnut, blackberry, sword fern, creeping buttercup, reed canary grass, and various other herbs and forbs.

The wetlands are found in two distinct areas of the property that are separated by an east-west access/maintenance road that bisects the property with Wetlands A through E found south of this road and Wetland F found north of the road. Wetlands A through E are found in shallow depressions with no visible outlets or surface connection between these five wetlands and Wetland F or other on or offsite waters. A storm pond overflow drainage ditch, found approximately 20 feet west of Wetland A, is higher in elevation and separated from the Wetland A by a constructed north-south maintenance road (see Photo 1). No drainage patterns were observed that would suggest surface flows across either the north-south or east-west access/maintenance roads were observed.

Delineation: A wetland delineation was conducted by Wetland Resources, Incorporated in November 2017. Six separate wetlands were identified by the consultant – Wetlands A through F. This review, Form 1 of 2, covers Wetlands A through E.

Soils: Mapped soils are:
Alderwood gravelly sandy loam, 0-8% slope (non-hydric)

Observed soil colors are:

Wetlands:

Wetland A: 10YR 3/2 sandy loam from 0”- 8” with 7% 7.5YR 4/4 redox features (prominent); 10YR 4/2 sandy loam from 8” – 15” with 7% 7.5YR 4/4 redox features (distinct), meeting F3 and F6 hydric soil criteria.

Wetlands B: 10YR 3/1 silt loam from 0” – 6”; 10YR 3/2 silt loam from 6” – 16” with 7% 2.5YR 4/4 redox features (prominent), meeting F6 hydric soil criteria.

Wetlands C: 10YR 2/2 silt loam from 0” – 4”; 10YR 4/2 silt loam from 4” – 15” with 10% 2.5YR 4/4 redox features (prominent), meeting F3 hydric soil criteria.

Wetlands D: 10YR 3/2 silt loam from 0" – 6" with 7% 7.5YR 4.4 redox features (distinct); 10YR 3/1 silt loam from 6" – 14" with 10% 7.5YR 4/4 redox features (prominent), meeting F6 hydric soil criteria.

Wetland E: 10YR 3/2 silt loam from 0" – 3"; 7.5YR 3/2 silt loam from 3" – 14" with 10% 7.5YR 4/4 redox features (prominent), meeting F6 hydric soil criteria.

Uplands:

Soils adjacent to the wetland boundaries were found to be a 10 YR 3/2 within the upper 3 to 8 inches and 10YR 3/3 below the upper layer with no redox features.

Hydrology: Wetland is supported by shallow groundwater seepage and precipitation.

Vegetation:

Wetland A Red alder, FAC

PFO/SS Salmonberry, FAC; Red-twig dogwood, FACW, Lady fern, FAC; Creeping buttercup, FAC

Wetland B Red alder, FAC; Western red cedar, FAC; Black cottonwood, FAC

PFO/SS Salmonberry, FAC; Red-twig dogwood, FACW, Reed canary grass, FACW; Creeping buttercup, FAC

Wetland C Red alder, FAC; Western red cedar, FAC; Black cottonwood, FAC

PFO/EM Salmonberry, FAC, Creeping buttercup, FAC

Wetland D Himalayan blackberry, FAC

PSS/EM Reed canary grass, FACW

Wetland E Red alder, FAC; Black hawthorn, FAC; Black cottonwood, FAC

PFO Salmonberry, FAC; Red-twig dogwood, FACW, Reed canary grass, FACW; Creeping buttercup, FAC

Uplands Red alder, FAC; Big-leaf maple, FACU; Douglas fir, FACU; Western red cedar, FAC; Black cottonwood, FAC

Salmonberry, FAC; Oso-berry, FACU, FACW, Beaked hazelnut, FACU; Salal, FACU; Himalayan blackberry, FAC

Red fescue, FAC; Creeping buttercup, FAC; English ivy, FACU; English plantain, FACU

Wetland acreage identified for this determination: 2.51 acres (Wetlands A through F)

Wetland acreage to be filled: 0.49 (Wetlands A through E)

Observations/Discussion:

Corps personnel walked around the six onsite wetland boundaries, Wetlands A through F, and followed the apparent flow paths offsite. All onsite wetlands have been disturbed through adjacent road construction, onsite development and land use. The flagged wetland boundaries appeared to accurately delineate the wetland edges.

Wetlands A through E, located south of the east-west access/maintenance road, are confined to relatively small depressions with no surface or sub-surface connection between these wetlands or other offsite drainages. These wetlands are separated from Wetland F by an existing road that bisects the property. There is no evidence of water from the wetlands overtopping and flowing across the maintenance road. Based on mapped soil units and site information from the wetland delineation, there is no indication that shallow subsurface flow is possible.

Jurisdictional Determination:

Wetlands A, B, C, D, and E do not have a surface water or shallow subsurface connection or ecological connectivity to other navigable or interstate waters of the U. S. or tributaries of waters of the U. S. The subject wetlands are not used by interstate or foreign travelers for recreational purposes, have no habitat or resources of special significance which would attract interstate or foreign travelers, lacks bird and wildlife species of special significance which would attract interstate or foreign travelers, supports no fish or shellfish which could be taken or sold in interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce. Wetlands A, B, C, D, and E are isolated and is not waters of the U. S. under Section 404 jurisdiction.

Heather Dean of the EPA concurred with the Corps findings via phone call on 18 May 2018 at approximately 12:30 pm.