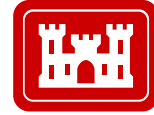




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Regulatory Program



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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): 13 Nov 2018

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWS-2018-128

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington

County/parish/borough: King

City: Des Moines

Center coordinates of site (lat/long in degree decimal format): Lat. 47.37802 North, Long. -122.310186 West.

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:

Office (Desk) and Field Determination. Office/Desk Dates: 6 June 2018 Field Date(s): 23 February 2018 and 11 May 2018.

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: Critical Areas Study for 1808 and 1818 South 250th Street (Altman Oliver Associates, LLC, 2016) and Wetland Addendum/Report (Lanktree Land Surveying, Incorporated, 2018).

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: Critical Areas Study for 1808 and 1818 South 250th Street (Altman Oliver Associates, LLC, 2016) and Wetland Addendum/Report (Lanktree Land Surveying, Incorporated, 2018).

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: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.

USFWS National Wetlands Inventory maps. Citation: <https://www.fws.gov/wetlands/data/Mapper.html>.

State/Local wetland inventory maps. Citation: <https://www.desmoineswa.gov/DocumentCenter/View/41/Wetlands-and-Surface-Water?bidId=>.

FEMA/FIRM maps. Citation:

- Photographs: Aerial. Citation: . or Other. Citation: Photographs by USACE Jim Carsner, 23 February 2018 and 11 May 2018.
- 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.

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.

Site Visits 23 February 2018 and 23 April 2018

Jim Carsner (Corps); Tom Waller and Trevor Lanktree (Consultant)

Site Visits: The site was visited twice; the 23 February 2018 site visit included the Corps; the consultant declined to participate and verbally verified Corps right-of-access. During the February site visit, an unreported wetland area (Wetland B) was observed on the northeast corner of the property and the Corps requested an assessment of this area, which was completed on 2 March 2018. A second site visit was conducted on 23 April 2018 and included all above listed personnel.

Site Description: The approximately 0.61 acre site is bounded on the south by South 250th Street on the south, an access driveway and residential structures on the west, a grass lawn area with a pond on the north, and residential structures on the east. Historic Aerials website show the subject property had been graded and developed prior to 1980, which elevated the property approximately 10 feet higher than the property to the north. An offsite pond, approximately 20 feet north of the property, was created around the same time and drains westerly, through an approximately 260-foot long culvert, under an access driveway and into the North Fork McSorley Creek then into Puget Sound, a TNW. The property has been developed and in use as a residential parcel until late-2017 when all structures were removed and the site cleared except for some red alder and black cottonwood trees and shrubs along the north and east property boundary. The property is roughly square in shape with general slope to the northwest. An existing onsite gravel driveway parallels South 250th Street and the east property boundary.

Vegetation along the east and north property boundaries is dominated by deciduous trees, predominately red alder and black cottonwood, and shrub species, predominately Himalayan blackberry, oso-berry, and beaked hazelnut. The remainder of the property is dominated by herbaceous species, predominately sword fern, creeping buttercup, and various other herbs and forbs, with the cleared area having been covered with straw.

The wetlands are found in two distinct areas of the property with Wetland A found southeast corner of the property and Wetland B near the northeast corner of the property. Both are found in shallow depressions with no visible outlets or surface connection between these wetlands or offsite waters. No drainage patterns were observed that would suggest surface flows between the wetlands or offsite waters and not observed seep areas along the toe-of-slope.

Delineation: A wetland delineation was conducted by Altmann Oliver Associates, LLC in October 2016 and an addendum, assessing Wetland B, was completed by Lanktree Land Surveying, Incorporated on 7 May 2018. This review covers Wetlands A and B.

Soils: Mapped soils are:
Alderwood gravelly sandy loam, 6-15% slope (non-hydric)

Observed soil colors are:

Wetlands:

Wetland A; 10YR 4/1+ sandy loam from 0"- 6"; 10YR 5/1+ sandy loam from 6-14" with 7% 10YR 5/6 redox features (distinct), meeting A11 and F3 hydric soil criteria, with a restrictive layer at approximately 2 inches below the surface.

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

Uplands:

Soils adjacent to the wetland boundaries were found to be a 10 YR 4/2 within the upper 3 to 8 inches and 10YR 3/3 below the upper layer with no redox features.

Hydrology: Wetlands are supported by shallow groundwater seepage and precipitation.

Vegetation:

Wetland A (PSS): Himalayan blackberry (FAC) and Creeping buttercup (FAC).

Wetland B (PSS): Himalayan blackberry, Creeping buttercup, Lamp (soft) rush (FACW), and Spreading (creeping) bentgrass (FAC).

Uplands: Red alder (FA), Black cottonwood (FAC), Oso-berry (FACU), Beaked hazelnut (FACU), Himalayan blackberry,

Creeping buttercup, English ivy (FACU), and Sword fern (FACU).

Wetland acreage identified for this determination: 0.02 acre (Wetlands A and B)

Wetland acreage to be filled: 0.02 (Wetlands A and B)

Observations/Discussion:

Corps personnel walked around the wetland boundaries. The flagged wetland boundaries appeared to accurately delineate the wetland edges. The subject wetlands are situated within depressions and do not have a surface connection to other waters. The subject wetlands are not within a 100-year floodplain and are approximately 450 feet from an unnamed tributary (ditch to North Fork McSorely Creek).

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	

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.
N/A	N/A	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.
Wetland A	See MFR in the administrative record for this project for Similarly Situated Waters and Significant Nexus Determination dated 7 November 2018 for rationale to support a finding of no significant nexus.
Wetland B	See MFR in the administrative record for this project for Similarly Situated Waters and Significant Nexus Determination dated 7 November 2018 for rationale to support a finding of no significant nexus.