Regulatory Program

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): 1/16/2019

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWS-2018-717

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State:Washington County/parish/borough: Thurston County City: Olympia
Center coordinates of site (lat/long in degree decimal format): Lat. 47.087191, Long. -122.775205.
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: 12/31/2018 Field Date(s): 9/18/2018.

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: NP Hawks Prairie, LLC drawings.
☒ 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: Wetland Delineation and Fish and Wildlife Habitat Assessment Report, July 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: ORM JD Viewer, 1/2/2019.
☐ USGS Hydrologic Atlas. Title/Date: .
☒ USGS, NHD, or WBD data/maps. Title/Date: The National Map Advanced Viewer, 12/31/2018.
☒ USGS 8, 10 and/or 12 digit HUC maps. HUC number: 171100190501 & 171100190502.
☐ USGS maps. Scale & quad name and date: .
☒ USDA NRCS Soil Survey. Citation: .
☒ USFWS National Wetlands Inventory maps. Citation: NWI map, 12/31/2018.
☒ State/Local wetland inventory maps. Citation: Thurston County Permitting Map, 12/31/2018.
☐ FEMA/FIRM maps. Citation: .
☐ Photographs: ☐ Aerial. Citation: . or ☐ Other. Citation: .
☒ LiDAR data/maps. Citation: Thurston County Permitting Map, 12/31/2018.
☐ 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.

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.
NWS-2018-717 SPOE	Wetland G	Puget Sound	See MFR in the administrative record for this project for Similarly Situated Waters and Significant Nexus Determination dated 16 January 2019 for rationale to support a finding of no significant nexus.
NWS-2018-717 SPOE	Wetland F	Puget Sound	See MFR in the administrative record for this project for Similarly Situated Waters and Significant Nexus Determination dated 16 January 2019 for rationale to support a finding of no significant nexus.

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.
Wetlands A-E, H-R	Depressional wetlands greater than 4,000 feet from the OHWM of an (a)(5) water

CENWS-ODR
Reference: NWS-2018-717; NP Hawks Prairie, LLC (Distribution Center)

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
    a. Soils: Soils at the project site are mapped as 92.6% Alderwood gravelly sandy loam, 8 to 15 percent slopes (non-hydric), and 7.4% Everett very gravelly sandy loam, 8 to 15 percent slopes (non-hydric).
    b. Vegetation:
        - Wetland G is a 5,458 square foot (sf) category IV palustrine forested / shrub scrub wetland located approximately 3,500 aerial feet from the ordinary high water mark (OHWM) of the unnamed stream, a tributary to Woodland Creek, to the southwest of the project site. Vegetation in Wetland G is dominated by a canopy of black cottonwood and Scouler's willow with an understory of *Spiraea douglasii*.
        - Wetland F is a 12,091 sf category IV palustrine forested / emergent shrub scrub wetland located approximately 3,700 aerial feet from the ordinary high water mark (OHWM) of the unnamed stream to the southwest of the project site. Vegetation in Wetland F is dominated by Pacific willow, Scouler's willow, and *Spiraea douglasii*.
        - National Land Cover Database mapping in the vicinity of Wetland G and Wetland F is classified as Shrub/Scrub, Mixed Forest, Grassland/Herbaceous, and Developed Open Space.
    c. Landform: The two subject wetlands are located at the southwest edge of the project

area and exist in topographic depressions in the landscape. The land surface form in the vicinity of the subject wetlands is mapped as Smooth Plains, with Flat Plains mapped within the project site 420 feet to the north and 2,400 feet to the east.
d. Proximity: The two subject wetlands are situated approximately 3,500 aerial feet (Wetland G), and 3,700 aerial feet (Wetland F), and approximately 80 vertical feet (both wetlands) from the OHWM of the unnamed stream.

2. Similarly Situated Characteristics
   a. The NWS-2018-717 Single Point of Entry (SPOE) basin is delineated in the attached figure. The SPOE basin extends east to Meridian Road NE to the east, north to 47th Avenue NE, west to Lilly Road NE, and south to Yelm Highway SE.
   b. Similarly situated waters would be a palustrine wetland in mixed forest, on smooth plains, with moderately well drained soil, between 3,000 to 4,000 aerial feet from the OHWM of the unnamed stream.

3. Similarly Situated Waters Identified
   a. Using the Wetland Delineation Report for the NP Hawk's Prairie, LLC Distribution Center, NWI maps, Thurston County parcel map, and ORM maps, no similarly situated wetlands were identified.
   b. All other wetlands in the SPOE were excluded because they did not meet all of the required parameters for being similarly situated (HGM class, land surface form, land cover, and soil drainage class). Seven palustrine wetlands were identified that occur in mixed forest. Two of those seven also occur on smooth plains. Neither of the two wetlands that occur in mixed forest and on smooth plains also were located in moderately well drained soils.

4. Significant Nexus Determination

The subject wetlands alone do not significantly affect the chemical, physical, or biological integrity of Henderson Inlet, Puget Sound based on the discussion below:

Wetlands G and F (Wetlands) are located near the northeast edge of the catchment identified by the ORM SPOE tool. A topographic break runs through the middle of the subject site from east to west, which separates the northern half of the site into a separate catchment from the southern half. The Wetlands are situated at the southwestern corner of the project area where the natural topographic relief is very slight, resulting in a hydrology in which water likely infiltrates rather than running off. The area, roughly 1,000 feet between the Wetlands and the upland limit of the catchment to the northeast, is undeveloped and forested. As such, it is unlikely that the Wetlands provide much pollution or sediment trapping function in their current setting. The Wetlands likely perform some flood retention and runoff storage functions in their current setting, but these functions are not anticipated to have a significant effect on the chemical, biological, or physical integrity of Henderson Inlet due to the distance between the Wetlands and the unnamed

stream, Woodland Creek, and Henderson Inlet, and limited nature of those specific functions to significantly affect the chemical, physical, or biological integrity of Henderson Inlet.

Precipitation that infiltrates in the Wetlands may reach the unnamed stream as ground water. The unnamed stream is one of eleven tributaries to Woodland Creek, a perennial stream originating in the Pattison, Hicks, Long Lake complex with its mouth at the southern end of Henderson Inlet. Woodland Creek supports runs of coho, steelhead, Chinook, and chum salmon.

Henderson Inlet is an approximately 160 acre estuary and mudflat, which appears to have its upland-originating sediment budget and fresh water input driven primarily by Woodland Creek. As water makes its way through the Woodland Creek system, it passes through a long, contiguous reach of intact riparian buffer until it reaches a large, 60+ acre palustrine emergent (PEM1R/A), shrub scrub (PSSC), and forested (PFOC/A) wetland complex. Woodland Creek flows through this wetland complex for approximately 0.80 miles after which it immediately enters Henderson Inlet.

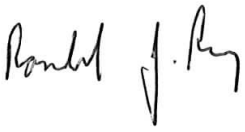
Considering the limited number and extent of functions provided by the Wetlands in the context of the Woodland Creek watershed, and in relation to the chemical, physical, and biological integrity of Henderson Inlet, the Corps has determined that the Wetlands do not meet the significant nexus test.

5. Conclusion: Because there is not a significant nexus, Wetland F and Wetland G are not waters of the U.S.

16 January 2019

Brandon Clinton
Project Manager

Date



16 January 2019

Randel Perry
Senior Project Manager

Date

Attachments:
Vicinity map
Site map (delineation)
SPOE Map
Landform Map
National Wetland Inventory Map
Soil Survey
USGS Topographic Map