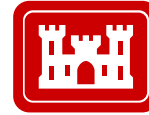




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Regulatory Program



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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): 12/2/2019

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NWS-2019-289

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State:WA County/parish/borough: King County (Vashon Island)

City: NA

Center coordinates of site (lat/long in degree decimal format): Lat. 47.444749, Long. -122.464866.

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 Parcels # 3123039169, 3123039068, 3123039132 Critical Area Report-King County, Washington SWC Job # 17-229.

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: 11/19-20/2019 Field Date(s): 7/2/2019.

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: Topographic Survey 7/24/2018, King County iMap 7/2/2019, Hydrologic Data Point Locations (data collected between 2/28 and April 2018), Existing Conditions Map 10/16/2018.

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: Combined Forms 10/16/2018. The applicant rated the wetland per per King County regulations. Therefore, providing the old version of the Wetland Rating Form for Western Washington (Version-2 8/2004). The most current version is dated 10/2014.

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: Accessed online 11/19/19.

USFWS National Wetlands Inventory maps. Citation: Accessed online 11/19/19.

State/Local wetland inventory maps. Citation: Accessed online 11/19/19 (King County iMapping tools).

FEMA/FIRM maps. Citation: Accessed online 11/19/19.

Photographs: Aerial. Citation: Wetland Delineation Report 10/16/2018. or Other. Citation: Taken by the Corps during site visit 7/2/2019.

- 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): USDA Soils unit map, hydric soils map, land cover map-generated using CWR tool.

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.**

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.

D. ADDITIONAL COMMENTS TO SUPPORT AJD: The agent for the project, Seawall Consulting, Inc., is acting for Whole Water Systems LCC, owner of the subject property. The subject property is 9.45-acres located along Southwest 178th Street and 103rd Avenue Southwest, on Vashon Island, Washington and consists of three parcels located in the Northeast ¼ of Section 31, Township 23 North, and Range 03 East, W.M. (King County Tax Parcel Numbers 3123039169, 3123039068, 3123039132). The agent provided the following paraphrased description of the project in the wetland delineation report dated October 16, 2018.

SITE DESCRIPTION:

The site has been used for agriculture purposes dating back to 1936. The north end of the site is a mowed pasture, which appears to have had numerous past disturbances, including ditching, vegetation clearing, and placement of fill material on the western side of the site. The southern portion of the site is dominated by dense early successional forest (20-40 years old) of red alder with an under story of salmonberry, red osier dogwood, and Sitka willow. Stormwater is discharged onto the site from SW 178th Street, as well as developed properties to the east. Wetlands A and B are drained by ditches which have a bed, bank, and defined ordinary high water mark. Wetland C has no obvious outlet or drainage pattern. A Significant Nexus determination was performed on Wetland C.

Delineation: The wetland delineations were conducted by Seawall Wetland Consulting, Inc. in March 2018.

Wetland A: PEM1C: The wetland is a large emergent wetland located at the north end of the site. The wetland has both slope and depression characteristics. The wetland drains to the north via a ditch that flows to a culvert under SW 178th Street which connects to King County's stormwater system. The water continues to flow north on the east side of 103rd Avenue SW before crossing SW Bank Road and discharging into Shingle Mill Creek. Vegetation within the wetland is dominated by bentgrass, reed canary grass, soft rush, and mowed hardhack. Soil pits excavated with the wetland revealed a gravelly loam with a color of 10YR 2/2-3/2 with few, fine, distinct redoxmorphic concentrations. Wetland surface hydrology was field verified for at least two continuous weeks in the growing season. No surface hydrology was present in the wetland (or ditch) during the July 2, 2019 site visit.

Wetlands B and C: PFO6E: The wetlands are early succession forested wetlands dominated by red alder located at the south west and south east corners of the site. The wetlands are separated by a slight topographic rise. Soil pits within the wetlands revealed gravelly loam with soil colors of 10YR 3/2-2/2 with few, fine faint redoxmorphic concentrations. Soils within the wetlands were found to be saturated within the upper 12 inches of the soil surface. A ditch runs along the west and north side of Wetland B with several unmaintained ditches throughout the forested wetland area of the site. These ditches flow to the west, where they discharge to a storm drainage culvert at the southwest corner of the pasture. The flow pattern of the stormwater system is outlined in Sheet 3 of 5.

The Corps identified two jurisdictional (a)(6) water of the U.S. and two jurisdictional (a)(5) waters of the U.S and one non-jurisdictional wetland. Analysis of each specific site in on the subject property is detailed in Tables 5, 6 and 9 below.

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.
Water 1	Intermittent	Puget Sound	Yes	Water 1 is a ditch that drains Wetland A. Water flows north and goes offsite into King County's stormwater conveyance system under SW 178 th Street. The stormwater system follows the roadside ditch of 103 rd Avenue SW and continues eastward at SW Bank Road. The water discharges through a culvert under SW Bank Road to the head waters of Shinglemill Creek, which drains to the Puget Sound.
Water 2	Intermittent	Puget Sound	Yes	Water 2 is a ditch that drains Wetland B. Water flows west and goes offsite into King County's stormwater conveyance system under 103 rd Avenue SW. The stormwater system follows the roadside ditch of 103 rd Avenue SW and collects in a stormwater detention pond. The detention pond discharges water back to the roadside ditch along 103 rd Avenue SW and continues eastward at SW Bank Road. The water discharges through a culvert under SW Bank Road to the head waters of Shinglemill Creek, which drains to the Puget Sound.

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.
Wetland A	Water 1	Wetland A is a headwater wetland to Shinglemill Creek. Water 1 drains Wetland A into a stormwater system, which drains into Shinglemill Creek. The wetland boundaries were established using the 87 Manual/Regional Supplement.
Wetland B	Water 2	Wetland B is a headwater wetland to Shinglemill Creek. Water 2 drains Wetland B into a catch basin, which accumulates at a stormwater detention pond, prior to discharging into Shingle Mill Creek.

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.
Ellisport Watershed	Wetland C	Puget Sound	See MFR in the administrative record for this project for Similarly Situated Waters and Significant Nexus Determination dated December 2, 2019 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