



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 11/3/2020

ORM Number: NWS-2020-908

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Washington City: Marysville County/Parish/Borough: Snohomish

Center Coordinates of Review Area: Latitude 48.030064 Longitude -122.118189

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

| § 10 Name | § 10 Size | § 10 Criteria | Rationale for § 10 Determination |
|-----------|-----------|---------------|----------------------------------|
| N/A.      | N/A.      | N/A.          | N/A.                             |

**C. Clean Water Act Section 404**

| Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup> |             |                 |                                    |
|---|-------------|-----------------|------------------------------------|
| (a)(1) Name   | (a)(1) Size | (a)(1) Criteria | Rationale for (a)(1) Determination |
| N/A.  | N/A.        | N/A.            | N/A.                               |

| Tributaries ((a)(2) waters): |             |                 |                                    |
|------------------------------|-------------|-----------------|------------------------------------|
| (a)(2) Name                  | (a)(2) Size | (a)(2) Criteria | Rationale for (a)(2) Determination |
| N/A.                         | N/A.        | N/A.            | N/A.                               |

| Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters): |             |                 |                                    |
|---|-------------|-----------------|------------------------------------|
| (a)(3) Name   | (a)(3) Size | (a)(3) Criteria | Rationale for (a)(3) Determination |
| N/A.  | N/A.        | N/A.            | N/A.                               |

| Adjacent wetlands ((a)(4) waters): |             |                 |                                    |
|------------------------------------|-------------|-----------------|------------------------------------|
| (a)(4) Name                        | (a)(4) Size | (a)(4) Criteria | Rationale for (a)(4) Determination |
| N/A.                               | N/A.        | N/A.            | N/A.                               |

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**D. Excluded Waters or Features**

| Excluded waters ((b)(1) – (b)(12)): <sup>4</sup> |                |         |                              |  |
|--|----------------|---------|------------------------------|--|
| Exclusion Name                                   | Exclusion Size |         | Exclusion <sup>5</sup>       | Rationale for Exclusion Determination  |
| Wetland A  | 0.16           | acre(s) | (b)(1) Non-adjacent wetland. | Wetland A has no known surface water outlet and does not contribute surface water flow to a water of the U.S. Wetland B does not abut a jurisdictional water of the U.S, and is not inundated by flooding from a water of the U.S. in a typical year. Wetland B is not an adjacent wetland. See Section III.C. for additional justification. |
| Wetland B  | 0.11           | acre(s) | (b)(1) Non-adjacent wetland. | Wetland B has no known surface water outlet and does not contribute surface water flow to a water of the U.S. Wetland B does not abut a jurisdictional water of the U.S, and is not inundated by flooding from a water of the U.S. in a typical year. Wetland B is not an adjacent wetland. See Section III.C. for additional justification. |

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: [Delineation Report for Reid Development Group dated 20 December 2019](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Select. Title\(s\) and/or date\(s\)](#).
- Corps site visit(s) conducted on: [Date\(s\)](#).
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [NRCS Web Soil Survey accessed October 2020](#)
- USFWS NWI maps: [National Wetlands Inventory accessed October 2020](#)
- USGS topographic maps: [Title\(s\) and/or date\(s\)](#).

**Other data sources used to aid in this determination:**

| Data Source (select)         | Name and/or date and other relevant information                         |
|------------------------------|---|
| <a href="#">USGS Sources</a> | <a href="#">USGS National Hydrography Dataset accessed October 2020</a> |
| <a href="#">USDA Sources</a> | <a href="#">N/A.</a>  |

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

| Data Source (select)                       | Name and/or date and other relevant information  |
|--|--|
| <a href="#">NOAA Sources</a>               | N/A.   |
| <a href="#">USACE Sources</a>              | N/A.   |
| <a href="#">State/Local/Tribal Sources</a> | <a href="#">WA-DNR Forest Practices Application Mapping Tool</a> accessed October 2020 |
| <a href="#">Other Sources</a>              | N/A.   |

**B. Typical year assessment(s):** Based on the Antecent Precipitation tool, in a typical year, Wetland A and Wetland B are not inundated or flooded by an (a)(1), (a)(2), or (a)(3) water.

**C. Additional comments to support AJD:** Wetland A is a 6,857 square foot Category IV depressional wetland. The subject wetland receives hydrology from precipitation and groundwater. Wetland A has no observable outlet, and no direct flow from culverts or pipes was identified along slopes surrounding the wetland. No signs of flowing water such as scour, sediment deposits, defined channels, or ditches were observed during site assessments conducted in September 2019. Saturation within the subject wetland is visible on aerial imagery during a typical year. The nearest potential water of the U.S. is King Creek, a Type E stream located 0.35 mile west of the subject wetland. King Creek eventually flows into Ebey Slough northeast of Everett, Washington. The potential for a subsurface connection between Wetland A and King Creek is unlikely based on the presence of surficial development structures such as roads and residential housing between Wetland A and King Creek. Based on this information, Wetland A is a non-adjacent wetland.

Wetland B is a 4,896 square foot Category IV depressional wetland. The subject wetland received hydrology from precipitation and groundwater. Wetland B has no observable outlet, and no direct flow from culverts or pipes was identified along slopes surrounding the wetland. No signs of flowing water such as scour, sediment deposits, defined channels, or ditches were observed during site assessments conducted in September 2019. Saturation within the subject wetland is visible on aerial imagery during a typical year. The nearest potential water of the U.S. is King Creek, a Type E stream located 0.35 mile west of the subject wetland. King Creek eventually flows into Ebey Slough northeast of Everett, Washington. The potential for a subsurface connection between Wetland B and King Creek is unlikely based on the presence of surficial development structures such as roads and residential housing between Wetland B and King Creek. Based on this information, Wetland B is a non-adjacent wetland.

Sheet 3 and 7 of the figures submitted to the Corps depict a wetland feature that extends off-site to the south. Based on a review of aerial imagery, it appears that the feature may have existed historically as a wetland mosaic, but has since been filled as a result of residential development and construction of associated infrastructure including roadways and sidewalks. No evidence of a stream channel or linear feature was observed on-site or immediately south of the project site.