

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 3/19/2020.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2019-103, Costco Wholesale (Costco Campus Expansion).

Name of water being evaluated on this JD form: Wetland X

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: King City: Issaquah

Center coordinates of site (lat/long in degree decimal format): Lat: 47.546255 N, Long: -122.047354 W

Universal Transverse Mercator: _____

Name of nearest waterbody: Issaquah Creek.

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

Name of watershed or Hydrologic Unit Code (HUC): Lake Washington, 17110012.

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: 2/24/2020.

Field Determination. Date(s): _____.

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: **Wetland X does not have a surface water connection to other navigable or interstate waters of the U. S. or tributaries of waters of the U. S. The subject wetland is not used by interstate or foreign travelers for recreational**

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.

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 IV.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: 0.01 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: 1/18/2019.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.

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.

- 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: Screenshot of Web Soil Survey, accessed 2/24/2020.
- National wetlands inventory map(s). Cite name: NWI Map Vicinity of Wetland X, 2/24/2020.
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: 60.4-feet (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth Aerial Image showing distance of Wetland X to Issaquah Creek, Undated
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: NWS-2019-103, 9/26/2019.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Undated Land Survey depicting Wetland X in relation to the FEMA 100-year floodplain elevation, undated. Page 4 of Permit Drawings for NWS-2015-493, dated 11/16/2015. King County iMap topographic map, screenshot, accessed 2/24/2020.

B. ADDITIONAL COMMENTS TO SUPPORT JD: On 26 October 2019, Corps staff visited visited Wetland X while performing a site visit at the same location. Staff present included Jason Sweeney and Andrew Shuckhart. Ed Sewall, the agent representing Costco was also present. At the site visit Corps staff questioned if Wetland X extended further to the north. Ed Sewall returned to the site on 30 October 2017, and evaluated the area north of Wetland X to determine if it met the criteria of a wetland. The investigation concluded that the area to the north did not meet the criteria of a wetland, and Wetland X remains 561 square feet. On 10 November 2019, Ed Sewall provided a detailed land survey showing that Wetland X is located outside of the FEMA 100-year floodplain. In addition, the submittal included an updated wetland delineation showing areas previously believed to meet the criteria of a wetland within Wetland X are in fact uplands, and the actual size of Wetland X is 394 square feet.

There is no discrete, discernable surface drainage connecting Wetland X to Issaquah Creek, the nearest water of the U.S. Wetland X is approximately 280 feet horizontally and approximately 5 feet vertically higher from Issaquah Creek. The source of hydrology within Wetland X is difficult to determine, however, it is believed to be stormwater from the parking lot to the west. Wetland X is outside of the FEMA 100-year floodplain of Issaquah Creek. Soil types mapped between Wetland X and Issaquah Creek include Sultan silt loam (moderately well draining) and Sammamish silt loam (moderately poorly draining). Soil samples taken immediately north of Wetland X did not meet the criteria for hydric soil. A wetland report completed as part of NWS-2015-493 states that no signs of flow, drainage, or wetland conditions were discovered east of the Pickering walking trail which is approximately 90 feet east of Wetland X.

Wetland X is located immediately east of a large parking lot, and surrounded by significant man made alterations including the parking lot, streets, and walking paths. Wetland X is located on a gradual slope. The upper portion of the slope begins at the parking lot to the west, and continues down gradually over approximately 300 feet, dropping approximately 4 to 5 feet vertically before reaching Issaquah Creek to the east. The slope remains almost completely flat until immediately adjacent to Issaquah Creek. The land to the west of Wetland X consists of impervious surfaces associated with a large corporate and commercial complex. The land to the immediate east has been cleared, graded, and new walking paths to connect an existing walking trail were constructed. To the east of the walking paths, the land is heavily vegetated with large trees, shrubs, and groundcover before reaching Issaquah Creek. A walking path, street, and highway are located to the south of Wetland X. The north of wetland X is relatively well vegetated.

There are no other wetlands or other waterbodies between Wetland X and Issaquah Creek. Previously wetlands existed between Wetland X and Issaquah Creek that were filled as part of NWS-2015-493; Issaquah, City of. The wetlands were filled to create the walking paths to the east of Wetland X. The wetland delineation report associated with NWS-2015-495 states that the source hydrology of the wetlands filled to create the walking path was precipitation. There is no mention of a connection in between Wetland X and the previously filled wetlands. However, as stated above, the wetland report for NWS-2015-493 states that there were no signs of wetland criteria in between the previously filled wetlands and Issaquah Creek. No jurisdictional determinations were requested for the previously filled wetlands and due to the wetlands being filled, and the area between Wetland X and the filled wetlands being graded it would be extremely difficult to determine if any connection ever existed. The best information available is the wetland report associated with NWS-2015-495.

Based on the distance of Wetland X to Issaquah Creek, and non-hydric soils in the intervening area, there is no shallow subsurface connection.

Because Wetland X does 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., this wetland is isolated and is not a water of the U. S. under Section 404 jurisdiction.

No response was received from USACE HQ, and the comment period has expired.

On 18 March 2020, the EPA concurred with the isolated determination .

