

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 06/18/2020.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, Confluence Environmental Company (Fredrickson 7), NWS-2019-905.

Name of water being evaluated on this JD form: Wetlands P, Q, R, S, T, and U

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Pierce City: Spanaway

Center coordinates of site (lat/long in degree decimal format): Lat: 47.074533 N, Long: -122.382005 W

Universal Transverse Mercator: _____

Name of nearest waterbody: Spanaway Lake.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: N/A.

Name of watershed or Hydrologic Unit Code (HUC): 17110019.

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: NWS-2014-137

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: 06/10/2020.

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: **Wetlands P, Q, R, S, T and U are isolated wetlands with no surface or sub-surface connection to another water of the U.S. See Section IV.B for additional information.**

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.

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: 0.36 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: Critical Areas Study, Dated 12/4/2019.
 - 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.
 - Data sheets prepared by the Corps: _____.
 - Corps navigable waters’ study: _____.
 - U.S. Geological Survey Hydrologic Atlas: _____.
 - USGS NHD data.

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.

- 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: _____.
- National wetlands inventory map(s). Cite name: _____.
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: NWS-2014-137 JD Letter Dated 11/25/2014.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Soils Report and Project Drawings, Dated 05/29/2020, Storm Drainage Map Dated 6/10/2020.

B. ADDITIONAL COMMENTS TO SUPPORT JD: In an Approved Jurisdictional Determination (AJD) dated November 25, 2014, the Corps determined that Wetlands A – N were isolated wetlands with no surface connection to flowing waters of the U.S. Those wetlands determined isolated under the 2014 AJD are immediately south of the subject Wetlands P, Q, R, S, T, and U. Based on the NHD, US Topo Maps and aerial imagery these Category III wetlands do not appear to have surface or likely shallow subsurface connection to other waters of the U.S. including traditional navigable waters (TNW). Potential sub-surface connections to other waters of the U.S. are highly unlikely because the wetlands are over one mile from Spanaway Lake Creeks, over 2 miles from Clover Creek and over 4 miles from Muck Creek, the nearest streams with seasonal or perennial flow, and because the wetlands appear to retain most of its inflow as indicated by standing water or evidence of standing water. A review of stormwater system mapping for the area indicates there are existing road side drainage conveyances within a mile of the project site, however, no existing or proposed drainage systems run through or adjacent to the subject wetlands. Water from the wetlands would not flow into the existing stormwater system. The NRCS Soil Report maps the review area as primarily nonhydryc Kapowsin and Everett soils with minor hydryc components of McKenna, Norma, and Dupont; the majority of the review and surrounding areas are mapped as well draining soils. In addition, the wetlands on-going use (or potential use), degradation, or destruction would not affect interstate or foreign commerce including recreation, fish harvest, or industrial activities.