



**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): 10/8/2020
 ORM Number: NWS-2020-38
 Associated JDs: N/A
 Review Area Location¹: State/Territory: WA City: Monroe County/Parish/Borough: Snohomish
 Center Coordinates of Review Area: Latitude 47.898402 Longitude -121.92481

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)²

| § 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): ³ | | | |
|---|-------------|-----------------|------------------------------------|
| (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. |

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

² 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.

³ 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.



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D. Excluded Waters or Features

| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | | |
|--|----------------|---------|---|---|
| Exclusion Name | Exclusion Size | | Exclusion ⁵ | Rationale for Exclusion Determination |
| Wetland D | 0.26 | acre(s) | (b)(1) Non-adjacent wetland. | The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details. |
| Wetland E | 0.12 | acre(s) | (b)(1) Non-adjacent wetland. | The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details. |
| Wetland F | 0.05 | acre(s) | (b)(1) Non-adjacent wetland. | The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details. |
| Stream B | | | (b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an | Stream B is an intermittent stream that flows north to a pond located offsite. Based on available information, the offsite pond has no outlets and does not contribute surface flow directly or indirectly to an (a)(1) water in a typical year. Therefore, Stream B itself does not |

⁴ 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.

⁵ 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.



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| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | |
|--|----------------|--|---|
| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
| | | (a)(1) water in a typical year. | contribute surface flow directly or indirectly to an (a)(1) water in a typical year. |
| Ditch 1 | | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). | The roadside ditch running along the northern property boundary does not meet the criteria for an (a)(2) water as it has ephemeral flow, does not exhibit characteristics of an Ordinary High Water Mark (OHWM), and does not contribute flow either directly or indirectly to an (a)(1) water in a typical year. |

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 Carey Homes – 227th Avenue SE; 20 December 2019](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial: 20 December 2019](#)
- Corps site visit(s) conducted on: [6 August 2020](#)
- 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: [20 December 2019](#)
- USFWS NWI maps: [27 November 2019](#)
- USGS topographic maps: [30 June 2020](#)

Other data sources used to aid in this determination:

| Data Source (select) | Name and/or date and other relevant information |
|--|--|
| USGS Sources | 20200630-Topographic Map |
| USDA Sources | N/A. |
| NOAA Sources | N/A. |
| USACE Sources | N/A. |
| State/Local/Tribal Sources | Snohomish County PDS Critical Areas Map; December 20, 2019 Snohomish County PDS Drainage Inventory Map; December 20, 2019 WDFW Priority Habitat and Species Map; December 20, 2019 |
| Other Sources | N/A. |

B. Typical year assessment(s): Typical year assessment is not applicable due to the exclusion criteria of the wetlands.



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C. Additional comments to support AJD: Although Wetland D is adjacent to (abutting) an intermittent stream (Stream B), as outlined above, Stream B itself is not itself jurisdictional feature because it does not contribute flow to an (a)(1) through (a)(3) water. Stream B flows offsite to a pond on an adjacent property. As shown in Appendix A (Aerial Photographs, USGS topographic maps, and Snohomish County PDS Drainage Inventory Map), the pond has no other other outlets and is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year. Wetland E is adjacent to (abuts) a roadside ditch not originally identified by the applicant, referred to here as Ditch 1. The ditch itself appears to flow only effemerally in response to storms, was excavated from uplands, has no clear indicators of an OHWM, and does not contribute flow downstream. It therefore does not qualify as an (a)(2) tributary. Additionally, while Weltand E is in close proximity to Wetland A (on the property but outside the review area), the two features are separate and distinct with uplands between. Although Wetland F is adjacent to (abutting) to Ditch 1, as earlier noted, Ditch 1 is not itself a water of the U.S.

Wetland A, Wetland B, Wetland C, and Stream A are also located on the property but were excluded from the review area by the applicant's request. According to the applicant, future work is only proposed within the revised review area.