



**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): 3/4/2021

ORM Number: NWS-2020-1003

Associated JDs: NWS-2020-1003 AJD for Wetlands A and B; dated 25 January 2021

Review Area Location¹: State/Territory: Washington City: Arlington County/Parish/Borough: Snohomish

Center Coordinates of Review Area: Latitude 48.158013 Longitude -122.096727

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
Roadside Ditch	290	linear feet	(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 subject ditch is not subject to tidal ebb and flow and has no potential to be used in interstate or foreign commerce. The subject ditch is an artificial channel that did not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. The subject ditch is not an (a)(1) or (a)(2) water and was not constructed in an (a)(4) water. See Section III.C. for additional details.

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 Snohomish County Fire District #21 - McElroy Road dated 16 October 2020](#)
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: [Aerial: Google Earth Aerial Imagery, accessed 2 March 2021](#); [Other: Sheets 9 through 13 of the project drawings, dated 12 February 2021](#)
- 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: [USDA-NRCS Web Soil Survey for subject property accessed 2 March 2021](#)
- USFWS NWI maps: [NWI Map for the subject property accessed 2 March 2021](#)
- USGS topographic maps: [USGS The National Map \(TNM\) for subject property accessed 2 March 2021](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	EPA WATERS Feature Layer accessed via Google Earth 2 March 2021

B. Typical year assessment(s): [N/A](#)

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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C. Additional comments to support AJD: Wetlands A and B, located within the review area depicted on sheet 1 of 13 of the project drawings dated 12 February 2021, were subject to review under the AJD for NWS-2020-1003 dated 25 January 2021. The roadside ditch depicted on sheet 2 of 13 of the project drawings is the only feature subject to review under this approved jurisdictional determination.

The subject ditch is located along the northeast corner of the property, adjacent to Wetland A and Wetland B. The subject ditch is hydrologically separated from the wetlands by a topographic high point. The ditch extends north to a driveway. Based on field investigations conducted by Wetland Resources, Inc. on 9 August 2019 and 29 May 2020, water is impounded by this driveway and no culvert exists to transport water to the north. The subject ditch does not extend south of the property due to a topographic rise in grade.

Based on a review of historic topographic maps and aerial imagery, the subject ditch is not a river, stream or similar naturally occurring surface water channel. The subject ditch is not depicted on historic topographic maps dated 1911 through 2020. The nearest potential water of the U.S. is an unnamed tributary to the South Fork Stillaguamish River located 0.1 mile east. The tributary channel does not appear to be modified based on historic topographic maps which depict the channel in the same location from 1911 through present day. There is no evidence that the unnamed tributary, or any other tributary, has been relocated into the subject ditch. The subject ditch is not subject to tidal ebb and flow and has no potential to be used in interstate or foreign commerce. Based on this information, the subject ditch is not an (a)(1) or (a)(2) water.

Based on the delineation report provided by Wetland Resources, Inc. soils within the roadside ditch did not display hydric soil indicators. There is no evidence of historic wetlands in the vicinity of the roadside ditch based on historic topographic maps, the National Wetlands Inventory (NWI) map for the subject property, and aerial imagery. Presently, there are two delineated wetlands (Wetlands A and B) located adjacent to the roadside ditch which are hydrologically separated from the subject ditch by a topographic high point. The subject ditch may have been excavated within the wetlands; however, the wetlands would not have met the definition of an adjacent wetland. The wetlands are separated from the nearest potential water of the U.S., the unnamed tributary to the South Fork Stillaguamish River, by a topographic rise in grade. In addition, the unnamed tributary is located within a topographic depression thus it is unlikely that a surface water connection would exist between the tributary and wetlands during a typical year or during periods of flooding. Based on this information, the subject ditch was not excavated within an adjacent wetland.