

APPROVED JURISDICTIONAL DETERMINATION FORM

U.S. Army Corps of Engineers

JD Form - Wetlands A, B and C (Non-WOUS - Isolated)

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 21, 2021.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, CCH Joint Venture, NWS-2020-1082.
Name of water being evaluated on this JD form: Wetlands A, B and C

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Pierce City: Puyallup
Center coordinates of site (lat/long in degree decimal format): Lat: 47.105838 N, Long: -122.274773 W

Universal Transverse Mercator:
Name of nearest waterbody: Puyallup River.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Puyallup River.
Name of watershed or Hydrologic Unit Code (HUC): 17110014.

- 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: 09/27/2021.
- 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 A, B and C do not have a surface water or shallow subsurface connection or ecological connectivity to other navigable or interstate waters of the U.S. The subject wetlands are not used by interstate or foreign travelers for recreational purposes, have no habitat or resources of special significance which would attract interstate or foreign**

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.

travelers, lack of bird and wildlife species of special significance which would attract interstate or foreign travelers, support no fish or shellfish which could be taken or sold interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce.

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: 17.6 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: Wetland and Habitat Report, October 2020.
- 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: _____.

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.

- Corps navigable waters' study:
[www.nws.usace.army.mil/Portals/27/docs/regulatory/permit%20guidebook/Navigable Waters of the US in WA State.pdf](http://www.nws.usace.army.mil/Portals/27/docs/regulatory/permit%20guidebook/Navigable%20Waters%20of%20the%20US%20in%20WA%20State.pdf).
- 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: Soil Survey of Pierce County Area, Washington, 1979.
- National wetlands inventory map(s). Cite name: NWI online mapper accessed 17 September 2021.
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth 2021
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): September 22, 2021 Email from Matt DeCaro to Corps.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The subject 38.49-acre property consists of two parcels located south of, and adjacent to, the corner of 164th Street East and 116th Avenue East near Puyallup in the unincorporated Pierce County, Washington (parcel numbers 0419271030 and 0419271031). The site is undeveloped, has no structures on it, and is surrounded by a residential, single family neighborhoods and commercial development. The consultants delineated and assessed any potential wetlands and fish and wildlife habitat on and within 315 feet of the subject property in March 2020. The delineation identified six wetlands, onsite wetlands A, B and C, and offsite wetlands D, E and F. Topography in the vicinity trends upward on all sides surrounding the site.

The project site receives hydrology primarily from precipitation, upland storm water runoff, and seasonally high ground water table. NRCS soil survey identified three soil series at the project site, Dupont Muck (12A - hydric) which is poorly drained, and Everett gravelly sandy loam (13B - non-hydric) and Indianola loamy sand (18B - hydric) which are both excessively drained soils. Vegetation at the site consists primarily of Douglas fir, western hemlock, red alder, salmon berry, California huckleberry, wester sword fern, hairy bracken fern, and trailing blackberry. The WDFW PHS, USFWS NWI, DNR stream typing, and WDFW SalmonScope maps did not identify any streams on or adjacent to the site and only one wetland was identified within the center of the project site. The subject property is surrounded by a very urbanized area prone to noise and storm water run off degrading any remaining nearby habitats. The site has moderate water quality and hydrologic functions, and low habitat function.

Wetland A is a 749,259 square foot category III palustrine forested depressional wetland located in the center of the site. Wetland B is a 522 square foot category IV palustrine forested depressional wetland located northeast of Wetland A. Wetland C is a 16,407 square foot category IV palustrine scrub-shrub depressional wetland located southeast of Wetland A.

According to aerial imagery and lidar, Wetland A intermittently outlets to Wetland F during the wet season, but wetland F does not have surface outlet drainage, nor are there any mapped tributaries or other waters of the U.S. adjacent to wetland F, rather residential neighborhoods. The culvert under 164th St. was providing hydrology to wetland A from an offsite, ornamental, man-made pond. However, at the March 2020 site visit the culvert was buried in sediment and prevented water passage. Wetlands A, B and C are separated from the nearest stream by miles of residential and commercial developed land (or approximately 3,826 aerial feet). There are no roadside ditches within a quarter mile of the subject wetlands and property and is surrounded by elevated upland habitat and developed land. While the hydroc Indianola loamy sand series is mapped as extending to the north and northeast, upward trending topography and compaction from urban development would preclude shallow subsurface flows toward the stream to the northeast. During extreme storm/flood conditions the isolated water would not overflow into the nearest water of the U.S and vice versa due to the lack of surface drainage/connections, no shallow subsurface flows, upland habitat, and highly developed land (the surrounding land is over 80% residential, 20% forested).

Wetlands A, B and C do 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. The subject wetlands are not used by interstate or foreign travelers for recreational purposes, have no habitat or resources of special significance which would attract interstate or foreign travelers, lack bird and wildlife species of special significance which would attract interstate or foreign travelers, support 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.

On September 29, 2021, we sent our findings to EPA and Corps HQ for their approval. On September 29, 2021, Corps HQ concurred with our determination. On October 20, 2021, EPA Region 10 concurred with our determination.