

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 6 December 2021.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, Sammamish Plateau Water, NWS-2021-1091.  
Name of water being evaluated on this JD form: Stormwater Pond

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Washington County: King City: Issaquah

Center coordinates of site (lat/long in degree decimal format): Lat: 47.539905 N, Long: -122.033097 W

Universal Transverse Mercator: 10.

Name of nearest waterbody: Tributary to 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): Sammamish Watershed.

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 December 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):<sup>1</sup>**

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters<sup>2</sup> (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: **Not applicable.** and **Not applicable.****

Elevation of established OHWM (if known): \_\_\_\_\_.

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The Stormwater Pond is an isolated water is located in a slight topographic depression. There is no outlet or surface drainage or channel to the nearest water of the U.S. (Stream A located across the street to the west). No berms are present between the Pond and the nearest water of the U.S. The nearest water of the U.S. is 335 feet away**

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

horizontally and no change in vertical elevation. The Pond is fed by the water from the well and stormwater from the surrounding site. The Pond would not overflow into the tributary during times of extreme flooding or other weather conditions. The land between the isolated water and the tributary is 30% forested and 70% commercial. The Pond is located in an approximately 46,000 square foot area with a manicured lawn partially lined with trees. There is a gravel parking lot, a lawn area, paved road, and paved recreational trail between the isolated water and the tributary. The Pond was excavated in the uplands where no wetland was previously present. The soil surrounding the isolated water are non-hydric and well drained; therefore, there is no shallow subsurface connection to the nearest tributary. According to FEMA's Flood Map, accessed on 2 December 2021, the isolated water is not within a floodplain. There is no special significance that would attract interstate travelers to the site. There is no product from the site being sold. There is no hydrological connection to a water of the U.S via pipe or surface water. The Pond is not an impoundment of a tributary. The Pond is hydrologically isolated and has no interstate commerce connection.

### 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):<sup>4</sup>

- 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: 0.09 acres.
- Other non-wetland waters: \_\_\_\_\_ acres. List type of aquatic resource: \_\_\_\_\_.
- Wetlands: \_\_\_\_\_ acres.

### SECTION IV: DATA SOURCES.

<sup>4</sup> 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.

**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: Delineation titled, Well 9 PFAS Project, Wetland Delineation Report, dated 22 March 2021.

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.

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): Wetland and Stream Delineation Sketch included in Delineation titled, Well 9 PFAS Project, Wetland Delineation Report, dated 22 March 2021

or  Other (Name & Date): Site Photos included in Delineation titled, Well 9 PFAS Project, Wetland Delineation Report, dated 22 March 2021.

Previous determination(s). File no. and date of response letter: \_\_\_\_\_.

Applicable/supporting case law: \_\_\_\_\_.

Applicable/supporting scientific literature: \_\_\_\_\_.

Other information (please specify): \_\_\_\_\_.

**B. ADDITIONAL COMMENTS TO SUPPORT JD: On 2 December 2021, this JD was coordinated with EPA, Region 10 and Corps HQ. On 6 December 2021, EPA stated that they concur with the conclusion that the 0.09 acre stormwater pond, excavated wholly in uplands and >330 feet from the nearest water of the U.S. is not jurisdictional and on 6 December 2021, Corps HQ stated they have reviewed this JD and have no comments; therefore, HQUSACE coordination complete.**