



**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): 4/12/2021

ORM Number: NWS-2021-151

Associated JDs: NWS-2019-857; AJD dated 19 November 2019 for ditch segment along the western boundary of Parcel #31052900200900 and southern boundary of Parcel #31052900202400

Review Area Location¹: State/Territory: Washington City: Marysville County/Parish/Borough: Snohomish
Center Coordinates of Review Area: Latitude 48.15191667 Longitude -122.20055556

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
Ditch System	3,582	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The subject ditch system was constructed to convey stormwater runoff. The subject ditch system is not a naturally occurring surface water channel and was not constructed in a tributary, does not relocate a tributary, and was not constructed in an adjacent wetland. The subject ditch system does not meet the conditions of paragraph (a)(2). 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: [Parcels #310529002001300 & 1401 Critical Area Report dated 9 July 2018; Lakewood Sewer Main Extension JD Application dated 8 January 2021](#)

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 April 2021; Historic Aerial Imagery, accessed April 2021 via NETRonline](#)
- 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 April 2021](#)
- USFWS NWI maps: [NWI Map for the subject property accessed April 2021](#)
- USGS topographic maps: [Mount Vernon, WA dated 1911; Marysville, WA dated 1941, 1943; Arlington West, WA dated 1956, 2011, 2017, 2020; Victoria, WA dated 1957; Port Townsend, WA dated 1975, 1993;](#)

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	WDFW Fish Passage Web App accessed April 2021; WDFW SalmonScape accessed April 2021

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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Data Source (select)	Name and/or date and other relevant information
Other Sources	EPA WATERS Feature Layer accessed April 2021 via Google Earth

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

C. Additional comments to support AJD:

The subject ditch flows south along the northern and western boundaries of the subject property before discharging to the West Fork of Quilceda Creek southwest of the site. Along the western boundary of the subject property, the ditch runs parallel to and east of existing railroad tracks. The subject ditch is an artificial drainage ditch that was constructed to convey stormwater from impervious surfaces on properties to the north of the site. The subject ditch is regulated as a Municipal Separated Storm Sewer System (MS4) through the City of Marysville Phase II NPDES permitting program. An MS4 is a conveyance that is owned by a public entity that discharges to waters of the U.S., is designed or used to collect or convey stormwater, is not a combined sewer, and is not part of a sewage treatment plant.

At the southwest corner of the site are a set of fish screens which prevent fish from traveling from the West Fork of Quilceda Creek into the subject ditch. There is a short segment of ditch that runs south of the screen before passing under the railroad tracks to the west. The WDFW considers the fish screens to be the end of a natural stream channel, with all fish bearing waters occurring south and west of the railroad tracks. The segment of the ditch south of the existing fish screens is not subject to this jurisdictional determination.

Based on a review of historic topographic maps, the subject ditch was not constructed in a tributary and did not relocate a tributary. The nearest potential water of the U.S., West Fork of Quilceda Creek, appears channelized along the western side of the railroad tracks, where it currently exists today, on historic topographic maps dated 1956. The subject ditch does not appear on any historic topographic maps, and no natural stream or waterbody existed historically in the subject ditch's current location. Based on this information, the subject ditch was not constructed in a tributary and did not relocate a tributary.

Sewall Wetland Consulting, Inc. conducted wetland studies on the entire subject property and did not identify any wetlands. Historic topographic maps do not depict historic wetlands at the subject property. Based on a review of aerial imagery, the site has been continuously farmed since the 1800s. The NWI map depicts an emergent wetland at the southern end of the subject property; however, presence of this wetland was not verified by the WDFW and mapping was based solely on aerial photograph interpretation. Sewall Wetland Consulting, Inc. provided wetland determination data forms for several data points within the area mapped as wetland on the NWI map, and the plots lacked the required hydrophytic vegetation, hydric soil, and wetland hydrology. The wetland determination data forms for the subject property also indicate the presence of active drainage tiles on the site which would effectively drain the site and preclude wetlands. In addition, the railroad tracks located along the western boundary of the property are depicted on the earliest historic topographic maps dating back to 1911. On all available historic topographic maps, the subject property is separated from the nearest potential water of the U.S. by the railroad tracks. It is likely that the railroad tracks would have prevented a hydrologic connection between any historic wetlands on the property and the nearest potential water of the U.S., thus historic wetlands would not have been considered adjacent. Based on this information, there is no evidence to support that the subject ditch was excavated within adjacent wetlands.



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Based on the above information, the subject ditch is a stormwater control feature that was excavated in upland or non-jurisdictional waters to convey stormwater runoff. The subject ditch does not meet the conditions of paragraph (a)(2).