



**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): 2/11/2021

ORM Number: NWS-2021-22

Associated JDs: NA

Review Area Location¹: State/Territory: Washington City: Vancouver County/Parish/Borough: Clark

Center Coordinates of Review Area: Latitude 45.66701 Longitude -122.52082

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 B	4.9	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B meets the definition of a wetland but does not abut an (a)(1) through (a)(3) water; is not inundated by flooding from an (a)(1) through (a)(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 (a)(3) water in a typical year. 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: [Wetland Delineation and Assessment, Birtcher Business Center Vancouver, dated 30 March 2016](#)

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: [Select. Title\(s\) and/or date\(s\)](#).
- Corps site visit(s) conducted on: [Date\(s\)](#).
- Previous Jurisdictional Determinations (AJDs or PJDs): [NWS-2007-410](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>
- USFWS NWI maps: <https://www.fws.gov/wetlands/data/mapper.html>
- USGS topographic maps: [Title\(s\) and/or date\(s\)](#).

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	Clark County: https://gis.clark.wa.gov/maponline/index.cfm?

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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B. Typical year assessment(s): The APT was used to assess precipitation levels when surface hydrology was observed within north-south ditch (1974 and 2012) and during the November 2020 site visit.

C. Additional comments to support AJD:

On 14 November 2020, Corps staff (Jim Carsner, Project Manager) met with Miranda Adams (WA Department of Ecology), Steve Sieber (Applicant), and Kevin Grosz (Agent) on-site to verify the wetland boundaries and collect data associated with this Approved Jurisdictional Determination (AJD) request. The Corps concurs the wetlands shown on figures provided in the 30 March 2016 Wetland Delineation and Assessment for the Birtcher Business Center, Vancouver accurately depicts the wetland boundaries within the review area.

The property is a vacant parcel located within the City of Vancouver, northeast of the intersection of Northeast 147th Avenue and Northeast 59th Street (Figure 1). The property consists of one tax parcel; Clark County Tax Parcels number 158888000 and is the review area, except for the south portion of the parcel (Figure 2). The roughly 20-acre site is bounded on the north by agricultural and forested land, the east by agricultural and commercial development, the south by Terrace Wetland Mitigation Bank, and the west by Northeast 147th Avenue. The property is relatively flat with undulating topography with a general slope, approximately 0.3 percent, to the south (Figure 3). Vegetation is dominated by herbaceous species with random clusters of shrubs and a small oak grove in the southwest corner. A constructed storm pond (pond) located on the southwest corner of the property and the northern extension of Wetland E are outside the review area (Figures 3 and 4).

A 2016 wetland study identified two wetlands, Wetlands B and E as occurring on the subject property with only Wetland B being within the review area (Figure 4). Wetland B is found in a depression area on the north and central portions of the property. A shallow trench, approximately 4 feet wide at the top and 2 feet deep extends south from the wetland toward the storm pond. Clark County and Federal Emergency Management Agency (FEMA) showed Wetland B to be outside the 199-foot floodway elevation and the 500-year flood zone (Figure 5). The National Wetland Inventory map (Figure 6) shows two on-site wetlands that are merged to form Wetland B.

Topography

Comparing the topographic and wetland maps of the review area shows the wetlands to be at or near an elevation of 202 feet with a topographic rise to approximately 204 feet south of the wetland (Figure 3).

Soils:

The Natural Resource Conservation Service maps three soil series within the review area: Cove silty clay loam (CvA), Sifton gravelly loam (SvA); and Tisch silt loam (ThA). The typical profile for the Cove series is a silty clay loam to 4 inches then clay to 30 inches. The typical profile for the Sifton series is a gravelly loam to 16 inches the very gravelly coarse sand to 60 inches. The typical profile for the Tisch series is a medial silt loam to 31 inches then muck to 60 inches. The Cove and Tisch series are considered hydric soils.



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The projected water table depth for Cove soils is listed at 0 inches to 12 inches, Sifton soils is listed at greater than 80 inches, and Tisch soils is listed at 0 inches to 12 inches. The proximity of a near surface clay layer in the Cove and Tisch series suggest a more perched water table, allowing for surface runoff during higher than normal or extended rain events.

Data collected at a single data plot located along the side slope of the ditch and south of the wetland boundary show the soils to be hydric with a profile of 10YR 2/1 gravelly loam to 16 inches above a depleted layer of 10YR 5/2 with 7 percent 7.5YR 4/4 redoximorphic features. A water table was observed at 14 inches with saturation at 13 inches. Vegetation was predominately creeping bent grass, red fescue, and Himalayan blackberry.

Historical review:

Aerial photographs from 1955, 1974, 2002, 2012, 2014, and 2015 were reviewed as part of this AJD assessment (Aerial Photos 1 through 7). The aerial photos show the general site conditions as being undeveloped grassland, except for the 1955 aerial that shows most of the property is forested. These photos also show a large wetland on the north and central portions of the property that extend off-site to the east and west. In addition, the photos show what appears to be an excavated ditch that extends from the northeastern portion of the property, into the north portion of the wetland, then south and terminating near the southwestern property boundary. Several photos show water in the ditch with the 2012 aerial from the Clark County website showing water flowing offsite and toward Burnt Bridge Creek. A 15 August 2012 aerial from Google Earth shows maintenance of the ditch had been completed as indicated by bare ground, side casting, adjacent to the ditch. The 2015 aerial shows the constructed Northeast 147th Avenue, which severed the connection to the off-site portions of the larger wetland area.

The 1974 and 2012 aerial photo was presumed to have been taken in early spring, possibly around May, based on foliage cover. The adaptive precipitation tool (APT) was accessed to evaluate the potential for intermittent drainage within the ditch for these two time periods, which was set as May 30 as well as the 2020 site visit. Results from 1974 show precipitation was normal at the end of the month and higher than normal for the three months prior. In addition, the 1974 data show the general trend for the water year to be significantly higher than normal and possibly account for the surface drainage exhibited in the ditch. Results from 2012 show precipitation was wetter than normal for the end of the month and significantly higher than normal between March and April and possibly account for the drainages seen in the aerial photo. Results from 2020 show precipitation was normal or near normal for the prior three months with no visible hydrology in the ditch, except for the southern extent of the wetland boundary.

Previously Approved Jurisdiction Determination (AJD)

On 30 March 2005, an AJD was completed for wetlands on the subject property under Rapanos (Corps reference number NWS-2005-146). The AJD only identified one wetland on the subject parcel, Wetland A (Figure 7), currently identified as Wetland B. This wetland was determined to be adjacent to but not directly abutting relatively permanent waters.



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Review Area Wetlands

Wetland B is situated approximately 0.14 of a mile north of Burnt Bridge Creek, a relatively permanent water. Wetland B is a palustrine emergent seasonally flooded/saturated Category III depressional wetland, comprising approximately 4.9 acres and located on the north and central portions of the property (Figure 4). Site topography (Figure 2) shows there is a ridge line south of the wetland. Hydrology for Wetland B is provided by seasonally high groundwater, surface sheet flow from adjacent uplands, and precipitation. The excavated north-south ditch, approximately 4 feet wide and 2 feet deep, terminates north of the storm pond that is found on the southwest corner of the parcel (Photos 1 through 4).

A review of Clark County historical aerials show the north-south ditch had been excavated prior to 1955 (Aerial 1). The antecedent precipitation tool (APT) and the NOAA weather website for Portland (<https://w2.weather.gov/climate/index.php?wfo=pqr>) were accessed to determine precipitation levels at the time of the November site visit and to evaluate potential drainage from Wetland B. Both sources show precipitation was near the upper range of normal for this part of the wet season. The NOAA website showed 3.8 inches of rain fell near the Portland airport within two weeks prior to the November site visit. The 2012 aerial showed water from the wetland to be flowing off-site and into a wetland adjacent to Burnt Bridge Creek, a perennial stream. It was presumed the 2012 aerial was taken during early spring based on foliage cover. The APT was accessed to assess precipitation during this presumed time period. The APT shows precipitation between March and April was higher than normal and may have accounted for the overflow.

Based on the review of site topography showing a topographic rise south of the wetland, aerial photographs showing the north-south ditch was constructed in uplands, precipitation levels using APT and NOAA website, and site observations that support an absence of seasonal or perennial drainage from Wetland B; Wetland B does not meet the definition of an adjacent wetland and is not jurisdictional under 33 CFR 328.3(a)(2).