

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

**SECTION I: BACKGROUND INFORMATION**

- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 2 November 2021.
- B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, Trammell Crow (13510 Canyon Road East), NWS-2021-344.  
Name of water being evaluated on this JD form: Wetland A, Wetland B, Driveway Ditch, Agricultural Ditch, Offsite Southern Ditch
- C. PROJECT LOCATION AND BACKGROUND INFORMATION:**  
State: Washington County: Pierce City: Puyallup  
Center coordinates of site (lat/long in degree decimal format): Lat: 47.133487 N, Long: -122.360524 W  
Universal Transverse Mercator: \_\_\_\_\_  
Name of nearest waterbody: North Fork Clover Creek.  
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: N/A.  
Name of watershed or Hydrologic Unit Code (HUC): 17110019 Puget Sound, WA.  
 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: 29 October 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: Pick List and Pick List**

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: Wetland A, Wetland B, Driveway Ditch, Agricultural Ditch, and Offsite Southern Ditch 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. These features are not used by interstate or foreign travelers for recreational purposes.

<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.

**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. See Section IV.B. for additional information.**

### **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: \_\_\_\_\_ acres.
- Other non-wetland waters: \_\_\_\_\_ acres. List type of aquatic resource: \_\_\_\_\_.
- Wetlands: \_\_\_\_\_ 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: Vicinity Map, Aerial View of Subject Property, Existing Conditions Map, and Wetland Rating Maps provided by Soundview Consultants LLC within Wetland and Fish and Wildlife Habitat Assessment dated 26 March 2021.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.

<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.

- 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: Tacoma, WA 1897 (HTMC, 1897 ed.), Scale 1:125000; Tacoma, WA 1900 (HTMC, 1945 ed.), Scale 1:125000; Tacoma South, WA 1944 (HTMC, 1944 ed.), Scale 1:62500; Puyallup, WA 1961 (HTMC, 1962 ed.), Scale 1:24000; Tacoma, WA 1975 (HTMC, 1977 ed.), Scale 1:100000; Puyallup, WA 2020 (US Topo), Scale 1:24000
- USDA Natural Resources Conservation Service Soil Survey. Citation: USDA, NRCS Web Soil Survey accessed October 2021.
- National wetlands inventory map(s). Cite name: USFWS NWI accessed October 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): Historic aerial imagery provided by NETRonline accessed October 2021; Historic aerial imagery provided by Google Earth accessed October 2021;  
or  Other (Name & Date): Wetland and fish and Wildlife Habitat Assessment, dated 26 March 2021, Appendix G - Site Photographs.
- Previous determination(s). File no. and date of response letter: \_\_\_\_\_.
- Applicable/supporting case law: \_\_\_\_\_.
- Applicable/supporting scientific literature: \_\_\_\_\_.
- Other information (please specify): Pierce County Public GIS Interactive Map, Storm Drainage Layer (https://matterhornwab.co.pierce.wa.us/publicgis/) accessed October 2021; WDFW SalmonScape accessed October 2021; WSDOT Fish Passage Inventory Map accessed October 2021.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Existing Site Conditions

The 18.84-acre subject property is located in a mixed-use setting in the unincorporated area of Pierce County in Puyallup. The site is currently developed with one single family residence, barns, outbuildings, paddocks, and associated intrastate. Undeveloped portions of the property consist of pasture and sparse trees. The site is bounded by single family residences, commercial development, and arterial roadways. Topography slopes moderately from the west and the east to the center of the site.

NSCS Soil Survey identifies two soil series on the property. Up to 97% of the subject property is comprised of Kapowsin gravelly ash loam, 0 to 6 percent slopes. According to the NRCS survey, Kapowsin gravelly ash loam, 0 to 6 percent slopes is a moderately well drained soil formed in alluvium in upland depressions. The depth to water table is 11 - to 24-inches. Kapowsin gravelly ash loam, 0 to 6 percent slopes is listed as a non-hydric soil but as much as 6 percent of areas mapped as Kapowsin gravelly ash loam, 0 to 6 percent slopes may contain inclusions of hydric McKenna, Dupont, and Norma soils. The capacity of Kapowsin gravelly ash loam, 0 to 6 percent slopes to transmit water (Ksat) is none to very low (0.00 inches per hour). The remaining 3% of the subject property is comprised of Bellingham silty clay loam. This soil series is mapped in the north-central corner portion of the subject property. Bellingham silty clay loam is a poorly drained, hydric soil. The depth to water table is 0- to 12-inches. The capacity of Bellingham silty clay loam to transmit water (Ksat) is moderately low to moderately high (0.06 to 0.20 inches per hour).

Site Hydrology

Pierce County maps two potential streams onsite, one originating in the southeastern portion of the site flowing in a southwesterly direction (determined to be "Agricultural Ditch", discussed below), and one flowing north to south through the center of the site. While the central area mapped as a stream does represent a general low point in the site and corresponds with Wetland A, it lacks a defined bed and bank. No channel, base flow, or sorting associated with flowing water was observed in the vicinity of the mapped stream.

Review of historical aerial imagery dating back to 1969 does not show evidence of any natural waters in this area, and onsite observations demonstrate that no swale is present. As this central portion of the site is the topographic low point of the subject property and contains Wetland A, it appears that the area may support occasional flooding associated with rain events, but no channel is currently or was historically present in this area based on a review of USGS historic topographic maps and historic aerial imagery.

The potential water is mapped as continuing offsite to the south through a wetland complex identified herein as Wetland B. According to the County's mapping, the mapped stream is conveyed south for approximately 0.5-mile, flows south under 144th Street East, continues south for another 450 feet, and then turns east where it enters a roadside ditch along Canyon Road East. From there, the mapped stream flows south, parallel to the road for approximately 0.9-mile, and then turns northwest, paralleling Brookdale Road East for approximately 0.5-mile, finally flowing south under Brookdale Road East and entering a stormwater pond. There is no known connection to any streams or other natural waters after entering the storm pond.

Historic topographic maps provided by the USGS, dating 1897 through present, do not depict any natural waterbodies on or in the immediate vicinity of the subject property. Based on a review of WDFW SalmonScape data, the nearest potential water of the U.S. is an unnamed intermittent or ephemeral tributary to Clarks Creek located 0.7-mile northeast of the subject property. An arterial roadway and residential and commercial developments are present between the subject property and tributary. The EPA WATERS Layer, accessed through Google Earth, depicts North Fork Clover Creek as the nearest potential water of the U.S., located 1.15-mile east of the subject property. Numerous single family residences, commercial buildings, roadways and driveways are present between the subject property and creek. In addition to the physical distance, presence of impervious surfaces, and low ability of the onsite soils to transmit water, a topographic high point is present between the subject property and each of the waters identified above which would further preclude a surface or subsurface water connection.

## Subject Waters

Soundview Consultants LLC (SVC) investigated and delineated potentially regulated wetlands and streams on the subject property in July 2020 and September 2020. SVC identified one wetland onsite (Wetland A) and one wetland immediately offsite to the south (Wetland B); both of which are subject of this approved jurisdictional determination. In addition, SVC identified three artificial ditches which are subject of this approved jurisdictional determination: "Driveway Ditch", "Agricultural Ditch", and "Offsite Southern Ditch".

### Wetlands

Wetland A is a 141,800 square foot (sf) (3.30-acres) Category III depressional wetland located in the center portion of the site, extending offsite to the north and minimally to the south. Hydrology for Wetland A is provided by direct precipitation, a seasonally high water table, and surface runoff from adjacent uplands. A 600 sf portion of the wetland was observed to be permanently ponded immediately offsite to the north. Based on a review of historic aerial imagery, it appears that the ponded area was intentionally excavated between the years of 1969 and 1980. In aerial imagery from 2002, the ponded area is clearly visible as an artificial, geometric circle containing surface water. Wetland A is a Palustrine Forested/Emergent, Seasonally Flooded/Seasonally Saturated (PFO/EMBC) wetland.

Wetland B is a 98,000 sf (2.25-acres) Category IV depressional wetland located entirely offsite to the south. Hydrology for Wetland B is likely provided by direct precipitation, a seasonally high water table, and surface runoff from adjacent uplands. Offsite Wetland B is a Palustrine Forested, Temporarily Flooded/Seasonally Saturated (PFOAB) wetland.

Wetlands A and B 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. These 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.

### Driveway Ditch

An artificial, excavated ditch was observed parallel to the driveway on the eastern portion of the site. The ditch is approximately 2 feet deep with vertical banks. The channel was dry at the time of the investigations in July 2020 and September 2020. The ditch is unvegetated due to maintenance actions and characterized by a gravel substrate. The gravel appears to have been added to the channel and is not a result of natural sorting of substrate. The ditch flows in an easterly direction toward Canyon Road East where it enters a culvert that appears to convey ephemeral storm flows to the east. The ditch appears to have been artificially and intentionally excavated for the purpose of stormwater conveyance and lacks a natural bed and bank, sorting, or baseflow. Review of historical aerials dating back to 1969 do not indicate the presence of any natural waters in this area. The WDFW SalmonScape does not map any streams or linear aquatic features on the subject property. The Pierce County Public GIS Interactive Map's Storm Drainage Layer maps the subject driveway ditch as a man-made channel which conveys flow to a catch basin and into the municipal storm water system. There is no known connection to any streams or other natural waters after entering the catch basin.

### Agricultural Ditch

An artificial, excavated ditch was observed on the southeastern portion of the site, flowing in a southwesterly direction to an upland area of the onsite field where the ditch ends. The channel appears to originate from a downspout on one of the barn structures. A small area of sorting and poorly defined channel was observed near the downspout; however, the channel then becomes well-defined due to excavation. The banks become vertical, and the channel is approximately 1 foot deep and 1 to 2 feet wide. The channel is densely vegetated with sweet vernal grass, common velvet grass, tall fescue, and very sparse Oregon ash saplings. The channel was dry at the time of the site investigations. The subject ditch appears to have been artificially and intentionally excavated for the purpose of stormwater conveyance and lacks a natural bed and bank, sorting, or baseflow. Review of historical aerials do not indicate the presence of any natural waters in this area. Furthermore, a data plot (DP-7U) was collected immediately adjacent to the ditch and documents upland conditions of the surrounding area, indicating that the subject ditch was likely excavated from uplands to convey the storm water runoff. The WDFW SalmonScape does not map any streams or linear aquatic features on the subject property. The subject agricultural ditch is not mapped on the Pierce County Public GIS Interactive Map's Storm Drainage Layer.

### Offsite Southern Ditch

An artificial, excavated ditch was observed along the southern property boundary. Spoils from the ditch form berms that line both sides of the channel. The ditch currently appears to be utilized to convey stormwater but may have initially been created for agricultural purposes such as irrigation given the historical land use of this area. The ditch is lined with bigleaf maple, Oregon ash, Himalayan blackberry, hardhack, bull thistle, sweet vernal grass, and trailing blackberry. The ditch flows in a westerly direction towards the small offsite portion of Wetland A. The ditch lacks a true bed and bank, sorting, and baseflow. Additionally, review of historical aerials dating back to 1969 do not indicate the presence of any natural waters in this area. The WDFW SalmonScape does not map any streams or linear aquatic features on the subject property. The subject ditch is not mapped on the Pierce County Public GIS Interactive Map's Storm Drainage Layer.

Driveway Ditch, Agricultural Ditch, and Offsite Southern Ditch 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. These ditches 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.

Emails requesting concurrence were sent to EPA and to Corps HQ on 1 November 2021. On 1 November 2021, the EPA provided concurrence with the determination that Wetland A, Wetland B, Driveway Ditch, Agricultural Ditch, and Offsite Southern Ditch are Version 2-8-08 Isolated & Non-Waters Only

isolated and therefore not waters of the U.S. On 2 November 2021, Corps HQ provided a recommended addition to the AJD form which was incorporated. Corps HQ had no further comments. Coordination was complete on 2 November 2021.