



**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): 5/14/2021

ORM Number: NWS-2021-416

Associated JDs: N/A

Review Area Location¹: State/Territory: Washington City: Tacoma County/Parish/Borough: Snohomish

Center Coordinates of Review Area: Latitude 47.157085 Longitude -122.383583

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 A	0.43	acre(s)	(b)(1) Non-adjacent wetland.	The subject wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from an (a)(1) through (3) water in a typical year; is not physically separated from an (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 wetland and (a)(1) through (3) water in a typical year. See Section III.C. for additional details.
Wetland B	0.52	acre(s)	(b)(1) Non-adjacent wetland.	The subject wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from an (a)(1) through (3) water in a typical year; is not physically separated from an (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 wetland and (a)(1) through (3) water in a typical year. See Section III.C. for additional details.
Wetland C	0.03	acre(s)	(b)(1) Non-adjacent wetland.	The subject wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from an (a)(1) through (3) water in a typical year; is not physically separated from an (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 wetland and (a)(1) through (3) water in a typical year. See Section III.C. for additional details.
Farm Pond	0.06	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as	The subject farm pond was artificially constructed in upland or non-jurisdictional water and is not an impoundment of jurisdictional water that meets (c)(6). See Section III.C. for additional details.

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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Roadside Ditch	2,567	linear feet	<p>the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6). (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.</p>	<p>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.</p>
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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 and Fish and Wildlife Habitat Assessment Report 34th Avenue East, dated April 2020](#); [Technical Memorandum USACE Jurisdictional Determination Request 34th Avenue East, dated 14 April 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 and Historic Aerials accessed May 2021](#)
- 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: [Web Soil Survey report for the subject property accessed May 2021](#)
- USFWS NWI maps: [NWI Map for the subject property accessed May 2021](#)
- USGS topographic maps: [USGS Historic Topographic Maps: Tacoma, 1897, 1900, 1975, 1991, 1997; Tacoma South 1941, 1944, 1961, 2017, 2020; Seattle 1958;](#)

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 SalmonScope accessed May 2021; WDFW Washington State Fish Passage Map accessed May 2021



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Data Source (select)	Name and/or date and other relevant information
Other Sources	Google Earth Aerial Imagery accessed May 2021; EPA WATERS Map accessed via Google Earth May 2021

B. Typical year assessment(s): Based on the Antecent Precipitation tool, in a typical year, Wetlands A, B, and C are not inundated or flooded by an (a)(1), (a)(2), or (a)(3) water.

C. Additional comments to support AJD:

Wetland A is an 18,633 square foot (sf), depressional, Category IV wetland located in the eastern portion of the subject property and extending offsite to the south. Soundview Consultants, LLC conducted site assessments of the subject property in June 2020, August 2020, December 2020, and March 2021. During the site assessments, no evidence of a surface water outlet was observed within Wetland A. Wetland A receives hydrology from surface sheet flow from adjacent uplands, seasonally high groundwater table, and direct precipitation. Based on a review of aerial imagery, current and historic topographic maps, and WDFW SalmonScape hydrology mapping, there are no potential waters of the U.S. in the vicinity which could be hydrologically connected to the subject wetland. The parcel immediately south of the project area, which contains a small portion of Wetland A, is developed with commercial infrastructure and impervious surfaces which would preclude a hydrologic connection between the subject wetland and offsite waters. The nearest potential water of the U.S. is Swan Creek, located 0.5 mile west of the subject property. Impervious surfaces including roadways, residential and commercial development, and parking lots are located between the subject wetland and Swan Creek, thus it is unlikely any natural hydrologic connection between the features exists. Based on a review of on-site observations and local and state mapping databases, there is no artificial structure that would provide a hydrologic connection between the subject wetland and a potentially jurisdictional water. The subject wetland does not abut an (a)(1) through (3) water and is not inundated by an (a)(1) through (3) water in a typical year. There is no natural feature or artificial feature that would allow for a hydrologic connection between the subject wetland and an (a)(1) through (3) water in a typical year. Based on the rationale above, Wetland A is a non-adjacent wetland.

Wetland B is a 22,791 sf, depressional, Category III wetland located in the southwest portion of the subject property, extending slightly offsite to the south and west. The subject wetland is contained within a mitigation area from a prior-approved project. Soundview Consultants, LLC conducted site assessments of the subject property in June 2020, August 2020, December 2020, and March 2021. During the site assessments, no evidence of a surface water outlet was observed within Wetland B. In addition, a wetland delineation of the existing wetland was completed in 2001 for the prior approved mitigation project. The delineation does not depict any surface water outlet or hydrologic connection to an offsite aquatic feature. Based on a review of aerial imagery, current and historic topographic maps, and WDFW SalmonScape hydrology mapping, there are no potential waters of the U.S. in the vicinity which could be hydrologically connected to the subject wetland. The subject wetland is situated adjacent to the Farm Pond, which was determined to be an excluded non-water of the U.S. based on rationale in the paragraph below. No surface water connection between Wetland A and the offsite farm pond was observed during site investigations. The nearest potential water of the U.S. is Swan Creek, located 0.5 mile west of the subject property. Impervious surfaces including roadways, residential and commercial development, and parking lots are located between the subject wetland and Swan Creek, thus it is unlikely any natural hydrologic connection between the features exists. Based on a review of on-site observations and local and state mapping databases, there is no artificial structure that would provide a hydrologic connection between the subject wetland and a potentially jurisdictional water. The subject wetland does not abut an (a)(1) through (3) water



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and is not inundated by an (a)(1) through (3) water in a typical year. There is no natural feature or artificial feature that would allow for a hydrologic connection between the subject wetland and an (a)(1) through (3) water in a typical year. Based on the rationale above, Wetland B is a non-adjacent wetland.

An artificial, excavated farm pond was identified 15 feet offsite to the south of the subject property. The farm pond is approximately 2,690 sf and was constructed in the shape of a geometric square. Based on a review of aerial imagery, the feature was constructed between the years of 1990 and 2002, prior to which the area appears to have been farmed cropland. Based on a review of aerial imagery, current and historic topographic maps, and WDFW SalmonScape hydrology mapping, there are no potential waters of the U.S. in the vicinity which could be hydrologically connected to the farm pond. In addition, there were no natural features within the vicinity historically, so the farm pond is not an impoundment of jurisdictional water. The USFWS NWI Map and historic topographic maps do not depict any historic or present wetlands in the vicinity of the farm pond, thus there is no evidence to suggest that the farm pond was constructed within wetlands. Based on the rationale above, the farm pond is a (b)(8) non-jurisdictional water.

Wetland C is a 1,136 sf, depressional, Category IV wetland located in the north-central portion of the subject property. Soundview Consultants, LLC conducted site assessments of the subject property in June 2020, August 2020, December 2020, and March 2021. During the site assessments, no evidence of a surface water outlet was observed within Wetland C. Wetland C receives hydrology from surface sheet flow from adjacent uplands, seasonally high groundwater table, and direct precipitation. Based on a review of aerial imagery, current and historic topographic maps, and WDFW SalmonScape hydrology mapping, there are no potential waters of the U.S. in the vicinity which could be hydrologically connected to the subject wetland. The nearest potential water of the U.S. is Swan Creek, located 0.5 mile west of the subject property. Impervious surfaces including roadways, residential and commercial development, and parking lots are located between the subject wetland and Swan Creek, thus it is unlikely any natural hydrologic connection between the features exists. Based on a review of on-site observations and local and state mapping databases, there is no artificial structure that would provide a hydrologic connection between the subject wetland and a potentially jurisdictional water. The subject wetland does not abut an (a)(1) through (3) water and is not inundated by an (a)(1) through (3) water in a typical year. There is no natural feature or artificial feature that would allow for a hydrologic connection between the subject wetland and an (a)(1) through (3) water in a typical year. Based on the rationale above, Wetland C is a non-adjacent wetland.

An artificially constructed, excavated roadside ditch is present along the northern property boundary, parallel to Highway 512. The purpose of the feature is to convey stormwater runoff from Highway 512 and surrounding development. The excavated channel does not exhibit a defined bed or bank, lacks sorting, and becomes stagnant during low flows allowing for hydrophytic vegetation such as hardhack, Himalayan blackberry, and reed canarygrass to establish. The ditch is not identified as a potential stream or similar natural feature on any local, state, or Federal mapping inventories. Based on a review of aerial imagery, current and historic topographic maps, and WDFW SalmonScape hydrology mapping, there are no potential waters of the U.S. in the vicinity presently or historically, therefore the subject ditch did not relocate a tributary and was not constructed in a tributary. Based on a review of historic aerial imagery and topographic maps, impervious surfaces such as roads and development existed between the subject property and nearest potential water of the U.S. since the earliest maps dated 1897. If wetlands were present at the time of ditch construction, it is unlikely that the wetlands would have been considered adjacent due to the proximity and presence of impervious surfaces between the site and nearest potential water of the U.S. As such, if the ditch had been constructed in wetlands, it is unlikely that they would have



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been regulated, adjacent wetlands. Based on the rationale above, the subject ditch is a stormwater control feature constructed in upland or non-jurisdictional waters to convey stormwater runoff. The subject ditch is a (b)(10) non-jurisdictional water.