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): 8/6/2021
ORM Number: NWS-2021-455
Associated JDs: N/A
Review Area Location[1]: State/Territory: Washington City: Marysville County/Parish/Borough: Snohomish
Center Coordinates of Review Area: Latitude 48.041609 Longitude -122.112481

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.	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.	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.	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.	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.	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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Wetland A	0.03	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; and 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 the (a)(1) through (3) water in a typical year. See Section III.C. for additional details.
Wetland B	0.27	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; and 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 the (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; and 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 the (a)(1) through (3) water in a typical year. See Section III.C. for additional details.
Wetland D	0.11	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; and is not physically separated from an (a)(1) through (3) water by a natural berm, bank dune,

[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.

				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 the (a)(1) through (3) water in a typical year. See Section III.C. for additional details.
Farm Pond A	0.04	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The subject farm pond is an artificial feature that was constructed in uplands and is not an impoundment of a jurisdictional water. See Section III.C. for additional details.
Farm Pond B	0.02	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The subject farm pond is an artificial feature that was constructed in uplands and is not an impoundment of a jurisdictional water. See Section III.C. for additional details.
Farm Pond C	0.04	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The subject farm pond is an artificial feature that was constructed in uplands and is not an impoundment of a jurisdictional water. See Section III.C. for additional details.

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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 - The Retreat Planned Residential Development, dated 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: Aerial imagery (historic and present) accessed via Google Earth; Historic aerial imagery accessed via NETROnline, August 2021; Photographs of Wetlands A - D provided by Soundview Consultants, dated April 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: NRCS Soil Survey Report accessed August 2021

☒ USFWS NWI maps: NWI Map accessed August 2021

☒ USGS topographic maps: USGS Historic Topographic Maps entitled: Mount Vernon, WA 1911; Marysville, WA 1943; Lake Stevens, WA 1956; Victoria, WA 1957; Port Townsend, WA 1975; Port Townsend, WA 1975; Port Townsend, WA 1993; Lake Stevens, WA 2011, 2017, 2020.

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 Map accessed August 2021; WDFW SalmonScape access August 2021; WDFW PHS on the Web accessed August 2021; City of Marysville Storm Drain System Map accessed August 2021
Other Sources	EPA WATERS Layer accessed August 2021 via Google Earth

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

C. Additional comments to support AJD: Wetland A is a 1,098 square foot (sf), Category IV, depressional wetland located in the western portion of the subject property. Hydrology for Wetland A is provided by surface sheet flow from adjacent uplands, direct precipitation, and a seasonally high groundwater table. Wetland B is a 11,938 sf, Category IV, depressional wetland located centrally along the northern portion of the subject property. Hydrology for Wetland B is provided by surface sheet flow from adjacent uplands, direct precipitation, and a seasonally high groundwater table. Wetland C is a 1,406 sf, Category IV, depressional wetland located in the northeast corner of the subject property, east of Wetland B. Hydrology for Wetland C is provided by surface sheet flow from adjacent uplands, direct precipitation, and a seasonally high groundwater table. Wetland D is a 4,273 sf, Category IV, depressional wetland located centrally along the western portion of the subject property. Hydrology for Wetland D is provided by surface sheet flow from adjacent uplands, direct precipitation, and a seasonally high groundwater table.

No surface water inlets or outlets to a potential water of the U.S. were observed within the subject wetlands during site investigations, and no signs of flowing water such as scour, sediment deposits, defined channels, or ditches were present. In addition, no artificial structures such as pipes, culverts, or catch basins were observed within the immediate vicinity of the subject wetland. A review of the City of Marysville Storm Drain System map confirms that there are no artificial structures that would provide a hydrologic connection between the subject wetlands and a potential water of the U.S. Based on the Web Soil Survey for the subject property, soils within the subject property consist of Tokul gravelly medial loam, a non-hydric soil in which flooding and ponding are not probable. Based on a review of EPA and WDFW mapping resources, the nearest potential water of the U.S. is an unnamed outlet of Lake Stevens, located 0.36 of a mile east of the subject property. The subject wetlands are separated from the unnamed stream by a topographic high point and impervious surfaces including roads, driveways, and residential houses. It is therefore unlikely that any surface water connection exists between the subject wetlands and a potential water of the U.S. in a typical year. Based on the information above, Wetlands A-D do not abut an (a)(1) through (3) water, are not inundated by flooding from an (a)(1) through (3) water in a typical year, and are not physically separated from an (a)(1) through (3) water by only a natural or artificial structure that would allow for a direct hydrologic surface connection between the wetlands and water in a typical year. Therefore, Wetlands A-D are non-adjacent wetlands.

Three farm ponds (Farm Ponds A-C) were identified on the southwest and central portions of the subject property. Snohomish County, City of Marysville, USFWS NWI, and WDFW PHS inventories do not identify the farm ponds as potential wetland areas. Farm Pond A is excavated 3- to 4-feet deep and was dry during site investigations. Dominant vegetation in Pond A includes red alder, Pacific willow, Himalayan blackberry, English ivy, and reed canarygrass. Farm Pond B is devoid of vegetation with the exception of one centrally located Scoulet's willow. Farm Pond C was excavated 3- to 5-feet deep and was ponded and inundated with pondweed at the time of site investigations. An artificial walking bridge spans the subject farm pond. Review of historic aerial imagery corroborates the artificial nature of the farm ponds. All three farm ponds are absent in historic aerial imagery during and prior to 1981. Farm Pond A and Farm Pond C appear in aerial imagery from March 2005, and Farm Pond B appears in May 2009. Based on this information, the farm ponds are artificial, constructed features.

Based on a review of historic topographic maps, there were no potentially jurisdictional waters in the immediate vicinity of the subject property. Prior to 1975, the nearest potential water of the U.S. depicted on historic topographic maps was Catherine Creek and Lake Cassidy, located 0.96 of a mile east of the subject property. Historic topographic maps from 1975 to present depict an unnamed outlet of Lake Stevens, located 0.36 of a mile east of the subject property. These mapped features remain in their historic locations, hydrologically separated from the subject property, during and after construction of the farm ponds in 2005 and 2009. Based on this information, there is no evidence to suggest that the farm ponds are impoundments of jurisdictional waters. Based on a review of historic topographic maps and the USFWS NWI map, no wetlands are mapped on the subject property. In addition, prior to their construction, no evidence of potential inundation of saturation or distinct chances in vegetation were visible in these areas on historic aerial images. Further, the mapped soil in these areas is Tokul gravelly medial loam, 0 to 8 percent slopes, which is a non-hydric soil. There is no evidence to suggest that the farm ponds were constructed in wetlands. Based on the information above, Farm Ponds A-C are artificial ponds that were constructed in uplands and are not impoundments of jurisdictional waters.