



**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): 8/3/2021

ORM Number: NWS-2021-59

Associated JDs: NA

Review Area Location<sup>1</sup>: State/Territory: Washington City: Battle Ground County/Parish/Borough: Clark

Center Coordinates of Review Area: Latitude 45.75314 Longitude -122.50558

**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)<sup>2</sup>**

§ 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): <sup>3</sup>			
(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
Ditch 1	700 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 1 is a relocated tributary to Morgan Creek that provides intermittent/perennial flow through a surface water channel to a paragraph (a)(1) water in a typical year through one or more paragraph (a)(2) waters. Ditch 1 flows from Wetland A through Wetland D/E/F and into an offsite relocated tributary (Ditch 7) which flows into Morgan Creek, then into Salmon Creek to Vancouver Lake and into Lake River, which flows into the Columbia River, an (a)(1) water. See Section III.C for additional details.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Ditch 6	500 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 6 is a ditch constructed through wetlands and uplands. The ditch is a relocated tributary that provides intermittent/perennial flow through a surface water channel to a paragraph (a)(1) water in a typical year through one or more paragraph (a)(2) waters. Ditch 6 flows from Wetland D/E/F and into an offsite relocated tributary (Ditch 7), then to Morgan Creek, then into Salmon Creek to Vancouver Lake and into Lake River, which drains into the Columbia River, an (a)(1) water. See Section III.C for additional details.
Ditch 7	680 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 7 is a ditch constructed through wetlands and uplands. The ditch is a relocated tributary that provides intermittent/perennial flow through a surface water channel to a paragraph (a)(1) water in a typical year through one or more paragraph (a)(2) waters. Ditch 7 collects water from Wetland D/E/F that drains to Morgan Creek, a relocated tributary, then flows into Salmon Creek to Vancouver Lake and into Lake River, which flows into the Columbia River, an (a)(1) water. See Section III.C for additional details.
Stream 1	50 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 1 provides intermittent/perennial flow through a surface water channel to a paragraph (a)(1) water in a typical year through one or more paragraph (a)(2) waters. Stream 1 flows from Wetland C through Wetland D/E/F and into an offsite relocated tributary (Ditch 7) which drains into Morgan Creek, then into Salmon Creek to Vancouver Lake and into Lake River, which flows into the Columbia River, an (a)(1) water. See Section III.C for additional details.

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
Wetland A	0.159 acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface	Wetland A receives water from an offsite intermittent/perennial stream and abuts Ditch1, an (a)(2) water. See Section III.C for additional details.



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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
		connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	
Wetland C	0.347	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.
Wetland D/E/F	2.88	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.
			Wetland C abuts Stream 1, an (a)(2) water. See Section III.C for additional details.
			Wetland D/E/F abuts Ditch 1, Ditch 6, and Ditch 7 which are (a)(2) waters. See Section III.C for additional details.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland B	N/A.	N/A.	N/A.
			The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural

<sup>4</sup> 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.

<sup>5</sup> 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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
			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 (3) water in a typical year. See Section III.C for additional details.	
Wetland G	N/A.	N/A.	N/A.	Same as Wetland B
Wetland H	N/A.	N/A.	N/A.	Same as Wetland B
Wetland J	N/A.	N/A.	N/A.	Same as Wetland B
Wetland K	N/A.	N/A.	N/A.	Same as Wetland B
Ditch 2	N/A.	N/A.	N/A.	The feature is an excavated, constructed channel used to convey water. The ditch itself does not meet the conditions of an adjacent wetland and does not satisfy the flow conditions of an (a)(2) tributary. Those portions of the ditch constructed in wetlands do not satisfy the conditions of (c)(1). See Section III.C for additional details
Ditch 3	N/A.	N/A.	N/A.	Same as Ditch 2
Ditch 4	N/A.	N/A.	N/A.	Same as Ditch 2
Ditch 5	N/A.	N/A.	N/A.	Same as Ditch 2

**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: “Cedars East Subdivision, Wetland Delineation & Assessment Revised”, dated 23 March 2021

This information is sufficient for purposes of this AJD.

Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

Data sheets prepared by the Corps: Title(s) and/or date(s).

Photographs: Aerial and Other: Report figures, dated 23 March 2021; Site visit photographs taken by Jim Carsner, Project Manager; Historical aerials from Clark County MapsOnLine website, 1974, 1984, 1998, 2015 and 2019.

Corps site visit(s) conducted on: 2 March 2021

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: <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.



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Data Source (select)	Name and/or date and other relevant information
<a href="#">NOAA Sources</a>	N/A.
<a href="#">USACE Sources</a>	N/A.
<a href="#">State/Local/Tribal Sources</a>	<a href="https://gis.clark.wa.gov/mapsonline/index.cfm?">https://gis.clark.wa.gov/mapsonline/index.cfm?</a>
<a href="#">Other Sources</a>	N/A.

**B. Typical year assessment(s):** A typical year determination was made using the APT. The report was generated for the date of the field delineation (30 September, 7 October, and 19 October 2021) and Corps 2 March 2021 site visit. The APT data indicated the March 2020 site visit was performed during the annual wet season with precipitation levels above normal; however, the overall result shows normal precipitation levels for the three-month average at the time of the site investigation. The APT data indicated the October site visit was performed during the start of the annual wet season with normal precipitation levels for the three-month average at the time of the site. The APT data indicated the January site visit was performed during the annual wet season and precipitation levels were above normal for January but show for normal levels for the three-month average at the time of the site investigation.

**C. Additional comments to support AJD:** On 2 March 2021, the Corps PM (Jim Carsner, Seattle District, Regulatory Branch) met with Miranda Adams (WA State Department of Ecology), and Ryan Thiele (Olson Environmental, LLC, Agent) at 09:00 and walked the subject property. The subject property (review area) is located immediately east of Northeast 180th Street terminus near Battle Ground, Clark County, Washington (Figure 1 of 4).

During the 2 March 2021 field investigation, the Corps reviewed and verified the boundaries of nine wetlands (Wetlands A, B, C, D/E/F, G, H, I, J, and K), eight ditches (Ditches 1 through 8) and one stream (Stream 1), and assessed the presence or absence of intermittent or perennial connectivity from the wetlands to any (a)(1) to (a)(3) waters (Figure 2 and 3 of 3).

Historical aerials show the property had been in agriculture as early in the 1950s and Ditch 1 having been constructed (Aerial 1 - 5).

**Site Description:**

The roughly 18-acre site is bounded on the north by residential properties and Northeast 183rd Street, east by residential/agricultural properties, south by Northeast 178th Street, and west by residential property/undeveloped forested land/and the eastern terminus of Northeast 180th Street. An unimproved dirt roadway extends eastward from the eastern terminus of Northeast 180th Street. The unimproved road extends east for approximately 600 feet before turning north, extending to the north property boundary. Ditches 2, 3, 4, and 5 parallel this unimproved road with Ditch 5 extending to the east property boundary before turning north and outletting into Ditch 6 (Figure 2 and 3 of 3). An off-site ditch (Ditch 7) abuts the north property boundary, parallel to Northeast 183rd Street. Another off-site ditch (Ditch 8) abuts the south property boundary, parallel to Northeast 178th Street. There are two offsite tributaries that collect drainage from onsite wetlands. Morgan Creek, a perennial stream, located approximately 0.12 of a mile east of the northeast corner of the property and Mud Creek, a perennial stream that drains to Morgan Creek and located approximately 0.05 of a mile east from the southeast corner of the property.



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Ditch 8 is an off-site roadside ditch adjacent to Northeast 178th Street (Figure 2 and 3 of 3). Ditch 8 receives water from precipitation and road runoff. It does not show evidence of flows and is extensively vegetated (Photo 1). Ditch 8 does not appear to be waters of the U.S. because it was not dug in adjacent wetlands or a tributary nor is it a relocated tributary. No onsite wetlands are adjacent to this this feature. The onsite tributaries, Ditches 1 and 6 are approximately 0.11 of a mile north of Ditch 8 and the nearest (a)(2) water is Mud Creek, an offsite tributary to Morgan Creek, located approximately 0.05 of a mile east of the southeast property boundary.

**JURISDICTIONAL WATERS:** (Figures 2 and 3)

**TRIBUTARIES** (Ditch 1, 6, and 7 and Stream 1) :

Ditch 1 is an excavated ditch that originates on the north side of Wetland A (Photo 2). Further east, the ditch had been excavated through uplands (Photo 3). An off-site intermittent stream flows into Wetland A, then downslope through Wetland D/E/F and into Ditches 6 and 7, which then drain into Morgan Creek, an (a)(2) water located approximately 0.12 of a mile east of the northeast corner of the property (Figure 2 and 3 of 3). Historic aerial photos show Ditch 1 had been in place since the 1950s (Aerial 1 - 5). Based on a review of site topography, historic aerials, and the presence of an intermittent inlet stream to Wetland A, Ditch 1 appears to be a relocated tributary that ultimately drains to Morgan Creek, an (a)(2) water. Morgan Creek flows into Salmon Creek, then Lake River, and into the Columbia River, an (a)(1) water.

Ditch 6 is an excavated ditch located in the east central portion of Wetland D/E/F. Ditch 6 extends through an eastern lobe of Wetland D/E/F to the east property boundary then turns north and merges with Ditch 7 (Photos 4 and 5). Based on a review of site topography, historic aerials, and site observations, the east-west portion of Ditch 6 was constructed through adjacent wetlands (Wetland D/E/F are adjacent to tributary Ditch 1) with the north-south portion of the ditch being a relocated tributary that ultimately drains to Morgan Creek an (a)(2) water. Morgan Creek flows into Salmon Creek, then Lake River, and into the Columbia River, an (a)(1) water.

Ditch 7 is an excavated ditch that abuts south side of Northeast 183rd Street and the northern extent of Wetland D/E/F. Ditch 7 extends eastward from the northern extent of Wetland D/E/F and allows water to flow into Morgan Creek (Photos 6 and 7). Based on a review of site topography, historic aerials, and site observations, Ditch 7 would be a relocated tributary that drains directly to Morgan Creek, an (a)(2) water located approximately 0.12 of a mile east of the northeast corner of the property. Morgan Creek flows into Salmon Creek, then Lake River, and into the Columbia River, an (a)(1) water.

Stream 1 is natural tributary from Wetland C that drains to Ditch 1 (Photo 8). See above description of Ditch 1.

**WETLANDS:**

**Wetland A:** Wetland A is found on the northwest portion of the property and extends off-site to the west with 0.16 of an acre on-site. Wetland A is a palustrine forested/scrub-shrub/emergent Category II depressional wetland (Photo 9). Wetland A abuts Ditch 1, a relocated channel (see Tributaries). Hydrology





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for Wetland A is provided by an offsite intermittent natural stream, seasonally high groundwater table, surface sheet flow from adjacent uplands, and direct precipitation. Water flows intermittently from this wetland through Ditch 1, Wetland D/E/F, and Ditches 6 and 7 to Morgan Creek, an (a)(2) water, and meets the definition of an adjacent wetland (a)(4) and is jurisdictional under 33 CFR 328.3(a)(2).

**Wetland C:** Wetland C is 0.35 of an acre palustrine scrub-shrub/emergent Category II depressional wetland found on the northwest portion of the property and contained entirely on-site. Wetland C abuts Stream 1, which drains intermittently within a natural channel to Ditch 1 (Photo 8). Hydrology for Wetland C is provided by a seasonally high groundwater table, surface sheet flow from adjacent uplands, and direct precipitation. Water flows from Wetland C, into Ditch 1, then through Wetland D/E/F and into Ditches 6 and 7, then Morgan Creek. Water flows from this wetland through Wetland D/E/F, and Ditch 6 and 7 to Morgan Creek, an (a)(2) water demonstrate that Wetland C meets the definition of an adjacent wetland (a)(4) and is jurisdictional under 33 CFR 328.3(a)(2).

**Wetland D/E/F:** Wetland D/E/F is a 2.29-acre palustrine forested/scrub-shrub/emergent Category III slope-depressional wetland found on the northeast portion of the property abutting Ditch 7 (Photo 10). Water flows from Wetland D/E/F through Ditch 7 and into the Morgan Creek, an (a)(2) demonstrate the wetland meets the definition of an adjacent wetland (a)(4) and is jurisdictional under 33 CFR 328.3(a)(2).

**Wetland I:** Wetland I is adjacent to a stream channel located on the southeast portion of the property. Wetland I extends downslope to the southeast and off-site then drains into Mud Creek (Photo 11). Hydrology for Wetland I is provided by seasonally high groundwater table, surface sheet flow from surrounding uplands, and direct precipitation. During the 2 March 2021 site visit, surfact water was observed flowing through the wetland and indot Mud Creek, and (a)(2) water. Water flows from the wetland abutting an (a)(2) tributary (Mud Creek) demonstrate that Wetland I meets the definition of an adjacent wetland (a)(4) and is jurisdictional under 33 CFR 328.3(a)(2).

**NON-JURISDICTIONAL WATERS:** (Figures 2 and 3)

**WETLANDS:**

**Wetland B:** Wetland B is located in a depressional area on the northwestern portion of the property (Photo 12). There is a topographic rise between Wetland A and B with no visible surface inlet or outlet from or to other waters from Wetland B. Hydrology for Wetland B is provided by surface sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. Wetland B does not contribute to or receive surface water from an (a)(1) to (a)(3) water and is not jurisdictional under 33 CFR 33 CFR 328.3(b)(1).

**Wetland G:** Wetland G is located in a depressional area on the southwestern portion of the property (Photo 13). This wetland is found within a shallow depression with no visible surface inlet or outlet. Hydrology for Wetland G is provided by surface sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. Wetland G does not contribute to or receive surface water from an (a)(1) to (a)(3) water and is not jurisdictional under 33 CFR 33 CFR 328.3(b)(1).



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Wetland H: Wetland H is a slope wetland located southern portion of the property. Overland sheet flow from Wetland H to Wetland I or Ditch 4 was observed at the time of the 2 March 2021 site visit (Photo 14). Hydrology for Wetland H is provided by ephemeral flows from Ditches 2 and 4, sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. There was no visible surface outlet, other than the observed overland sheet flow, from this wetland to Wetland I or Ditch 4. Based on the APT results showing wetter than normal conditions occurring during the wet season and the absence of a surface drainage channel or other erosional features, it was determined that overland sheet flows from this wetland would be ephemeral. Wetland H does not contribute perennial or intermittent flows to other waters or receive surface water from an (a)(1) to (a)(3) water and is not jurisdictional under 33 CFR 33 CFR 328.3(b)(1).

Wetlands J (no photo): Wetland J is located in a shallow depression south of Wetland H. This wetland is found within a shallow depression with no visible surface inlet or outlet. Hydrology for Wetland J is provided by surface sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. There was no visible surface inlet or outlet from this wetland. Wetland J does not contribute to or receive surface water from an (a)(1) to (a)(3) water and is not jurisdictional under 33 CFR 33 CFR 328.3(b)(1).

Wetland K: Wetland K is located near the southwest corner of the property. This wetland is found within a shallow depression with no visible surface inlet or outlet (Photo 15). Hydrology for Wetland K is predominately from precipitation, surface sheet flow from adjacent uplands, and a seasonally high groundwater table. Wetland K is found in a shallow depression with no observed hydrologic inlet or outlet, therefore, Wetland K does not contribute to or receive surface water from an (a)(1) to (a)(3) water and is not jurisdictional under 33 CFR 33 CFR 328.3(b)(1).

**Ditches:**

Ditch 2 and Ditch 4 were dug through uplands and have ephemeral flows and extend eastward along the north and south sides of the unimproved road, then drain into Wetland H and then into Ditch 5. During our site visit, no water flow was observed within these ditches. Based on the APT results showing wetter than normal conditions occurring during the wet season and the lack of surface flow at the time of the site visit, it was determined flows within these features would be ephemeral. The onsite tributaries, Ditches 1 and 6 are located approximately 0.08 of a mile north of Ditches 4 and 5 and are the nearest (a)(2) waters (Figure 2 and 3 of 3). These ditches were not constructed in wetlands or an (a)(2) water, are not a relocated tributary and does not provide either intermittent or perennial flows to an (a)(1) through (a)(4) water and therefore is not jurisdictional under 33 CFR 328.3(b)(5).

Ditch 3 was dug in uplands and has ephemeral flow and extends eastward along the north side of the unimproved road then drains into Wetland D/E/F. During our site visit, no water flow was observed within this ditch. Based on the APT results showing wetter than normal conditions occurring during the wet season and the lack of surface flow at the time of the site visit, it was determined flows within these features would be ephemeral. The onsite tributary, Ditch 1 is located approximately 0.07 of a mile north of Ditch 3 and is the nearest (a)(2) water (Figure 2 and 3 of 3). The ditch was not constructed in wetlands or an (a)(2) water,





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is not a relocated tributary and does not provide either intermittent or perennial flows to an (a)(1) through (a)(4) water and therefore is not jurisdictional under 33 CFR 328.3(b)(5).

Ditch 5 was dug in uplands and has ephemeral flow and extends eastward along the south side of the unimproved road to the east property boundary then turns north allowing water to flow into Ditch 6, which was dug in uplands and also has ephemeral flow. During our site visit, no water flow was observed within Ditch 5. Based on the APT results showing wetter than normal conditions occurring during the wet season and the lack of surface flow at the time of the site visit, it was determined flows within this feature would be ephemeral. The closest tributary is Ditch 6 and the northern extent of Ditch 5 merges with Ditch 6 (Figure 2 and 3 of 3). Ditch 5 was not constructed in wetlands or an (a)(2) water, is not a relocated tributary and does not provide either intermittent or perennial flows to an (a)(1) through (a)(4) water and therefore is not jurisdictional under 33 CFR 328.3(b)(5).b)(5).

The JD findings for the above project was submitted on July 14, 2021 to the EPA for review. The EPA did not provide any comments within their 14-day review period per there were no comments received from EPA regarding the JD findings within their 14-day period. Per the 5 August 2020 Army/EPA Memorandum, the Corps considers its coordination with EPA to be complete and will proceed with the decisions described within the JD.