



**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): 8/11/2021

ORM Number: NWS-2021-728

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Washington City: Nordland County/Parish/Borough: Jefferson County

Center Coordinates of Review Area: Latitude 48.0212 Longitude -122.6904

**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
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.

<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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**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 A	N/A.	N/A.	(b)(1) Non-adjacent wetland.	This 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; are 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 (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 Report dated 18 April 2021 and, emails from applicant and agent dated 27 July 2021, and 6 August 2021.](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: [Additional information was required to assess connectivity to other waters.](#)

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

Photographs: [Aerial and Other: Consultant provided site photos](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx-see> [Wetland Delineation Report](#)

USFWS NWI maps: <https://www.fws.gov/wetlands/data/mapper.html-> see [Wetland Delineation Report](#)

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
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>

<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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Data Source (select)	Name and/or date and other relevant information
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Washington Department of Fish and Wildlife website: <a href="http://apps.wdfw.wa.gov/salmonscape/map.html">http://apps.wdfw.wa.gov/salmonscape/map.html</a>

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

**C. Additional comments to support AJD:** The subject property is located on the south end of Marrowstone Island and north of Gybe Road. Although four wetlands have been delineated on the subject property, the applicant has requested the review area be limited to Wetland A because the proposal would only impact this wetland. The review area reflects the limits of the applicant's proposed project and is depicted on Sheet 3 of 3. According to the Wetland Delineation Report dated 18 April 2021, an intermittent ditch serves as an outlet for Wetland A at its southern extent (outside of the review area). The nearest known (a)(2) water to Wetland A is an unnamed tributary to Oak Bay, an (a)(1) water, located near Kinney Point and roughly 0.5 of a mile south of the review area wetland.

Wetland A is a Category III, forested depressional system with a seasonally flooded hydroperiod. Hydrology was observed in Wetland A as standing water, saturation to the surface, and a high water table at 6 inches where there was not standing water.

Wetland A receives water from upslope runoff, direct precipitation, and groundwater discharge. Wetland A is located in the southeastern corner of the review and extends offsite to the south. According to the Wetland Delineation Report, Wetland A outlets to an intermittently flowing ditch at the south end of the wetland and flows generally south towards Robbins Road. Further site investigation by the applicant identified a 12-inch culvert crossing under Robbins Road at this location. Water flows through this culvert pipe to a small depressional area with French drains, south of Robbins Road. There does not appear to be any known outlets for this depressional, seasonally wet area, south of Robbins Road.

While the ditch at the southern end of Wetland A is not in the review area, nor on the subject property, based on information provided by the applicant, it does not appear to contribute flow downstream and is not likely to be an (a)(2) tributary.

Because Wetland A is not abutting a water of the U.S., is not inundated by flooding of a water of the U.S., is not separated from a water of the U.S. by a natural or artificial berm, and there is no surface hydrologic connection to off-site waters of the U.S., Wetland A does not meet the definition of an adjacent wetland and is not jurisdictional under 33 CFR 328.3(b)(1).