

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 3 November 2021.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2021-844, Harbour Homes.
Name of water being evaluated on this JD form: Wetland A, Wetland B

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: King City: Covington

Center coordinates of site (lat/long in degree decimal format): Lat: 47.370871 **N**, Long: -122.132391 **W**

Universal Transverse Mercator: _____

Name of nearest waterbody: Big Soos Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: N/A.

Name of watershed or Hydrologic Unit Code (HUC): 17110013 Duwamish, 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: 2 November 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):¹

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters² (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):³

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Wetland A and Wetland 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 features are not used by interstate or foreign travelers for recreational purposes, have no habitat or resources of special**

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² 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).

³ Supporting documentation is presented in Section III.F.

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):⁴

- 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 and Existing Conditions Map provided by Soundview Consultants LLC within Wetland and Fish and Wildlife Habitat Assessment dated 13 August 2021.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.

⁴ 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 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, 1900 ed.) Scale 1:125000; Seattle WA 1958 (HTMC, 1975 ed.) Scale 1:125000; Auburn WA 1983 (HTMC, 1983 ed.) Scale 1:25000; Tacoma WA 1991 (HTMC, 1991 ed.) Scale 1:100000; Auburn WA 2017 (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 13 August 2021.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): City of Covington Storm and Street Segment Basemap located at <https://www.covingtonwa.gov/citymaps.php> accessed October 2021; WDFW SalmonScape accessed October 2021; WDFW Fish Passage Inventory Map accessed October 2021.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Existing Conditions

The 4.77-acre subject property is located in an urban residential setting and is currently undeveloped with forested areas throughout the majority of the property and a small portion of a mowed pasture field along the northern border of the property. The site is bordered by a maintained pasture field and a single-family residence to the north; a large church and impervious parking lots to the south; a small undeveloped forested area to the east with a large single-family residential development beyond; and 156th Avenue Southeast to the west with an elementary school and associated infrastructure beyond.

NSCS Soil Survey identifies one soil series on the property. The entirety of the subject property is mapped as Alderwood gravelly sandy loam, 8 to 15 percent slopes. According to the NRCS survey, Alderwood gravelly sandy loam, 8 to 15 percent slopes is a moderately well drained soil and the depth to water table is 18- to 37-inches. Alderwood gravelly sandy loam, 8 to 15 percent slopes is a non-hydric soil but as much as 5% of areas mapped as Alderwood gravelly sandy loam, 8 to 15 percent slopes may contain inclusions of hydric Shalcar and Norma soils. The capacity of Alderwood gravelly sandy loam, 8 to 15 percent slopes to transmit water (Ksat) is very low to moderately low (0.00 to 0.06 inches per hour).

Subject Waters

Soundview Consultants, LLC identified two wetlands on the subject property (Wetland A and Wetland B), both of which are subject to this approved jurisdictional determination. One offsite wetland was identified offsite to the east, but is not subject to this approved jurisdictional determination. One offsite linear drainage feature (Offsite Drain) was identified to the south of the subject property and is not subject to this approved jurisdictional determination.

A total of eight formal data plots (DP-2, DP-6, DP-7, DP-9, DP-10, and DP-13 to DP-15) and several additional test pits were collected in five additional areas in low topographic depressions throughout the subject property at three different points in time within the growing season; the majority of the data plots did not meet more than one of the three required wetland criteria according to current wetland delineation methodology, and only one data plot (DP-7) met for two of the required criteria. During the joint site visit performed in August 2020, the City of Covington's third-party reviewer provided concurrence that none of the other identified low topographic depressions met wetland criteria.

Site Hydrology

An offsite linear French drain was observed in a west-east orientation along the southern parcel boundary. The artificial drainage, referred to herein as Offsite Drain, is a French drain system that was installed by the neighboring church, likely created to convey stormwater from the surrounding impervious roadway and parking areas, as well as to intercept ground water due to the onsite grading from the church. The Offsite Drain is artificially excavated as evidenced by observed artificial material (round rock), small size (less than 2 feet in width), and the lack of a defined bed (i.e. sorting of substrate) and bank. The Offsite Drain is not depicted on USGS topographic maps dated from 1897 through present. The Offsite Drain appears to drain to a catch basin connected to the municipal stormwater system along 156th Avenue Southeast. There is no known connection to any streams or other natural waters after entering the stormwater system.

The WDFW SalmonScape depicts an unnamed tributary to Big Soos Creek located 0.1-mile south east of the subject property. The unnamed tributary is not depicted on USGS topographic maps dated from 1897 through present. Topographic high points, residential and commercial development, 158th Avenue Southeast, Southeast 258th Street, and driveways are present between the subject wetlands and unnamed tributary to Big Soos Creek. In addition, the very low to moderately low capacity of the onsite soils to transmit water likely precludes a subsurface connection between the subject wetlands and unnamed tributary to Big Soos Creek. Artificial drainage features including catch basins are present along 158th Avenue Southeast and Southeast 258th Street which collect surface water runoff and direct it into the municipal stormwater system. There is no evidence of a natural or artificial surface water feature that would convey hydrology from the subject property, under Southeast 258th Street, to the unnamed tributary to Big Soos Creek based on a review of Google Earth

3D street-view imagery. In addition, there are no natural or artificial surface water features mapped or depicted on the City of Covington Storm and Street Segment Basemap, WDFW SalmonScape, WDFW Fish Passage Map, USGS Historic Topographic Maps, and historic aerial imagery which could provide a hydrologic connection between the subject wetlands and unnamed tributary.

The EPA WATERS Layer, accessed through Google Earth, depicts the nearest potential water of the U.S. as Big Soos Creek, located 0.49-mile southwest of the subject property. Big Soos Creek is depicted as the nearest potential water of the U.S. on historic topographic maps dating back to 1897. Multiple 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. Based on this information, there is no evidence to suggest that a surface or subsurface water connection exists between the subject wetlands and a potential water of the U.S.

Wetlands

Wetland A is a 247 square foot (sf) (0.006-acre), Category IV depressional wetland located in the southwest corner of the subject property, adjacent to 156th Avenue Southeast. Hydrology for Wetland A is likely provided by a seasonally high groundwater table, direct precipitation, and surface sheet flow. Wetland vegetation is dominated by salmonberry and cluster rose. Wetland A is a Palustrine Scrub-Shrub, Seasonally Saturated wetland (PSSB).

Wetland B is a 1,303 sf (0.029-acre) Category IV depressional wetland located in the north-central portion of the subject property. Hydrology for Wetland B is provided by a seasonally high groundwater table, direct precipitation, and surface sheet flow. Wetland vegetation is dominated by soft rush, common velvetgrass, creeping buttercup, and bluegrass. Wetland B is a Palustrine Emergent, Temporarily Flooded and Seasonally Saturated wetland (PEMAB).

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.

Emails requesting concurrence were sent to EPA and to Corps HQ on 2 November 2021. On 3 November 2021, the EPA provided concurrence with the determination that Wetland A and Wetland B are isolated and therefore not waters of the U.S. On 3 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 3 November 2021.