

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 29 November 2021.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, North County Fire / EMS, NWS-2021-941.  
Name of water being evaluated on this JD form: Wetland F

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Washington County: Snohomish City: Stanwood  
Center coordinates of site (lat/long in degree decimal format): Lat: 48.267477 N, Long: -122.27464 W

Universal Transverse Mercator: \_\_\_\_\_

Name of nearest waterbody: Church Creek.

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

Name of watershed or Hydrologic Unit Code (HUC): 17110008 Stillaguamish 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: 24 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):<sup>1</sup>**

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters<sup>2</sup> (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):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Wetland F does 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. Wetland F is not used by interstate or foreign travelers for recreational purposes, has no habitat or resources of special significance which would attract**

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

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

**interstate or foreign travelers, lacks bird and wildlife species of special significance which would attract interstate or foreign travelers, supports no fish or shellfish which could be taken or sold in interstate or foreign commerce, and is 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):<sup>4</sup>**

- 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: Delineation Report for North County Fire / EMS, dated 20 September 2021; Figure 1 Vicinity Map, Figure 2 Precipitation Analysis for January 2020, Figure 3 Precipitation Analysis for August 2021, Figure 4 Wetlands Within and Surrounding Subject Property.
  - Data sheets prepared/submitted by or on behalf of the applicant/consultant.

<sup>4</sup> 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 concurs with data sheets/delineation report.
- 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: Mount Vernon, WA 1911 (HTMC, 1911 ed.) Scale 1:125000; Mount Vernon, WA 1940 (HTMC, 1957 ed.) Scale 1:62500; Conway WA 1956 (HTMC, 1943 ed.) Scale 1:24000; Port Townsend WA 1975 (HTMC, 1977 ed.) Scale 1:100000; Port Townsend WA 1993 (HTMC, 1993 ed.) Scale 1:100000; Conway WA 2020 (US Topo) Scale 1:24000
- USDA Natural Resources Conservation Service Soil Survey. Citation: Web Soil Survey for subject property accessed November 2021.
- National wetlands inventory map(s). Cite name: NWI Map for subject property accessed November 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 accessed via NETROnline November 2021; Google Earth Aerial Imagery accessed November 2021
- or  Other (Name & Date): Delineation Report for North County Fire / EMS, dated 20 September 2021: Figure 5 - 8 Site Photographs.
- Previous determination(s). File no. and date of response letter: \_\_\_\_\_.
- Applicable/supporting case law: \_\_\_\_\_.
- Applicable/supporting scientific literature: \_\_\_\_\_.
- Other information (please specify): City of Stanwood 2014 Stormwater Comprehensive Plan, Chapter 2, Appendix C: Stanwood Stormwater Study Area Characteristics and Stormwater Network; WDFW Fish Passage Map.

## **B. ADDITIONAL COMMENTS TO SUPPORT JD:**

### Subject Property

The subject site is 32.55-acres in size and is accessed from the north via 300<sup>th</sup> Street Northwest. The site was cleared prior to 1990 and was subsequently used for recreational off-road driving. Currently, a powerline easement runs through the eastern portion of the site. No other development is located within the subject parcels. Land use surrounding the site is comprised of low-density residential development and areas of undisturbed forest. Wetland Resources, Inc. (WRI) identified six wetlands (Wetland A – F) on the subject site. Only Wetland F is subject to this determination. All other wetlands and waters that may occur on the subject property, outside of the review area shown on the project figures, dated 29 September 2021, are not subject to this determination.

### Soil Properties

Based on the USDW Natural Resources Conservation Service (NRCS) Web Soil Survey, the site is comprised of four soil units: Winston gravelly loam, 3 to 30 percent slopes (1.9% of subject property); Tokul gravelly medial loam, 8 to 15 percent slopes (45.7%); Tokul gravelly medial loam, 15 to 30 percent slopes (45.5%); and Tokul gravelly medial loam, 0 to 8 percent slopes (6.9%). Wetland F is located in a portion of the subject property mapped as Tokul gravelly medial loam, 8 to 15 percent slopes. According to Web Soil Survey, Tokul gravelly medial loam, 8 to 15 percent slopes is a moderately well drained soil with a depth to water table of 18- to 36-inches. The capacity of this soil to transmit water (Ksat) is very low to moderately low (0.00 to 0.06 inches/hour). Frequency or ponding and frequency of flooding are none. Tokul gravelly medial loam, 8 to 15 percent slopes is mapped as a non-hydric soil, but as much as 5% of the area may contain minor components of hydric Norma or Mckenna.

Web Soil Survey, in addition to other maps including USGS Historic Topographic maps, depict Church Creek crossing through the central portion of the subject property in a north-south orientation. The areas adjacent to Church Creek are mapped as Tokul gravelly medial loam, 15 to 30 percent slopes. Tokul gravelly medial loam, 15 to 30 percent slopes is a moderately well drained soil with a depth to water table to 18- to 36-inches. The capacity of this soil to transmit water (Ksat) is very low to moderately low (0.00 to 0.06 inches/hour). Frequency or ponding and frequency of flooding are none. Tokul gravelly medial loam, 15 to 30 percent slopes is mapped as a non-hydric soil, but as much as 5% of the area may contain minor components of hydric Norma or Mckenna.

### Hydrology

As stated previously, Church Creek is depicted at the subject property on Web Soil Survey and USGS Historic Topographic Maps. The Washington Department of Fish and Wildlife identifies Church Creek as an intermittent or ephemeral feature at the subject property. Historic aerial photographic dating back to 1954, provided by NETROnline, do not depict any indicators of historic natural or artificial surface water features at the subject property. WRI investigated the subject property and determined that stream conditions are not present at the subject site. No defined bed and bank, channel, base flow, or sorting associated with flowing water was observed in the vicinity of the mapped stream. The topographic low points which correspond to the areas mapped as stream were determined to meet wetland characteristics and were delineated as Wetlands A – D. A swale within the property immediately north of the site (north of 300<sup>th</sup> Street Northwest) was observed from the edge of Freeborn Road. It appears that the headwaters of Church Creek are located north of 300<sup>th</sup> Street Northwest, however the exact location was not able to be determined due to a lack of legal access. The Washington State Fish Passage map does not identify any culverts that would provide surface water connection between the parcel above 300<sup>th</sup> Street Northwest and the subject property. In addition, no culvert is visible on Google Earth street view. A comprehensive study (City of Stanwood 2014 Stormwater Comprehensive Plan, Chapter 2, Appendix C: Stanwood Stormwater Study Area Characteristics and

Stormwater Network) confirms that Church Creek is present north of 300th Street Northwest and east of I-5, and that lower portions of the watershed consist primarily of agricultural lands and wetland areas.

Wetland F is located 355 feet west of the mapped Church Creek, and 375 feet southwest of the swale observed by WRI north of 300th Street Northwest. The subject wetland is located in a topographic depression; Google Earth indicates a 30-foot topographic rise in grade from the delineated wetland to the area mapped as Church Creek. WRI conducted site investigations and determined that Wetland F has no observable outlet. Wetland data was collected north, east, south, and west of the delineated wetland boundaries, and WRI confirmed that wetland soils and hydrology were not present. Wetland F is located in a topographic depression and therefore has no potential surface connection to downslope areas.

Due to the lack of evidence that Church Creek is present at the subject property, the presence of a topographic high point between Wetland F and the mapped Church Creek area, and little to no capacity for the soil to transmit water, it is unlikely that there is a hydrologic connection between Wetland F and Church Creek. If Church Creek is present offsite to the north, the presence of impervious surfaces such as roads and residential houses, the lack of observed natural or artificial outlets from Wetland F, and little to no capacity for the soil to transmit water would likely preclude a hydrologic connection. Aside from the mapped Church Creek, the nearest mapped potential water of the U.S. is Freedom Creek, located 1,022 feet east of Wetland F. Due to the topographic rise, presence of impervious surfaces, and little to no capacity for the soil to transmit water, a hydrologic connection between Wetland F and Freedom Creek is unlikely.

#### Subject Wetland

Wetland F is an 824 square foot (sf) (0.02 acre) Category II depressional wetland located in the northwest corner of the subject property. The subject wetland is primarily vegetated with a canopy of Pacific willow (*Salix lasiandra*; FACW). The understory is sparsely vegetated with a mixture of salmonberry (*Rubus spectabilis*; FAC), Himalayan blackberry (*Rubus armeniacus*; FAC), common ladyfern (*Athyrium filix-femina*; FAC), and reed canarygrass (*Phalaris arundinacea*; FACW). Dominant vegetation within the wetland is rated as facultative (FAC) or wetter and therefore the plant community in the wetland is considered hydrophytic.

Based on observations and data collected by WRI, the top 16 inches of soil within the wetland are a black (10YR 2/1) sandy loam with very dark brown (7.5YR 2.5/3) redoximorphic concentrations present in the matrix. These conditions meet the criteria for the Hydric Soil indicator Redox Dark Surface (F6). Soils within Wetland F were moist beginning 13 inches below the soil surface during the August 2021 site investigation. Criteria meeting the conditions for the Wetland Hydrology indicator "Sparsely Vegetated Concave Surface" (B8) were observed in the wetland.

As documented above, Wetland F is located within a small depression with no observable outlet. Due to the isolated nature and small size of the subject wetland, it is not used by interstate or foreign travelers for recreational purposes, has no habitat or resources of special significance which would attract interstate or foreign travelers, lacks bird and wildlife species of special significance which would attract interstate or foreign travelers, supports no fish or shellfish which could be taken or sold in interstate or foreign commerce, and is 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 24 November 2021. On 24 November 2021, the EPA provided electronic concurrence. On 29 November 2021, Corps HQ provided a comment on the AJD Form which was incorporated and confirmed that coordination with Corps HQ was complete. Coordination was complete on 29 November 2021. .