

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 30 March 2022.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, JD Strickland Property, NWS-2021-488.  
Name of water being evaluated on this JD form: Wetland A

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

State: Washington County: Snohomish City: Everett, Washington

Center coordinates of site (lat/long in degree decimal format): Lat: 47.9518003 N, Long: -122.2828840 W

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

Name of nearest waterbody: Edgewater Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Possession Sound.

Name of watershed or Hydrologic Unit Code (HUC): 1711001911 (Skagit Bay).

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: 30 March 2022.

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: x linear feet x width (ft) and/or x acres.

Wetlands: 0.03 acres.

**c. Limits (boundaries) of jurisdiction based on:** 1987 Delineation Manual and Regional Supplement(s) and Established by OHWM.

Elevation of established OHWM (if known): N/A.

**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 A 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. The subject wetland is not used by**

<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 for recreational purposes, have 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 are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce. See Section 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: 0.03 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: Wetland Delineation Report dated May 5, 2021, prepared by Wetland Resources, Inc.
- 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: USGS National Hydrography Dataset Map
- USDA Natural Resources Conservation Service Soil Survey. Citation: \_\_\_\_\_.
- National wetlands inventory map(s). Cite name: National Wetlands Inventory Map.
- State/Local wetland inventory map(s): \_\_\_\_\_
- FEMA/FIRM maps: \_\_\_\_\_.
- 100-year Floodplain Elevation is: \_\_\_\_\_ (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Local Vicinity Map - 5 May 2021  
or  Other (Name & Date): Site Photos from Delineation Report dated 5 May 2021.
- Previous determination(s). File no. and date of response letter: \_\_\_\_\_.
- Applicable/supporting case law: \_\_\_\_\_.
- Applicable/supporting scientific literature: \_\_\_\_\_.
- Other information (please specify): \_\_\_\_\_.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** Corps PM Kelly Werdick reviewed the wetland delineation report dated 5 May 2021 submitted by the applicant. Wetland A was recorded as a Category IV Palustrine Scrub Shrub, Broad-leaved deciduous, Saturated Only (PSS1B) sloped wetland unit. The property consists of an abandoned retail building, associated parking area, single-family residence, gravel driveways, and undeveloped vegetated areas. Topography of the southern portion of the property is relatively flat and on the northern portion slopes steeply to the north and northwest. A derelict french drain was recorded along the southern portion of the wetland. The french drain conveys surface water to the southwest before entering the local stormwater system along Upland Avenue. The stormwater conveys flow to the northwest before entering a catchbasin along Upland Avenue. The Corps' requested supporting data plots between the subject wetland and french drain to support the lack of hydrologic connection. Information on three additional data points were submitted by the applicant on 27 July 2021. Sampling indicated upland soils and no soil saturation between the wetland and the french drain. The Corps reviewed the additional data and concurs there is no shallow subsurface hydrologic connection between the wetland and the french drain. The next nearest water feature to the subject site is Edgewater Creek, located 391 feet southwest of the property. The area intervening between the wetland and Edgewater Creek contains residential development, associated infrastructure, and a paved roadway (Upland Avenue).

Wetland A satisfied all three indicators for hydrophytic vegetation, hydric soils, and hydrology. The vegetation in the wetland is dominated by reed canarygrass (Phalaris arundinacea) and Himalayan blackberry (Rubus armeniacus). Wetland soil indicator F6 (Redox Dark Surface) was recorded for the wetland data plot (S2) however, the soil data profile did not satisfy hydric soil indicator F6. The matrix value for S2 was recorded 0-10 inches 10YR 3/2 100% with no recorded redoxymorphic features. In order to satisfy hydric soil indicator F6, this soil layer would need to have 5 percent or more distinct or prominent redox concentrations occurring as soft masses or pore linings. The Corps reviewed the soil data plot and determined the hydric soil satisfies indicator F3 (depleted matrix). The second soil layer sampled from 10-18 inches was recorded as 2.5YR 4/2 90% with 10% prominent concentrations in the matrix colored at 10YR 4/6. This soil as recorded meets the definition of a depleted matrix; the matrix value of 4 and chroma of 2, with 2 percent or more distinct or prominent redox concentrations occurring as soft masses and/or pore linings. This soil layer also satisfies hydric soil indicator A11 (depleted below dark surface) as the matrix is depleted, has >60% chroma of 2, starts within 12 inches, has a thickness of >6 inches (8 inches), and the soil layer from 0-10 inches has a value of 3 and chroma of 2, satisfying the requirements for indicator A11. The wetland satisfied indicator A3 (saturation) for hydrology and was recorded to have saturation in the soil column at 10 inches in soil depth.

Wetland A does not have a surface or shallow subsurface connection or ecological connectivity to other waters of the U. S. The subject wetland is 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, 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 are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce. Wetland A is not a water of the U. S.