

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

Form 1 of 2

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 24 May 2022.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, Woodin Creek Subdivision, LLC, NWS-2020-762.

Name of water being evaluated on this JD form: Wetlands "D", "E", "F", and "G"; Tributaries "A", "B", "C", "Unnamed Tributary", and "Ditch 1".

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: Battle Ground

Center coordinates of site (lat/long in degree decimal format): Lat: 45.757922 N, Long: -122.542069 W

Universal Transverse Mercator:

Name of nearest waterbody: Woodin Creek.

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

Name of watershed or Hydrologic Unit Code (HUC): 170800030103.

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: 10 May 2022.

Field Determination. Date(s): 14 March 2022.

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** "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: 3,300 linear feet 2 width (ft) and/or _____ acres.

Wetlands: 1.17 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual 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: _____

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.

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 (IF ANY):

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 5.2 acres
Drainage area: 5.2 acres
Average annual rainfall: 50.97 inches
Average annual snowfall: 1.4 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
- Tributary flows through 2 tributaries before entering TNW.

Project waters are 15-20 river miles from TNW.
Project waters are 1 (or less) river miles from RPW.
Project waters are 5-10 aerial (straight) miles from TNW.
Project waters are 1 (or less) aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: _____.

Identify flow route to TNW⁴: Wetland "D" drains through Ditch "1" and into Wetland E then into the unnamed tributary then into Tributary "A". Wetland "F" drains directly into Tributary "A". Wetland "G" drains directly into Tributary "B". See Section IV.B.

Tributary stream order, if known: Tributaries "A", "B", and "C" are stream order 1.

(b) General Tributary Characteristics (check all that apply):

- Tributary is:**
- Natural
 - Artificial (man-made). Explain: _____.
 - Manipulated (man-altered). Explain: Ditch "1" is a shallow ditch excavated within a shallow

swale that allows water to drain Wetland D more rapidly into Wetland E then into the unnamed tributary then into Tributary "A". Historic aerials show a wetland signature between Wetland "D" and Wetland "E" that is within the location of Ditch "1". See Section IV.B for more detail.

Tributary properties with respect to top of bank (estimate):

Average width: Tributaries "A" and "B"; Tributary "C" - 4 ft; Ditch 1 - 2 ft; Unnamed Tributary - 1 ft; feet
Average depth: Tributary "A" - 0.5 ft; Tributary "B" - 0.3 ft; Tributary "C" - 1 ft; Ditch 1 - 0.2 ft; Unnamed Tributary - 0.3 ft; feet
Average side slopes: 3:1.

Primary tributary substrate composition (check all that apply):

- Silts
- Sands
- Concrete
- Cobbles
- Gravel
- Muck
- Bedrock
- Vegetation. Type/% cover: _____
- Other. Explain: _____.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Stable.

Presence of run/riffle/pool complexes. Explain: None.

Tributary geometry: Meandering

Tributary gradient (approximate average slope): 15 %

(c) Flow:

Tributary provides for: Seasonal flow

Estimate average number of flow events in review area/year: 2-5

Describe flow regime: Flows were observed in the Tributaries "A", "B", and "C" during the 5 October 2020, 14 January 2021, and 14 March 2022 site visits. The unnamed tributary and Ditch "1" were not reviewed during the 14 January 2021 site visit; however, flows were observed within the unnamed tributary and Ditch "1" during 14 March 2022 site visit.

Other information on duration and volume: _____.

⁴ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
Version 2-8-08 Seasonal RPW and Abutting Only

Surface flow is: **Confined**. Characteristics: Flows within Tributaries "A", "B", "C", and the Unnamed Tributary are confined to the natural channels. The unnamed tributary is an excavated channel in uplands. Flow within Ditch "1" is confined to the excavated ditch allowing water to flow from Wetland "D" into Wetland "E".

Subsurface flow: **Unknown**. Explain findings: _____.

Dye (or other) test performed: _____.

Tributary has (check all that apply):

Bed and banks

OHWM⁵ (check all indicators that apply):

clear, natural line impressed on the bank

changes in the character of soil

shelving

vegetation matted down, bent, or absent

leaf litter disturbed or washed away

sediment deposition

water staining

other (list): _____

the presence of litter and debris

destruction of terrestrial vegetation

the presence of wrack line

sediment sorting

scour

multiple observed or predicted flow events

abrupt change in plant community

Discontinuous OHWM.⁶ Explain: _____.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

High Tide Line indicated by:

oil or scum line along shore objects

fine shell or debris deposits (foreshore)

physical markings/characteristics

tidal gauges

other (list): _____

Mean High Water Mark indicated by:

survey to available datum;

physical markings;

vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: water color is clear with moderate organic debris; general water quality is fair; watershed has been extensively developed for agricultural and residential uses; downstream waters of Woodin Creek are on the WA State 303(d) list for ammonia, temperature, dissolved oxygen, and bacteria.

Identify specific pollutants, if known: Unknown.

(iv) Biological Characteristics. Channel supports (check all that apply):

Riparian corridor. Characteristics (type, average width): Tributary "A"- "C" is forested and dominated for approximately along the length of the tributaries.

Wetland fringe. Characteristics: _____.

Habitat for:

Federally Listed species. Explain findings: The lower reach of Tributary "A" is accessible to listed salmonids.

Fish/spawn areas. Explain findings: _____.

Other environmentally-sensitive species. Explain findings: _____.

Aquatic/wildlife diversity. Explain findings: _____.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW – NOT APPLICABLE

3. Characteristics of all wetlands adjacent to the tributary (if any) – NOT APPLICABLE

C. SIGNIFICANT NEXUS DETERMINATION – NOT APPLICABLE

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

2. **RPWs that flow directly or indirectly into TNWs.**

Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide rationale indicating that tributary flows perennial: _____.

Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows

⁵A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody’s flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁶Ibid.

seasonally: Water flow was present in the subject tributaries during the October 2020, January 2021, and April 2022 site visits

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: **3,200** linear feet **2** width (ft).
 Other non-wetland waters: _____ acres.
Identify type(s) of waters: _____.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: _____
- Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: Wetlands "D", "E", "F", and "G" have a seasonal surface connection to the subject tributaries.

Provide acreage estimates for jurisdictional wetlands in the review area: **1.17** acres.

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 - NOT APPLICABLE

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS - NOT APPLICABLE

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: Critical Areas Report (Report), dated Revised 12 August 2021; maps dated Revised 4 April 2022.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 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: The waterbody is on the Section 10 Navigable Waterway List for Seattle District.
- 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: _____
- USDA Natural Resources Conservation Service Soil Survey. Citation: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.
- National wetlands inventory map(s). Cite name: <https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper>.
- State/Local wetland inventory map(s): <https://gis.clark.wa.gov/maponline/index.cfm?>
- FEMA/FIRM maps: _____
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
or Other (Name & Date): Corps photos dated 5 October 2020, 14 January 2021, and 14 March 2022.
- Previous determination(s). File no. and date of response letter: NWS-2020-762; NWPR-AJD; dated 24 March 2021.
- Applicable/supporting case law: _____
- Applicable/supporting scientific literature: _____
- Other information (please specify): APT; 7 July 2020, 5 October 2020, 14 January 2021, and 14 March 2022.

B. ADDITIONAL COMMENTS TO SUPPORT JD: On 24 March 2021, a Navigable Waters Protection Rule-AJD was completed for the subject property (review area). This Pre-2015 Rule-AJD is to bring the jurisdictional determination in compliance with the current regulation.

Site visit: On 5 October 2020 and 14 January 2021, the Corps PM (Jim Carsner, Seattle District, Regulatory Branch) met with Miranda Adams (WA State Department of Ecology), Francis Naglich, Coli Hoffman, and Annie Jean Rendleman (ELS, consultants) on site, respectively, and walked the subject property. On 14 March 2022, Jim Carsner (Corps PM) met with Francis Naglich (consultant) to assess water flows Wetlands "D", "E", and "F" under the Pre-2015 Regulatory Regime.

Site description: The 65-acre property is located east of SR-503 and north of Northeast 184th Street near Battle Ground, Washington (Sheet 1 of 4). The site is rectangular in shape and bounded by residential development on the north, undeveloped forested land and Woodin Creek on the east, residential development and Northeast 128th Avenue on the south, and a multiple-use walking trail and roadside ditch

(Ditch 2) adjacent to SR-503 on the west. The site has no structures on it. An elevated multiple use trail, approximately 10 feet wide abuts the west property boundary with a roadside ditch situated between the trail and SR-503.

Soils: NRCS maps the onsite soils as non-hydric Hillsboro loam (HIE) with 20-30 percent slopes, Dollar loam (DoB) with 0-5 percent slopes, and Hockinson loam (HuB) with 0-8 percent slopes (Sheet 2 of 4). All mapped soil series are considered non-hydric with HIE being classified as well-drained and DoB and HuB classified as moderately well-drained. The typical profile for HIE is loam to roughly 34 inches then becoming sandy loam to sand between 34 and 60 inches with no listed restrictive layer. The typical profile for DoB is loam to roughly 60 inches with a restrictive layer between 20 and 40 inches below the surface. The typical profile for HuB is loam to roughly 60 inches with a restrictive layer at greater than 80 inches below the surface.

Topography: A topographic map from 2019 by Merrick & Company and provided within the Critical Areas Report, Woodin Creek, dated Revised 12 August 2021 show a relatively flat with undulating topography on the western portion of the property and three moderate to steep slopes forming stream drainages on the eastern portion of the property (Sheet 3 of 4). The western portion of the property has a general slope to the east.

Wetland delineation: A wetland delineation was conducted by Ecological Land Services, Incorporated biologists on during July and August 2020 with additional work in January 2021. Eleven wetlands (Wetlands "A" – "K"), three tributaries (Tributary "A" – "C"), and one ditch (Ditch "1") were identified onsite by the consultant. Only Wetlands "D", "E", "F", and "G" as well as the Tributary "A", "B", "C", the unnamed tributary, and Ditch "1" are discussed in this Form 1 of 2. The National Wetland Inventory shows a wetland on the southeast corner of the property, associated with Woodin Creek (Sheet 4 of 4). The Clark County Wetland Inventory shows wetlands present in several areas that coincide with the delineation report (Sheet 4 of 4).

Precipitation: The Antecedent Precipitation Tool (APT) shows the July and August 2020 delineation study as well as the 5 October 2020 site visit were conducted during the dry time of the year with normal precipitation levels. The ATP shows the 14 January 2021 and the 14 March 2022 site visits were conducted during the wet season and during normal precipitation levels.

Ditches:

Ditch "1" is an excavated ditch located in a shallow swale that extends approximately 400 feet east from the mid-point of Wetland "D", terminating at Wetland "E". The NRCS soil map shows this ditch is within the mapped DoB soils. Observations during the 14 March 2022 site visit showed water, roughly 3 inches deep, flowing from Wetland "D" and into Wetland "E". The NRCS soil map shows this ditch is within the mapped DoB soils with a restrictive layer between 20 and 40 inches below the surface. The presence of surface drainage during March with normal precipitation levels in association with a shallow restrictive layer provides documentation this wetland would have a surface and shallow subsurface connection to Wetland "E" for at least three consecutive months, where water would continue to flow into Wetland "E" then into the unnamed tributary and into Tributary "A". Therefore, Ditch "1" is a RPW that flows indirectly into a TNW and is jurisdictional.

Unnamed Tributary: An unnamed tributary originates on the east side of Wetland "E", allowing water to flow into Wetland "F" and Tributary "A". This tributary is approximately 100 feet in length before merging with Wetland "F" and 200 feet in length before merging with Tributary "A". This tributary was dry during the October 2020 site visit then with an expressed surface flow during the January 2021 and March 2022 site visits and at a time of normal precipitation (Photos 1 through 4). The presence of water during the January 2021 and March 2022 site visits support water flow for at least three consecutive months from Wetland "E" and into Tributary "A", which flows into Salmon Creek, then Lake River, a TNW. Therefore, the Unnamed Tributary is a RPW that flows indirectly into a TNW and is jurisdictional.

Tributary "A": Tributary "A" originates on the north side of Wetland "F" and slopes to the northeast. This tributary is approximately 850 feet in length before merging with Tributary "C". This tributary is within a defined channel that was dry for approximately 100 feet during the October site visit expressed surface flow during the January site visit and at a time of normal precipitation (Photos 4 and 5). This tributary flows into Tributary "A" for at least three consecutive months, then into Woodin Creek which flows into Salmon Creek, Lake River, a TNW, providing documentation the unnamed tributary has a direct seasonal connection to a TNW. This tributary flows into Tributary "C" then Woodin Creek which flows into Salmon Creek, Lake River, a TNW. Therefore, Tributary "A" is a RPW and jurisdictional.

Tributary "B": Tributary "B" originates on the east side of Wetland "G" and slopes to the east in a well-defined channel. This tributary is approximately 850 feet in length before merging with Tributary "C". The channel was dry for approximately 100 feet during the October site visit then with an expressed surface flow during the January site visit and at a time of normal precipitation (Photos 6 and 7). This tributary flows into Tributary "A" then Tributary "C" and Woodin Creek which flows into Salmon Creek, Lake River, a TNW. Therefore, Tributary "B" is a RPW and jurisdictional.

Tributary "C": Tributary "C" is within a defined channel and a DNR mapped perennial water, with approximately 1,300 lineal feet on-site (Photo 8). Tributary "C" originates off-site and merges with waters from Tributary "A" then into Woodin Creek then Salmon Creek, Lake River, a TNW. Water was observed flowing in this tributary during the October 2020 and January 2021 site visits providing documentation that Tributary "C" has a direct connection to a TNW. Therefore, Tributary "C" is a RPW and jurisdictional.

WETLANDS: Jurisdictional

Wetland "D": Wetland "D" is located in a shallow depression approximately 150 feet north of the south center property boundary.

Hydrology for Wetland D is provided by surface sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. Wetland D drains into a Ditch "1". Observations of water flows from Wetland "D" during the January 2021 and March

2022 site visit demonstrating a seasonal connection between this wetland and an RPW. Therefore, Wetland "D" is a jurisdictional wetland.

Wetland "E": Wetland "E" is a 0.17 of an acre depressional wetland located on the south parcel, approximately 250 feet east of the Wetland "D" (Sheets 2 and 3). Hydrology for Wetland "E" is provided by a seasonally high groundwater table, surface sheet flow from a diacent uplands, direct precipitation, and seasonal flow from Wetland "D" through a ditch excavated in uplands. Water was observed flowing from Wetland "E" and into Tributary "A" during the January 2021 and March 2022 s site visit demonstrating a seasonal connection between this wetland and an RPW. Therefore, Wetland "E" is a jurisdictional wetland.

Wetland "F": Wetland "F" is found in a shallow depressional area located on the south parcel, approximately 1,500 feet east of the SR-503 and near the south property boundary. Hydrology for Wetland F is provided by seasonally high groundwater table, surface sheet flow from surrounding uplands, and direct precipitation. Water was observed flowing from Wetland "F" and into Tributary "A", a jurisdictional RPW, during the January 2021 and March 2022 site visit demonstrating a seasonal connection between this wetland and an RPW. Therefore, Wetland "F" is a jurisdictional wetland.

Wetland "G": Wetland "G" is found in a depressional area located on the center parcel, approximately 1,100 feet east of the SR-503. Hydrology for Wetland "G" is provided by seasonally high groundwater table, surface sheet flow from surrounding uplands, and direct precipitation. Water was observed flowing from Wetland "G" and into Tributary "B", a jurisdictional RPW, during the January 2021 and March 2022 site visit demonstrating a seasonal connection between this wetland and an RPW. Therefore, Wetland "G" is a jurisdictional wetland.