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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 27 June 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District – Cascade Medical Properties, NWS-2021-827
Name of water being evaluated on this form: Wetland A

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: WA County/parish/borough: Skagit City: Mount Vernon
Center coordinates of site (lat/long in degree decimal format Lat: 48.411430º Long. -122.315819º
Universal Transverse Mercator: Zone
Name of nearest waterbody: Maddox Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Strait of Georgia
Name of watershed or Hydrologic Unit Code (HUC): 17110007 (Lower Skagit River)
☒ 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.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 15 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 waters[2] (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:
Wetlands:

c. Limits (boundaries) of jurisdiction based on:
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: The subject wetland has a surface water connection to downstream navigable waters of the U. S. However, the flow contributions to downstream waters is extremely minimal and does not contribute to the biological, chemical, or physical integrity of the downstream TNW. See Section C for additional information

[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

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW:
Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation**.** Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

(i) General Area Conditions:

Watershed size: (Lower Skagit River) 447 **square miles**
Drainage area: 1.8 **square miles**
Average annual rainfall: 42 inches
Average annual snowfall: 10.7 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.
☒ Tributary flows through 5 tributaries before entering TNW.

Project waters are **5-10** 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 TNW[5]: Water from the project site flows through a series of diches, stormwater ponds, stormwater pipes, and an unnamed tributary for approximately 0.4 miles before entering Maddox Creek, a relatively permanent water. Maddox Creek flows for 2.4 miles before converging with a constructed waterway known as "Big Ditch", which flows for an additional 4.9 miles before connecting to the South Fork Skagit River, a Traditional Navigable Water, via existing tidegates.

Tributary stream order, if known: 1st.

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

[5] 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.

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

Tributary is: ☐ Natural
☒ Artificial (man-made). Explain: Ditches and piping were constructed to provide stormwater conveyance.
☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):
Average width: 3.5 feet
Average depth: 3 feet
Average side slopes: **2:1.**

Primary tributary substrate composition (check all that apply):

☒ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☒ Vegetation. Type/% cover: reed canary grass and other herbaceous species, 30%	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Stable ditch
Presence of run/riffle/pool complexes. Explain: none.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): 4%

(c) Flow:
Tributary provides for: **Ephemeral flow**
Estimate average number of flow events in review area/year: **6-10**
Describe flow regime: Ephemeral. Flow occurs only during significant rain events.
Other information on duration and volume: Flow in ditch/pipe system is absent for more thasn half of the year.

Surface flow is: **Confined.** Characteristics: See additional information below.

Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☒ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community
☐ other (list):	

☐ Discontinuous OHWM.[7] 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:	☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects	☐ survey to available datum;
☐ fine shell or debris deposits (foreshore)	☐ physical markings;
☐ physical markings/characteristics	☐ vegetation lines/changes in vegetation types.
☐ tidal gauges	
☐ other (list):	

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Water conveyed by the tributary (ditches and pipes) is generally clear with moderate organic debris; turbidity increases during heavy rain events; general water quality is good over total length of ditch; watershed has been extensively developed for residential and commercial land uses; downstream waters of Maddox Creek are listed on the WA State 303(d) list for fecal coliform.
Identify specific pollutants, if known: Petrochemicals (road runoff) and herbicides.

[6]A 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.
[7]Ibid.

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

☒ Riparian corridor. Characteristics (type, average width): primarily herbaceous species, 5+ feet wide.
☐ Wetland fringe. Characteristics:
☐ Habitat for:
☐ Federally Listed species. Explain findings: .
☐ Fish/spawn areas. Explain findings: .
☐ Other environmentally-sensitive species. Explain findings: .
☐ Aquatic/wildlife diversity. Explain findings: .

2. Characteristics of waterbody adjacent to non-TNW that flow directly or indirectly into TNW (Pond 1)

(i) Physical Characteristics:

(a) General Waterbody Characteristics:
Properties:
Waterbody size: 0.26 acres
Waterbody type. Explain: PEM wetland
Waterbody water quality. Explain: Wetland receives runoff water from surrounding developed uplands.
Project waterbody cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Flow is: **Ephemeral flow**. Explain: Pond outflows into a non-RPW tributary (ditches and culverts) only during heavy rain events.

Surface flow is**: Discrete and confined**
Characteristics: Wetland abuts a non-RPW tributary (ditch); water from the wetland flows into a series of downstream ditches and culverts (non-RPW).

Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

(c) Waterbody Adjacency Determination with Non-TNW:
☒ Directly abutting
☐ Not directly abutting
☐ Discrete wetland hydrologic connection. Explain:.
☐ Ecological connection. Explain: .
☐ Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW
Project waterbody are **5-10** river miles from TNW.
Project waters are **5-10** aerial (straight) miles from TNW.
Flow is from: **Wetland to navigable waters.**
Estimate approximate location of wetland as within the **100 - 500-year** floodplain.

(ii) Chemical Characteristics:

Characterize waterbody system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Water appears clear with some organic material load..
Identify specific pollutants, if known: petrochemicals and herbicides.

(iii) Biological Characteristics. Wetland supports (check all that apply):

☒ Riparian buffer. Characteristics (type, average width): Upland field with 100% grass.
☒ Vegetation type/percent cover. Explain: herbaceous species, 100%
☐ Habitat for:
☐ Federally Listed species. Explain findings: .
☐ Fish/spawn areas. Explain findings: .
☐ Other environmentally-sensitive species. Explain findings: .
☐ Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all waterbodies adjacent to the tributary (if any)

All waterbodies being considered in the cumulative analysis: **2**
Approximately 1.13 acres (approximate) in total are being considered in the cumulative analysis.
For each wetland and waterbody, specify the following:

Wetland from onsite delineation:

Directly abuts? (Y/N)	Size (in acres)
Y	0.26

Wetlands from NWI (1 total – size estimated):

Directly abuts? (Y/N)	Size (in acres)
N	0.87

Summarize overall biological, chemical and physical functions being performed: see Section C.2 below for summary.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

   The subject wetland and non-RPW tributary does not have a significant nexus to downstream TNW.

   Subject reach and drainage basin includes one delineated wetlands and an unnamed tributary consisting of ditches and pipes and a natural channel at the lower end. National Wetland Inventory mapping shows one wetland in the subject drainage basin. The site delineation and the NWI map polygon indicates a total 1.13 acres of PEM wetlands.

   A ditch was identified in the review area, bisecting Wetland A. The ditch originates on the eastern boundary of the subject property and appears to convey overland runoff from a developed lot to the east. Water from the subject wetland outflows periodically (ephemerally) for 0.4 of a mile through a drainage path consisting of ditches, stormwater pipes, stormwater ponds, and an unnamed tributary before flowing into Maddox Creek, a relatively permanent water. Maddox Creek flows for 2.4 miles before converging with a constructed waterway known as “Big Ditch”, which flows for an additional 4.9 miles before connecting to the South Fork Skagit River, a Traditional Navigable Water, via existing tidegates.

   The 1.8 square mile subject drainage basin has been extensively developed for residential and commercial uses. The non-RPW tributary (ditch system) in the subject reach receives inputs primarily from runoff from developed lands. These flows are treated via stormwater ponds before entering Maddox Creek. The subject wetlands and tributary have a negligible contribution to flow in downstream waters; flows from the wetland to Maddox Creek are ephemeral. Water quality and habitat conditions in downstream TNW waters are not affected by runoff from the subject basin. Flows from the subject drainage basin have no noticeable effect on downstream TNWs or the habitat they contain.

   Essential Fish Habitat for Pacific Salmon (designated under the Magnuson-Stevens Fishery Conservation and Management Act) occurs in Maddox Creek at the end of the subject reach. Endangered Species Act listed steelhead, bull trout and chinook salmon utilize the waters of the South Fork Skagit River 7.7 river miles downstream. Designated Critical Habitat for steelhead, bull trout and chinook salmon occur the South Fork Skagit River 7.7 river miles downstream .

   Associated wetland functions in the drainage basin are minimal wildlife habitat and habitat diversity, minimal enhanced food web support, minimal floodwater storage/attenuation, and minimal sediment input reduction and toxin removal. Associated functions of

the tributary system is moderate flow conveyance (during rain events) and minimal sediment input reduction and toxin removal (from stormwater ponds).

Because of the minimal flow contribution resulting from the wetland downstream through the drainage basin, the ability of the wetlands and tributary system to create and transfer organic carbon which would support the downstream food web in Maddox Creek and the South Fork Skagit River is negligible (if any). The wetlands do not contribute to improving water quality in Maddox Creek and the South Fork Nooksack River; sediment and toxin inputs to the wetland are minimal at best and are treated by stormwater facilities. The basin wetlands and tributary system may have an extremely minor ability to attenuate downstream flooding by reducing peak flow in the basin during major storm events by detaining flows during storms. However, given the contributing area, the volume of water the subject wetlands and tributaries intercepts is negligible in relation to the input from other sources in the area.

See Section IV.B for site history and additional information on existing conditions.

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

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 seasonally: .
   - ☐ 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 seasonally: Tributaries identified as having continuous flow for 3-6 months. See additional information for details.

   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: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters:
   - ☐ 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.
     - ☐ 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:

   Provide acreage estimates for jurisdictional wetlands in the review area:

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area:

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

[8]See Footnote # 3.

☐ Wetlands adjacent to such waters and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area:

7. Impoundments of jurisdictional waters.[9]

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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):[10]

☐ 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: .

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 (CHECK ALL THAT APPLY):

☐ 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: See Section C.2 above.
☐ 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:.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

☒ Non-wetland waters (i.e., rivers, streams): 2,112 linear feet, 3.5 feet width average (ditches, pipes, natural channel).
☐ Lakes/ponds:
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 1.13 acres. (2 wetlands – delineated and NWI)

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 Assessment dated October 2021.
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
☒ Office concurs with data sheets/delineation report for southern half of property.
☐ 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: Online NHD Mapper Tool accessed 16 June 2022.

[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] 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.*

☒ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: 7.5min, Mount Vernon Quad
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☒ National wetlands inventory map(s). Cite name: Online Wetland Mapper Tool accessed 16 June 2022.
☒ State/Local wetland inventory map(s): Mount Vernon Critical Areas Mapping
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): Google Earth August 2020.
or ☐ Other (Name & Date): .
☐ 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:

No site visit conducted.

Site Description: The subject property consists of a 2.63-acre site located at 2010 and 2011 Little Mountain Lane in the City of Mount Vernon, Washington The subject property is located in a mixed residential and commercial setting and consists entirely of undeveloped and unmaintained fields. The property abuts an undeveloped, unmaintained field to the north, commercial properties to the northeast and east, residential developments to the south, and a mix of residential and commercial development to the west. The review area, as requested, is the southern half of the site

Several ditches were identified onsite including one along the western boundary of the subject property boundary that conveys hydrology to a stormwater pond, a second ditch along the northern boundary of the subject property flowing east/west, and a ditch flowing east/west through the northern portion of Wetland A. The ditches are artificially created for drainage purposes and lack a natural defined bed and bank, lack potential fish habitat, and appear to be ephemeral features as they only convey water following storm events. The ditches connect to the City of Mount Vernon stormwater system (pipes and ponds) and a natural unnamed tributary at the downstream end of the drainage basin.

Wetland A is 0.26 acre PEM Category IV wetland. Vegetation consists entirely of unmaintained herbaceous areas dominated by colonial bentgrass (*Agrostis capillaris* - FAC), tall fescue (*Schedonorus arundinaceus* - FAC), and common velvetgrass (*Holcus lanatus* - FAC). Hydrology for Wetland A is provided by direct precipitation, surface sheet flow, a seasonally high groundwater table, and conveyance from the ditch. The NRCS Soil Survey of Skagit County, Washington identifies one soil series present on the subject property: Bellingham silt loam (10). Bellingham silt loam is listed as 85 percent hydric on the Skagit County Hydric Soils list, and as much as 19 percent of areas mapped as Bellingham silt loam may contain inclusions of hydric Bellingham and Norma soils. Soils in the wetland met hydric soil indicator A11 (Depleted Below Dark Surface).

Jurisdictional Determination:
The minimal and sporadic flow from the wetlands through the man-made drainages to an unamed tributary of Maddox Creek and the downstream TNW, South Fork Skagit River, results in extremely minimal, if any, functional contribution to the chemical and biological conditions in downstream waters, especially to habitat used by ESA listed species and essential fisheries habitat. The subject wetlands and non-RPW tributary system in the relevent reach do not have a significant nexus with downstream waters of the U. S.