



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT  
4735 EAST MARGINAL WAY, SOUTH BLDG 1202  
SEATTLE, WA 98134-2388

CENWS-Seattle District

16 June 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023),<sup>1</sup> NWS-2025-195.<sup>2</sup>

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.<sup>3</sup> AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.<sup>4</sup>

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>5</sup> the 2023 Rule as amended,

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<sup>1</sup> While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

<sup>2</sup> When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

<sup>3</sup> 33 CFR 331.2.

<sup>4</sup> Regulatory Guidance Letter 05-02.

<sup>5</sup> USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

## 1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
  - i. Wetland A, non-jurisdictional

## 2. REFERENCES.

- a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")
- b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023)
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. The review area is an approximate 9.8 acre square shaped parcel located at 1605 Prudential Blvd in Longview, Washington, lat 46.1445194; long - 122.987550 (Cowlitz County Parcel 053603504). The review area consists of a square field dominated by Reed Canary grass (*Phalaris arundinaceae*). The southeastern corner of the parcel is forested with Black Cottonwood (*Populus trichocarpa*). The review area is bounded to the north by an undeveloped parcel, to the west by a berm, to the south by a developed parcel containing a warehouse and parking lot, and to the east by Prudential Boulevard.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The Columbia River, approximately 4,500 feet southwest of the review area, which flows into the Pacific Ocean. The Columbia River is listed as a navigable waterway on the Navigable Waters of the United States in Washington State list dated December 31, 2008.<sup>6</sup>

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<sup>6</sup> This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) is completed independently of a request for an AJD. A stand-alone TNW determination is

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5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. There is no flowpath from the subject aquatic resources to a TNW, the territorial seas, or interstate waters. The nearest known tributary is the ditch directly abutting the berm on the west side of the review area, which flows approximately 4 miles southeast to the Columbia River, a Navigable Water of the United States.
6. SECTION 10 JURISDICTIONAL WATERS<sup>7</sup>: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.<sup>8</sup> N/A
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
  - a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A
  - b. The Territorial Seas (a)(1)(ii): N/A
  - c. Interstate Waters (a)(1)(iii): N/A

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conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established.

<sup>7</sup> 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

<sup>8</sup> This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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- d. Impoundments (a)(2): N/A
- e. Tributaries (a)(3): N/A
- f. Adjacent Wetlands (a)(4): N/A
- g. Additional Waters (a)(5): N/A

## 8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).<sup>9</sup> N/A
- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

Wetland A: Wetland A is an approximately 184,000 square foot (SF) palustrine, emergent wetland. There are no surface drainage features between the wetland and the nearest known tributary (the ditch located west of the review area). An upland berm separates Wetland A from the ditch. No culverts are located beneath the berm connecting the wetland to the ditch. Upland also separates Wetland A from wetlands located north of the review area. The primary source of hydrology for Wetland A is precipitation and high groundwater. Mapped soil in Wetland A consists of Snohomish silty clay loam. Wetland A does not abut an (a)(1), (a)(2) or (a)(3) water. Therefore, Wetland A does not have a continuous surface connection to an (a)(1), (a)(2), or (a)(3) waters and is not a water of the U.S.

- 9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

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<sup>9</sup> 88 FR 3004 (January 18, 2023)

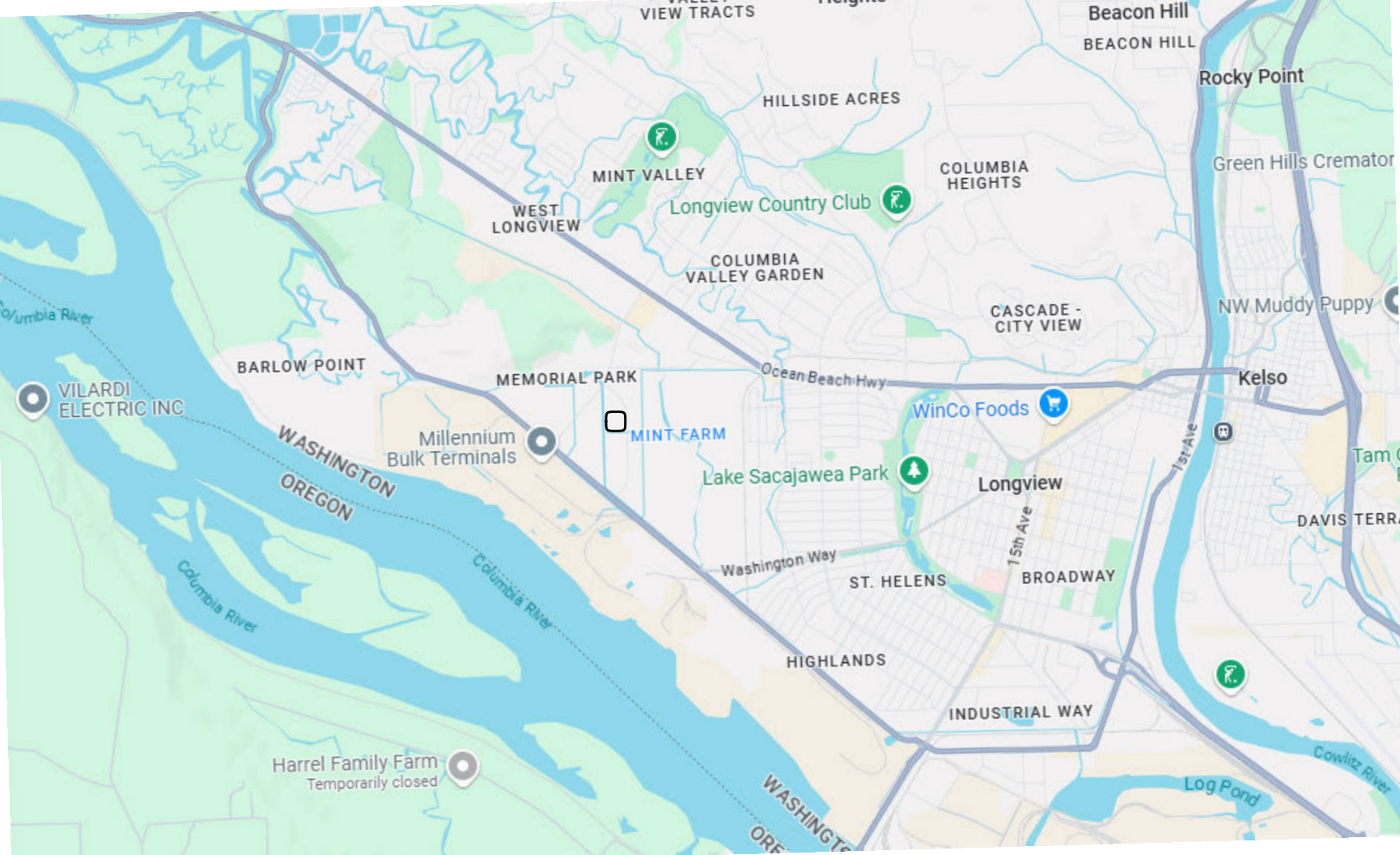
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- a. February 26, 2025, Corps PM conducted a site visit with the agent and found no surface connection between wetlands within the review area to any water of the U.S.
- b. April 17 2025, Grette Associates conducted a field visit and revised Wetland Delineation
- c. National Wetland Inventory accessed on November 9, 2022 at <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper>
- d. USDA Web Soil Survey accessed on 11/22/2022 at <https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>

10. OTHER SUPPORTING INFORMATION. N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



VIEW TRACTS

Beacon Hill

Rocky Point

HILLSIDE ACRES

MINT VALLEY

Longview Country Club

COLUMBIA HEIGHTS

WEST LONGVIEW

COLUMBIA VALLEY GARDEN

CASCADE - CITY VIEW

Green Hills Cremator

NW Muddy Puppy

Columbia River

VILARDI ELECTRIC INC

BARLOW POINT

MEMORIAL PARK

Ocean Beach Hwy

Kelso

WinCo Foods

Millennium Bulk Terminals

MINT FARM

WASHINGTON OREGON

Lake Sacajawea Park

Longview

DAVIS TERRACE

Columbia River

Columbia River

Washington Way

ST. HELENS

BROADWAY

HIGHLANDS

INDUSTRIAL WAY

Harrel Family Farm  
Temporarily closed

WASHINGTON ORE

Log Pond

Cowlitz River

LEGEND

- APPROX. PROPERTY BOUNDARY
- WB --- APPROX. CATEGORY III WETLAND BOUNDARY



WETLAND DELINEATION MAP

SHEET  
1  
OF  
1

MINT VALLEY - CORDIELO POWER  
WETLAND DELINEATION REPORT

SITE ADDRESS: CITY OF LONGVIEW  
DRAWING SCALE: SEE SCALE BAR

PROJECT #: 3374-001  
DESIGNED BY: CW  
CHECKED BY: SM  
DATE: 4/21/25  
DATE: 4/21/25