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 22 January 2026

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) ,[1] NWS-2024-923[2]

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.[3] 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.[4]

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),[5] the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

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[1] 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.

[2] 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.).

[3] 33 CFR 331.2.

[4] Regulatory Guidance Letter 05-02.

[5] 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.

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

        ii. Wetland B, non-jurisdictional

        iii. Wetland C, non-jurisdictional

        iv. Wetland D, non-jurisdictional

        v. Wetland E, non-jurisdictional

        vi. Wetland F, 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)

    d. "Memorandum To The Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of 'Continuous Surface Connection' Under The Definition Of "Waters Of The United States" Under The Clean Water Act" (March 12, 2025)

3. REVIEW AREA. The subject property consists of an approximately 4.64-acre site located north of 910 87th Avenue Southeast in Lake Stevens, Washington. The subject property consists of one parcel situated in Snohomish County, Parcel

Number 00431400500500 (47.988482, -122.11489). The review area consists of an undeveloped lot vegetated by trees, shrubs, and herbaceous species.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest Traditional Navigable Water is Ebey Slough approximately 1.08 miles east of the review area. Topography on the site generally slopes from east to west, with elevations ranging between approximately 345 feet and 375 feet above mean sea level. The subject property is bounded by a single-family home to the south and abuts 87th Ave SE to the east. Single-family residences border the subject property to the west and 8th Street Southeast bounds the site to the north.[6]

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. Water from the site flows to the north, east, west, or does not have an observed outlet. Wetland A has an outlet to a catch basin immediately to the west. Wetland B has no surface water outlet. Wetland C is an isolated depression and does not have an outlet or surface water connection. Wetland D has an intermittent surface water outlet to a culvert immediately to the northwest. Wetland E is an isolated depression and does not have an outlet or surface water connection. Wetland F is an isolated depression and does not have an outlet or surface water connection to nearby identified critical areas. Wetlands with surface water outlets meet at subsurface infrastructure to the west of the review area which flows through a series of multiple subsurface pipes, catch basins, and culverts approximately 1.92 miles to Ebey Slough.

6. SECTION 10 JURISDICTIONAL WATERS[7]: 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.[8] N/A

[6] 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 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.
[7] 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.
[8] 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

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

    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).[9] 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.,

329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.
[9] 88 FR 3004 (January 18, 2023)

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 a Category IV wetland approximately 1,212 square feet onsite (0.03 acre) in size and is located on the southcentral portion of the subject property extending offsite to the southwest. Hydrology for Wetland A is provided primarily by a seasonally high groundwater table, direct precipitation, and surface sheet flow from surrounding uplands. Wetland vegetation is dominated by non-native invasive reed-canary grass (*Phalaris arundinacea*) and is subject to maintenance as agricultural and pastureland. The onsite buffer is highly disturbed due to the presence of nonnative invasive species. Wetland A is a Palustrine Emergent, Seasonally Saturated, Seasonally Flooded wetland. Wetland A extends outside the review area and outlets to a catch basin immediately to the west which flows through subsurface connections. 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.

Wetland B: Wetland B is a Category III wetland approximately 758 square feet onsite (0.02 acre) in size and is located on the central portion of the subject property, north of Wetland A. Hydrology for Wetland B is provided primarily by a seasonally high groundwater table, direct precipitation, and surface sheet flow from surrounding uplands. Wetland vegetation is dominated by non-native invasive reed-canary grass (*Phalaris arundinacea*). The buffer of Wetland B is highly disturbed due to the presence of non-native invasive species. Wetland B is a Palustrine Emergent, Seasonally Saturated and Seasonally Flooded wetland. Wetland B does not have surface water outlets. Wetland B does not abut an (a)(1), (a)(2) or (a)(3) water. Therefore, Wetland B 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.

Wetland C: Wetland C is Category III approximately 1,043 square feet onsite (0.02 acre) in size onsite and is located on the southeast portion of the subject property. Hydrology for Wetland C is provided primarily by a seasonally high groundwater table, direct precipitation, and surface sheet flow from surrounding uplands. Wetland vegetation is dominated by Western redcedar (Thuja plicata), red-osier dogwood (*Cornus alba*), and lady fern (*Athyrium cyclosorum*). The buffer is partially degraded by the roadway; the remainder consists of undeveloped forest dominated by Douglas fir, Western red cedar, big leaf maple, osoberry and salmonberry (*Rubus spectabilis*) and western sword fern. Wetland C is a Palustrine Forested, Scrub- Shrub, Seasonally Saturated, and Seasonally Flooded wetland. Wetland C is an isolated depression and does not have an

outlet. Wetland C does not abut an (a)(1), (a)(2) or (a)(3) water. Therefore, Wetland C 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.

Wetland D: Wetland D is a Category III wetland approximately 2,716 square feet (0.06 acre) in size onsite and is located on the northwest portion of the subject property. Hydrology for Wetland D is provided primarily by a seasonally high groundwater table, direct precipitation, and surface sheet flow from surrounding uplands. Wetland vegetation is dominated by soft rush (*Juncus effusus*), slough sedge (*Carex obnupta*), creeping buttercup (*Ranunculus repens*) and non-native invasive reed-canary grass. The buffer is partially degraded by the roadway; the remainder consists of non-native invasive reed-canary grass and a barn. Wetland D is a Palustrine Emergent, Seasonally Saturated, and Occasionally Flooded (PEMAB) wetland. Wetland D has an intermittent surface water outlet to a culvert immediately to the northwest which does not exhibit continuous surface water connections to relatively permanent waters. Wetland D does not abut an (a)(1), (a)(2) or (a)(3) water. Therefore, Wetland D 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.
Wetland E: Wetland E is approximately 622 square feet (0.014 acre) in size onsite and is located on the northeast portion of the subject property. Hydrology for Wetland E is provided primarily by a seasonally high groundwater table, direct precipitation, and surface sheet flow from surrounding uplands. Wetland vegetation is dominated by Western red cedar, salmonberry (*Rubus spectablis*), vine maple (*Acer carinatum*), slough sedge, and lady fern (*Athyrium cyclosorum*). The buffer is partially degraded by the roadway; the remainder consists of undeveloped forest dominated by Douglas fir, Western red cedar, big leaf maple, osoberry and salmonberry and western sword fern. Wetland E is a Palustrine Forested, Seasonally Saturated, and Occasionally Flooded wetland. Wetland E is an isolated depression and does not have an outlet or surface water connection to nearby relatively permanent waters. Wetland E does not abut an (a)(1), (a)(2) or (a)(3) water. Therefore, Wetland E 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.

Wetland F: Wetland F is a Category III wetland approximately 439 square feet (0.01 acre) in size onsite and is located in the east portion of the subject property. Hydrology for Wetland F is provided primarily by a seasonally high groundwater table, direct precipitation, and surface sheet flow from surrounding uplands. Wetland vegetation is dominated by vine maple and lady fern. The buffer is partially degraded by the roadway; the remainder consists of undeveloped forest dominated by Douglas fir, Western red cedar, big leaf maple,

osoberry and salmonberry and western sword fern. Wetland F is a Palustrine Forested, Seasonally Saturated, and Occasionally Flooded (PFOAB) wetland. Wetland F is an isolated depression and does not have an outlet or surface water connection to nearby relatively permanent waters. Wetland F does not abut an (a)(1), (a)(2) or (a)(3) water. Therefore, Wetland F 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.

   a. Site visit conducted with Soundview staff and Washington Department of Ecology Wetland Specialist July 2, 2025.

   b. United States Fish And Wildlife Service's National Wetland Index, accessed September 22, 2025

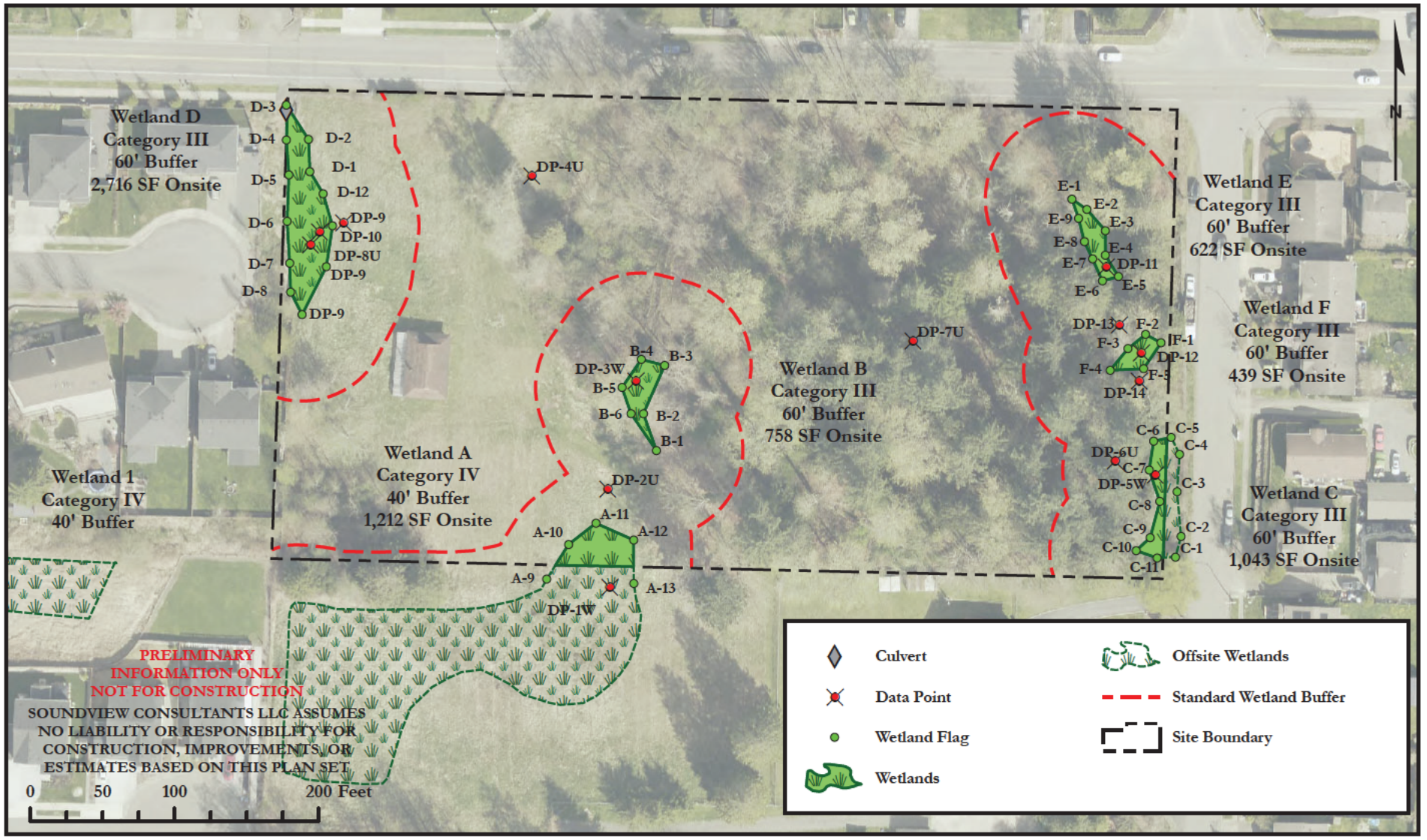
   c. Wetland and Fish and Wildlife Habitat Assessment Report by Soundview Consultants

   d. Snohomish County Drainage Inventory Map, accessed September 22, 2025

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.

EXISTING CONDITIONS



[redacted]

BOGGS

ADJACENT NORTH OF 910 87TH AVENUE SE
LAKE STEVENS, WA 98258

SNOHOMISH COUNTY PARCEL NUMBER:
00431400500500

DATE:	8/21/2025
JOB:	1155.0038
BY:	DS
SCALE:	1" = 100'
FIGURE NO.	1