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 20 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-2025-541-WRD

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.[2] 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.[3]

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

1. SUMMARY OF CONCLUSIONS.

[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] 33 CFR 331.2.
[3] Regulatory Guidance Letter 05-02.
[4] 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.

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. Ditch 1, non-jurisdictional

ii. Ditch 2, non-jurisdictional

iii. Ditch 3, non-jurisdictional

iv. Ditch 4, non-jurisdictional

v. Wetland B, non-jurisdictional

vi. Wetland C, non-jurisdictional

vii. Wetland D, non-jurisdictional

viii. Wetland E, 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 approximately 8.10-acre review area, within a larger 37.42-acre study site, is located in Kirkland, King County Washington (47.664120, -122.181915). The review area is located on the landfill cap within the decommissioned Houghton Landfill, which is converted into a public park known as Taylor Fields. The review area consists of developed land with medium to high intensity use featuring baseball fields and expansive grassy areas. The review area

is bounded by residential developments to the north, east, and west, and Bridle Trails State Park to the south.

Four wetlands (Wetlands B-E) and four excavated drainage ditches (Ditches 1-4) were identified in the review area. Additional excavated drainage ditches and one stormwater pond were identified approximately 100 feet west and south of the review area. A fifth wetland (Wetland A) was identified 0.10-mile west of the study site; and Yarrow Creek was identified 0.20-mile southwest of the study site.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. Lake Washington, approximately 1.3 miles west of the property. Lake Washington is listed as a navigable waterway on the Navigable Waters of the United States in Washington State list dated December 31, 2008.[5]

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. There is no flow path from Wetland B, C, or E to a TNW, the territorial seas, or interstate waters, as these subject aquatic resources do not have an identifiable outlet.

   Wetland D drains into Ditch 4, which flows approximately 50 feet northeast in the review area into excavated drainage Ditch 2. Ditch 3 also drains into Ditch 2. Water in Ditch 2 drains approximately 427 feet north to roadside drainage Ditch 1, which flows approximately 900 feet northwest through the property, outside of the review area. Ditch 1 drains through a culvert under NE 67th Street at the northwestern corner of the property. Water flows approximately 1.3 miles off-site through a series of catch basins, culverts, and open ditches or streams until draining into Lake Washington.

6. SECTION 10 JURISDICTIONAL WATERS[6]: 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

[5] 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.

[6] 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.

resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.[7] 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

    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

[7] 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.

within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).[8] 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).

Ditch 1: As described above, Ditch 1 flows approximately 900 feet north and west through the property, outside of the review area. Ditch 1 drains through a culvert under NE 67th Street at the northwestern corner of the property. Water flows approximately 1.3 miles off-site through a series of catch basins, culverts, and open ditches or streams until its outlet into Lake Washington. Ditch 1 was excavated wholly in dry land (i.e., imported fill) for the purpose of maintaining proper drainage on the landfill and is lined with geotextile fabric and quarry spall. No water was observed in the ditch during site visits conducted by the project agent (Herrera) in December 2022, April 2023, and February and March 2025. According to the antecedent precipitation tool, there were normal precipitation conditions at the site during the 2025 wet season; however, the tool also reports that there was a mild drought in March 2025. Ditch 1 does not experience flowing or standing water continuously during certain times of the year that is more than only a short duration in direct response to precipitation. Ditch 1 does not have a defined bed and bank or any ordinary high water mark indicators. Surface water is not visible in aerial images from King County or Google Earth in the years 2019-2025. The Corps has determined that Ditch 1 does connect downstream to a TNW water, but it does not meet the relatively permanent standard and is therefore not a water of the U.S.

Ditch 2: As described above, Ditch 2 drains approximately 427 feet north into roadside drainage Ditch 1, then outside of the review area through a series of catch basins, culverts, and open ditches or streams until its outlet into Lake Washington. Ditch 2 was excavated wholly in dry land (i.e., imported fill) for the purpose of preventing pooling on the landfill cap. No water was observed in the ditch during site visits conducted by the project agent (Herrera) in March, April, and May 2025. According to the antecedent precipitation tool, there were normal precipitation conditions at the site during the wet season; however, the tool also reports that there was a mild drought in March. According to data collected at the Seattle Sand Point Weather Forecast Office (WFO), 1.38 inches of rain were recorded in the 10 days leading up to the April site visit. Ditch 2 does not

[8] 88 FR 3004 (January 18, 2023)

experience flowing or standing water continuously during certain times of the year that is more than only a short duration in direct response to precipitation. Ditch 2 does not have a defined bed and bank or any ordinary high water mark indicators. Surface water is not visible in aerial images from King County or Google Earth in the years 2019-2025. The Corps has determined that Ditch 2 does connect downstream to a TNW water, but it does not meet the relatively permanent standard and is therefore not a water of the U.S.

Ditch 3: Ditch 3 flows approximately 86 feet northeast in the review area into excavated drainage Ditch 2, then Ditch 1, then outside of the review area through a series of catch basins, culverts, and open ditches or streams until it outlets into Lake Washington. Ditch 3 was excavated wholly in dry land (i.e., imported fill) for the purpose of preventing pooling on the landfill cap. No water was observed in the ditch during site visits conducted by the project agent (Herrera) in March, April, and May 2025. According to the antecedent precipitation tool, there were normal precipitation conditions at the site during the wet season; however, the tool also reports that there was a mild drought in March. According to data collected at the Seattle Sand Point Weather Forecast Office (WFO), 1.38 inches of rain were recorded in the 10 days leading up to the April site visit. Ditch 3 does not experience flowing or standing water continuously during certain times of the year that is more than only a short duration in direct response to precipitation. Ditch 3 does not have a defined bed and bank or any ordinary high water mark indicators. Surface water is not visible in aerial images from King County or Google Earth in the years 2019-2025. The Corps has determined that Ditch 3 does connect downstream to a TNW water, but it does not meet the relatively permanent standard and is therefore not a water of the U.S.

Ditch 4: As described above, Ditch 4 flows approximately 50 feet northeast in the review area into excavated drainage Ditch 2, then Ditch 1, then outside of the review area through a series of catch basins, culverts, and open ditches or streams until it outlets into Lake Washington. Ditch 4 was excavated wholly in dry land (i.e., imported fill) for the purpose of preventing pooling on the landfill cap. No water was observed in the ditch during site visits conducted by the project agent (Herrera) in March, April, and May 2025. According to the antecedent precipitation tool, there were normal precipitation conditions at the site during the wet season; however, the tool also reports that there was a mild drought in March. According to data collected at the Seattle Sand Point Weather Forecast Office (WFO), 1.38 inches of rain were recorded in the 10 days leading up to the April site visit. Ditch 4 does not experience flowing or standing water continuously during certain times of the year that is more than only a short duration in direct response to precipitation. Ditch 4 does not have a defined bed and bank or any ordinary high water mark indicators. Surface water is not visible in aerial images

from King County or Google Earth in the years 2019-2025. The Corps has determined that Ditch 4 does connect downstream to a TNW water, but it does not meet the relatively permanent standard and is therefore not a water of the U.S.

Wetland B: Wetland B is a 0.020-acre palustrine emergent depressional wetland in the southwest portion of the review area. Wetland B does not have a distinct, well-defined outlet. Wetland B is not abutting, separated by a natural berm or bank, or connected via a discrete conveyance to 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) water and is not a water of the U.S.

Wetland C: Wetland C is a 0.019-acre palustrine emergent depressional wetland in the south portion of the review area. Wetland C does not have an outlet. Wetland C is not abutting, separated by a natural berm or bank, or connected via a discrete conveyance to 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) water and is not a water of the U.S.

Wetland D: Wetland D is an approximately 0.018-acre palustrine emergent depressional wetland in the southeast portion of the review area that drains into Ditch 4, which is not considered a relatively permanent tributary as documented above. Ditch 4 then drains into Ditch 2, which is also not considered a relatively permanent tributary as documented above. Ditch 2 drains into Ditch 1, which eventually outlets into Lake Washington (a TNW water) approximately 1.3 miles west of the review area through a series of culverts, pipes, ditches, and/or streams. This physically remote hydrologic connection does not establish a continuous surface connection between Wetland D and Lake Washington, nor does Wetland D 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) water and is not a water of the U.S.

Wetland E: Wetland E is a 0.021-acre palustrine emergent depressional wetland in the north portion of the review area. Wetland E does not have a distinct, well-defined outlet. Wetland E is not abutting, separated by a natural berm or bank, or connected via a discrete conveyance to 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) water 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. "Houghton Closed Landfill Critical Areas Report" by Herrera Environmental Consultants, Inc., dated June 16, 2025.

b. USGS TopoView accessed on 10/07/2025 and 01/09/2026 at https://ngmdb.usgs.gov/topoview/viewer/

c. USDA Web Soil Survey accessed on 10/07/2025 and 01/09/2026 at https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx

d. Washington DNR LiDAR Portal accessed on 10/07/2025 and 01/09/2026 at https://lidarportal.dnr.wa.gov/

e. USGS National Hydrography Dataset accessed on 10/07/2025 and 01/09/2026 at https://hydro.nationalmap.gov/arcgis/rest/services/NHDPlus_HR/MapServer

f. King County Aerial Imagery Viewer accessed on 10/07/2025 and 01/09/2026 at https://experience.arcgis.com/experience/24bd002783804611a727f774032a28e8

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.

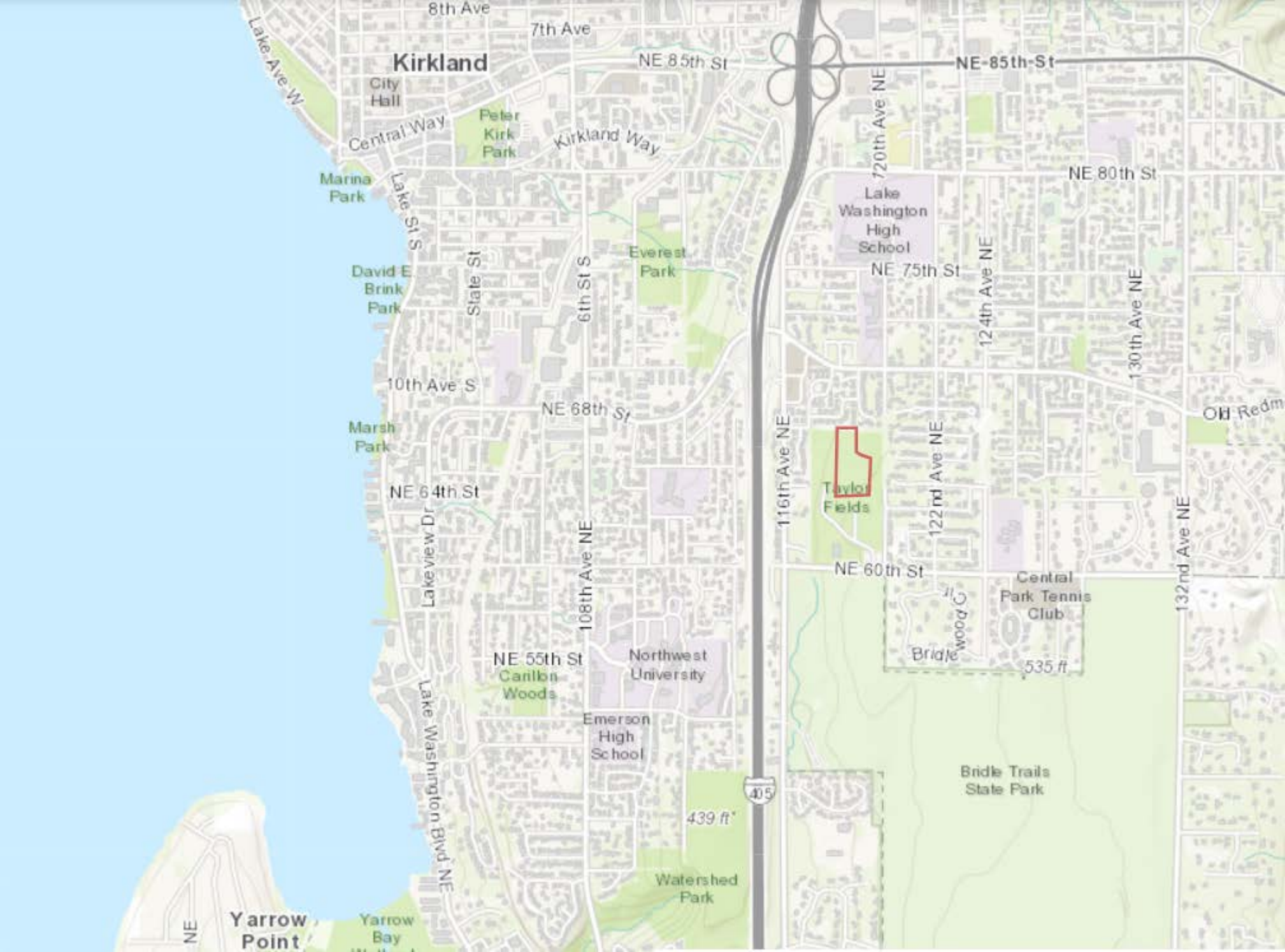
8th Ave
7th Ave
Kirkland
City Hall
NE 85th St
NE-85th-St
Lake Ave W
Central Way
Peter Kirk Park
Kirkland Way
120th Ave NE
Marina Park
Lake St S
NE 80th St
Lake Washington High School
Everest Park
David E Brink Park
State St
6th St S
NE 75th St
124th Ave NE
130th Ave NE
10th Ave S
NE 68th St
Old Redm
Marsh Park
116th Ave NE
122nd Ave NE
NE 64th St
Taylor Fields
Lakeview Dr
108th Ave NE
NE 60th St
Central Park Tennis Club
132nd Ave NE
Bridlewood Cir
535 ft
NE 55th St
Carillon Woods
Northwest University
Lake Washington Blvd NE
Emerson High School
405
Bridle Trails State Park
439 ft
Watershed Park
Yarrow Point
Yarrow Bay
NE

Figure 4.
Wetlands and Ditches on the Houghton Closed Landfill Project.