

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

11 August 2017

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 11 August 2017.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, Strootman, Bryan, NWS-2017-500.
Name of water being evaluated on this JD form: Wetland

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Snohomish City: Snohomish

Center coordinates of site (lat/long in degree decimal format): Lat: 47.812066 N, Long: -122.065710 W

Universal Transverse Mercator: _____

Name of nearest waterbody: Anderson Creek.

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

Name of watershed or Hydrologic Unit Code (HUC): 17110011.

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: 6 July 2017.

Field Determination. Date(s): 6 July 2017.

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 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: _____ linear feet _____ width (ft) and/or _____ acres.

Wetlands: _____ acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List 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: **The wetland does not have a surface water or shallow subsurface connection or ecological connectivity to other navigable or interstate waters of the U. S. or tributaries of waters of the U. S. The subject wetland is not used by interstate or foreign travelers for recreational purposes, has no habitat or resources of special significance which would**

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.

attract interstate or foreign travelers, lacks bird and wildlife species of special significance which would attract interstate or foreign travelers, supports no fish or shellfish which could be taken or sold in interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce. See Section B for additional information.

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: NOT APPLICABLE
- C. SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE
- D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE: NOT APPLICABLE
- 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):⁴

- 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: _____.

Identify water body and summarize rationale supporting determination: _____

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:

- 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: _____.
- 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: _____ acres.

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: Drawings dated 17 July 2017.
 - 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.

⁴ 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.

- Data sheets prepared by the Corps: 6 July 2017.
- Corps navigable waters' study: _____.
- 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: 7.5 Maltby Quadrangle
- USDA Natural Resources Conservation Service Soil Survey. Citation: Snohomish County, Washington date 8 September 2016.
- National wetlands inventory map(s). Cite name: 7.5 Maltby Quadrangle.
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
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): Critical Areas Study, Wetland Delineation Forms, Washington Wetland Rating Forms, drawings, and photographs.

B. ADDITIONAL COMMENTS TO SUPPORT JD: 1. On 6 July 2017 at 1100 a site visit to determine jurisdiction of a 3,623-square foot wetland was conducted at 20317-123rd Ave SE, Snohomish, WA.

Section 20, Township 27N, Range 06E
47.812066N latitude / -122.065710W longitude

2. The weather was clear; however, there had been considerable precipitation in the previous months. Prior to the site visit, information from the U.S. Department of Agriculture Web Soil Survey, U.S. Geological Survey National Map Viewer, and the U.S. Fish and Wildlife Service National Wetlands Inventory was used to assess the critical areas study (including the wetlands delineation), possible connections to waters of the U.S., and the site topography. The information from these websites corresponded with the information provided in the supporting documents. The wetland is located within a residential neighborhood, which is surrounded by the Echo Falls Country Club Golf Course. The wetland is bordered by higher ground to the east and west, a golf cart trail to the south, and a single-family residence to the north. During the site visit the wetland boundary was evaluated to determine size, shape, and hydrologic flow. There was very little vegetation within the wetland boundary, mainly dried matting and herbaceous species (Agrostis capillaris, Holcus lanatus, Ranunculus repens, etc.). The site appeared to be mowed and maintained. The site visit confirmed the size of the wetland to be 3,623-square feet (0.08 of an acre). The source of hydrology is likely precipitation and runoff from the adjacent residence. Walking the perimeter of the wetland did not reveal a visible outlet or surface connection to Anderson Creek (east) or the stormwater pond (west). The nearest water of the U.S. is Anderson Creek that is 388 feet to the east of the wetland. Although the wetland is upslope of the creek, there is a golf course fairway and golf cart trail between the wetland and creek. There did not appear to be any outlet that connects to Anderson Creek. The Natural Resource Conservation Services mapped soils are Alderwood gravelly sandy loam (0 to 8 percent slopes and 15 to 30 percent slopes), which is moderately well drained and no flooding or ponding. In order for the water from the wetland to connect to Anderson Creek it would have to move subsurface below the fairway and golf cart trail. However, the development of the residential neighborhood, roadways, and golf course has compacted the native soils between the wetland and Anderson Creek to the point that shallow subsurface flow is not likely. Based on mapped soil characteristics (permeability, etc. from soils survey), distance, and intervening developments that have altered subsurface soil composition, there is little likelihood of water from the wetland moving through subsurface soils and into Anderson Creek.
- The other waterbody in the vicinity of the wetland is a stormwater pond, which is 290 feet west of the wetland. The stormwater pond appears to have an impervious liner and a visible outlet to another waterbody could not be detected. However, this could not be confirmed due to property access. The higher ground west of the wetland and the lack of a culvert or ditch that would convey the water to the pond prevents any hydrologic connection from the wetland to the stormwater pond. Based on mapped soil characteristics (permeability, etc. from soils survey), distance, and intervening developments that have altered subsurface soil composition, there is little likelihood of water from the wetland moving through subsurface soils and into the stormwater pond.
3. The surrounding land use is single-family residential homes and a country club golf course. The residential lots are typical in size for this area. The wetland does not have a surface water or shallow subsurface connection or ecological connectivity to other navigable or interstate waters of the U. S. or tributaries of waters of the U.S. The subject wetland is not used by interstate or foreign travelers for recreational purposes, has no habitat or resources of special significance which would attract interstate or foreign travelers, lacks bird and wildlife species of special significance which would attract interstate or foreign travelers, supports no fish or shellfish which could be taken or sold in interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce.
4. The wetland is determined to be non-jurisdictional because it does not contribute biologically or hydrologically to downstream waters of the U.S., does not have an interstate commerce connection, and does not play a role in capture of contaminants (from local area runoff) that could flow to downstream waters. The subject wetland is isolated and is not a water of the U. S. under Section 404 jurisdiction.
5. Documents for coordination were sent via email to the Environmental Protection Agency and U.S. Army Corps of Engineers Headquarters on 20 July 2017. On 3 August 2017 the EPA responded they have no comments to our conclusion. No response was received from U.S. Army Corps of Engineers Headquarters. Coordination is complete.