



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): September 17, 2020

ORM Number: NWS-2020-00697

Associated JDs: N/A

Review Area Location¹:

State: WA City: Winlock County: Lewis County

Center Coordinates of Review Area: Latitude 46.492758 Longitude -122.885228

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A	N/A	N/A	N/A

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A	N/A

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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
NWS-20-697 Ditch Y	2375 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	The feature is an excavated, constructed channel used to convey water. The ditch itself does not meet the conditions of an adjacent wetland and does not satisfy the flow conditions of an (a)(2) tributary. Those portions of the ditch constructed in wetlands do not satisfy the conditions of (c)(1).
NWS-20-697 Stream Z	1085 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	The feature is an excavated, constructed channel used to convey water. The ditch itself does not meet the conditions of an adjacent wetland and does not satisfy the flow conditions of an (a)(2) tributary. Those portions of the ditch constructed in wetlands do not satisfy the conditions of (c)(1).
NWS-20-697 Wetland A	0.168 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details.
NWS-20-697 Wetland B	0.8271 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details.
NWS-20-697 Wetland C	0.1441 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details.

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NWS-20-697 Wetland D	0.0614 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details.
NWS-20-697 Wetland E	0.3248 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details.
NWS-20-697 Wetland F	0.393 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details.
NWS-20-697 Wetland G	1.0906 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details.
NWS-20-697 Wetland H	0.9119 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1) through (3) water; is not inundated by flooding from a paragraph (a)(1) through (3) water in a typical year; is not physically separated from a paragraph (a)(1) through (3) water by a natural

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			berm, bank, dune, or similar natural feature or by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the paragraph (a)(1) through (3) water in a typical year. See Section III.C for additional details.
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III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: *Wetland and Stream Assessment Report, Winlock Industrial Park* dated 21 July 2020, prepared by Soundview Consultants LLC, as amended by email and attachment entitled, *RE: Benaroya Capitol AJD - Site Visit (SVC#1077.0004)*, received 8 September 2020.
This information is sufficient for purposes of this AJD. The email amendment to the wetland delineation clarified the lack of observed surface flows during field investigations, including during and after storm events, suggesting that Stream Z only conveys flows during extremely heavy storm events. Stream Z was indicated as "Seasonal" in the wetland report in order to expedite the local permitting process, however, based on available information, it is determined to be ephemeral.
- Data sheets prepared by the Corps: N/A
- Photographs: Aerial Imagery accessed 15 September 2020; Site photographs located in Wetland Delineation and Amendment referenced above, and Site Visit MFR referenced below
- Corps Site visit(s) conducted on: 2 September 2020 – *Memorandum for the Record, Site Visit Documentation*, dated 14 September 2020
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: N/A
- USDA NRCS Soil Survey: *Appendix B2, Wetland and Stream Assessment Report, Winlock Industrial Park* dated 21 July 2020, prepared by Soundview Consultants LLC
- USFWS NWI maps: *Appendix B4, Wetland and Stream Assessment Report, Winlock Industrial Park* dated 21 July 2020, prepared by Soundview Consultants LLC
- USGS topographic maps: *Appendix B1, Wetland and Stream Assessment Report, Winlock Industrial Park* dated 21 July 2020, prepared by Soundview Consultants LLC, and *USGS Topo Figure Set*, prepared by the Corps, 17 September 2020.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS National Hydrographic Dataset (NHD), accessed 17 September 2020
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.

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State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: The majority of the review area is currently undeveloped and disturbed by prior clearing and logging activities. Mc Corkle Road (vacated) crosses the northern portion of the review area, east of North Military Road. The southwest parcel is developed with a single-family residence, associated farm buildings, and maintained agricultural uses. The southeast parcel contains a dilapidated former homesite.

On-site wetlands and ditches were delineated (field work conducted) on multiple dates in April and May of 2019 and June of 2020. Eight wetlands (Wetlands A-H) and two ephemeral constructed ditches (Stream Z and Ditch Y) were identified within the review area. The Corps conducted a site visit on 2 September 2020, and evaluated available data including data provided by the AJD requestor’s agent, aerial imagery, USGS historic and current topographic maps, and USGS National Hydrographic Dataset mapping. Additional discussion for each delineated aquatic below:

Ditch Y: Ditch Y is an excavated channel in the northern/central portion of the review area, east of North Military Road. Ditch Y begins near Wetland D and continues west across the subject property through Wetlands G, F, and E. West of Wetland E, hydrology is conveyed through a culvert under North Military Road which connects to Stream Z. Aerial imagery indicates the was logged between 2006 and 2009. Ditch Y becomes visible on aerial images during this time and the ditch may have been excavated to support site drainage during the logging practices. No flow was observed in Ditch Y during the Corps’ field investigation on 2 September 2020, and no flow was observed within Ditch Y during the delineation field work in late April 2019. USGS topographic maps dated, 1953, 1985, and 2020, and USGS NHD maps do not label any streams or aquatic resources in the vicinity of Ditch Y. Ditch Y is an excavated, constructed channel used to convey water and is not a perennial or intermittent (a)(2) water. Based on available information, the Corps is unable to confirm that Ditch Y is a relocated tributary and Ditch Y itself does not meet the conditions of an adjacent wetland. Portions of Ditch Y constructed in wetlands do not satisfy the conditions of (c)(1).

Stream Z: Stream Z is an excavated channel in the western/central portion of the review area, beginning at the culvert outlet immediately west of North Military Road. On the 2 September 2020 field inspection, no defined channel was observed for approximately 100 feet from North Military Road to the west. Stream Z was constructed through Wetland H and continues west to the review area boundary. Immediately west of the review area, a constructed channel on an active tree farm conveys hydrology for approximately 200 feet where either infiltrates or enters a drain tile. Hydrology continues underground for approximately ¼ of a mile, then impounds at a malfunctioning culvert at the crossing

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of Nevil Road. On the 2 September 2020 field investigation, a pond was observed on the north side of Nevil Road and a constructed ditch through an active agricultural field on the south. No surface water was observed in the agricultural ditch. Hydrology continues south and eventually connects with Bear Creek, a tributary to the Cowlitz River, an (a)(1) water of the United States. Aerial imagery indicates the review area west of North Military Road was logged between 2006 and 2009. Stream Z becomes visible on aerial images during this time and the ditch may have been excavated to support site drainage during the logging practices. No flow was observed in Stream Z during the Corps' field investigation on 2 September 2020, and no flow was observed within Stream Z during the delineation field work in April or May 2019 or June 2020. During the June 2020 site visit, lack of surface water was observed during abnormally high precipitation accumulation (0.72 inches of rainfall on 9 June 2020 and 5.74 inches during the preceding 30 days which is 155 percent of normal). USGS topographic maps dated, 1953 and 1985, show a stream feature that terminates just north of the crossing of Nevil Road, approximately ¼ mile from the western edge of the review area boundary. USGS topographic mapping dated 2020, shows a, "intermittent/ephemeral" stream feature extending to the western extent of the review area boundary. USGS NHD maps a, intermittent/ephemeral feature extending into the review area at the location of Stream Z. On the 2 September 2020 field investigation, the Corps confirmed that Stream Z is an excavated, constructed channel used to convey water. Based on review of available information, the Corps is unable to confirm that Stream Z is a relocated tributary, if downstream constructed drainages and agricultural ditches are relocated tributaries, and therefore, if Stream Z itself meets the conditions of an adjacent wetland.

Wetland A and Wetland B: Wetlands A and B are located on the southwest portion of the review area. Hydrology provided by surface sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. Wetlands A and B are located at the northern end of a swale-like topographic depression. Field investigation on 2 September 2020, appeared to indicate that hydrology from Wetland A and B flows south in an unconfined diffuse pattern through agricultural fields. Three wetland data points were taken within the swale and all lacked hydric soil and hydrology indicators, required for wetland determination. At the southern property boundary, a concrete culvert appears to convey hydrology under an old access road. Hydrology appears to continue diffuse flow southwest through another farm field towards North Military Road. On the west side of North Military Road, hydrology appears to continue in a diffuse manner southwest toward Bear Creek. USGS topographic map dated, 1953 does not indicate any stream features or aquatic resources near Wetlands A or B, or in the location of the down gradient topographic depression. USGS topographic map dated 1985, indicates a stream feature that terminates near Wetlands A and B. USGS topographic map dated 2020, shows an intermittent/ephemeral stream feature extending to the area near Wetlands A and B. USGS National Hydrographic Dataset maps an intermittent/ephemeral stream feature extending to the area near Wetlands A and B. On the 2 September 2020 field investigation, the Corps confirmed that the swale extending downgradient (southwest) from Wetland A does not have a defined channel.

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Based on available information and on-site investigation, is not a perennial or intermittent (a)(2) water, additionally, the downgradient swale itself does not meet the conditions of an adjacent wetland.

Wetland C: Wetland C is located on the northern portion of the review area, near the property boundary. Hydrology for Wetland C is provided by surface sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. Wetland C has no observed hydrologic inlet or outlet, therefore, no surface water contribution to or reception from an (a)(1)-(a)(3) water. Wetland C is located approximately 0.15 mile from Ditch Y, separated by uplands and Mc Corkel Road.

Wetland D, Wetland E, Wetland F, and Wetland G: These wetlands are located northern/central portion of the review area and are situated in an east/west direction. Hydrology for Wetlands D-G is provided by surface sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. These wetlands are connected hydrologically during heavy precipitation events by a constructed ephemeral channel (Ditch Y). Wetland E, the western most wetland, contributes hydrology through a culvert west under North military Road, eventually to Stream Z. Wetlands D-G are not adjacent to a perennial or intermittent (a)(2) water.

Wetland H: Wetland H is located on the northwest portion of the subject property, west of North Military Road. Hydrology for Wetland H is provided by surface sheet flow from adjacent uplands, a seasonally high groundwater table, and direct precipitation. Stream Z conveys hydrology within Wetland H but does not provide a primary source of hydrology. Stream Z is an excavated, constructed channel used to convey water and is not a perennial or intermittent (a)(2) water. The Corps is unable to confirm that Stream Z is a relocated tributary, if downstream constructed ditches are relocated tributaries, and therefore, if Stream Z itself meets the conditions of an adjacent wetland. Therefore, Wetland H is not adjacent to a perennial or intermittent (a)(2) water.

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