

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

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): July 13, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Alaska District, POA-2021-00434

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Alaska Borough: Matanuska-Susitna City: Big Lake
Center coordinates of site (lat/long in degree decimal format): Lat. 61.563356 ° N., Long. 149.844258 ° W.
Name of nearest waterbody: Meadow Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Big Lake
Name of watershed or Hydrologic Unit Code (HUC): 1902040105, Fish Creek

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

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: July 13, 2022

Field Determination. Date(s): May 25, 2022

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are not “*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]

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are “*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: 900 linear feet: 3 width (ft).

Wetlands: 0 acres.

c. Limits (boundaries) of jurisdiction based on: Established by the OHWM

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).

Elevation of established OHWM (if known): Unknown

2. Non-regulated waters/wetlands (check if applicable):³

N/A

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

N/A

2. Wetland adjacent to TNW

N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

N/A

C. SIGNIFICANT NEXUS DETERMINATION

N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

N/A

³ Supporting documentation is presented in Section III F.

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

2. RPWs that flow directly or indirectly into TNWs.

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: N/A
- Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: The requestor stated that the stream flows during break up (March time frame) and was still flowing at the time of the site visit at the end of May. This is at least three months of observed flow.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: 900 linear feet 3 width (ft).
- Other non-wetland waters: N/A

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):⁵

N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

N/A

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: Map submitted May 2022
- 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.
- Data sheets prepared by the Corps:
- Corps navigable waters’ study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- Alaska District’s Approved List of Navigable Waters
- U.S. Geological Survey map(s). Cite scale & quad name:
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name: Tributary not mapped on NWI
- State/Local wetland inventory map(s): Cook Inlet Wetland Mapper- Tributary not mapped
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth Pro, July 2018, Mat-Su Mapper, 2021
or Other (Name & Date): Onsite May 2022
- Previous determination(s):
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): 2016 Fish Passage Improvement Report, Anadromous Waters Catalogue

⁵ 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 Jurisdiction Following Rapanos*.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The 2016 Fish Passage Improvement Report shows photos of the culvert crossing the road from the requestor's property in September. There was still water flowing at this point. The unnamed tributary in the review area flows into Meadow Creek which flows into Big Lake, a TNW. The applicant originally applied for a Nationwide permit in 2021 and was provided with a map of the Cook Inlet Wetlands Mapper. The mapper shows the wetlands continuing over the road and the tributary is not mapped. On site, it was determined that the area directly adjacent to the road in the review area is not wetlands and the tributary is a jurisdictional waterbody.



Emily Vullo
Project Manager
South Section



07/18/2022

Date

POA-2021-00434

AJD Map

Legend

-  Review Area
-  Tributary



W Lakes Blvd

W Lakes Blvd

W Lakes Blvd

Google Earth

Image © 2022 Maxar Technologies

Date: July 12, 2022

For Planning Purposes Only

400 ft

