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): September 17, 2015
- DISTRICT OFFICE, FILE NAME, AND NUMBER: Alaska District, POA-2015 352
- C. PROJECT LOCATION AND BACKGROUND INFORMATION:

Borough: Matanuska-Susitna

City: Wasilla

Center coordinates of site (lat/long in degree decimal format): Lat. 61.6342 ° \, Long. 149.2832 °W

Universal Transverse Mercator: 6V

Name of nearest waterbody: Neklason Lake

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Cook Inlet

Name of watershed or Hydrologic Unit Code (HUC): 19020402

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: September 11, 2015

V Field Determination. Date(s): August 14, 2013, July 29, 2013

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.

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 "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area,

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters (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 V

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: 724 linear feet: # width (ft) and/or # acres. (length of tributary)

Wetlands: 3.14 acres.

c. Limits (boundaries) of jurisdiction based on: Not Applicable

Elevation of established OHWM (if known): N/A

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

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: Click here to enter text.

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

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent":

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 waterbody 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.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i)	Wat	neral Area Conditions: Tershed size: # Choose an item. This inage area: # Choose an item.
		rage annual rainfall: # inches rage annual snowfall: # inches
(ii)		Relationship with TNW: Tributary flows directly into TNW. Tributary flows through Choose an item. tributaries before entering TNW. Project waters are Choose an item. river miles from TNW. Project waters are Choose an item. river miles from RPW. Project waters are Choose an item. aerial (straight) miles from TNW. Project waters are Choose an item. aerial (straight) miles from RPW. Project waters are Choose an item. aerial (straight) miles from RPW. Project waters cross or serve as state boundaries, Explain: Click here to enter text.
		Identify flow route to TNW: Click here to enter text. Tributary stream order, if known: Click here to enter text.
	(b)	General Tributary Characteristics (check all that apply): Tributary is: Natural
		Artificial (man-made). Explain: Click here to enter text. Manipulated (man-altered). Explain: Click here to enter text.

		Ave Ave	ry properties with re trage width: # feet trage depth: # feet trage side slopes:	espect	to top of bank (est	imate):					
		Primary	tributary substrate o	ompo:		at app	ly):		.			
		ı	Silts	J	Sands			<u>. L</u>	Concrete			
		Γ	Cobbles	Г	Gravel		= 00		Muck			
			Bedrock	Γ	Vegetation. Typ	e/% c	over: Click	chere to	enter text.			
		Γ	Other. Explain:			26		8				
		Presence Tributary	condition/stability of run/riffle/pool c geometry: gradient (approxin	omple	xes. Explain:	ughir	ng banks].	Explai	n: Click here t	o enter lext.		
	0	Estimate Des	provides for: Choo average number of cribe flow regime: formation on duration	flow e	events in review are ere to enter text.	ea/yea	ar: Choose	an item.				
		Surface f	low is: Choose an ite	m. Ch	aracteristics:							
			ce flow: Choose an i Dye (or other) test		5					2 d 2		2 =
			has (check all that Bed and banks OHWM (check all clear, natural lichanges in the shelving vegetation mat leaf litter disturbed water staining other (list): Discontinuous OH other than the OHY	indica ine imp characted do rbed of sition	ators that apply): pressed on the bank eter of soil wn, bent, or absent r washed away Explain:		destruction the present sediment scour multiple abrupt ch	on of te nce of v sorting observe aange in	rrestrial vege wrack line s ed or predicte a plant comm	etation ad flow eve unity	88 8 87 8	oply):
		П	High Tide Line in	dicated e along	l by:	M	ean High V	Water M availal	fark indicated ole datum;	d by:		F-37.
		1	physical marki			H	774 FE		changes in v	egetation t	vpes.	
		ľ	tidal gauges		- F. "	* 1	-9				*100558	29
			other (list):									
(iii)	Chei	nical Ch	aracteristics:									
10	Char	acterize t Explain:	ributary (e.g., water		is clear, discolored	l, oily	film; wat	er quali	ty; general w	atershed c	haracteri	stics, etc.)

(iv) Bi	ological Characteristics. Channel supports (check all that apply):	in a year of
Ì	Riparian corridor. Characteristics (type, average width):	25.4
1	Wetland fringe. Characteristics:	
Γ	Habitat for:	
	Federally Listed species. Explain findings:	20
	Fish/spawn areas. Explain findings:	
	Other environmentally-sensitive species. Explain findings:	
	Aquatic/wildlife diversity. Explain findings:	
2. Charac	teristics of wetlands adjacent to non-TNW that flow directly or indirec	otly into TNW
(i) Ph	ysical Characteristics: General Wetland Characteristics: Two small wetlands with histosol soils	
	General Flow Relationship with Non-TNW: Flow is: Perennial Flow Explain: wetlands have subsurface flow into fire, Neklason Lake flows into Cottonwood Creek and onto the Cook Inlet	st-order drainage, first-order drainage flows into
	Surface flow is: Discrete and Confined Characteristics: RPW flow is permanent flow into TNW	
	Subsurface flow: Yes Explain findings: Based on NRCS Ksat data calculated Dye (or other) test performed:	alating subsurface flow
(c)	Wetland Adjacency Determination with Non-TNW: □ Directly abutting □ Not directly abutting □ Discrete wetland hydrologic connection. Explain: Subsurfa □ Ecological connection. Explain: Connected through use by	
	Separated by berm/barrier. Explain:	
(d)	Proximity (Relationship) to TNW Project wetlands are 15-20 river miles from TNW. Project waters are 10-15 aerial (straight) miles from TNW. Flow is from: Wetland to Navigable Waters Estimate approximate location of wetland as within the 500-year or great	ter floodplain. Flood insurance rate map panel # 7245
Ch	emical Characteristics: aracterize wetland system (e.g., water color is clear, brown, oil film on surf etc.). Explain: ntify specific pollutants, if known:	face; water quality; general watershed characteristics;
(iii) Bio	logical Characteristics. Wetland supports (check all that apply):	a a p
F	 Riparian buffer. Characteristics (type, average width): Vegetation type/percent cover. Explain: wetland vegetation (see Wetla Corps, site visit 8/14/2015) Habitat for: 	nd Determination Forms prepared by Army
,	Federally Listed species. Explain findings:	
	Fish/spawn areas. Explain findings: supports sockeye salmon and sp	pawning and rearing site for coho salmon
**	Other environmentally-sensitive species. Explain findings:	
	Aquatic/wildlife diversity. Explain findings: waterfowl	
3 Charac	eristics of all wetlands adjacent to the tributary (if any)	

aracteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: 2
Approximately (3.14) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
No	2.8	Y/N	£
No	0.34	YN	<u>#</u>
Y/N	Ħ	Y/N	#
. Y/N	#	YN	, #

Summarize overall biological, chemical and physical functions being performed: The wetlands on the Roelfs property contribute to the chemical, hydrological, and physical integrity of the relevant reach. Chemically, these wetlands provide nutrient removal and chemical detoxification for water flowing into the creeks and larger water bodies in Wasilla. The wetlands contribute to the hydrological and physical integrity of the relevant reach by filtering storm water runoff, creating a buffer to prevent flooding, and creating habitat for water fowl and other animals. The Alaska Department of Environmental Conservation considers seven miles of Cottonwood Creek to be a Category 5/Section 303(d) listed water body due to fecal coliform bacteria from urban runoff and urban development. Wetlands in the relevant reach mitigate the impacts of urban development leading to the current impairment of the creek, and therefore the role of the Roelfs wetlands is significant.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the Rapanos Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

- 1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
- 2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
- 3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: For the purpose of the significant nexus evaluation, the relevant reach has been determined to be the first-order reach of a drainage flowing from an area adjacent to the Roelfs wetlands into Neklason Lake, HUC 12-19020401803. The relevant reach of Jacobsen Lake includes the water flowing in from Cornelius Lake to the east, the west reach of Neklason Lake, Cottonwood Creek, a small unnamed lake off of Cottonwood Creek, Cottonwood Lake and Cook Inlet. The total distance in the reach is 3.32 miles and encompasses many "similarly situated" abutting and adjacent small freshwater emergent and freshwater forested/shrub wetlands. The two wetlands on the Roelfs property are a part of this hydrologic complex, and have an important influence on the watershed by moderating flood flows and preventing erosion.

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:
	TNWs: # linear feet # width (ft), Or, # acres.
	Wetlands adjacent to TNWs: # acres.
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:

П	Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three more Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tribute enter text	nths each yea utary flows s	ır) are jurisd seasonally: (lictional
	Provide estimates for jurisdictional waters in the review area (check all that apply): Tributary waters: 0 linear feet # width (ft).			
	Other non-wetland waters: # acres. Identify type(s) of waters: Click here to enter text.			

 $\label{eq:control_eq} 2 \, q_0^2 + 2 \, q_0^2 - \frac{1}{2} \, q_0^2 - 2 \, - 1 \, q_0^2 - q_$

3.	No	Wat	Ws that flow directly or in- erbody that is not a TNW or W is jurisdictional. Data sup	an RPW, but flows direc	tly or indirectly into a provided at Section II	a TNW, and it has a significant nexus with a II.C.	1
	Pro		estimates for jurisdictional w Tributary waters: # linear f		ea (check all that app	ly):	
		П	Other non-wetland waters: Identify type(s) of waters:	= acres.			
4.		Wet	indicating that tributary is pabutting an RPW:	d thus are jurisdictional as an RPW where tributaries perennial in Section III.D.	adjacent wetlands. s typically flow year-r 2, above. Provide rat	ound. Provide data and rationale ionale indicating that wetland is directly	
		Π	Wetlands directly abutting tributary is seasonal in Sec wetland is directly abutting	tion III.B and rationale in	Section III.D.2, above	onally." Provide data indicating that e. Provide rationale indicating that	
		Prov	vide acreage estimates for ju	risdictional wetlands in th	e review area: # acres		
5.	We 기	Wet adja	s adjacent to but not direct tlands that do not directly ab acent and with similarly situa porting this conclusion is pro	ut an RPW, but when con ted adjacent wetlands, ha	sidered in combination	lirectly into TNWs. on with the tributary to which they are s with a TNW are jurisidictional. Data	
	Pro	vide a	acreage estimates for jurisdic	ctional wetlands in the rev	iew area: 3.14 acres.		
6.	We □	Wet and	s adjacent to non-RPWs th tlands adjacent to such water with similarly situated adjac conclusion is provided at So	rs, and have when conside cent wetlands, have a sign	red in combination w	ith the tributary to which they are adjacent NW are jurisdictional. Data supporting	
	Pro	vide e	estimates for jurisdictional w	etlands in the review area	: # acres.		
7.	Imp As	a gene	dments of jurisdictional wa eral rule, the impoundment on nonstrate that impoundment	of a jurisdictional tributary		al.	``
	Γ	Den	nonstrate that water meets th	e criteria for one of the ca	ategories presented ab	ove (1-6), or	
	Γ	Den	nonstrate that water is isolate	ed with a nexus to comme	rce (see E below).		
OR	DES	STRU	INTERSTATE OR INTR ICTION OF WHICH COU APPLY):	A-STATE] WATERS, II JLD AFFECT INTERST	NCLUDING ISOLA TATE COMMERCE	TED WETLANDS, THE USE, DEGRAD , INCLUDING ANY SUCH WATERS (ATION CHECK
			e or could be used by interst				
50 053			ich fish or shellfish are or co				
П			e or could be used for indust	rial purposes by industries	s in interstate commer	ce.	
			e isolated waters. Explain:		m a li		
			ctors. Explain:				
			r body and summarize rat				
Pro	Tril	outary	ates for jurisdictional waters waters: # linear feet # widtl		all that apply):	1 1 6 m 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	e
1.1			n-wetland waters: # acres.	ung and the second			
Γ			ify type(s) of waters; Click hes: acres.	ere wemer iext.			

E.

F.	NO	N-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
		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.
	Γ	Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
	30	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).
	厂	Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: Click here to enter text
	厂	Other: (explain, if not covered above): Click here to enter text.
	(i.e.	vide acreage estimates for non-jurisdictional waters in the review area, where the <u>sole</u> potential basis of jurisdiction is the MBR factors, presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment eck all that apply):
	1	Non-wetland waters (i.e., rivers, streams): # linear feet # width (ft).
	Γ	Lakes/ponds: # acres.
		Other non-wetland waters: = acres. List type of aquatic resource: Click here to enter text
	Γ	Wetlands: # acres.
	Pro find	vide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a ing is required for jurisdiction (check all that apply):
	Γ	Non-wetland waters (i.e., rivers, streams): # linear feet # width (ft).
	厂	Lakes/ponds: # acres.
	Γ	Other non-wetland waters: = acres. List type of aquatic resource: Click here to enter text
	Γ.	Wetlands: # acres.
SE	CTIO	ON IV: DATA SOURCES.
A.	requ	PORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and lested, appropriately reference sources below): Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Preliminary Wetland Map prepared by VEI Consultants, received May 28, 2015 Data sheets prepared/submitted by or on behalf of the applicant/consultant.
	П	Office concurs with data sheets/delineation report.
		Office does not concur with data sheets/delineation report.
		Data sheets prepared by the Corps: MFR for site visits on August 14, 2015 and July 29, 2015 Wetland Determination Forms with photographs, Sites 1-4, August 14, 2015 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:
	1	USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS map displaying saturated hydraulic conductivity (Ksat),
	V	Unit 141, Histosols, August 21, 2015 National wetlands inventory map(s). Cite name: PEM1/SS1B, Freshwater Emergent Wetland, July 2, 2015
		State/Local wetland inventory map(s):
	H	FEMA/FIRM maps;
		100-year Floodplain Elevation is: <i>Click here to enter text.</i> (National Geodectic Vertical Datum of 1929)
	[기	Photographs: Aerial (Name & Date): Google Earth, Sampling Points, August 19, 2015
	200	or Other (Name & Date):
		Previous determination(s). File no. and date of response letter:
		Applicable/supporting case law:
		Applicable/supporting case law: Applicable/supporting scientific literature:
		Dec. → 1
	7	Other information (please specify): GIS map of wetland boundaries, created by walking track around wetland #1, August 19, 2015 SimSuite map showing connectivity from Neklason Lake to the Cook Inlet via Section 10 waters, August 21 and 24, 2015 Alaska Fish and Game Fish Resource Monitor, Anadromous Lakes, 9/16/2015

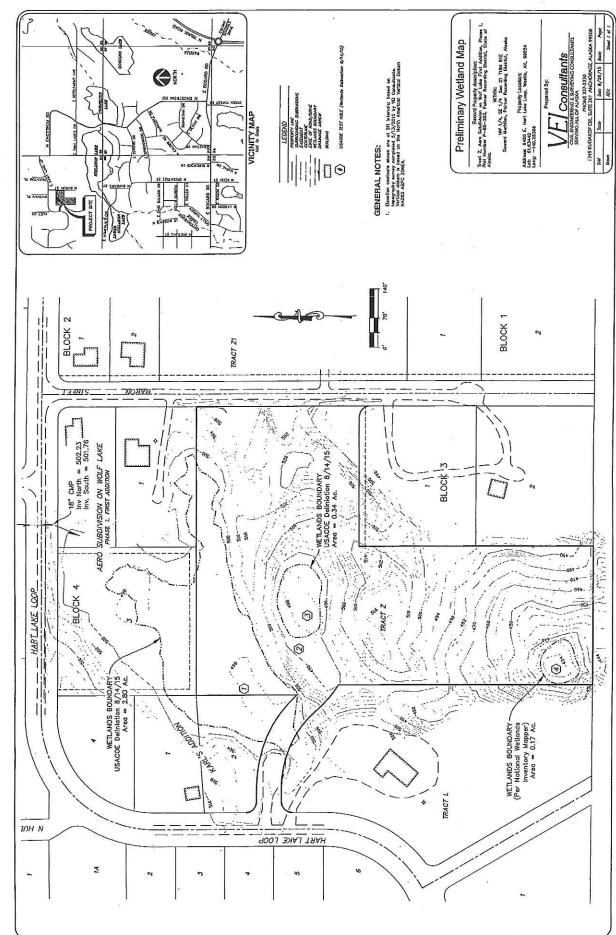
B. ADDITIONAL COMMENTS TO SUPPORT JD:

September 16, 2015
Date

Julie Ruth Regulatory Specialist

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POA-2015-352



VEI May updated of ACOE welland delevinteins