

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): June 3, 2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Alaska District, POA- 2016 - 287

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Alaska Borough: Elfin Cove City: Elfin Cove
Center coordinates of site (lat/long in degree decimal format): Lat. 58.191925 ° N, Long. -136.344837 °W
Universal Transverse Mercator: UTM Zone 8
Name of nearest waterbody: Elfin Cove
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Elfin Cove
Name of watershed or Hydrologic Unit Code (HUC): 1901021113 – Mud Bay River-Frontal Icy Strait

- 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: June 3, 2016
 Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are “*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: The proposed project would occur below the plane of the high tide line (approximately +11.9-feet above the 0.0 elevation line) and the mean high water (approximately +10.1-feet above the 0.0 foot elevation line) in Elfin Cove, which is a navigable water of the United States. Elfin Cove is directly connected to the Gulf of Alaska which is a part of the Pacific Ocean through uninterrupted inside passage waters (Icy Strait). All areas identified above are subject to the ebb and flow of the tide.

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):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: 0.16 acres.
Wetlands: # acres.

c. Limits (boundaries) of jurisdiction based on: Established by Mean (average) High Waters

Elevation of established OHWM (if known): +10.1 feet above the 0.0 foot contour line.

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: [Click here to enter text.](#)

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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.

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: Elfin Cove

Summarize rationale supporting determination: Elfin Cove is a Navigable waterbody as explained in Section II A. There are anadromous fish steams within 2.6 miles of the proposed project location that support federally managed fisheries resources (i.e. Pink and Chinook Salmon). Interstate and foreign travelers harvest salmon while engaging in guided recreation/sport fishing in the Elfin Cove area. Fish that out-migrate from and in-migrate to these anadromous fish steams are caught by commercial and subsistence fishers in navigable waters (i.e. Icy Strain and Cross Sound). Elfin Cove and Icy Strait and Cross Sound are used to transport commerce such as goods and services via ships and barges. Also, these waters are used by ocean going cruise ships and by commercial guides to transport tourists to Elfin Cove, Juneau, Sitka, Gustavus and other tourism related establishments in the project vicinity for recreation such as wildlife viewing, hunting, and kayaking.

2. Wetland adjacent to TNW not applicable

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

C. SIGNIFICANT NEXUS DETERMINATION – Not applicable

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: 0.16 acres
- Wetlands adjacent to TNWs: # acres.

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

Not applicable

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY): NOT APPLICABLE

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: Applicant submitted maps and plans
- 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: [Click here to enter text.](#)
- Corps navigable waters' study: [Click here to enter text.](#)
- U.S. Geological Survey Hydrologic Atlas: [Click here to enter text.](#)
 - 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: Mt Fairweather A-2
- USDA Natural Resources Conservation Service Soil Survey. Citation: [Click here to enter text.](#)
- National wetlands inventory map(s). Cite name: [Click here to enter text.](#)
- State/Local wetland inventory map(s): [Click here to enter text.](#)
- FEMA/FIRM maps: [Click here to enter text.](#)
- 100-year Floodplain Elevation is: [Click here to enter text.](#) (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Digital Globe 2011 and 2014 imagery.
 - or Other (Name & Date): [Click here to enter text.](#)
- Previous determination(s). File no. and date of response letter: [Click here to enter text.](#)
- Applicable/supporting case law: [Click here to enter text.](#)
- Applicable/supporting scientific literature: [Click here to enter text.](#)
- Other information (please specify): NOAA Elfin Cove Tidal Gauge Data.

B. ADDITIONAL COMMENTS TO SUPPORT JD

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.