

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): August 4, 2017

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Alaska District, POA-2002-921

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Alaska Borough: Kenai Peninsula City: Soldotna
Center coordinates of site (lat/long in degree decimal format): Lat. 60.4964 ° N., Long. 150.9192 °W.
Universal Transverse Mercator: Zone 5
Name of nearest waterbody: Longmere Lake
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Longmere Lake
Name of watershed or Hydrologic Unit Code (HUC): 190203021802 Longmere Lake-Kenai River

- 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 14, 2017
 Field Determination. Date(s): July 27, 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 “*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

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).

- b. Identify (estimate) size of waters of the U.S. in the review area:**
Non-wetland waters: 172.0 acres.
Wetlands: 0.46 acres
- c. Limits (boundaries) of jurisdiction based on:** 1987 Delineation Manual
Elevation of established OHWM (if known): unknown

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:

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: Longmere Lake

Summarize rationale supporting determination: Longmere Lake has been determined to be a TNW pursuant to 33 C.F.R. § 328.3(a)(1) as the waters is currently used in interstate and/or foreign commerce based on:

- current access that allows members of the public to place watercraft on Longmere Lake
- capacity to be navigated by watercraft
- activities involving navigation and interstate (and/or foreign) commerce including fishing, boating, and commercial lodging.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”: The wetlands directly abut Longmere Lake.

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: 172 acres.
- Wetlands adjacent to TNWs: 0.46 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

- which are or could be used by interstate or foreign travelers for recreational or other purposes.

³ Supporting documentation is presented in Section III F.

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 Jurisdiction Following Rapanos*.

Identify water body and summarize rationale supporting determination: Longmere Lake has no obvious hydrological connection to an existing TNW. However, Longmere Lake has the capacity and is used for foreign and interstate commercial, recreational, and/or fishing purposes.

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

Wetlands: 0.46 acres.

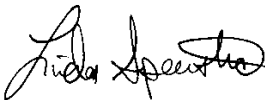
F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY): Not applicable

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:
- 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: Data Sheets dated July 27, 2017
- 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: Western Kenai Peninsula Soil Survey, 2005, USDA Web Soil Survey
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): Wetland Mapping and Classification of the Kenai Lowlands, Alaska. 21 March 2008. Gracz, Mike, Noyes, K., North, P., and Tande, G.; cookinletwetlands.info
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): (Google Earth-7/19/2003 & 6/27/2006 and Digital Globe-6/22/2012, 07/20/2015, & 04/19/2017) or Other (Name & Date): Site Visit Photos (July 27, 2017)
- Previous determination(s). File no. and date of response letter: POA-2002-921-Sept 13, 2002; POA-2010-558-October 15, 2010
- Applicable/supporting case law: Rapanos vs. U.S.
- Applicable/supporting scientific literature:
- Other information (please specify): See site visit MFR dated July 31, 2017

B. ADDITIONAL COMMENTS TO SUPPORT JD: The review area was limited to the requestor's property and Longmere lake. The wetlands present within the review area are part of a larger wetland complex.



Linda Speerstra
Chief, Southeast Section

14-Nov-2017

Date