

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 8, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Winter Park Tract F Development, SPA-2022-00144

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Colorado** County/parish/borough: **Grand County** City: **Winter Park**
Center coordinates of site (lat/long in degree decimal format): Lat. **39.925454°**, Long. **-105.783297°**
Universal Transverse Mercator: **13S, 433065.00 m E, 4419777.00 m N**

Name of nearest waterbody: **Fraser River**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Colorado River**

Name of watershed or Hydrologic Unit Code (HUC): **Colorado Headwaters, 14010001**

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: **The jurisdictional status of all resources within the review are included within this form. Wetland B was previously determined to be isolated and not jurisdictional during review of the Soujourn at Idlewild Development Approved Jurisdictional Determination (AJD) on August 8, 2022 (SPK-2021-00084)**

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

Office (Desk) Determination. Date: **September 8, 2022**

Field Determination. Date(s): **June 29, 2022**

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 and are not** "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: **Fraser River 694** linear feet, _____ wide, and/or **Fraser River 0.24** acres.

Wetlands: **Wetland A 2.82** acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known):

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: **Wetland B (0.07 acre) is also within the review area and is not jurisdictional due to being isolated from the nearest RPW. Wetland B was previously determined to be isolated and not jurisdictional during review of the Soujourn at Idlewild Development AJD on August 8, 2022 (SPK-2021-00084).**

SECTION III: CWA ANALYSIS

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.

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 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.

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

(i) General Area Conditions:

Watershed size: **Pick List**
Drainage area: **Pick List**
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: **No**.

Identify flow route to TNW⁵:
Tributary stream order, if known:

(b) General Tributary Characteristics (check all that apply):

Tributary is: Natural

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

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

- Artificial (man-made). Explain:
- Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):

Average width: feet
Average depth: feet
Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

- Silts
- Sands
- Cobbles
- Gravel
- Bedrock
- Vegetation. Type/% cover:
- Other. Explain:
- Concrete
- Muck

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): %

(c) **Flow:**

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:

- Dye (or other) test performed:

Tributary has (check all that apply):

- Bed and banks
- OHWM⁶ (check all indicators that apply):
 - clear, natural line impressed on the bank
 - changes in the character of soil
 - shelving
 - vegetation matted down, bent, or absent
 - leaf litter disturbed or washed away
 - sediment deposition
 - water staining
 - other (list):
- Discontinuous OHWM.⁷ Explain:
- the presence of litter and debris
- destruction of terrestrial vegetation
- the presence of wrack line
- sediment sorting
- scour
- multiple observed or predicted flow events
- abrupt change in plant community

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- High Tide Line indicated by:
 - oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gauges
 - other (list):
- Mean High Water Mark indicated by:
 - survey to available datum;
 - physical markings;
 - vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain:

Identify specific pollutants, if known:

(iv) Biological Characteristics. Channel supports (check all that apply):

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

- Other environmentally-sensitive species. Explain findings:
- Aquatic/wildlife diversity. Explain findings: S

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. Explain findings:

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: .

Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain:

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately 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)

Summarize overall biological, chemical and physical functions being performed:

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:

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, wide, 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: **The Fraser River has perennial flow as documented by a United States Geological Survey flow gauge located approximately 1 mile upstream of the review area (Monitoring location 09024000).**
 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:

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

- Tributary waters: **694** linear feet wide.
- Other non-wetland waters: acres.

Identify type(s) of waters: **The eastern bank of the Fraser River is located within the review area, totalling 0.24 acre. The Fraser River is a perennial stream, as documented by a United States Geological Survey flow gauge located approximately 1 mile upstream of the review area (Monitoring location 09024000).**

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**
 Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

- Tributary waters: linear feet, wide.
- Other non-wetland waters: acres.

⁸See Footnote # 3.

Identify type(s) of waters:

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 - Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Wetland A (2.82 acres) directly abuts the Fraser River and is therefore jurisdictional.**
 - Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

Provide acreage estimates for jurisdictional wetlands in the review area: **2.82** acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from "waters of the U.S.," or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

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):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain:
- Other factors. Explain:

Identify water body and summarize rationale supporting determination:

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

- Tributary waters: linear feet, wide.
- Other non-wetland waters: acres.
Identify type(s) of waters:
- Wetlands: acres.

F. NON-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.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - 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).
 - Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
 - Other: (explain, if not covered above):

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ 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.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, wide.
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: **0.07** acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, wide.
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: acres.

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: **Report titled Aquatic Resource Delineation Report for Tract F, dated April 5, 2022, prepared by Ecological Resource Consultants, Inc.**
- 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.
- U.S. Geological Survey map(s). Cite scale & quad name: **1:24K; Fraser**
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name: **Report titled Aquatic Resource Delineation Report for Tract F, dated April 5, 2022, prepared by Ecological Resource Consultants, Inc.**
- State/Local wetland inventory map(s):
- FEMA/FIRM maps: **FEMA map retrieved by the Corps on June 23, 2022, <https://msc.fema.gov/portal/home>, Town of Winter Park 080305**
- 100-year Floodplain Elevation is: **8,730** (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):
or Other (Name & Date): **Report titled Aquatic Resource Delineation Report for Tract F, dated April 5, 2022, prepared by Ecological Resource Consultants, Inc.**
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):
- Corps Site Visit Memo For Record, dated June 29, 2022, prepared by the Corps.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

A portion of the review area was recently covered during review of an area located south of the review area covered by this form. Specifically, Wetland B was previously determined to be isolated and not jurisdictional during review of the Soujourn at Idlewild Development AJD on August 8, 2022 (SPK-2021-00084). The jurisdictional status of Wetland B (labeled as Wetland B-5 in the August 8, 2022, AJD), Wetland A, and the Fraser River are being documented in this form.

The Fraser River is a perennial tributary of the Colorado River. The Colorado River is a Traditionally Navigable Water beginning at its confluence with the Gunnison River in the City of Grand Junction, Colorado. Wetland A (2.82 acre) is a palustrine scrub-shrub wetland that directly abuts the Fraser River. Therefore, the Fraser River and Wetland A are jurisdictional resources.

Wetland B does not have a physical surface or shallow subsurface connection to the nearest downslope water of the U.S., is not separated by man-made dikes or natural river berms, and is not reasonably close such that they have an ecological interconnection with the nearest water of the U.S. Therefore, Wetland B is an isolated, intrastate, waters and not jurisdictional under the Clean Water Act.

Specifically, Wetland B is located adjacent to an existing gravel road, approximately 575 feet east of the Fraser River and 360 feet from the nearest wetland. The road was built prior to 1999 and provides access to a residential property located north of the review

area. There are no culverts under the road that would convey surface flows to other aquatic resources. The existing roadway and associated roadside swales on each side of the road serve to prolong saturation of the wetland. The wetland is supported by subsurface hydrology that accumulates at the toe of slope of a large, forested west-facing slope located to the east of the wetlands. There are no recognizable seeps or springs providing hydrology to the wetland. The upland area that separates the wetland from the nearest tributary with relatively permanent flows (Fraser River) has a very minimal slope towards the northwest and there are no recognizable drainage paths across the upland that could potentially provide a surface connection the Fraser River.

Wetland B does not have a physical surface connection to the Fraser River and is separated from wetland directly abutting the Fraser River by approximately 360 feet of uplands. The wetland does not have more than a tenuous or speculative subsurface hydrologic connection to the Fraser River through both colluvium and alluvium upland soils. Potential subsurface hydrologic connections are also speculative given that the wetlands are solely supported by subsurface hydrology that collects at the toe-of-slope. Soil test pits located within the upland areas do not provide evidence of a shallow subsurface (within first 18 inches during the growing season) connection between the subject wetland and the Fraser River or wetlands directly abutting the Fraser River.

The upland area that separates Wetland B from the nearest water of the U.S. (Fraser River) is undisturbed and with an average slope of 1-2%, sloping towards the northwest. Therefore, the upland area does not include man-made dikes or barriers, natural river berms, beach dunes, or the like.

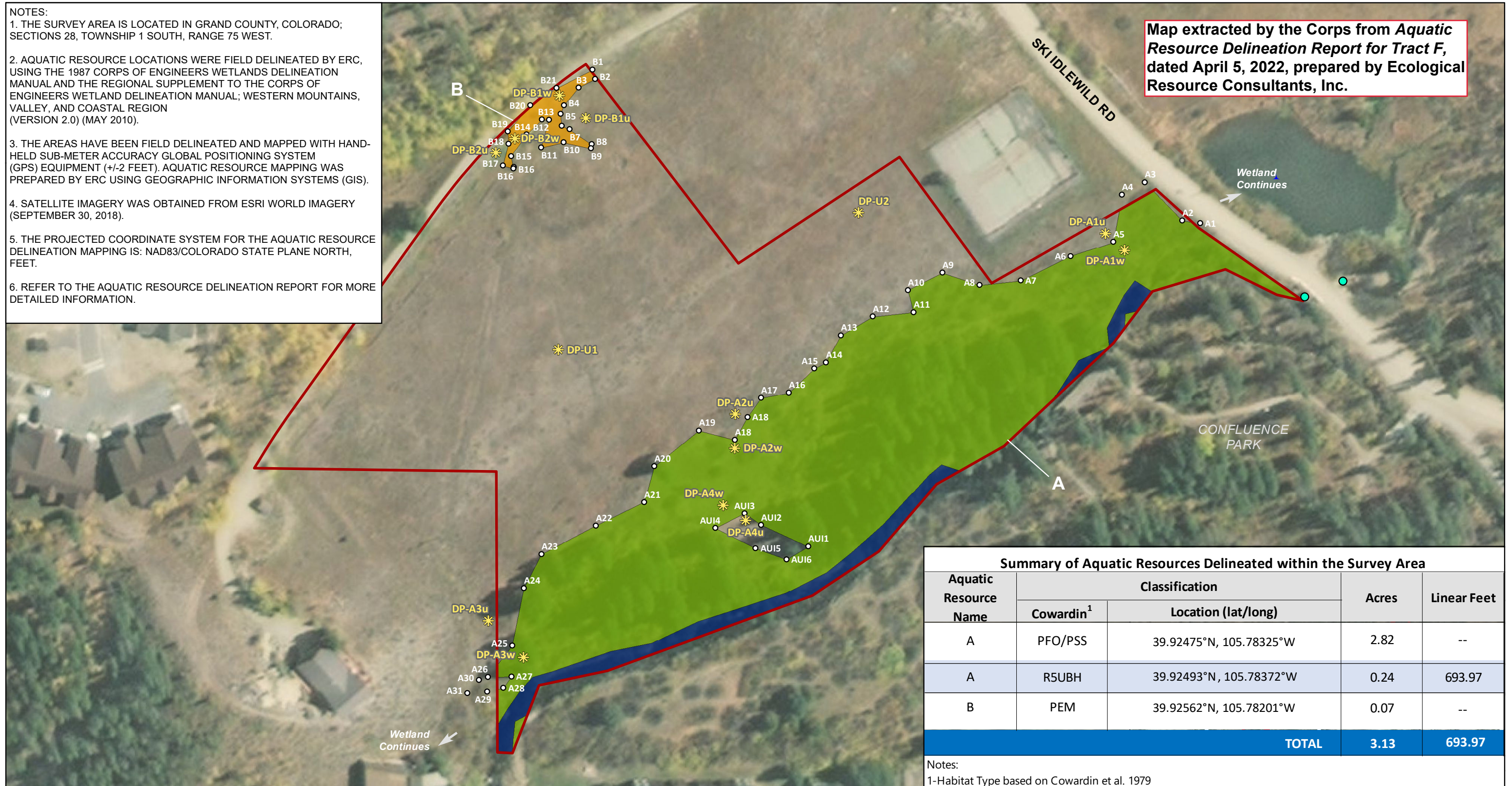
Wetland B has been determined to not be reasonably close in proximity to wetlands directly abutting the Fraser River (360 feet, nearest water of the U.S) and any ecological interconnection between the subject wetland and wetland abutting the Fraser River is insubstantial. Physically, the wetland is approximately 20 feet in elevation above the ordinary high-water mark of the Fraser River and are not within the floodplain of the Fraser River.

Prior to the January 20021 Supreme Court decision in "SWANCC", the review area would not have been regulated solely on the "Migratory Bird Rule" because the wetland does not experience standing surface water and therefore does not offer migratory bird habitat.

NOTES:

1. THE SURVEY AREA IS LOCATED IN GRAND COUNTY, COLORADO; SECTIONS 28, TOWNSHIP 1 SOUTH, RANGE 75 WEST.
2. AQUATIC RESOURCE LOCATIONS WERE FIELD DELINEATED BY ERC, USING THE 1987 CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL AND THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL; WESTERN MOUNTAINS, VALLEY, AND COASTAL REGION (VERSION 2.0) (MAY 2010).
3. THE AREAS HAVE BEEN FIELD DELINEATED AND MAPPED WITH HAND-HELD SUB-METER ACCURACY GLOBAL POSITIONING SYSTEM (GPS) EQUIPMENT (+/-2 FEET). AQUATIC RESOURCE MAPPING WAS PREPARED BY ERC USING GEOGRAPHIC INFORMATION SYSTEMS (GIS).
4. SATELLITE IMAGERY WAS OBTAINED FROM ESRI WORLD IMAGERY (SEPTEMBER 30, 2018).
5. THE PROJECTED COORDINATE SYSTEM FOR THE AQUATIC RESOURCE DELINEATION MAPPING IS: NAD83/COLORADO STATE PLANE NORTH, FEET.
6. REFER TO THE AQUATIC RESOURCE DELINEATION REPORT FOR MORE DETAILED INFORMATION.

Map extracted by the Corps from *Aquatic Resource Delineation Report for Tract F*, dated April 5, 2022, prepared by Ecological Resource Consultants, Inc.



Summary of Aquatic Resources Delineated within the Survey Area				
Aquatic Resource Name	Classification		Acres	Linear Feet
	Cowardin ¹	Location (lat/long)		
A	PFO/PSS	39.92475°N, 105.78325°W	2.82	--
A	R5UBH	39.92493°N, 105.78372°W	0.24	693.97
B	PEM	39.92562°N, 105.78201°W	0.07	--
TOTAL			3.13	693.97

Notes:
1-Habitat Type based on Cowardin et al. 1979

Prepared By:

 2820 Wilderness Place, Suite A
 Boulder, CO 80301
 (303) 679-4820
 ERC # 200-2110

MAP LEGEND

Survey Boundary (21.15 ac)	Field Flag Location & ID A1	Delineated Aquatic Resource Habitat Type (Cowardin) PFO/PSS
Aquatic Resource Name	Data Point Location & ID DP-A2u	PEM
	Culvert	R5UBH

**APPENDIX A
TRACT F
AQUATIC RESOURCE DELINEATION MAP**

WINTER PARK TRACT F
GRAND COUNTY, COLORADO

