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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): December 31, 2014.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: **Seattle District,** CMK Investments, LLC, NWS-2014-1073.
Name of water being evaluated on this JD form: Wetlands that drain to Mill Creek and Salmon Creek.

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Washington County: Clark City: Battle Ground
Center coordinates of site (lat/long in degree decimal format): Lat: 45.76216 **N**, Long: -122.54373 **W**
Universal Transverse Mercator: .
Name of nearest waterbody: Tributaries to Mill Creek and Salmon Creek.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Lake River.
Name of watershed or Hydrologic Unit Code (HUC): 170800010901.
☒ 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. List other JDs: _____

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☐ Office (Desk) Determination. Date: _____.
☒ Field Determination. Date(s): November 13, 2014.

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 waters[2] (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: Stream 1 - 40 linear feet by 3 feet; Stream 2 – 80 linear feet by 3 feet; Highway 503 Jurisdictional Ditch 500 feet by 4 feet.
   Wetlands: 4.69 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Established by OHWM.** and **1987 Delineation Manual.**
   Elevation of established OHWM (if known): Not Applicable.

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: _____.

[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.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs – NOT APPLICABLE

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

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

(i) General Area Conditions:
Watershed size: Stream 1 and Stream 2 = 8 to 10 acres; Highway 503 Jurisdictional Ditch = 40 **acres**
Drainage area: same as above **acres**
Average annual rainfall: 53.1 inches
Average annual snowfall: 1 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **1** tributaries before entering TNW.

Project waters are **5-10** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **2-5** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: _____.

Identify flow route to TNW[4]: Streams 1 and 2 (RPWs) are part of the same drainage system, and flow east from the project site for 0.1 miles before entering Woodin Creek, a perennial RPW. Woodin Creek then flows south for 1.3 miles before entering Salmon Creek, a RPW. Salmon Creek is also a Section 404 TNW from its confluence with Lake River (a Section 10 Navigable Water), upstream to River Mile 7, which is located 5 miles downstream from the Woodin Creek confluence.

The Highway 503 Jurisdictional Ditch (RPW) flows north for one mile before entering Mill Creek. From the confluence at Highway 503, Mill Creek flows west and south for 8 miles before entering Salmon Creek, which is a Section 404 TNW at the confluence. Salmon Creek then flows for 7 miles to the west before entering Lake River, a Section 10 Navigable Water.
Tributary stream order, if known: _____.

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☒ Artificial (man-made). Explain: The Highway 503 Jurisdictional Ditch is artificially constructed, but conveys flow from wetlands directly into a natural RPW.
☒ Manipulated (man-altered). Explain: Streams 1 and 2 have been manipulated by excavation, but occur within a natural, sloping depression.

Tributary properties with respect to top of bank (estimate):
Average width: Stream 1 = 3 foot; Stream 2 = 3 foot; Highway 503 Jurisdictional Ditch = 6 feet
Average depth: Stream 1 = <1 foot; Stream 2 = <1 foot; Highway 503 Jurisdictional Ditch = 3 feet
Average side slopes: **4:1 (or greater).**

Primary tributary substrate composition (check all that apply):

☒ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☒ Vegetation. Type/% cover: Reed Canary Grass 50%	
☐ Other. Explain: _____.		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: stable.
Presence of run/riffle/pool complexes. Explain: None.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): <2 %

(c) Flow:
Tributary provides for: **Seasonal flow**

[4] 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.

Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: All streams flow for at least 3 months in winter and spring.
Other information on duration and volume: None.

Surface flow is: **Discrete and confined.** Characteristics: Flow is low volume and low velocity.

Subsurface flow: **Unknown**. Explain findings: _____.
☐ Dye (or other) test performed: _____.

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[5] (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): _____
- ☒ 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

☐ Discontinuous OHWM.[6] Explain:_____.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply): None
- ☐ 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: Water color in all streams and the Highway 503 Jurisdictional Ditches is clear.
Identify specific pollutants, if known: The Highway 503 Jurisdictional Ditch likely receives pollutants from Highway 503.

(iv) Biological Characteristics. Channel supports (check all that apply):
☒ Riparian corridor. Characteristics (type, average width): Riparian vegetation is limited primarily to emergent plants and scattered shrubs, and has been manipulated from ongoing agricultural activities.
☐ Wetland fringe. Characteristics: _____.
☒ Habitat for:
- ☐ Federally Listed species. Explain findings: None known.
- ☐ Fish/spawn areas. Explain findings: None known.
- ☐ Other environmentally-sensitive species. Explain findings: None known.
- ☒ Aquatic/wildlife diversity. Explain findings: Streams 1 and 2 and the Highway 503 jurisdictional ditch provide habitat for wildlife species commonly found in urbanized settings, including small mammals, amphibians and reptiles.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW – NOT APPLICABLE

3. Characteristics of all wetlands adjacent to the tributary (if any) – NOT APPLICABLE

C. SIGNIFICANT NEXUS DETERMINATION – NOT APPLICABLE

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

2. RPWs that flow directly or indirectly into TNWs.
☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide rationale indicating that tributary flows perennial: _____.
☒ 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: Onsite observations of flow and presence of physical characteristics (e.g., defined channels) indicate that the

[5]A 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.
[6]Ibid.

watercourses flow for at least 3 months during each year. Standing water has been observed in the Highway 503 Jurisdictional Ditch during multiple project inspections in the immediate vicinity, throughout the winter and spring months.

Provide estimates for jurisdictional waters in the review area (check all that apply):
☒ Tributary waters: **620** linear feet **3 (average)** width (ft).
☐ Other non-wetland waters: _____ acres.
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: _____

☒ 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: Wetlands A and D and interconnected with a culvert, and flow directly into the Highway 503 Jurisdictional Ditch, which abuts Wetland A on the west. Wetland B is connected to Wetland C by a natural swale and a culvert. Stream 1 abuts Wetland C on the south, and Stream 2 abuts Wetland C on the North.

Provide acreage estimates for jurisdictional wetlands in the review area: **4.69** 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 - NOT APPLICABLE

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS - 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: Wetland delineation titled "Wetland Delineation Report Highway 503 Mixed Use Properties, Clark County, Washington", dated October 2014 and prepared by PBS Engineering and Environmental.
☒ 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: Downstream waterbodies are on the Section 10 Navigable Waterway List for Seattle District.
☐ 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: _____
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: _____.
☐ National wetlands inventory map(s). Cite name: _____.
☐ State/Local wetland inventory map(s): _____
☐ FEMA/FIRM maps: _____.
☐ 100-year Floodplain Elevation is: _____ (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☐ Aerial (Name & Date): _____
or ☒ Other (Name & Date): Photos provided with wetland delineation cited above.
☐ Previous determination(s). File no. and date of response letter: _____.
☐ Applicable/supporting case law: _____.
☐ Applicable/supporting scientific literature: _____.
☐ Other information (please specify): _____.

B. ADDITIONAL COMMENTS TO SUPPORT JD: _____.