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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 25, 2007**.**

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: **Seattle District,** NWS-2007-410-CRS, NE 147th Ave and NE 59th St.
Name of water being evaluated on this JD form: Wetlands B and C, Burnt Bridge Creek, and drainage ditches (note wetland G on the attached maps is a channel/drainage of Burnt Bridge Creek)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Washington County: Clark City: Vancouver
Center coordinates of site (lat/long in degree decimal format): Lat: 45.6692 **N**, Long: 122.5255 **W**
Universal Transverse Mercator: .
Name of nearest waterbody: Burnt Bridge Creek.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Vancouver Lake.
Name of watershed or Hydrologic Unit Code (HUC): F17080001.
☒ 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: JD 2 of 2 for Wetlands A, D, E, F and H

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: October 25, 2007.
☒ Field Determination. Date(s): October 18, 2007.

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: 7,000 linear feet ~10 width (ft) and/or _____ acres.
      Wetlands: 4+ acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual.** and **Established by OHWM.**
      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: _____.

[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: - 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: Water was observed in Burnt Bridge Creek upstream of NE 137th Ave to include two drainage ditches/channels running north through project site on October 18, 2007. Water depths were greater than 2 feet. No evidence was observed indicating that the creek or drainage ditches go dry at any time of the year (i.e., perennial). Burnt Bridge Creek flows approximately 13 miles west through Vancouver to where it empties into Vancouver Lake. Vancouver Lake is a section 10 water and TNW. Burnt Bridge Creek is NOT a TNW. Burnt Bridge Creek is a small creek which is not known or expected to have been "currently used, or were used in the past, or may be susceptible to use in interstae or foreign commerce".

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

☒ Tributary waters: **7000** linear feet **~10** 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: Wetland B is connected to Wetland C by a perennial ditch/channel. The ditch flows south through Wetland C to Burnt Bridge Creek. Wetlands C abuts the drainage ditch and the Creek. The only separation between Wetlands B and C is a sewerline ROW. It is assumed that prior to the installation of the sewerline, Wetlands B and C were one large continuous wetland.

Provide acreage estimates for jurisdictional wetlands in the review area: **4+** 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: _____.

☒ 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: Seattle, 2000.

☐ 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): Clark County Digital Atlas
http://gis.clark.wa.gov/imf/imf.jsp?site=digitalatlas&CFID=356418&CFTOKEN=18249092

[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.***

☐ FEMA/FIRM maps: _____.
☐ 100-year Floodplain Elevation is: _____ (National Geodectic Vertical Datum of 1929)
☐ Photographs: ☐ Aerial (Name & Date): _____
or ☐ Other (Name & Date): _____.
☒ Previous determination(s). File no. and date of response letter: 200301279 (7/22/04).
☐ Applicable/supporting case law: _____.
☐ Applicable/supporting scientific literature: _____.
☒ Other information (please specify):

The Resource Company, Inc. June 4, 2004. Wetland Delineation and Assessment NE 59th Street and NE 147th Avenue, Eastgate Plaza, Vancouver Washington

The Resource Company, Inc. March 29, 2007. Wetland and Buffer Enhancement Plan, Eastgate Plaza LLC, NE 147th Avenue and NE 59th Street.

The Resource Company, Inc. May 23, 2007. Wetland Delineation and Assessment, Eastgate Plaza, NE 59th Street Extension within Parcels 15931-000, and 159319-000; in Clark County , WA.

The Resource Company, Inc., Revised September 17, 2007. Wetland and Buffer Enhancement Plan, Eastgate Plaza LLC, NE 147th Avenue and NE 59th Street.

B. ADDITIONAL COMMENTS TO SUPPORT JD: _____.

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): December 11, 2007.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: **Seattle District,** NWS-2007-410-CRS, NE 147th Ave and NE 59th St.
Name of water being evaluated on this JD form: Wetlands A, D, E, F and H

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Washington County: Clark City: Vancouver
Center coordinates of site (lat/long in degree decimal format): Lat: 45.6692 **N**, Long: 122.5255 **W**
Universal Transverse Mercator: .
Name of nearest waterbody: Burnt Bridge Creek.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Vancouver Lake.
Name of watershed or Hydrologic Unit Code (HUC): F17080001.
☒ 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: JD 1 of 2 for Wetlands B and C (abutting), Burnt Bridge Creek, and drainage ditches

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: December 3, 2007.
☒ Field Determination. Date(s): October 18, 2007.

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: 7,000 linear feet ~10 width (ft) and/or _____ acres.
      Wetlands: 3+ acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual.** and **Established by OHWM.**
      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: _____.

[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
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):

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. If the waterbody[4] 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: 27 **square miles**
Drainage area: _____ **Pick List**
Average annual rainfall: 42 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 **10-15** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **5-10** 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[5]: Burnt Bridge Creek flows 12.7 miles west to where it empties into Vancouver Lake. Vancouver Lake is a Section 10 water and a TNW. Vancouver Lake receives water from the Columbia River via a tidal channel. Water from Vancouver Lake drains into Lake River, which empties in to the Columbia River. Lake River is a Section 10 water and a TNW. The Columbia River is a Section 10 water, a TNW, and an interstate water. Burnt Bridge Creek is not a TNW.
Tributary stream order, if known: _____.

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☒ Artificial (man-made). Explain: Creek was extended into headwater wetlands in an effort to drain wetlands for agrigultural purposes many years ago.
☐ Manipulated (man-altered). Explain: _____.

[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.

Tributary properties with respect to top of bank (estimate):
Average width: 10 feet
Average depth: 3 feet
Average side slopes: **2:1.**

Primary tributary substrate composition (check all that apply):

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

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: stable.
Presence of run/riffle/pool complexes. Explain: None in project area.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): <1 %

(c) Flow:
Tributary provides for: **Pick List Relatively permanent flow**
Estimate average number of flow events in review area/year: **Pick List**
Describe flow regime: _____.
Other information on duration and volume: Perennial flow.

Surface flow is: **Overland sheetflow.** Characteristics: _____.

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

Tributary has (check all that apply):
☐ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☒ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community
☐ other (list): _____	

☐ Discontinuous OHWM.[7] Explain:_____.

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

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

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Burnt Bridge Creek has been listed on the State's 2004 303(d) list of impaired waterbodies for temperature and feal coliform bactteria.
Identify specific pollutants, if known: _____.

(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width): _____.
☒ Wetland fringe. Characteristics: headwaters of creek, large wetland complex, heavily impacted by agriculture, cattle grazing, and urbanization.
☐ Habitat for:
☐ Federally Listed species. Explain findings: _____.

[6]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.
[7]Ibid.

☐ Fish/spawn areas. Explain findings: _____.
☐ Other environmentally-sensitive species. Explain findings: _____.
☒ Aquatic/wildlife diversity. Explain findings: migratory birds and small mammals.

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: 3+ acres (Wetland A – 0.61+, Wetland D – 1.38+, Wetland E – 0.87+, Wetland F – 0.03+, Wetland H – 0.23+)

Wetland type. Explain: PSS/EM.

Wetland quality. Explain: Wetland A – IV, Wetland D – IV, Wetland E – IV, Wetland F – IV, Wetland H – III (scale of I to IV, with I highest quality).

Project wetlands cross or serve as state boundaries. Explain: _____.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: Hydrological connection between subject wetlands and Burnt Bridge Creek is presumed to oocur via sheet flow and as evidenced by the presence of continuous hydric soils between the wetlands and the creek.

Surface flow is**: Overland sheetflow**

Characteristics: _____.

Subsurface flow: **Yes**. Explain findings: Presumed to occur via hydric soils.

☐ 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: Wetlands are part of a large upland/wetland complex located entirely in hydric soils contiguous with the creek. Wetlands help to filter stormwater runoff; retain stormwater, and presumably help recharge groundwater. Wetlands provide habitat, and create and transfer organic carbon which supports the downstream food web.

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **10-15** river miles from TNW.

Project waters are **5-10** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **100 - 500-year** floodplain. Varies from within the 100 year flood plain to outside the 500 year depending on how far away one goes from the creek.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Wetlands heavily impacted by on-going cattle grazing.

Identify specific pollutants, if known: fecal coliform.

(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: Habitat for birds, amphibians, reptiles, and small mammals. Headwaters of creek.

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

All wetland(s) being considered in the cumulative analysis: **2**

Approximately (4+) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Wetland A – adjacent, 0.61+ acres
Wetland B - abuts creek, 1.78+ acres
Wetland C – abuts creek, 2.32+ acres
Wetland D – adjacent, 1.38+ acres

Wetland E – adjacent, 0.87+ acres
Wetland F – adjacent, 0.03+ acres
Wetland H – adjacent, 0.23+ acres

Summarize overall biological, chemical and physical functions being performed: Wetlands help to filter and retain stormwater runoff, and presumably help recharge groundwater. Wetlands provide habitat and create and transfer organic carbon, which supports the downstream food web.

C. SIGNIFICANT NEXUS DETERMINATION

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: Significant nexus is present due to wetlands helping to filter stormwater runoff; retaining stormwater, and presumably helping to recharge groundwater. Wetlands provide habitat, and create and transfer organic carbon which supports the downstream food web of the the TNW. Wetlands at the site provide recharge to creek and flood storage along with nutrient input and the filtration of agricultural and residential pollutants. All of which is important to ESA-listed salmonid use in the lower 6 miles of Burnt Bridge Creek (project is at RM 12).

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 rationale indicating that tributary flows perennial: Water was observed in Burnt Bridge Creek upstream of NE 137th Ave to include two drainage ditches/channels running north through project site on October 18, 2007. Water depths were greater than 2 feet. No evidence was observed indicating that the creek or drainage ditches go dry at any time of the year (i.e., perennial). Burnt Bridge Creek flows approximately 13 miles west through Vancouver to where it empties into Vancouver Lake. Vancouver Lake is a Section 10 water and TNW. Burnt Bridge Creek is not a TNW. Burnt Bridge Creek is a small creek, which is not known or expected to have been "currently used, or were used in the past, or may be susceptible to use in interstae or foreign commerce".
   - ☐ 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: **7000** linear feet **~10** width (ft).
   - ☐ Other non-wetland waters: _____ acres.
     Identify type(s) of waters: _____.

3. **Non-RPWs[8] 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 _____ 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

[8]See Footnote # 3.

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: _____

Provide acreage estimates for jurisdictional wetlands in the review area: _____ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **3+** 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): - NOT APPLICABLE[10]

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: _____.
☒ Corps navigable waters' study: Seattle, 2000.
☐ 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): Clark County Digital Atlas
http://gis.clark.wa.gov/imf/imf.jsp?site=digitalatlas&CFID=356418&CFTOKEN=18249092
☐ FEMA/FIRM maps: _____.
☐ 100-year Floodplain Elevation is: _____ (National Geodectic Vertical Datum of 1929)
☐ Photographs: ☐ Aerial (Name & Date): _____
  or ☐ Other (Name & Date): _____.
☒ Previous determination(s). File no. and date of response letter: 200200512 (11/13/03), 200301279 (7/22/04); 200500146 (3/30/05).
☐ Applicable/supporting case law: _____.
☐ Applicable/supporting scientific literature: _____.

[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.*

☒ Other information (please specify):

The Resource Company, Inc. June 4, 2004. Wetland Delineation and Assessment NE 59th Street and NE 147th Avenue, Eastgate Plaza, Vancouver Washington

The Resource Company, Inc. March 29, 2007. Wetland and Buffer Enhancement Plan, Eastgate Plaza LLC, NE 147th Avenue and NE 59th Street.

The Resource Company, Inc. May 23, 2007. Wetland Delineation and Assessment, Eastgate Plaza, NE 59th Street Extension within Parcels 15931-000, and 159319-000; in Clark County , WA.

The Resource Company, Inc., Revised September 17, 2007. Wetland and Buffer Enhancement Plan, Eastgate Plaza LLC, NE 147th Avenue and NE 59th Street.

B. ADDITIONAL COMMENTS TO SUPPORT JD: This JD has been coordinated with the U.S. Environmental Protection Agency per the Raponos Guidance. EPA concurred with the determination on December 11, 2007.