

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

JD 1 of 8

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 2, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2007-973-CRS, Haertl Development (Cedars South).
Name of water being evaluated on this JD form: Salmon Creek and abutting wetlands 5

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: near Brush Prairie

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 45' 17" N, Long: 122° 30' 31" W

Universal Transverse Mercator: _____

Name of nearest waterbody: Salmon Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salmon Creek up to rivermile 7.

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 for drainage 3 and abutting wetlands 6 and 9; JD 3 for wetland 7; JD 4 for wetlands 8, 10, 11, and 13; JD 5 for Morgan Creek and abutting wetlands 5, 14 and 15; JD 6 for drainage 4; JD 7 for wetlands 16, 17 and 18; and JD 8 for Wetland 12.

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

Office (Desk) Determination. Date: September 12, 2007, revised on May 2, 2008.

Field Determination. Date(s): _____.

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

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 2,500 linear feet 30 width (ft) and/or _____ acres.

Wetlands: ~10 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

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.

- 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 – 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):

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: Salmon Creek has year round flow. The Salmon Creek watershed is comprised of 92 square miles of rural, residential, commercial, forest, and industrial land. Located near the center of Clark County, the watershed extends from the Cascade foothills east of Hockinson, west to Lake River on the Columbia River flood plain. Major tributaries to the 26-mile mainstem include Rock, Morgan, Woodin, Curtin, Mill, Tenny, and Cougar Creeks, with some smaller tributaries near Vancouver and many small un-named creeks in the rural areas. The creek supports salmonids. Salmon Creek flows west to where it empties into Lake River. Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008.
- 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: 2500 linear feet 30 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: Based upon aerial photographs, county wetland mapping, NWI, soil surveys, and the applicant's agent, portions of wetland area 5 are abutting Salmon Creek. The remaining portions of wetland 5 are abutting Morgan Creek which is subject to JD #5.
- 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: ~10 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.

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.

- 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 for parcels 192606-000 and 192956-000
<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: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at approximately rivermile 15. Salmon Creek is a perennial RPW near the project site.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Note: Exact wetland boundaries not field verified.

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

JD 2 of 8

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 2, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2007-973-CRS, Haertl Development (Cedars South).
Name of water being evaluated on this JD form: Drainage 3, and wetlands 6 and 9

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: near Brush Prairie

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 45' 17" N, Long: 122° 30' 31" W

Universal Transverse Mercator: _____

Name of nearest waterbody: Salmon Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salmon Creek up to rivermile 7.

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 for Salmon Creek and abutting wetland 5; JD 3 for wetland 7; JD 4 for wetlands 8, 10, 12 and 13; JD 5 for Morgan Creek and abutting wetlands 5, 14 and 15; JD 6 for drainage 4; JD 7 for wetlands 16, 17 and 18; and JD 8 for Wetland 12.

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

Office (Desk) Determination. Date: September 12, 2007, revised on May 2, 2008.

Field Determination. Date(s): August 23, 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 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: 300 linear feet 3 width (ft) and/or _____ acres.

Wetlands: 1 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

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.

- 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: 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):

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: Based upon field observation on August 23, 2007. August is typically the drier time of the year. Water was observed flowing west from the wetlands towards the railroad tracks and fairway. This unnamed drainage flows into Salmon Creek at rivermile 15. Salmon Creek flows west to where it empties into Lake River. Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008.
- 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: 300 linear feet 3 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: Drainage 3 discussed above originates in wetland 6. Wetland 6 is connected to wetland 9 based upon field observations.
- 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: 1 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: _____.

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.

- 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: _____.
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- State/Local wetland inventory map(s): Clark County Digital Atlas for parcels 192606-000 and 192956-000
<http://gis.clark.wa.gov/imf/imf.jsp?site=digitalatlas&CFID=356418&CFTOKEN=18249092>
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at approximately rivermile 15. Salmon Creek is a perennial RPW near the project site.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Note: Exact wetland boundaries not field verified.

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

JD 3 of 8

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 2, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2007-973-CRS, Haertl Development (Cedars South).
Name of water being evaluated on this JD form: Wetland 7

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: near Brush Prairie

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 45' 17" N, Long: 122° 30' 31" W

Universal Transverse Mercator: _____

Name of nearest waterbody: Salmon Creek

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salmon Creek below rivermile 7.

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 for Salmon Creek and abutting wetland 5, JD 2 for drainage 3 and abutting wetlands 6 and 9; JD 4 for wetlands 8, 10, 11, and 13; JD 5 for Morgan Creek and abutting wetlands 5, 14 and 15; JD 6 for drainage 4; JD 7 for wetlands 16, 17 and 18; and JD 8 for Wetland 12.

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

Office (Desk) Determination. Date: September 12, 2007, revised on May 2, 2008.

Field Determination. Date(s): August 23, 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 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: _____ linear feet _____ width (ft) and/or _____ acres.

Wetlands: 0.2 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual, and Pick List

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 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

Note: The wetland subject to this JD are hydrologically connected via an upland swale which drains into drainage 3 (JD form #2) which is a perennial RPW. Because the adjacent drainage is a perennial RPW this section (1) is not required to be completed.

(i) General Area Conditions:

Watershed size: 1110 square miles

Drainage area: 93 square miles (Salmon Creek Watershed)

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: _____.

Identify flow route to TNW⁵: _____.

Tributary stream order, if known: _____.

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

Tributary is: Natural

Artificial (man-made). Explain: _____.

Manipulated (man-altered). Explain: _____.

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

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.

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

Primary tributary substrate composition (check all that apply):

- | | | |
|---|--|-----------------------------------|
| <input type="checkbox"/> Silts | <input type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input type="checkbox"/> Vegetation. Type/% cover: _____ | |
| <input type="checkbox"/> Other. Explain: _____. | | |

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):

- | | |
|---|---|
| <input type="checkbox"/> Bed and banks | |
| <input type="checkbox"/> OHWM ⁶ (check all indicators that apply): | |
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> shelving | <input type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): _____ | |
| <input type="checkbox"/> Discontinuous OHWM. ⁷ Explain: _____. | |

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

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

(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):**

- | |
|--|
| <input type="checkbox"/> Riparian corridor. Characteristics (type, average width): _____. |
| <input type="checkbox"/> Wetland fringe. Characteristics: _____. |
| <input type="checkbox"/> Habitat for: |
| <input type="checkbox"/> Federally Listed species. Explain findings: _____. |
| <input type="checkbox"/> Fish/spawn areas. Explain findings: _____. |
| <input type="checkbox"/> Other environmentally-sensitive species. Explain findings: _____. |
| <input type="checkbox"/> Aquatic/wildlife diversity. 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.

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: 0.2 acres

Wetland type. Explain: PSS/EM.

Wetland quality. Explain: low.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: wetlands drain into ditch with no OHW mark or wetland characteristics.

Surface flow is: **Discrete and confined**

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: wetlands drain into ditch with no OHWM or wetland characteristics; ditch drains into a RPW which flows eventually into a TNW.

Ecological connection. Explain: _____.

Separated by berm/barrier. Explain: _____.

(d) Proximity (Relationship) to TNW (Salmon Creek below RM 7)

Project wetlands are **5-10** 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.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: no standing water when observed on August 23, 2007.

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: PSS/EM, cattails, willow.

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: 1

Approximately (1.2) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Wetland	Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
Wetland 7 (0.2 acres), adjacent to drainage 3, a RPW.				
Wetland 6 and 9 (1 acre), abutting drainage 3, a RPW.				

Summarize overall biological, chemical and physical functions being performed: Wetland adjacent to railroad tracks. Helps treat stormwater runoff; however, small in size (0.2 acres). Wetlands 6 and 9, provide habitat and create and transfer organic carbon which supports the downstream food web of the TNW.

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: The "relevant reach" being analyzed for this SN determination includes drainage 3 (an RPW) and wetlands 7, 6, and 9. Wetland 7 (0.2 acres) drains into a ditch. Ditch provides surface hydrological connection to drainage 3, an RPW. Ditch has ephemeral flow. No distinct OHW mark. Expect water to flow only during heavy rain events. Substrate primarily gravel from railroad along with some native material. Distance from wetland 7 and drainage 3 is approximately 300 feet. Presence of significant nexus due to wetlands helping to filter stormwater runoff from railroad tracks; retaining stormwater, and presumably helping to recharge groundwater. Wetlands 6 and 9, provide habitat and create and transfer organic carbon which supports the downstream food web of the the TNW.
Drainage 3 flows west where it drains into Salmon Creek. Salmon Creek flows west to where it empties into Lake River. Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at rivermile 15.
- 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 ____ 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: ____.
 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: ____ linear feet ____ width (ft).
 Other non-wetland waters: ____ acres.
Identify type(s) of waters: ____.
- 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 ____ 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: ____

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

⁸See Footnote # 3.
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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: **0.2** 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 _____ width (ft).
 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): _____.

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 _____ width (ft).
 Lakes/ponds: _____ acres.
 Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
 Wetlands: _____ 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 _____ width (ft).
 Lakes/ponds: _____ acres.

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 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: _____.
- 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 for parcels 192606-000 and 192956-000
<http://gis.clark.wa.gov/imf/imf.jsp?site=digitalatlas&CFID=356418&CFTOKEN=18249092>
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
 or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at approximately rivermile 15. Salmon Creek is a perennial RPW near the project site.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Note: Exact wetland boundaries not field verified.

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

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SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): June 27, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2007-973-CRS, Haertl Development (Cedars South).
Name of water being evaluated on this JD form: Isolated wetlands 8, 10, 11, and 13

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: near Brush Prairie
Center coordinates of site (lat/long in degree decimal format): Lat: 45° 45' 17" N, Long: 122° 30' 31" W
Universal Transverse Mercator: _____
Name of nearest waterbody: Salmon Creek.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salmon Creek at rivermile 7.
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 for Salmon Creek and abutting wetland 5; JD 2 for drainage 3 and abutting wetlands 6 and 9; JD 3 for wetland 7; JD 5 for Morgan Creek and abutting wetlands 5, 14 and 15; JD 6 for drainage 4; JD 7 for wetlands 16, 17 and 18; and JD 8 for Wetland 12.

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

- Office (Desk) Determination. Date: September 12, 2007, modified on May 2, 2008.
 Field Determination. Date(s): August 23, 2007, March 19, 2008, and April 30, 2008.

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 no** "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: _____ linear feet _____ width (ft) and/or _____ acres.
Wetlands: _____ acres.

c. Limits (boundaries) of jurisdiction based on: Pick List and Pick List

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: On August 23, 2007, we walked around the entire perimeter of wetlands 8, 10, 11, and 13 and did not observe

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.

any surface drainage features flowing out of the wetlands. Wetlands are separated from one another, from other wetlands, and Salmon Creek by uplands. The source of hydrology for these wetlands appears to be solely rainwater. The wetlands are up out of the Salmon Creek floodplain. There is no apparent evidence of any surface or subsurface connection to other waters. The wetlands are depressional. Therefore, they are geographically and hydrologically isolated from Salmon Creek.

The wetlands are in a forested area that has not been logged in over 75 years. The property is privately owned with no designated public access. There is no agricultural production in the project area. The wetlands do not support fish or shellfish which could be taken or sold in interstate or foreign commerce. Therefore, there is no connection to interstate commerce

Subsequent field visits occurred on March 17 and April 30, 2008. Wetlands were confirmed not to exist between Wetland 11 and 12. They are two separate wetlands. See data sheet 1 dated April 30, 2008. There is also a storm sewer drain on the south side of Wetland 11 near 15420 NE 181st Loop. In spite of the presence of Carex obnupta (OBL), Wetland 11 does not extend up to the drain. Uplands separate Wetland 11 and the storm drain. Positive wetland soils and hydrology were not present (see data sheet 2 dated April 30, 2008). No surface or shallow subsurface hydrological connection could be identified connecting Wetland 11 with the storm drain or Wetland 12. Wetland 11 is therefore isolated/non-jurisdictional.

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): NOT APPLICABLE
- C. SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE
- D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): NOT APPLICABLE
- 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.
 - 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 _____ width (ft).
- 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).
- Other: (explain, if not covered above): _____.

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.

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 _____ width (ft).
- Lakes/ponds: _____ acres.
- Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
- Wetlands: 2.4 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 _____ width (ft).
- 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: _____.
- 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 for parcels 192606-000 and 192956-000
<http://gis.clark.wa.gov/imf/imf.jsp?site=digitalatlas&CFID=356418&CFTOKEN=18249092>
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at approximately rivermile 15. Salmon Creek is a perennial RPW near the project site.

B. ADDITIONAL COMMENTS TO SUPPORT JD: This JD was coordinated with EPA per the June 2007 Rapanos Guidance. EPA concurred with this jurisdictional determination in an email dated May 16, 2008.

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

JD 5 of 8

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 2, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2007-973-CRS, Haertl Development (Cedars South).
Name of water being evaluated on this JD form: Morgan Creek and abutting wetlands 5, 14 and 15

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: near Brush Prairie

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 45' 17" N, Long: 122° 30' 31" W

Universal Transverse Mercator: _____

Name of nearest waterbody: Morgan Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salmon Creek below rivermile 7.

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 for Salmon Creek and abutting wetlands 5; JD 2 for drainage 3 and abutting wetlands 6 and 9; JD 3 for wetland 7; JD 4 for wetlands 8, 10, 11, and 13; JD 6 for drainage 4; JD 7 for wetlands 16, 17 and 18; and JD 8 for Wetland 12.

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

Office (Desk) Determination. Date: September 12, 2007, revised on May 2, 2008.

Field Determination. Date(s): August 23, 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 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: 3,000 linear feet 20 width (ft) and/or _____ acres.

Wetlands: ~10 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 (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: Morgan Creek has year round flow and is a major tributary to Salmon Creek. The Salmon Creek watershed is comprised of 93 square miles of rural, residential, commercial, forest, and industrial land. Located near the center of Clark County, the watershed extends from the Cascade foothills east of Hockinson, west to Lake River on the Columbia River flood plain. Major tributaries to the 26-mile mainstem include Rock, Morgan, Woodin, Curtin, Mill, Tenny, and Cougar Creeks, with some smaller tributaries near Vancouver and many small un-named creeks in the rural areas. Morgan Creek supports salmonids. Morgan Creek drains into Salmon Creek on the project site, at rivermile 15. Salmon Creek flows west to where it empties into Lake River. Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008.

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: 3000 linear feet 20 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: Based upon aerial photographs, county wetland mapping, NWI, soil surveys, and the applicant's agent, portions of wetland area 5 are abutting Morgan Creek. The remaining portions of wetland 5 are abutting Salmon Creek which is subject to JD #1. Based upon an on-site verification, wetlands 14 and 15 extend and abut Morgan Creek.

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: ~10 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: _____.

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.

- 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 for parcels 192606-000 and 192956-000
<http://gis.clark.wa.gov/imf/imf.jsp?site=digitalatlas&CFID=356418&CFTOKEN=18249092>
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
 or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at approximately rivermile 15. Salmon Creek is a perennial RPW near the project site.

B. ADDITIONAL COMMENTS TO SUPPORT JD: _____.

Note: Exact wetland boundaries not field verified.

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

JD 6 of 8

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 2, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2007-973-CRS, Haertl Development (Cedars South).
Name of water being evaluated on this JD form: JD 6 for drainage 4

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: near Brush Prairie

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 45' 17" N, Long: 122° 30' 31" W

Universal Transverse Mercator: _____

Name of nearest waterbody: Morgan Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salmon Creek below rivermile 7.

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 for Salmon Creek and abutting wetlands 5; JD 2 for drainage 3 and abutting wetlands 6 and 9; JD 3 for wetland 7; JD 4 for wetlands 8, 10, 11, and 13; JD 5 for Morgan Creek and abutting wetlands 5, 14 and 15; JD 7 for wetlands 16, 17 and 18; and JD 8 for Wetland 12.

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

Office (Desk) Determination. Date: September 12, 2007, revised on May 2, 2008.

Field Determination. Date(s): March 19, 2008.

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

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 600 linear feet 10 width (ft) and/or _____ acres.

Wetlands: _____ acres.

c. Limits (boundaries) of jurisdiction based on: Established by OHWM, and Pick List

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 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: 1110 square miles

Drainage area: 93 square miles

Average annual rainfall: 45 inches

Average annual snowfall: 5 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

Project waters are 5-10 river miles from TNW.

Project waters are Pick List river miles from RPW.

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

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

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

Identify flow route to TNW⁵: Drainage 4 flows into Mogan Creek. Mogan Creek flows into Salmon Creek at rivermile 15. Salmon Creek flows west to where it empties into Lake River. Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008.

Tributary stream order, if known: _____.

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

Tributary is: Natural

Artificial (man-made). Explain: _____.

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: _____ feet

Average depth: _____ feet

Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

- | | | |
|---|--|-----------------------------------|
| <input type="checkbox"/> Silts | <input type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input type="checkbox"/> Vegetation. Type/% cover: _____ | |
| <input type="checkbox"/> Other. Explain: _____. | | |

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

Presence of run/riffle/pool complexes. Explain: _____.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): **~1 to 2 %**

(c) **Flow:**

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: **flows during wetter portions of the year; greater than 3 months.**

Other information on duration and volume: _____.

Surface flow is: **Discrete and confined**. Characteristics: _____.

Subsurface flow: **Unknown**. Explain findings: _____.

Dye (or other) test performed: _____.

Tributary has (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Bed and banks | |
| <input checked="" type="checkbox"/> OHWM ⁶ (check all indicators that apply): | |
| <input checked="" type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> shelving | <input type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input checked="" type="checkbox"/> sediment deposition | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): _____ | |
| <input type="checkbox"/> Discontinuous OHWM. ⁷ Explain: _____. | |

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

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

(iii) **Chemical Characteristics:**

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

Explain: **Unknown**.

Identify specific pollutants, if known: _____.

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

- Riparian corridor. Characteristics (type, average width): **Stream in wooded area**.
- Wetland fringe. Characteristics: _____.
- Habitat for:
- Federally Listed species. Explain findings: _____.
 - Fish/spawn areas. Explain findings: _____.
 - Other environmentally-sensitive species. Explain findings: _____.
 - Aquatic/wildlife diversity. 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.

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

- 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 _____ 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: _____.
 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: Based upon field verification and information from applicant's agent, stream flows more than 3 months per year. Drains into Morgan Creek. Has well defined/incised channel.

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

- Tributary waters: 600 linear feet 10 width (ft).
 Other non-wetland waters: _____ acres.

Identify type(s) of waters: _____.

- 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 _____ 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: _____

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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

⁸See Footnote # 3.
Version 8-31-07

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 _____ width (ft).
- 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): _____.

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 _____ width (ft).
- Lakes/ponds: _____ acres.
- Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
- Wetlands: _____ 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 _____ width (ft).
- Lakes/ponds: _____ acres.
- Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
- Wetlands: _____ acres.

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.

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 for parcels 192606-000 and 192956-000
<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: _____.
 - Applicable/supporting case law: _____.
 - Applicable/supporting scientific literature: _____.
 - Other information (please specify): Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at approximately rivermile 15. Salmon Creek is a perennial RPW near the project site.

B. ADDITIONAL COMMENTS TO SUPPORT JD: _____.

Note: Exact wetland boundaries not field verified.

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

7 of 8

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 2, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2007-973-CRS, Haertl Development (Cedars South).
Name of water being evaluated on this JD form: wetlands 16, 17 and 18

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: near Brush Prairie

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 45' 17" N, Long: 122° 30' 31" W

Universal Transverse Mercator: _____

Name of nearest waterbody: Morgan Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salmon Creek below rivermile 7.

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 for Salmon Creek and abutting wetland 5, JD 2 for drainage 3 and abutting wetlands 6 and 9; JD 3 for wetland 7; JD 4 for wetlands 8, 10, 11, and 13; JD 5 for Morgan Creek and abutting wetlands 5, 14 and 15; JD 6 for drainage 4; and JD 8 for Wetland 12.

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

Office (Desk) Determination. Date: September 12, 2007, revised on May 2, 2008.

Field Determination. Date(s): _____.

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

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: _____ linear feet _____ width (ft) and/or _____ acres.

Wetlands: ~2 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual, and Pick List

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 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

Note: The wetlands subject to this JD are hydrologically connected via upland ditches which drains into Morgan Creek (JD form #5) which is a perennial RPW. Because the adjacent drainage is a perennial RPW, this section (1) is not required to be completed.

(i) General Area Conditions:

Watershed size: 1110 square miles

Drainage area: 93 square miles (Salmon Creek Watershed)

Average annual rainfall: 45 inches

Average annual snowfall: 5 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: _____.

Identify flow route to TNW⁵: _____.

Tributary stream order, if known: _____.

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

Tributary is: Natural

Artificial (man-made). Explain: _____.

Manipulated (man-altered). Explain: _____.

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

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.

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

Primary tributary substrate composition (check all that apply):

- | | | |
|---|--|-----------------------------------|
| <input type="checkbox"/> Silts | <input type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input type="checkbox"/> Vegetation. Type/% cover: _____ | |
| <input type="checkbox"/> Other. Explain: _____. | | |

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):

- | | |
|---|---|
| <input type="checkbox"/> Bed and banks | |
| <input type="checkbox"/> OHWM ⁶ (check all indicators that apply): | |
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> shelving | <input type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): _____ | |
| <input type="checkbox"/> Discontinuous OHWM. ⁷ Explain: _____. | |

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

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

(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):**

- | |
|--|
| <input type="checkbox"/> Riparian corridor. Characteristics (type, average width): _____. |
| <input type="checkbox"/> Wetland fringe. Characteristics: _____. |
| <input type="checkbox"/> Habitat for: |
| <input type="checkbox"/> Federally Listed species. Explain findings: _____. |
| <input type="checkbox"/> Fish/spawn areas. Explain findings: _____. |
| <input type="checkbox"/> Other environmentally-sensitive species. Explain findings: _____. |
| <input type="checkbox"/> Aquatic/wildlife diversity. 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.

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: ~2 acres

Wetland type. Explain: PSS/EM.

Wetland quality. Explain: low.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: wetlands drain into ditches that flow into Morgan Creek a RPW.

Surface flow is: **Discrete and confined**

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: wetlands drain into ditches (no OHWM or wetlands) that flow into Morgan Creek a RPW.

Ecological connection. Explain: _____.

Separated by berm/barrier. Explain: _____.

(d) Proximity (Relationship) to TNW

Project wetlands are 5-10 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 **500-year or greater** 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: PSS/EM.

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: 6

Approximately (13) 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)
	Portions of Wetland 5 (~10 acres), abutting Morgan Creek, an RPW		
	Wetland 14 (~0.5 acres), abutting Morgan Creek, an RPW		
	Wetland 15 (0.2 acres), abutting Morgan Creek, an RPW		
	Wetland 16 (0.2 acres), adjacent, drains into ditches that drains into Morgan Creek, an RPW		
	Wetland 17 (0.8 acres), adjacent, drains into ditches that drain into Morgan Creek, an RPW		
	Wetland 18 (1+ acres), adjacent drains into ditches that drain into Morgan Creek, an RPW		

Summarize overall biological, chemical and physical functions being performed: Wetland provide storage and filtration of stormwater. Assume to help recharge groundwater. Provide habitat for local wildlife.

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: _____.

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:

2. **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: Wetlands 16, 17, and 18 drain into ditches that connect to Morgan Creek. Ditches provides surface hydrological connection to Morgan Creek, an RPW. Ditches have ephemeral flow. Expect water to flow only during heavy rain events. Distance from wetlands to Morgan Creek is approximately 1,500 feet. Presence of significant nexus due to wetlands filtering stormwater runoff; retaining stormwater, and presumably helping to recharge groundwater.

Morgan Creek flows into Salmon Creek at rivermile 15. Salmon Creek flows west to where it empties into Lake River. Salmon Creek flows west to where it empties into Lake River. Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008.

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: _____.
 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: _____ linear feet _____ width (ft).
 Other non-wetland waters: _____ acres.
Identify type(s) of waters: _____.

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 _____ 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: _____

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.**

⁸See Footnote # 3.
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- 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: ~2 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 _____ width (ft).
 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): _____.

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 _____ width (ft).
 Lakes/ponds: _____ acres.
 Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
 Wetlands: _____ 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 _____ width (ft).
 Lakes/ponds: _____ acres.
 Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
 Wetlands: _____ acres.

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.

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 for parcels 192606-000 and 192956-000
<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: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at approximately rivermile 15. Salmon Creek is a perennial RPW near the project site.

B. ADDITIONAL COMMENTS TO SUPPORT JD: ____.

Note: Exact wetland boundaries not field verified.

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

8 of 8

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): June 27, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2007-973-CRS, Haertl Development (Cedars South).
Name of water being evaluated on this JD form: Wetland 12

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Clark City: near Brush Prairie

Center coordinates of site (lat/long in degree decimal format): Lat: 45° 45' 17" N, Long: 122° 30' 31" W

Universal Transverse Mercator: _____

Name of nearest waterbody: Morgan Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Salmon Creek below rivermile 7.

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 for Salmon Creek and abutting wetland 5, JD 2 for drainage 3 and abutting wetlands 6 and 9; JD 3 for wetland 7; JD 4 for wetlands 8, 10, 11, and 13; JD 5 for Morgan Creek and abutting wetlands 5, 14 and 15; JD 6 for drainage 4, and JD 7 for wetlands 16, 17 and 18.

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

Office (Desk) Determination. Date: May 2, 2008.

Field Determination. Date(s): August 23, 2007, March 19, 2008, and April 30, 2008.

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

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: _____ linear feet _____ width (ft) and/or _____ acres.

Wetlands: ~0.12 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual, and Pick List

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 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

Note: The wetlands subject to this JD are hydrologically connected via upland ditches, which drains into Morgan Creek (JD form #5) which is a perennial RPW. Because the adjacent drainage is a perennial RPW, this section (IIIB1) is not required to be completed.

(i) General Area Conditions:

Watershed size: 1110 square miles

Drainage area: 92 square miles (Salmon Creek Watershed)

Average annual rainfall: 45 inches

Average annual snowfall: 5 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: _____.

Identify flow route to TNW⁵: _____.

Tributary stream order, if known: _____.

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

Tributary is: Natural

Artificial (man-made). Explain: _____.

Manipulated (man-altered). Explain: _____.

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

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.

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

Primary tributary substrate composition (check all that apply):

- | | | |
|---|--|-----------------------------------|
| <input type="checkbox"/> Silts | <input type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input type="checkbox"/> Vegetation. Type/% cover: _____ | |
| <input type="checkbox"/> Other. Explain: _____. | | |

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):

- | | |
|---|---|
| <input type="checkbox"/> Bed and banks | |
| <input type="checkbox"/> OHWM ⁶ (check all indicators that apply): | |
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> shelving | <input type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): _____ | |
| <input type="checkbox"/> Discontinuous OHWM. ⁷ Explain: _____. | |

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

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

(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):**

- | |
|--|
| <input type="checkbox"/> Riparian corridor. Characteristics (type, average width): _____. |
| <input type="checkbox"/> Wetland fringe. Characteristics: _____. |
| <input type="checkbox"/> Habitat for: |
| <input type="checkbox"/> Federally Listed species. Explain findings: _____. |
| <input type="checkbox"/> Fish/spawn areas. Explain findings: _____. |
| <input type="checkbox"/> Other environmentally-sensitive species. Explain findings: _____. |
| <input type="checkbox"/> Aquatic/wildlife diversity. 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.

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: ~0.12 acres

Wetland type. Explain: PSS/EM.

Wetland quality. Explain: low.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: wetlands drain into ditches that flow into Morgan Creek, a RPW.

Surface flow is: **Discrete and confined**

Characteristics: _____.

Subsurface flow: **Unknown**. Explain findings: _____.

Dye (or other) test performed: _____.

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: Based upon a site visit with EPA on March 19, 2008, we concluded that Wetland 12 was jurisdictional. A French drain has been installed in the yard of the house immediately south of the wetland. Wetland 12 is contiguous with the yard and drain. The drain then empties into the road side ditch along NE 183rd Street. The roadside ditch empties into Morgan Creek to the east. Morgan Creek is an RPW.

Ecological connection. Explain: _____.

Separated by berm/barrier. Explain: _____.

(d) Proximity (Relationship) to TNW

Project wetlands are **5-10** 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 **500-year or greater** 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: PSS/EM.

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: **6**

Approximately (13) 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)
Portions of Wetland 5 (~10 acres), abutting Morgan Creek, an RPW				
Wetland 14 (~0.5 acres), abutting Morgan Creek, an RPW				
Wetland 15 (0.2 acres), abutting Morgan Creek, an RPW				
Wetland 16 (0.2 acres), adjacent, drains into ditches that drain into Morgan Creek, an RPW				
Wetland 17 (0.8 acres), adjacent, drains into ditches that drain into Morgan Creek, an RPW				
Wetland 18 (1+ acres), adjacent drains into ditches that drain into Morgan Creek, an RPW				

Summarize overall biological, chemical and physical functions being performed: Wetland provide storage and filtration of stormwater. Assume to help recharge groundwater. Provide habitat for local wildlife.

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: _____.

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:

2. **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: Wetland 12 drains into a roadside ditch that connects to Morgan Creek. Ditches provides surface hydrological connection to Morgan Creek, an RPW. Ditch near the wetland has ephemeral flow. Expect water to flow only during heavy rain events. Distance from wetlands to Morgarn Creek is approximately 1,500 feet. Presence of significant nexus due to wetlands filtering stormwater runoff; retaining stormwater, and presumably helping to recharge groundwater.

Morgan Creek flows into Salmon Creek on the project site near Salmon Creek rivermile 15. Salmon Creek is considered a TNW downstream of rivermile 7.

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: _____.
- 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: _____ linear feet _____ width (ft).
- Other non-wetland waters: _____ acres.

Identify type(s) of waters: _____.

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 _____ 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: _____

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

⁸See Footnote # 3.
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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: ~0.12 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 _____ width (ft).
 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): _____.

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 _____ width (ft).
 Lakes/ponds: _____ acres.
 Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
 Wetlands: _____ 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 _____ width (ft).
 Lakes/ponds: _____ acres.
 Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
 Wetlands: _____ acres.

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.

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 for parcels 192606-000 and 192956-000
<http://gis.clark.wa.gov/imf/imf.jsp?site=digitalatlas&CFID=356418&CFTOKEN=18249092>
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): Salmon Creek was determined to be a TNW below rivermile 7 in a memorandum dated January 30, 2008. The project site is at approximately rivermile 15. Salmon Creek is a perennial RPW near the project site.

B. ADDITIONAL COMMENTS TO SUPPORT JD: This JD was coordinated with EPA per the June 2007 Rapanos Guidance. EPA concurred with this jurisdictional determination in an email dated May 16, 2008.