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

JD Form 1 – Wetlands 3, 5, 6, 20-21-22, 26, 27 (WOUS - Significant Nexus)

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 18 August 2015

B. DISTRICT OFFICE, FILE NAME, NUMBER: Seattle District – Brookwater Advisors, LLC (Snoqualmie Mill), NWS-2012-1198
Name of water being evaluated on this form: Wetlands 3, 5, 6, 20-21-22, 26, 27

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: WA County/parish/borough: King City: Snoqualmie
Center coordinates of site (lat/long in degree decimal format Lat: 47.539978º Long. -121.817131º
Universal Transverse Mercator: 10
Name of nearest waterbody: Mill Pond (off-site)
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Snoqualmie River
Name of watershed or Hydrologic Unit Code (HUC): 17110010 (Snoqualmie Watershed)
☒ 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 JD's: Form 2 evaluates two isolated wetlands (Wetland 25 and Wetland 26); Form 3 evaluates Wetland 12 ditch complex; Streams 1, 2 (Perennial RPW's); Form 4 evaluates Wetlands 1, 2, 4, 7, 8, 9, 10, 11, 13, 14, 15, 18, 24, 28, 29, Ditches 2N, 3S, 7, 9N, 10, 17, 18, 19, 22, 24, 26, 28, 29, 30, 33, 34, 35, 40, 41, Streams 3, 4, 5, 6 (Wetlands abutting perennial and seasonal RPW's)

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date:
☒ Field Determination. Date: 19 March 2013

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.
There **Are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.
There **Are** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply): [1]
☐ TNWs, including territorial seas
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
☒ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters:
Wetlands: 0.45 acre

c. Limits (boundaries) of jurisdiction based on:
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 APPLIABLE

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: N/A.

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: N/A.

   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:

   The subject wetlands have a significant nexus to a downstream TNW. All non-isolated waters on the site drain to Mill Pond which discharges at high water levels to the Snoqualmie River via a short unnamed stream. The Snoqualmie River is a designated Section 10 navigable waterway from its mouth at Puget Sound to the town of Carnation, about 15 miles north of the project area. The wetlands discussed in this form are all adjacent to relatively permanent waters; see individual summary sheets for the specific flow paths of each wetland.

   The property consists of the old Weyerhaeuser Snoqualmie Mill, lumber yards, and mill town which now sits idle, and is just north of the Weyerhaeuser mill pond. Today parts of the site are used for the DirtFish race track and for storing gravel and rock but most of it is considered abandoned and over the majority of the site only the foundations of previous structures remain. Over a hundred years of processing and storing lumber, various leakages from equipment, pollution from the former mill town and a fire in 1989 have all contributed to the degraded condition of the property. The site underwent a preliminary assessment in the Superfund data system (CERCLIS) in 1991, however it resulted in a "No Further Remedial Action Planned" designation. As such, cleanup activities came under the purview of the Department of the Department of Ecology.

   Each wetland discussed in this form has a significant nexus to downstream waters by improving water quality via toxin interception. According to the 2011 Staff Summary City of Snoqualmie Planning Department, the identified contaminants of concern at the site vary but include BTEX or the gasoline components Benzene, Toluene, Ethylbenzene and Xylene; TPH/T(E)PH & DRO or Total (Extractable) Petroleum Hydrocarbons and Diesel Range Organics; PCP or Pentachlorophenol; T/TCBs or tetra/tri-chlorinated benzenes; and PCBs, or polychlorinated biphenyls. There is also evidence of heavy metals, including arsenic and lead and, to a lesser extent, copper, zinc and cadmium and some asbestos. The Department of Ecology website indicates that the Snoqualmie River generally has high water quality but exceeds water quality standards for pH, fecal coliform and temperature.

   In addition to containing and filtering contaminants, the on-site wetlands have the ability to attenuate downstream flooding by reducing peak flow in the watershed during major storm events by detaining high flows except during storm events, thus decreasing downstream erosion in streams, however, the amount of historic fill hinders this area from acting as a natural floodplain.

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 seasonally:
   - ☐ 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: Tributaries identified as having continuous flow for 3-6 months. See additional information for details.

   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-RPWs[4] 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:
   ☐ Other non-wetland waters:
   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.

   ☐ 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:

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: 0.45 acre.

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: **0.12** acres.

7. **Impoundments of jurisdictional waters.[5]**
   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):[6]
☐ 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.

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[4] See Footnote # 3.
[5] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[6] **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.***

☒ 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: 0.71 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: Raedeke Associates, Inc (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:
ww.nws.usace.army.mil/Portals/27/docs/regulatory/permit%20guidebook/Navigable_Waters_of_the_US_in_WA_State.pdf
☒ 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: Web Soil Survey (2011)
☐ National wetlands inventory map(s). Cite name: The waterbody is on the Section 10 Navigable Waterway List of Seattle District
☒ State/Local wetland inventory map(s): King County, WA (2012)
☐ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation is:
☒ Photographs: ☒ Aerial (Name & Date): Google Earth 2012
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): City of Snoqualmie Wetlands and Streams Map; Each wetland, stream and ditch is fully documented on individual Rapanos Tributary and Wetland Information Summaries located in the Jurisdictional Documents submitted by Raedeke Associates, Inc. on 16 April 2015. These sheets include the general area conditions, physical characteristics (including flow path and size), chemical characteristics (including known pollutants filtered on the site such as hydrocarbons), and the biological characteristics of the water (including vegetation types).

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Site Description: The approximately 293-acre property consists of King County tax parcels 2924089002, 2924089003, 2924089006, 2924089009, 2924089022, 2924089023, 2924089028, 292408UNKN, 3024089001, 3024089004, 3024089069, and 3024089070. As of September 28, 2012, all of the property, with the exception of 15.7 acres of tax parcel 2924089009, was annexed to the City of Snoqualmie from King County. The Snoqualmie Mill property is within Sections 20, 29, and 30, Township 24 North, Range 8 East, W.M. The property consists of the old Weyerhaeuser Snoqualmie Mill, lumber yards, and mill town which are now idle, and is just north of the Weyerhaeuser mill pond. The eastern and western property boundaries are formed by 396th Avenue SE and Southeast Mill Pond Road, respectively. The east half of the northern property boundary is formed by 402nd Avenue SE. The west half of the northern boundary is not defined by a road.

Site History and Delineation Methodology: The consultants originally delineated the site in 2012, and located 18 wetlands that were either contiguous with, adjacent to, or within the boundaries of a ditch or tributary which flows into the Snoqualmie River. During the site visit on 19 March 2013, the Corps confirmed that these waters are "waters of the U.S." but also determined that there were additional wet areas on the site and requested that the consultants conduct additional field work and provide updated documentation.

Many of the areas that needed additional investigation had developed on old fill in the western two-thirds of the site, but also included wet areas that had developed on top of old paved roads and concrete building foundations in the eastern portion of the site. In many cases, these areas were also dominated by hydrophytic vegetation. In the western portion of the site, these included areas up to several acres in size that were dominated by emergent species including broad-leaf cattail (*Typha latifolia*, OBL), blackgirdle bulrush (*Scirpus cyperinus*, OBL), small-fruited bulrush (*Scirpus microcarpus*, OBL), and various sedges (*Carex spp*., FACW – OBL). Soils within the western portion of the site consist of old, deep fill that was placed within the site during a period from the early 1900's through the early 1990's (Raedeke Associates, Inc. 2012). Land disturbing activities necessary for mill operation continued through 2003 and, following mill closure, the site was used for construction materials storage and the DirtFish rally-car driver training school. Construction or other land disturbing activities within several areas of the western portion of the site appear to have been abandoned based on the presence of well established trees. The site is also drained by a network of numerous ditches constructed on top of the old fill for drainage of the western portion of the site. These vary in depth from 6 inches to more than 8 feet and duration of flow from less than two weeks at a time during the rainy season to year-round. The consultants re-visited the site in September, February, March, April and May of 2013, to collect information regarding vegetation, soil and hydrologic conditions. They re-delineated the site over three days in May of 2014.

The consultants found that all of the areas that were situated on old fill had no discernible indicators of hydric soils such as would be expected for hydric soil field indicator TF12, but had positive indicators for hydrophytic vegetation and wetland hydrology. Therefore, at the request of the Corps, they monitored these areas to determine if they were ponded for greater than 30 days continuously due to the presence of an aquic moisture regime which would meet criteria to be considered a hydric soil per guidelines of the 1987 Wetlands Delineation Manual (Environmental Laboratory) and the current Western Mountains and Valleys Regional Supplement. That monitoring occurred from February 28 through May 1, 2014. They monitored 18 areas, all of which were within the western half of the site, west of the old lumber milling facilities, power generation plant, and asphalt- or concrete-paved storage areas. A total of 8 additional wetlands were delineated using this methodology. The most recent delineation report dated April 16, 2015, provides an overview of the delineation methods and summary sheets for each waterbody.

Jurisdictional Determination: Wetlands 3, 5, 6, 20-21-22, 26, 27 are considered adjacent, per the definition found at 33 CFR 328.2(c), to relatively permanent waters that flow into the Snoqualmie River, a Section 10 navigable waterbody used for interstate and foreign commerce. Each of these wetland has a significant nexus to downstream traditional navigable waters and is a jurisdictional water of the U.S. On 11 August 2015, we sent our findings to EPA and Corps HQ for their approval. On 18 August 2015, EPA Region 10 concurred with our determination. No response was received from Corps HQ.