

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

JD FORM 2 – Wetlands 19 and 25 (Non-WOUS – Isolated)

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 19 and 25

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: 47.539978° Long: -121.817131°
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 1 evaluates Wetlands 3, 5, 6, 20-21-22, 26, 27 (adjacent to RPW's); 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 **Pick List** “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): _____.

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).

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: Wetlands 19 and 25 are both adjacent to other wetlands and while they do provide important wetland functions on this site including water attenuation and toxin interception, they do not have surface water or shallow subsurface connection or ecological connectivity to other navigable or interstate waters of the U. S. or tributaries of waters of the U. S. A biological connection by way of amphibian use is extremely limited due to the current level of pollution at the site. They are not used by interstate or foreign travelers for recreational purposes, have no habitat or resources of special significance which would attract interstate or foreign travelers, they lack bird and wildlife species of special significance which would attract interstate or foreign travelers, support no fish or shellfish which could be taken or sold in interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce.

SECTION III: CWA ANALYSIS

A. **TNWs AND WETLANDS ADJACENT TO TNWs: NOT APPLICABLE**

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

C. **SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE**

D. **DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE: 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:**

- 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: 0.07 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)

³ Supporting documentation is presented in Section III.F.

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:
 - [www.nws.usace.army.mil/Portals/27/docs/regulatory/permit%20guidebook/Navigable Waters of the US in WA State.pdf](http://www.nws.usace.army.mil/Portals/27/docs/regulatory/permit%20guidebook/Navigable%20Waters%20of%20the%20US%20in%20WA%20State.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:
- 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 aquatic 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. Wetlands 19 and 25 are adjacent to other wetlands but are not waters of the U.S. under Section 404 jurisdiction. 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.