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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 17 June 2020.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** **Seattle District,** STCJV2 LLC, NWS-2019-598.
Name of water being evaluated on this JD form: STCA Wetland 5

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**
State: Washington County: King City: Sammamish
Center coordinates of site (lat/long in degree decimal format): Lat: 47.604552 **N**, Long: -122.041554 **W**
Universal Transverse Mercator: .
Name of nearest waterbody: George Davis Creek.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Lake Sammamish.
Name of watershed or Hydrologic Unit Code (HUC): 171100120202.
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List other JDs: _____

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**
☒ Office (Desk) Determination. Date: 22 May 2020.
☒ Field Determination. Date(s): 17 September 2019.

**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 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: _____ 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: **During our site inspection on 17 September 2019, we walked the entire boundary of Wetland 5. Wetland 5 is 2,100 horizontal feet and at least 50 vertical feet above George Davis Creek, the nearest water of the U.S. Wetland 5 is a slope wetland existing within a swale that extends off-site to the northwest where it outlets into an ephemeral**

[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.

**drainage (Figure 9). However, data from shallow piezometers installed during the 2017-2018 wet season indicated that surface water flow from this ephemeral drainage fully infiltrates before reaching George Davis Creek. A current storm drainage system prevents water in the wetland from draining to the south and while a roadside ditch to the south of the wetland was once present it is no longer present. Wetland 5 does not have a surface water connection, shallow subsurface connection, or ecological connection to navigable or interstate waters of the U.S. or tributaries. Wetland 5 is vegetated with reed canarygrass, bird's foot trefoil, and creeping buttercup. It is not used by interstate or foreign travelers for recreational purposes, has no habitat or resources of special significance which would attract interstate or foreign travelers, lacks bird and wildlife species of special significance which would attract interstate or foreign travelers, supports no fish or shellfish which could be taken or sold in interstate or foreign commerce, and is not used for industrial, agricultural, or silvicultural activites involving insterstate 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: 0.812 acres.

## SECTION IV: DATA SOURCES.

[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.***

**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: 15 May 2019.
- ☒ 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: _____.
- ☐ 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: Wetland Delination Report dated 15 May 2019.
- ☒ National wetlands inventory map(s). Cite name: Wetland Delination Report dated 15 May 2019.
- ☐ State/Local wetland inventory map(s): _____
- ☐ FEMA/FIRM maps: _____.
- ☐ 100-year Floodplain Elevation is: _____ (National Geodectic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): _____
  or ☐ Other (Name & Date): _____.
- ☐ Previous determination(s). File no. and date of response letter: _____.
- ☐ Applicable/supporting case law: _____.
- ☐ Applicable/supporting scientific literature: _____.
- ☒ Other information (please specify): Technical Memorandum for Surface Water Monitoring dated 26 June 2018, prepared by Associated Earth Sciences Incorporated.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** On 2 June 2020 we coordinated this JD with EPA Region 10 and Corps HQ. On 5 June 2020 the Corps HQ concurred with our findings. On 17 June 2020 the EPA concurred with our findings. Therefore, the JD was finalized.