

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 24 August 2017.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, NWS-2017-560, Sudden Valley Community Association.
Name of water being evaluated on this JD form: "Wetlands" L, M, N, P, and J

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: Whatcom City: Bellingham

Center coordinates of site (lat/long in degree decimal format): Lat: 48.712046 N, Long: -122.342904 W

Universal Transverse Mercator: _____

Name of nearest waterbody: Beaver Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Bellingham Bay.

Name of watershed or Hydrologic Unit Code (HUC): 17110002 (Georgia Straits).

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: 24 August 2017.

Field Determination. Date(s): 11 July 2017.

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*]

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*]

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):¹ NOT APPLICABLE

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS: 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: _____.

¹ 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.

- 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: 7.5 Quad, Lake Whatcom
- USDA Natural Resources Conservation Service Soil Survey. Citation: _____.
 - National wetlands inventory map(s). Cite name: _____.
 - State/Local wetland inventory map(s): _____
 - 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): _____.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

There are no waters of the U.S. in the review area because:

- The review area consists entirely of uplands.
 - Additional explanation: _____
- Per the preamble of the 1986 Corps implementing regulations for 33CFR328.3, the identified waters in the review area have been determined on a specific case-by-case basis to not be waters of the U.S.:
 - A non-tial drainage and irrigation ditch excavated on dryland
 - An artificially irrigated area which would revert to upland if the irrigation ceased
 - An artificial lake or pond created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing
 - An artificial reflecting or swimming pool or other small ornamental body of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons
 - A waterfilled depression created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the U.S.
 - Additional explanation: The subject waters are identified as Wetlands L, M, N, P, and J on the figure dated March 2017. Fill was placed in the subject area in 2000 and again in 2011-2012. None of the fill material was placed in waters of the U. S., including wetlands. The initial fill consisted of contaminated sediments that were required to be sequestered and treated per the requirements of the WA State Department of Ecology. The additional fill was placed to facilitate soil remediation. The soil stockpile was placed on a standard impervious barrier of heavy plastic sheeting and also covered with similar material. This work was described in the document submitted to the WA State Department of Ecology titled, "Report of Remedial Excavation Activities, Area Z," dated 23 May 20100 (prepared by GeoEngineers, Inc.).

In 2011-12 fill material was relocated to the subject area from an area adjacent to the Sudden Valley Golf Course (SVGC). In 2014-15, additional fill was relocated to the area from the construction of a settling pond. Additionally, there have been a few instances over the last five years of soils being disposed of at Area Z in approximately small amounts by outside contractors working on various projects.

The proposed on-site treatment of contaminated soil were to involve tilling the soil on a regular basis. Testing was to be conducted, as tilling proceeds, to determine when petroleum-related contamination in the upper portion of the treatment cell has been reduced to concentrations below MTCA Method A cleanup levels. The monitoring of the contaminated soils has continued. In addition, a review of historic aerial photos shows activity at the site as recently as May of 2015. The site has continued to be used for informal disposal of soils and storage of SGVC related materials. Thus the original use of the area has not been abandoned.

- The water is a waste treatment system designed to meet the requirements of the U.S. (33 CFR 328.3(a)(8))
 - Additional explanation: _____