APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

This document should be completed by following the instructions provided in Section IV of the JD Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 4-25-12

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Portland District, Port of Portland, Portland International Center, NWP-2011-432, Wetland 10A

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oregon County/parish/borough: Multnomah City: Portland
Center coordinates of site (lat/long in degree decimal format): Lat. 45.5681° **N**, Long. -122.5772° **W**.
Universal Transverse Mercator:
Name of nearest waterbody: Whitaker Slough
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: (Lower) Columbia Slough
Name of watershed or Hydrologic Unit Code (HUC): Columbia Slough-Frontal Columbia River (170900120201)

- ☒ 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 document. (See document for NWP-2011-432 Wetlands 1A, 1B, 3A, 3B, 6A, 6B, 7A, 8A, 9A, 9B, 9C)

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

- ☒ Office (Desk) Determination. Date: 3-28-12
- ☒ Field Determination. Date(s): 3-13-12 (to Wetland 10A only)

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: 0 linear feet: 0 mean width (ft) and/or acres.
   Wetlands: 0.48 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**
   Elevation of established OHWM (if known): NA.

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 document, 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

The agencies will assert jurisdiction over 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: **NA**.

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": NA.

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

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). 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. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] 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: > 1,000 **acres**
Drainage area: > 1,000 **acres**
Average annual rainfall: 36.87 inches (Oregon Climate Center, Portland Wsfo)
Average annual snowfall: 6.6 inches (Oregon Climate Center, Portland Wsfo)

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **2** tributaries before entering TNW.

Project waters are **2-5** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **2-5** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: NA.

Identify flow route to TNW[5]: Whitaker Slough (non-TNW) to (Upper) Columbia Slough (nonTNW) to (Lower) Columbia Slough (TNW) (see Attachment) .
Tributary stream order, if known: NA.

[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.

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

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: Whitaker Slough was likely natural but, at least in portions, appears to have been maintained by Multnomah Co. Drainage District.

Tributary properties with respect to top of bank (estimate):
Average width: ~ 125 feet
Average depth: Unknown feet
Average side slopes: unknown **Pick List.**

Primary tributary substrate composition (check all that apply): Unknown

☐ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover:	

☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Aerial photo (2011) indicates that banks are vegetated with woody/shrubby species, which suggests that banks generally would be stable.
Presence of run/riffle/pool complexes. Explain: Unknown, though likely not persistent due to expected maintenance by the Multnomah Co. Drainage District.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): < 3 %

(c) Flow:
Tributary provides for: **Seasonal flow;**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: permanent.
Other information on duration and volume: NWI labels Whitaker Slough as R2 (i.e., lower perennial); Slough connects larger named lakes.

Surface flow is: **Discrete**. Characteristics: Whitaker Slough likely served as an historical floodplain channel for the Columbia River.

Subsurface flow: **Yes**. Explain findings: High water table adjacent the Columbia River reported by Port of Portland.
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks: observed 3-13-12 while driving over bridge.
☐ OHWM[6] (check all indicators that apply):

☐ clear, natural line impressed on the bank	☐ the presence of litter and debris
Ditch 52/53, 121/122 below Cascades International Pkwy, 54, 56	
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community:
☐ other (list):	

☐ Discontinuous OHWM.[7] Explain: .

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

☐ High Tide Line indicated by:	☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects	☐ survey to available datum;
☐ fine shell or debris deposits (foreshore)	☐ physical markings;
☐ physical markings/characteristics	☐ vegetation lines/changes in vegetation types.
☐ tidal gauges	
☐ other (list):	

[6]A 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.
[7]Ibid.

(iii) Chemical Characteristics:

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

Explain: Specific on-ground observations of Slough not made. However, over 90% of estimated watershed appears to be dominated by industrial use, including a large percentage of impervious surfaces (i.e., parking lots & streets) plus a sizeable golf course.

Identify specific pollutants, if known: Stormwater and any direct runoff to the Slough from highly developed watershed would be expected to include oils, greases, and heavy metals plus any pesticides used for golf course maintenance.

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

☒ Riparian corridor. Characteristics (type, average width): Aerial photo (2011) indicates woody/shrubby species in narrow (i.e., 30-60 ft. wide each bank).

☐ 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: Testimony from Port staff and observations 3-13-12 at the nearby Portland International Center area (PIC) of scat (e.g., coyote, raccoon) suggest that ditch network in the PIC with the nearby Columbia and Whitaker sloughs serve as corridors for the movement of small mammals and avian species. The more immediate Whitaker Slough and associated wetlands create an aquatic and semi-aquatic complex that likely supports amphibians and reptiles, as well as wading birds & waterfowl (e.g., great blue heron, Canada geese observed 3-13-12), plus passerines and raptors. Though a significant barrier located miles downstream prevents the movement of salmonids into the sloughs, the sloughs are expected to support other fisheries.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics: [Wetlands identified from downstream to upstream relative to section (S) number & Slough bank (L=left; R=right) using downstream view]

Properties:

Wetland size: S57 L: PABHx=0.45; S39 R: PABH=3.2; S40 L: PEMA=0.48 (a.k.a. Wetland 10A); S40 R: PEMA=4.2; S40 R: PFOC=5.8; S40 L: PFOA=4.9 acres

Wetland type. Explain: See "Wetland Size" above

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Wetland quality. Explain: Generally unknown; However, Wetland 10A considered moderate quality due to proximity to Whitaker Slough, higher edge effect, and higher herbaceous & woody plant diversity, though herb stratum dominated by Reed canarygrass.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is**: Pick List ;** Discrete: S57 L: PABHx & S39 R: PABH; Overland Sheet: S40 R: PEMA, S40 R: PFOC & S40 L: PFOA; Not Present: S40 L: PEMA (a.k.a. Wetland 10A).

Characteristics: rainfall and groundwater induced at all sites.

Subsurface flow: **Yes**. Explain findings: Proximity to Columbia River creates a high groundwater table that likely influences hydrology in Whitaker Slough and at all wetland sites.

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting: S40 R: PEMA, S40 R: PFOC, S40 L: PFOA.

☒ Not directly abutting

☒ Discrete wetland hydrologic connection. Explain: S57 L: PABHx & S39 R: PABH, as impounded waterbodies, are expected to discretely drain through a water control structure to Whitaker Slough .

☐ Ecological connection. Explain: .

☒ Separated by berm/barrier. Explain: S40 L: PEMA (a.k.a. Wetland 10A) is separated (~ 60 ft.) from Whitaker Slough by a berm.

(d) Proximity (Relationship) to TNW

Project wetlands are **2-5** river miles from TNW.

Project waters are **2-5** aerial (straight) miles from TNW.

Flow is from: **Pick List.** Wetland to Navigable Waters: S57 L: PABHx & S39 R: PABH ; Wetland to/from Navigable Waters: S40 R: PEMA, S40 R: PFOC & S40 L: PFOA; No Flow: S40 L: PEMA (a.k.a. Wetland 10A).

Estimate approximate location of wetland as within the **Pick List** floodplain. 2 Year or Less: S40 R: PFOC & S40 L: PFOA; 2-5 Year: S40 R: PEMA; 10-20 Year: S57 L: PABHx & S39 R: PABH; 50-100 Year Floodplain: S40 L: PEMA (a.k.a. Wetland 10A)

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Unknown.

Identify specific pollutants, if known: NA.

(iii) Biological Characteristics. Wetland supports (check all that apply):

☒ Riparian buffer. Characteristics (type, average width): The west edge of 10A is bordered by NE 82nd Ave. Buffer presence at other wetlands is unknown.

☒ Vegetation type/percent cover. Explain: Aerial photo (2011) suggests wetlands contain 85-100% cover; For wetland S40 L: PEMA (a.k.a. Wetland 10A), field delineation sheet indicates moderately high herbaceous & woody plant diversity, though herb stratum dominated by Reed canarygrasfor vegetation.

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: Because Whitaker Slough and its associated wetlands are part of the broader complex of wetlands and ditches in the area, including those in the Portland International Center area, together they serve as corridors for the movement of small mammals. The aquatic and semi-aquatic complex provides habitat for amphibians and reptiles, as well as wading birds and waterfowl (e.g., great blue heron, Canada geese observed 3-13-12). Testimony from Port staff and observations 3-13-12 of scat (e.g., coyote, raccoon) suggests that the complex supports small mammals as well.

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **6**

Approximately 19.03 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)
S57 L: PABHx	N	0.45	S39 R: PABH	N	3.2
S40 L: PEMA	N	0.48 (a.k.a. Wetland 10A)	S40 R: PEMA	Y	4.2
S40 R: PFOC	Y	5.8	S40 L: PFOA	Y	4.9

Summarize overall biological, chemical and physical functions being performed: The wetlands provide some natural diversity in an otherwise highly urbanized landscape. These wetlands more or less detain stormwater, recharge the aquifer associated with the TNW and the RPW, provide food chain support, stabilize the shoreline of Whitaker Slough, including its associated lakes, and provide habitat for avian, mammalian and herp species. During high water, PFO wetlands bordering lake in Whitaker Slough system likely provide cover for fish.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

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: NA.

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: NA.

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: The wetlands more or less detain stormwater in an area containing much impervious surface, thereby capturing pollutants, recharge the aquifer associated with the TNW and RPW, provide food chain support for the RPW and receiving TNW in their capacity to deliver carbon and nutrients, and provide habitat for avian, mammalian and herp species that are dependent on Whitaker Slough and associated wetlands for their survival. During high water, PFO wetlands bordering lake in Whitaker Slough system likely provide cover for fish. Thus, the Slough, in combination with its adjacent wetlands S57 L: PABHx, S39 R: PABH, and S40 L: PEMA (a.k.a. Wetland 10A), contribute more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of the lower Columbia Slough and its receiving water, the Willamette River, both of which are TNWs.

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 data and rationale indicating that tributary is perennial: NWI data label Whitaker Slough as R2 (i.e., lower 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-RPWs[8] 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: Aerial photo (2011) and USGS map suggest that wetlands S40 R: PEMA, S40 R: PFOC & S40 L: PFO are abutting (no berm or barrier shown)**.**

   ☐ 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: Wetlands S40 R: PEMA, S40 R: PFOC & S40 L: PFOA comprise 14.9 acres of the total 19.03 acres of wetlands along Whitaker Slough.

[8]See Footnote # 3.

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: **4.13** 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.":
   ☐ 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.

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[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: Request for determination and delineation report received from Port on August 12, 2011, for Wetland 10A (a.k.a. S40 L PEMA); AJD request did not include all other adjacent wetlands.

☒ 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: Navigable Riverways within the State of Oregon, Portland District - Corps of Engineers (June 1994).

☒ U.S. Geological Survey Hydrologic Atlas.
- ☒ USGS NHD data. Portland District Corps eGIS Information Portal
- ☐ USGS 8 and 12 digit HUC maps.

☒ U.S. Geological Survey map(s). Cite scale & quad name: Portland District Corps eGIS Information Portal.

☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .

☒ National wetlands inventory map(s). Cite name: Mount Tabor, Oregon.

☐ State/Local wetland inventory map(s): .

☐ FEMA/FIRM maps: .

☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): ESRI aerial photos provided by Port of Portland via delineation report.
or ☒ Other (Name & Date):ground photos provided by Port of Portland via delineation report for Wetland 10A (a.k.a. S40 L PEMA); .

☐ 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: