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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 5-15-2020

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENWP-ODG, Millersburg Intermodal Project, NWP-2020-85

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Oregon County/parish/borough: Linn City: Millersburg
Center coordinates of site (lat/long in degree decimal format): Lat. 44.672280° **N**, Long. 123.061192° **W**.
Universal Transverse Mercator:
Name of nearest waterbody: Murder Creek and unnamed Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Willamette River
Name of watershed or Hydrologic Unit Code (HUC): 1709000306 Muddy Creek-Willamette River
☒ 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.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 3/18/2020
☐ Field Determination. Date(s):

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 and are not** "*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 O, N, K, I, M, L, H, A, B, C, D, E
   ☒ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs Wetland J, P
   ☐ 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: 39.844 Total acres.

Wetland	Size (acres)		Wetland	Size (acres)		Wetland	Size (acres)
Wetland O	0.085		Wetland N	1.024		Wetland J	0.137
Wetland K	0.5		Wetland B	1.219		Wetland P	0.067
Wetland I	0.265		Wetland C	2.317			
Wetland M	0.336		Wetland A	22.24			
Wetland L	0.087		Wetland D	7.86			
Wetland H	1.675		Wetland E	2.032			

[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).

c. Limits (boundaries) of jurisdiction based on: **1987 Delineation Manual**
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:
Wetland Q – measures 0.061 acre in size and is a palustrine emergent seasonally flooded/saturated depressional (PEME/depressional) wetland. It is located in a series of hydrologically unconnected roadside vegetated ditches along Old Salem road. Hydrology driver appears to be direct precipitation. There is a 12" drainage pipe connecting Wetland Q to Wetland K. A storm drain catch basin is located in Wetland Q. It appears this was constructed as part of the storm water system for the site.

Pond R– measures 0.975 acre in size and is a palustrine emergent permanently flooded depressional (PEMH/depressional) wetland. It is a manmade pond of unknown depth constructed to provide the pulp/paper mill plant with emergency fire suppression water. Characterized by steep banks on all sides except for a shallow bench on the southern end. It is characterized by steep banks on all sides except for a shallow bench on the southern end, vegetated with *Juncus ensifolius, Bidens cernua*, and *Typha latifolia*. Hydrology driver appears to be direct precipitation; the only outlet is through the pumping system located on the eastern bank.

Wetland F – measures 0.411 acre in size and is a palustrine scrub-shrub seasonally flooded/saturated depressional (PSSE/depressional) wetland. The wetlands are present in scattered depressions that developed in the former wood chip pile that was spread out to extinguish a chip pile fire. The wetland is dominated by *Salix lasiandra* and *Agrostis capillaris*. Hydrology driver appears to be direct precipitation. Drainage seeps into soil and is primarily north to south. This is a product of poor drainage and site manipulation.

Wetland G – measures 0.079 acre in size and is a palustrine emergent seasonally flooded/saturated depressional (PEME/depressional) wetland. It appears to be a remnant ditch and roadside drainage feature that is disconnected from other waters. It is dominated by J*uncus effusus, Rubus armeniacus* and *Salix lasiandra*. Hydrology appears to be driven by direct precipitation. There is a 36" concrete pipe associated with Wetland G on the north side. The orientation of the pipe is parallel to the service road and no outlet was located. Water was draining into the pipe on March 24, 2020, no outlet was located onsite.

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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: .

Summarize rationale supporting determination: .

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

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

[3] Supporting documentation is presented in Section III.F.

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** *There is an RPW offsite – starting in box culvert at Wetland K then going to Willamette. Murder Creek on south end is also outside of the review area.*

(i) General Area Conditions:
Watershed size: 31703 **acres**
Drainage area: 131.91 **acres**
Average annual rainfall: 53 inches
Average annual snowfall: 4 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:
☒ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **1-2** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **1 (or less)** 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: n/a.

Identify flow route to TNW[5]: both Murder Creek on the south side of the review area and the unnamed creek starting at Wetland K both flow directly to the Willamette.
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: The unnamed creek is straightened as it travels to the west. Murder Creek has railroad bridges and road crossings over it on the south end and is likely altered.

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

Primary tributary substrate composition (check all that apply):
☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover:
☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
Presence of run/riffle/pool complexes. Explain: .
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: Both creeks have year round water flow.
Other information on duration and volume: .

[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.

Surface flow is: **Discrete and confined**. Characteristics: .

Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):
- ☒ clear, natural line impressed on the bank
- ☐ changes in the character of soil
- ☐ shelving
- ☐ vegetation matted down, bent, or absent
- ☐ leaf litter disturbed or washed away
- ☐ sediment deposition
- ☐ water staining
- ☐ other (list):
- ☐ the presence of litter and debris
- ☐ destruction of terrestrial vegetation
- ☐ the presence of wrack line
- ☐ sediment sorting
- ☐ scour
- ☐ multiple observed or predicted flow events
- ☐ abrupt change in plant community

☐ 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:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: .
Identify specific pollutants, if known: .

(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width): .
☐ 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: .

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW *Wetlands O, N, K, I, M, L, H, A, B, C, D, E, J, P*

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
Wetland size: 39.64 acres
Wetland type. PEM, PFO, PSS Explain: Wetlands are a mosaic of types.
Wetland quality. Explain: .
Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Flow is: **Perennial flow**. Explain: Wetlands are adjacent to and draining into the RPWs.

Surface flow is**: Discrete and confined**
Characteristics: Wetlands K, I, M, L H B, C, A, D, E form an upside down "U" shaped drainage flowing to Wetland K. Wetlands N and O drain to the south.

Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

[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.

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting (Murder Creek – Wetlands N and O, Unnamed Creek in box culvert - Wetlands K, I, M, L H B, C, A, D, E)

☒ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☒ Separated by berm/barrier. Explain: Wetland P is separated from Wetland A by a berm. Wetland J is separated by a berm from Wetland K.

(d) Proximity (Relationship) to TNW

Project wetlands are **1-2** river miles from TNW.

Project waters are **1 (or less)** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Water would contain runoff, pollutants, and chemicals from the Mill site.

Identify specific pollutants, if known: .

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

☐ Riparian buffer. Characteristics (type, average width): .

☒ Vegetation type/percent cover. Explain: Site contains PME, PFO, and PSS wetlands..

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: Wetlands would provide habitat for smaller mammal, amphibian, and invertebrate species. The areas are large enough to support life cycle development of smaller species.

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

All wetland(s) being considered in the cumulative analysis: **15-20**

Approximately (57.8) 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)		Directly abuts? (Y/N)	Size (in acres)
Wetland O (Y)	0.085		Wetland N (Y)	1.024		Wetland J (N)	0.137
Wetland K (Y)	0.5		Wetland B (Y)	1.219		Wetland P (N)	0.067
Wetland I (Y)	0.265		Wetland C (Y)	2.317		Downstream Wetland 1 PFOC (Y)	4.9
Wetland M (Y)	0.336		Wetland A (Y)	22.24		Downstream Wetland 2 around 4th Lake (Y)	2.08
Wetland L (Y)	0.087		Wetland D (Y)	7.860		Downstream Wetland 3 around 3rd Lake (Y)	11
Wetland H (Y)	1.675		Wetland E (Y)	2.032			

Summarize overall biological, chemical and physical functions being performed: Onsite wetlands would hold and filter water containing nutrients and industrial pollutants from the historical site operations. The wetlands support smaller mammal, invertebrate, and amphibian species in the area for food, nesting, and habitat needs. The wetlands provide sediment retention and nutrient cycling as they filter runoff water. The wetlands would contribute to downstream organic carbon export and would provide a seed source for downstream waters.

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: .

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: .

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: Wetlands P and J are separated from the main wetland complex in the north side of the site by a small berm or road. These wetlands would overtop during periods of heavy water flow and hydrologically connect to the larger wetland complex due to having no other outlet for water. Wetlands provide an area for sediment retention during rain flow as water is slowed and infiltrated into the wetland depressions. Wetlands would provide for nutrient cycling and provide as source of organic carbon export to downstream waters. The wetlands provide a source of organic material biomass, and seeds to downstream waters. They are similar in vegetation to adjacent wetlands.

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: .
   - ☐ 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: .

[8]See Footnote # 3.

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: **Wetlands** K, I, M, L, H, A, B, C, D, E **drain directly into Wetland K which connects to the RPW in the box culvert leading to the Willamette. Wetland O drains to N which drains to Murder Creek which is an RPW and drains to the Willamette.**

   ☐ 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: **39.64** acres.

Wetland O	0.085		Wetland N	1.024
Wetland K	0.5		Wetland B	1.219
Wetland I	0.265		Wetland C	2.317
Wetland M	0.336		Wetland A	22.24
Wetland L	0.087		Wetland D	7.86
Wetland H	1.675		Wetland E	2.032

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. Wetlands P and J

   Provide acreage estimates for jurisdictional wetlands in the review area: **0.204** acres.

Wetland J	0.137
Wetland P	0.067

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.," 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):[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).

[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.*

☐ 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): **See Part II.B.2.**

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: Wetland/Pond R = 0.975 acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 0.551 acres.

Wetland	Size (acres)
Wetland Q	0.061
Wetland F	0.411
Wetland G	0.079

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: See report reference below.
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
☒ Office concurs with data sheets/delineation report. See report reference below.
☐ 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: Corps EGIS Overlay 18 March 2020.
☒ 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: See report reference below.
☒ National wetlands inventory map(s). Cite name: See report reference below and Corps EGIS Overlay 14 April 2020 .
☐ State/Local wetland inventory map(s): .
☒ FEMA/FIRM maps: 100 Year Floodplain. EGIS 14 April 2020.
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date):Corps EGIS and Google Earth, March and April 2020.
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): Millersburg Intermodal Project/Linn County – Wetland Delineation Report completed 25 Jan 2020 and amended on 24 March 2020. Additional fieldwork conducted by consultant in March 2020. DOGAMI Lidar 1 April 2020.

B. ADDITIONAL COMMENTS TO SUPPORT JD: .

The study area consists of Linn County Tax Lot 10S03W28-400. Tax Lot 400 is the site of the former International Paper Corporation pulp and papermill. The study area consists of the entire tax lot, measuring 131.91 acres.

The study area had historically been used as an industrial site hosting a pulp and papermill and associated infrastructure (roadways, wood chip dump and chip stockpile, warehouses, etc.) The pulp and papermill was decommissioned and all buildings and equipment either salvaged or demolished except for the plant offices and a warehouse located in the southeast corner. Approximately the northern third of the study area remained largely undeveloped.

Pre-delineation field work was conducted in April 2018. Fieldwork was conducted in September 2018. Dry season procedures were used in situations where wetland vegetation and soils evidence supported a wetland call but wetland hydrology evidence was lacking due to time of year (Sept). Additional field work was done in April 2020 to locate connections/pipes/culverts in wetlands.

Drains to Willamette River via box culvert with unnamed stream – Wetlands K, I, M, L H B, C, A, D, E form an upside down "U" shaped drainage flowing to Wetland K.

Wetland K - measures 0.50 acre and is a palustrine emergent seasonally flooded/saturated slope (PEME/slope) wetland. It is dominated by *Agrostis capillaris*, *Dipsacus sylvestris*, and *Phalaris arundinacea*. Hydrology driver appears to be direct precipitation. The topography generally slopes north to south to a central vegetated channel. Drainage is east to west and continues offsite via a box culvert beneath Old Salem Road. The OHW at the box culvert based on interior water marks on the concrete is that it is ~0.3' above the bottom of the culvert. Wetland K possesses a bed, banks, and ordinary high water mark in its lower reach and possesses relatively permanent flow. The Corps considers a part of Wetland K a relatively permanent water. Water eventually flows to the Willamette River at RM 115.5.

Wetland I – measures 0.265 acre and is a palustrine scrub-shrub seasonally flooded/saturated slope (PFOE/slope) wetland. It is dominated by *Salix lasiandra*, *Cornus alba*, and *Rubus armeniacus*. Hydrology driver appears to be direct precipitation and shallow interflow. Drainage is east to west into Wetland K.

Wetland A – measures 22.24 acres and is palustrine emergent seasonally flooded/saturated depression (PEME/Depressional) wetland that extends beyond the study area to the east to the toe of the railroad ballast. It is dominated by *Agrostis capillaris*, *Holcus lanatus*, *Dipsacus sylvestris, and Rubus armeniacus.* Hydrology appears to be driven by direct precipitation. Drainage is predominately east to west; topography generally slopes west to east by is hemmed in by the developed grading offsite to the north and by the service road fill on the south. There is a 12" steel pipe connecting Wetlands A and D. There is also an 8" plastic pipe under the service road connecting Wetland A to uplands on the west side of the road.

Wetland B – measures 1.219 acres and is palustrine emergent seasonally flooded/saturated slope (PEME/Slope) wetland. Wetland B is dominated by *Dipsacus sylvestris*, *Agrostis capillaris*, and *Alopecturus pratensis*. Hydrology driver appears to be primary direct precipitation and shallow interflow. Drainage is west to east.

Wetland C – measures 2.317 acres and is a palustrine forested seasonally flooded/saturated slope (PFOE/slope) wetland. It is dominated by *Salix scouleriana* and *Agrostis capillaris*. Hydrology driver appears to be direct precipitation and shallow interflow. There is a 12" steel pipe connecting Wetlands C and H. Water was flowing south to Wetland H on March 24, 2020.

Wetland D – measures 7.860 acres and is a palustrine emergent seasonally flooded/saturated depressional (PEME/depressional) wetland that is hemmed in on the west, north and east by the service road and by the remnants of the former wood chip pile on the south. It is dominated by *Agrostis capillaris, Holcus lanatus, Dipsacus sylvestris, Rubus armeniacus* and *Rosa pisocarpa*. Hydrology appears to be direct precipitation. There is a 12" steel pipe connecting Wetlands A and D. Drainage is predominately toward Wetland E.

Wetland E – measures 2.032 acres and is a palustrine emergent seasonally flooded/saturated depressional (PEME/depressional) wetland. It is dominated by *Salix scouleriana, Rubus armeniacus, Salix lasiandra*, and *Agrostis capillaris.* Hydrology driver appears to be direct precipitation and shallow interflow from Wetland D. Drainage is primarily north to south.

Wetland H – measures 1.675 acres and is palustrine scrub-shrub seasonally flooded/saturated depressional (PSSE/depressional) wetland. It is dominated by *Salix lasiandra* and *Metha pulegium*. Hydrology appears to be driven by direct precipitation and shallow interflow from surrounding uplands. Wetland is hemmed by a u-shapped ridge (west, north, and east). There is a 12" steel pipe connecting Wetlands C and H. Water was flowing from C to H on March 24, 2020. A 12" steel pipe connects Wetlands H and L. After field work in April 2020, it was concluded there is likely a pipe connection between Wetland H and Wetland K under the ridge that was the only place flowing water was similar in volume to what was flowing though the Wetland C-Wetland H pipe connection, pipe outlet likely located at 44.675641N/-123.061600W.

Wetland L - measures 0.087 acre in size and is a palustrine emergent seasonally flooded/saturated depressional (PEME/depressional) wetland. It is hydrologically connected to Wetland H via a steel pie under the service road. It is dominated by *Phalaris arundinacea*, *Equisetum telmateia*, and *Agrostis capillaris* as well as *Salix scouleriana* and *Salix lasiandra*. Hydrology appears to be from direct precipitation. Wetland L blends into Wetland M. A 12" steel pipe connects Wetlands H and L.

Wetland M – measures 0.336 acre and is a palustrine scrub-shrub seasonally flooded/saturated depressional (PFOE/depressional) wetland. It is dominated by *Polulus balsamifera, Populus balsamifera*, and *Agrostis capillaris*. The hydrology driver appears to be precipitation and shallow interflow. Drainage is south to north into Wetland L.

Wetland P – measures 0.067 acre in size and is a palustrine scrub-shrub seasonally flooded/saturated depressional (PSSE/depressional) wetland. It is dominated by *Salix scouleriana*. Hydrology driver appears to be primary direct precipitation. This wetland is surrounded by the service road with no outlet.

Wetland J – measures 0.137 acre and is a palustrine emergent seasonally flooded/saturated depressional (PEME/depressional) wetland. It appears to be associated with the pulp/paper mill due to the presence of pipe infrastructure but no inlet or outlet were located. The site is separated from Wetland K via small berm which blocks the flow draining down the site topography into a depression where it has created a wetland. It is dominated by *Eleocharis palustris* and *Agrostis capillaris*. Hydrology appears to be direct precipitation. The wetland likes approximately 30 feet west and downslope of Wetland K.

Drains to Murder Creek

Wetland N – measures 1.024 acres, connects to Wetland O via a concrete pipe under the former mill road. It is dominated by *Festuca arundinacea* and *Agrostis capillaris*. Hydrology driver appears to be direct precipitation Drainage is to the south, water exits the wetland as sheet flow toward Old Salem Road. A 12" concrete pipe is located under the access road connecting Wetlands O and N; no water flowing on March 24, 2020. When water is present it continues offsite via sheet flow and ruts, eventually discharging into Murder Creek where Old Salem Road intersects the railroad trestle.

Wetland O – measures 0.085 acre and is a palustrine emergent seasonally flooded/saturated depressional (PEME/depressional) wetland. It includes a topographic basin and a vegetated ditch, part of which lies offsite to the west. It is hydrologically connected to Wetland N via a concrete pie under the road. It is dominated by F*estuca arundinacea, Agrostis capillaris,* and Mentha puleguim. Hydrology driver appears to be direct precipitation. Drainage is southeast toward Wetland N. A 12" concrete pipe is located under the access road connecting Wetlands O and N, Wetland O flows to Wetland N.; no water flowing on March 24, 2020. When water is present it continues offsite via sheet flow and ruts, eventually discharging into Murder Creek where Old Salem Road intersects the railroad trestle.