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): August 29, 2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:August 29, 2016 Portland District, Linnton Water Credits, LLC, NWP-2014-00477, JD Form 1 of 2 for Willamette River, isolated aquatic areas 1 and 2, & unnamed tributary herein referred to as "Linnton Creek" (Figures 1 and A)

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. 45.59611° **N**, Long. -122.78133° **W**.
Universal Transverse Mercator:
Name of nearest waterbody: Columbia River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Columbia River
Name of watershed or Hydrologic Unit Code (HUC): 170900120202

☒ 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. Also see NWP-2014-477, JD Form 2 of 2

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

☒ Office (Desk) Determination. Date: August 22, 2016
☒ Field Determination. Date(s): August 19, 2016 site visit to unnamed tributaries

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are** *"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: Willamette River on Corps "NWP 1993 Navigable Riverways wihtin the State of Oregon" list.

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 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: (unnamed Linnton Creek) (Figure A) 505 ft. long X 4 ft. width (ft) and/or (Willamette River) 16.5 acres.
Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: **Established by OHWM.**
Elevation of established OHWM (if known):14.9 CRD (20.1 NAVD-88) at Willamette River.

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: **Aquatic Area 1 (0.85 ac.) and Area 2 (0.18 ac.) waters considered isolated**.

[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.

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: **Willamette River (RM 4.7)**.

Summarize rationale supporting determination: NAVIGABLE RIVERWAYS WITHIN TIlE STATE OF OREGON Portland District • Corps of Engineers, October 1993.

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": Not Applicable.

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: 338**acres**
Drainage area: 338 **acres**
Average annual rainfall: 37.63 inches
Average annual snowfall: 5.5 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 (or less)** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW[5]: "Linnton Creek" flows into TNW (Willamette River).

[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.

Tributary stream order, if known: 3rd.

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

Tributary is: ☒ Natural (upgradient from Hwy 30 culvert west of bank boundary)
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: At least lower 3rd order reach is culverted from Hwy 30 to outfall at Willamette River.

Tributary properties with respect to top of bank (estimate): NA
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: concrete box culvert under U.S. Hwy 30 flows into open top concrete 10-foot long X 4.5-5 ft. wide X 4.5-8 ft. high raceway into ~ 4 ft diameter metal culvert beginning under NW 105th Ave. and continuing under bank property.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: stable metal culvert.
Presence of run/riffle/pool complexes. Explain: NA.
Tributary geometry: **Relatively straight** from Hwy 30 to Willamette River
Tributary gradient (approximate average slope): NA %

(c) Flow:

Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: see Other Info below.
Other information on duration and volume: In early Aug 2016, consultant observed no flow at Hwy 30 entrance to culvert. On Aug 19, 2016, Corps observed constant ¼ inch deep flow into culvert. Linnton Creek (Figure A) flows continuously more than 3 months annually.

Surface flow is: **Confined.** Characteristics: lower reach in culvert from near west bank boundary (at Hwy 30) to Willamette River.

Subsurface flow: **Yes**. Explain findings: consultant reported that culvert likely intercepting groundwater at least between observed culvert entrance near west bank boundary and Willamette River where water observed at outfall.
☐ 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	☐ the presence of litter and debris
☐ 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): Corps observed Aug 19, 2016, clear line on box culvert between upper algae supporting area and lower area absent of algae and other vegetation (appears bleached).
☐ Discontinuous OHWM.[7] Explain: .

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

☐ 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: clear.

Identify specific pollutants, if known: Because tributary drains upgradient residential neighborhoods, potential exists for carrying common stormwater pollutants (i.e., lawn & shrub pesticides, hydrocarbons, and heavy metals (e.g., brake linings)).

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

- ☐ 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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

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

(b) General Flow Relationship with Non-TNW:

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

Surface flow is**: Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain: .
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List.**

Estimate approximate location of wetland as within the **Pick List** 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: .

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: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

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

Approximately ( ) 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)

Summarize overall biological, chemical and physical functions being performed: .

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: .

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: Consultant indicated from "collective observations," Linnton Creek (Figure A) "likely flows more than 3 months" annually. Observed to "intercept groundwater between the culvert entrance at the highway and where it discharges into the river." Corps observed constant low flow on Aug 19, 2016.

Provide estimates for jurisdictional waters in the review area (check all that apply):
☒ Tributary waters: **505** linear feet **4** 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: **.**

☐ 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: acres.

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: 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] NA
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: .

[8]See Footnote # 3.
[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.*

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): **The review area is a former industrial site in the former Willamette River (River) floodplain (Figures 1 & 5). Two former streams (unnamed "Linnton Creek" & unnamed "North" tributary) originally flowing across the area to the River were piped and the site was filled to raise the elevation to create a waterfront industrial property with steep and armored banks along the River (Figure 7 of 14). Beginning in 1997, the southern (upstream) portion of the site containing remaining aquatic Area 1 & Area 2 (Figure 6) was used for stockpiling and distributing clean sand, that was dredged from the Columbia River, as part of a sand/gravel operation created in uplands. Soil borings indicate that depth of fill varies from as little as 5 ft nearest Highway 30 (i.e., furthest from river) to up to 36 ft nearer the river, with fills ranging from about 9-29 feet near aquatic areas 1 and 2 (Figure 2). The Linnton Mill held NPDES IW-B16 Permit #102452 to discharge the process water from the operation into the River. The discharge pipe was removed when the operation ceased between 2011 and early 2012. The site, originally including a series of three settling ponds and one dewatering area for a two-stage land-based settling and dewatering process (Figure 7), was filled/graded relatively flat. Thus, the site was effectively abandoned and, over a 3-4 year period, shallow depressions on the site have developed some indicators of wetlands (i.e., ponding and vegetation).**

Area 1 (0.85 ac) and Area 2 (0.18 ac) are what have remained for aquatic areas on site (Figure 6). Ponding was observed during two site visits by the applicant's agent. There are no waterways providing overland flow to or from the two aquatic areas. There is no surface water connection to the nearby River. The incompletely filled depressions of areas 1 and 2 have demonstrated a hydrology supported solely by precipitation. Duration of inundation or saturation is unknown due to the lack of long-term monitoring. Without such monitoring, the Corps assumes that the hydrology is of sufficient duration to support the reported wetland vegetation. Areas 1 and 2 demonstrate a predominance of hydrophytic vegetation. Thus, the Corps concurs with the delineation report conclusion that the hydrology and vegetation criterion are met. Neither Area 1 nor Area 2 exhibits any indicators for a hydric soil. The soil on site is mapped as "Urban land" (Figure 5), which is described as severely altered and not practical for mapping into separate soil units. Most boring logs explicitly identify fill (i.e., wood chips and gravel). Further, there were no redoximorphic features recorded after 3-4 years of site abandonment based on examination of soils at 6 pits dug to 19-20 inches depth).

The Corps considers the Area 1 and Area 2 wetlands difficult or problematic, which includes recently developed wetlands (p. 111, Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0)) which can be "… other wetlands … unintentionally produced by human activities, … that have not been in place long enough to develop hydric soil indicators."

Areas 1 and 2 are within 85 and 210 feet, respectively, from the bank of the River. They are located in an upland area created by fill that on native soil places them at more than 35 feet elevation (Figure 2). Any overbank waters would have to rise nearly 4.5 feet above the 100-year flood elevation of +30.4 ft NAVD88 to overtop the bank elevation and flood aquatic Area 1 and Area 2.

Thus, in addition to no surface water connection to the River, the two aquatic areas are located well above any frequency of overbank flooding that would support wetland hydrology. Because of their landscape position, the water bodies provide limited wetland functioning to support and have no substantial chemical, physical, or biological affect on the integrity of the Willamette River, a Traditionally Navigable Water. Areas 1 and 2 serve no recreational purpose, provide no fish or shellfish habitat, and are not used to produce any agricultural or industrial product sold in interstate or foreign commerce.

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: Man-induced Area 1 (0.85) & Area 2 (0.18) 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.

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:Linnton Mill Wetland Determination Report dated 1/28/16.
☒ 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: Portland District Corps e-GIS Portal (USGS 8 and 12 digit HUC maps).
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☒ National wetlands inventory map(s). Cite name: Portland District Corps e-GIS Portal.
☐ 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): Linnton Mill JPA dated 12-3-14 (NWP-204-477); Linnton Mill Wetland Determination Report dated 1/28/16; Oregon Imagery Explorer (http://imagery.oregonexplorer.info/).
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify):Aug 16, 2016 email correspondence from consultant; Corps site visit by T. Taylor Aug 19, 2016, to unnamed tributaries.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The review area contains the Willamette River, a Traditionally Navigable Water; two culverted, unnamed waterways here referred to as "Linnton Creek" and "North Tributary;" and two isolated, non-waters, here referred to as "Area 1" and "Area 2." The Corps is not taking jurisdiction over aquatic Area 1 and Area 2. For information on the "North Tributary," see Form 2 of 2.