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): 25 July 2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Portland District, Nike IHM, NWP-2016-117

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Oregon County/parish/borough: Washington County City: Beaverton
Center coordinates of site (lat/long in degree decimal format): Lat. 45.495117° **N**, Long. 122.813854° **W**.
Universal Transverse Mercator:
Name of nearest waterbody: Beaverton Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Tualatin River
Name of watershed or Hydrologic Unit Code (HUC): Beaverton Creek 170900100401
☒ 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: 22 July 2016
☒ Field Determination. Date(s): 3 June 2016

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 adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs **(WETLANDS 1 & 2)**
      ☐ 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: 0.734 acres.

   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: **Two drainage ditches were evaluated as a potential water of the U.S. Ditch 1 is approximately 602 square feet (0.014 acre) and Ditch 2 is approximately 481 square feet (0.011 acre).** .

[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: .

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 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: Rock Creek – Tualatin River Watershed 96,729.40 **acres**
Drainage area: 2,900 **acres**
Average annual rainfall: 36 to 40 inches
Average annual snowfall: 2 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **1** tributaries before entering TNW.

Project waters are **5-10** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **5-10** aerial (straight) miles from TNW.
Project waters are **5-10** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: N/A.

Identify flow route to TNW[5]: Flow from Beaverton Creek to Rock Creek to Tualatin River.
Tributary stream order, if known: .

[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. Explain:
☐ Artificial (man-made).
☒ Manipulated (man-altered). Explain: The tributary is a natural creek (Beaverton Creek). However, it has been straightened and channelized in this reach to facilitate agricultural land uses and subsequent urban development.

Tributary properties with respect to top of bank (estimate):
Average width: ~33 feet
Average depth: ~5 feet
Average side slopes: **2:1.**

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: The tributary appears to be relatively stable. The banks are well vegetated and do not show signs of erosion. The tributary does show signs of incision along the reach.
Presence of run/riffle/pool complexes. Explain: Not Present.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): ~1 to 2 %

(c) Flow:
Tributary provides for: **Year-round flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: Flow is present year round. The system is very flashy during storm events and water levels can quickly rise within the banks of the creek.

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

Subsurface flow: **Unknown**. Explain findings: The creek is a perennial creek that likely has groundwater inputs throughout the year.
☐ 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):	

☐ 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):	

(iii) Chemical Characteristics:

[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.

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Beaverton Creek is located in a highly urbanized area. As a result, stormwater runoff within the drainage area is directed to the tributary. The tributary has a flashy flow regime resulting from all of the runoff inputs.
Identify specific pollutants, if known: Beaverton Creek is on the 303(d) list for exceedences in iron, and manganese, is currently listed on the 303(d) list for Alkalinity and phosphorous as a potential concern, and has an approved Total Maximum Daily Load for E Coli.

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

☒ Riparian corridor. Characteristics (type, average width): Beaverton Creek has a small riparian corridor due to surrounding land uses. The riparian corridor widths vary greatly along the length of Beaverton Creek, ranging from approximately 20 feet on both sides of the creek to greater than 200 feet in less disturbed areas.

☐ Wetland fringe. Characteristics: .

☒ Habitat for:

☒ Federally Listed species. Explain findings: Upper Willamette River steelhead (*Oncorhynchus mykiss*) are present within Beaverton Creek.

☐ 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: 0.734 acres

Wetland type. Explain: Palustrine Scrub Shrub (PSS) / Palustrine Emergent (PEM) / Palustrine Forested (PFO).

Wetland 1 is located approximately 800 feet from Beaverton Creek. The wetland is a long linear depressional wetland that has formed on a removed road fill prism. The road was removed between 2000 and 2002.

Wetland 2 is located on a small bench north of Beaverton Creek. The wetland is located in an area that was previously used as a water treatment facility more than 10 years ago. The water treatment facility was removed in 2004 to 2005, and the wetland has developed on the site since then.

Wetland quality. Explain:

Wetland 1 developed in the last 15 years. 75% of Wetland 1 is classified as PEM and 25% as PFO. The PEM portion of Wetland 1 is dominated by non-native grasses, including meadow foxtail (*Alopecurus pratensis*), tall fescue (*Schedonorus arundinaceus*), velvetgrass (*Holcus lanatus*), bluegrass (*Poa asp.*), bentgrass (*Agrostis sp.*), and reed canary grass (*Phalaris arundinacea*). There are pockets of native vegetation throughout the wetland that include dense sedge (*Carex densa*), soft rush (*Juncus effuses*) and spreading rush (*J. patens*). The PFO portion of the wetland is characterized by balsam poplar (*Populus balsamifera)* and Oregon ash (*Fraxinus latifolia*). The wetland experiences periods of inundation and saturation. A site visit was conducted to Wetland 1 on 3 June 2016. The soil was relatively dry at the time of the site visit, but indicators, such as tire tracks and presence of bare ground in low areas are indicative of seasonal ponding. In addition, oxidized rhizospheres along living roots were observed within the wetland generally around 20% of the observed soil profile. There is an intact riparian corridor consisting of Oregon oak (*Quercus garryana*) on both the east and west sides of the wetland. The wetland, in combination with the riparian corridor measure approximately 800 feet wide. Wetland 1 is approximately 600 linear feet from the 100 year flood plain. The general topography of the land slopes south of the wetland to the bank of Beaverton Creek at an average of 2%.

Wetland 2 developed in the last 10 years. Vegetation is dominated by balsam poplar, soft rush, spreading rush, and teasel. The wetland experiences shallow ponding during the fall through spring rain season. Photo documentation provided with the jurisdictional determination request show ponding within the wetland. Wetland 2 is located within the 100 year flood plain of Beaverton Creek.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: Water flows from the Wetland 2 to the Non-TNW during rain events and when the wetland is inundated. Ditch 1 provides a surface connection between Wetland 2 and Beaverton Creek.

Surface flow is**: Overland sheetflow**

Characteristics: Ditch 1 provides a surface connection between Wetland 2 and Beaverton Creek.

Subsurface flow: **Yes**. Explain findings: Shallow subsurface flow is likely present for short periods of time between Wetland 2 and Beaverton Creek. Data provided in the wetland delineation suggests that the ditch experiences periodic saturation at 13 inches and below and likely above 12 inches for short periods.

☒ Dye (or other) test performed: Shovel probes were completed within the ditch that determined that hydrology is present periodically.

(c) Wetland Adjacency Determination with Non-TNW:

☐ Directly abutting
☒ Not directly abutting
☒ Discrete wetland hydrologic connection. Explain: Wetland 2 has a discrete hydrologic connection with Beaverton Creek during rain events.
☒ Ecological connection. Explain: Wetland 1 is located within a riparian area that acts as a habitat corridor extending from Beaverton Creek. Wetland 2 is located within the same riparian area and within the riparian corridor of Beaverton Creek.
☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW
Project wetlands are **5-10** river miles from TNW.
Project waters are **5-10** 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:

Wetland 1 – standing water was not observed in Wetland 1. Wetland 1 is surrounded by industrial and commercial developments, as well as a network of roads. It does not appear that there is any water input from the surrounding roads or development.

Wetland 2 – Standing water was present at the time of the wetland delineation. The water appears clear in a photo submitted for review. Wetland 2 is in the location of a former water treatment facility, but no known contaminants are present at the site.
Identify specific pollutants, if known: Unknown.

(iii) Biological Characteristics. Wetland supports (check all that apply):
☒ Riparian buffer. Characteristics (type, average width):
Wetland 1 has a riparian buffer that ranges from between 100 and 200 feet on either side of the linear wetland. This buffer stretches south to Beaverton Creek (a small access road crosses the riparian area south of the wetland).

Wetland 2 is within the riparian corridor of Beaverton Creek and is within the riparian corridor that extends north and surrounds Wetland 1. Riparian buffers extend approximately 200 feet south, east, and west of Wetland 2. There is a small paved access road within 50 feet north of the wetland buffer. However, the riparian buffer continues north of the small access road for more than 1,000 feet.
☒ Vegetation type/percent cover. Explain:
Wetland 1 is characterized primarily by non-native grasses, but there are patches of native plants interspersed throughout the wetland. Grasses comprise 65% or more cover within the herb strata of the wetland. Bare ground was only present in small amounts within the herb stratum. A portion of wetland 1 (approximately 25% of the wetland) is classified as PFO and is dominated by balsam poplar and Oregon ash.

Wetland 2 is characterized more by native plants. The wetland delineation plot that was completed within Wetland 2 showed 15% cover of balsam poplar, 10% cover by sapling / shrub stratum, 90% cover in the herb stratum, 10% cover in the woody vine stratum, and 10% of bare ground.

☐ 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: **2**
Approximately (0.734) acre 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)
Wetland 1	N	0.686	**Wetland 2**	N	0.048

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?

  Wetland 1 is a depressional wetland that receives rainwater. The water is either infiltrated or evaporated. Based on topography, the wetland likely receives runoff from the surrounding 3.8 acres of undeveloped land during heavy rain events, therefore providing infiltration and detention for approximately 4.5 acres. The drainage basin for Beaverton Creek is characterized by urban development, which has resulted in flashy high flows during rain events within the creek all the way to the Tualatin River (TNW). The presence of Wetland 1 reduces the amount of area that drains to Beaverton Creek.

  Wetland 2 serves similar flood reduction functions as Wetland 1 by slowing runoff to Beaverton Creek and allowing for infiltration and evaporation.

- 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?

  Wetland 2 - Beaverton Creek, in combination with Wetland 2 contribute organic material to downstream waters during rain events that create a connection from Wetland 2 to Beaverton Creek. Beaverton Creek is a perennial stream that is constantly moving organic material downstream to Rock Creek and then the Tualatin River. This organic material supports 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 1 and 2 provide important retention and detention functions during rain events that reduce the contribution of flow to the Tualatin River during storm events. These functions are significant within the watershed due to the highly urbanized nature of the drainage basin. Few wetlands remain within the drainage basin that perform the same functions. Therefore, Wetlands 1 and 2 play an important role in reducing downstream flooding in the TNW. .

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: .

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. **Wetlands 1 and 2**

Provide acreage estimates for jurisdictional wetlands in the review area: **0.734** acre.

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.

[8]See Footnote # 3.

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).
☐ 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): **Ditches 1 and 2 are not considered waters. Although they are referred to as ditches, neither feature has a defined bed and bank, there is no evidence of an Ordinary High Water Mark (OHWM), and they do not meet wetland criteria. Water flows through these low spots during heavy rain events. Ditch 1 likely becomes a jurisdictional feature outside of the study area where Beaverton Creek's OHWM extends up and into this area. It is also likely that an OHWM and bed and banks are present near the confluence with Beaverton Creek. In total, the two ditches measure .025 acre.**

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.

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):

[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.***

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  ☒ Office concurs with data sheets/delineation report (except for the jurisdictional assumptions within the report).
  ☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps: .
☐ Corps navigable waters' study: .
☐ U.S. Geological Survey Hydrologic Atlas: .
  ☐ USGS NHD data.
  ☐ USGS 8 and 12 digit HUC maps.
☐ U.S. Geological Survey map(s). Cite scale & quad name: .
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☐ National wetlands inventory map(s). Cite name: .
☐ State/Local wetland inventory map(s): .
☒ FEMA/FIRM maps: .
☒ 100-year Floodplain Elevation is: 173 (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): Historic Aerials from 2000, 2002, and 2005.
  or ☒ Other (Name & Date): Photos from 3 June 2016 site visit. Photographs were also submitted to the Corps on 25 July 2016 by the Consultant.
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify): Oregon Rapid Wetland Assesment Protocol Report.

B. ADDITIONAL COMMENTS TO SUPPORT JD: .