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): February 22, 2012

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Charleston District/RD-NE; SAC 2011-00764-3B Bellamy Tract B, JD Form 1 of 1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: South Carolina County/parish/borough: **Horry** City: **Wampee**
Center coordinates of site (lat/long in degree decimal format): Lat. **33.851811°** **N**, Long. **-78.675944°** **W**.
Universal Transverse Mercator:
Name of nearest waterbody: **Atlantic Intracoastal Waterway (AIWW)**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **AIWW**
Name of watershed or Hydrologic Unit Code (HUC): **3040208**
☒ 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:
☒ Field Determination. Date(s): **9-21-11**

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]

☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply): [1]

☐ TNWs, including territorial seas
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☒ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: **0.20** acres.

c. Limits (boundaries) of jurisdiction based on: **1987 Delineation Manual**, **Pick List**, **Pick List**
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: **Five ditches were assessed in the field and determined to be non-jurisdictional. All 5 ditches were excavated entirely out of uplands and drain only uplands**.

[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: **175,584 acres ;**
Drainage area: **500 acres**
Average annual rainfall: **53.31** inches
Average annual snowfall: **1.2** inches

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

Project waters are **1 (or less)** 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: .

Identify flow route to TNW[5]: **The tributary flows into another tributary which flows directly into the TNW (AIWW)**.
Tributary stream order, if known: **1**.

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

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

Tributary is: ☐ Natural

☐ Artificial (man-made). Explain: .

☒ Manipulated (man-altered). Explain: **The tributary was not observed in the field. However, after researching aerial photography, soil survey information, and NWI maps, it was determined that the portion of the tributary within the wetland adjacent to C. Versie Road is a natural meandering tributary and the portion of the tributary d/s of the wetland traverses through cleared uplands and has been mechanically altered. This portion of the tibutary is relatively straight and probably periodically maintained for drainage purposes** .

Tributary properties with respect to top of bank (estimate):

Average width: **The tributary was not observed in the field. However, after reviewing the best available information (i.e. aerial photography, topo maps, NWI maps, soil survey maps) it was determined that the average width of the tributary is approximately 4-6.** feet

Average depth: **The tributary was not observed in the field. However, after reviewing the best available informaiton (i.e. aerial photography, topo maps, NWI maps, soil survey maps) it was determined that the average depth of the tributary is approximately 3-4** feet

Average side slopes: **Vertical (1:1 or less). After observing the best available information it was determined that the portion of the tributary d/s of the wetland has 1:1 or less average side slopes because this portion of the tributary has been mechanically straightened and maintained. It was determined that the natural portion of the tributary within the wetland adjacent to C. Versie Road may not have average side slopes of 1:1 or less. The natural portion of the tributary possibly has average side slopes of 2:1 because of seasonal flow throughout the year shaping the tributary naturally and causing slight erosion along the banks.**

Primary tributary substrate composition (check all that apply):

☐ Silts ☒ Sands ☐ Concrete

☐ Cobbles ☐ Gravel ☐ Muck

☐ Bedrock ☐ Vegetation. Type/% cover:

☒ Other. Explain: **Unable to observe in the field. However, after observing the surrounding landscape, as well as aerial photography, topo maps, NWI maps, and soil survey maps, it was determined that the primary tributary substrate is sand. According to the soil survey map, the soil types surrounding the tributary are Suffolk and Ogeechee. Suffolk is a loamy sand that is well drained. Ogeechee is a loamy fine sand that is poorly drained. The tributary also has at least seasonal flow in a medium-gradient landscape allowing the finer sediments such as silts to wash downstream leaving the heavier sediments such as sands behind**.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Photos depict vegetation along the banks of the portion of the tributary that traverses through the wetland suggesting fairly stable banks. The portion of the tribtutary that traverses through the upland area does not appear to have any vegetation along the banks. This portion of the tributary could have slightly eroding banks as a result of seasonal flow with no vegetation along the banks to help prevent erosion.

Presence of run/riffle/pool complexes. Explain: .

Tributary geometry: **Meandering. Tributary is relatively straight d/s of wetland.**

Tributary gradient (approximate average slope): **<1** %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **11-20**

Describe flow regime: **Seasonal flow is defined as tributaries that have continuous flow typically three months each year under normal climatic conditions. The tributary is surrounded by a 500 acre drainage area and water can be observed on aerial photography. The tributary flows east until it empties into an unnamed perennial RPW (solid blue line on topo map) which flows directly into the AIWW (TNW).** .

Other information on duration and volume: .

Surface flow is: **Discrete and confined.** Characteristics: **Flows within channelized bed and banks of tributary under normal climatic conditions**.

Subsurface flow: **Unknown**. Explain findings: .

☐ Dye (or other) test performed: .

Tributary has (check all that apply): **Low to Medium-gradient seasonal tributaries of this nature in semi-rural settings with drainage areas of this size (~500 acres), predictably have readily-observed OHWM indicators such as a line impressed on the bank, shelving, absent vegetation, litter washed away, water staining and sediment deposition (see Section III.D. for seasonal determination).**

☒ 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:

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

Explain: **The tributary was not observed in the field. Drainage area is approximately 5% ag land, 25% silviculture land, and 70% residential homes. There is the potential for ag chemicals and runoff associated with urban development being introduced into the trib**.

Identify specific pollutants, if known: **No known pollutants**.

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

☒ Riparian corridor. Characteristics (type, average width): **Tributary flows through a forested area that aerial photos indicate as wetlands. According to aerial photos, the upland that the tributary flows through is cleared of all vegetation. The wetland forested areas shade and buffer the tributary and provide filtering of runoff before it enters the tributary**.

☒ Wetland fringe. Characteristics: **Palustrine forested wetland**.

☐ 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: **0.20** acres

Wetland type. Explain: **Palustrine forested wetland. However, the wetland has recently been clear cut**.

Wetland quality. Explain: **The wetland is surrounded by a gas station and residential houses and ag land. The wetland is slightly disturbed. The wetland has been clear cut recently. Despite the minor disturbance, the wetland consists of hydric soils, hydrophitic vegetation, and hydrology and is expected to perform normal functions associated with hardwood wetlands**.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: **The man-made, non-jurisdictional ditch begins at the wetland boundary. Water was not observed in the field flowing into the ditch. The lack of evidence of flow observed in the ditches suggests that the wetland flows into the ditch during the wetter periods of the year or during strong rain events**.

Surface flow is**: Discrete and confined**

Characteristics: **The wetland discharges into a man-made, non-jurisdictional ditch which intersects another man-made, non-jurisdictional ditch creating a discrete and confined surface connection to the off-site seasonal RPW**.

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

☒ Not directly abutting

☒ Discrete wetland hydrologic connection. Explain: **The wetland discharges into a man-made, non-jurisdictional ditch which intersects another man-made, non-jurisdictional ditch creating a discrete and confined surface connection to the off-site seasonal RPW**.

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **1 (or less)** 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: **There was no standing water present in the wetland at the time of the site visit. The wetland is surrounded by residential homes and commercial stores and ag land. There is the potential for petroleum based chemicals from automobiles being introduced into the wetland and ag chemicals and runoff associated with urban development**.

Identify specific pollutants, if known: .

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

☒ Riparian buffer. Characteristics (type, average width): **While the wetland is not truly a riparian, it does act as a buffer to the adjacent non-jurisdictional ditch which is a direct conduit to the downstream RPW and TNW. The wetland also retains and filters runoff before it enters the non-jurisdictional ditch**.

☒ Vegetation type/percent cover. Explain: **The wetland was cleared of most vegetation**.

☐ 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 (**1.3**) 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)
N	**0.20**	**Y**	**1.1**

Summarize overall biological, chemical and physical functions being performed: **All wetlands evaluated in this significant nexus determination (SND) which are similarly situated and adjacent (both directly abutting and non-abutting) to the RPW are collectively performing biological, chemical, and physical functions. The 0.2 acre wetland in the review area is approximately 0-1 river miles from the nearest TNW. Water discharging from the wetland enters an RPW in less than 1 river mile via two non-jurisdictional man-made ditches. The other 1.1 acre wetland evaluated in this SND directly abuts the RPW. The wetlands adjacent to the RPW are mixed pine/hardwood depressional wetlands that provide breeding grounds and shelter for aquatic species, foraging areas for wetland dependent species, and spawning areas for species that inhabit the main channel as adults. The on-site wetland was recently clear-cut. These wetlands also provide organic carbon to the unnammed RPW, resulting in the nourishment of the downstream food web. The unnamed tributary is a seasonal RPW that flows into an unnamed perennial RPW which flows directly into the AIWW (TNW). The wetlands evaluated in this SND provide the important collective functions of removal of excess nutrients which are contributed by runoff from the surrounding development and agriculture and silviculture land. The wetlands reduce nitrogen and phosphorus loading downstream, and effectively prevent oxygen depletion that can result from eutrophication. The wetlands also collectively perform flow maintenance functions, including retaining runoff inflow and storing flood water temporarily**.

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: **Based on the collective functions described above (Section III.B.3) and their importance to the biological, chemical, and physical integrity of the traditional navigable waters of the Atlantic Intracoastal Waterway, this office has determined that there is a Significant Nexus between the RPW in combination with all its adjacent wetlands and the downstream TNW**.

Documentation for the Record only: Significant nexus findings for seasonal RPWs and/or wetlands abutting seasonal RPWs:
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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: **The tributary was determined to be an RPW with seasonal flow by review of aerial photos, topographic maps, NWI Maps, and evidence accumulated during the site visit. Aerial photos show the signature of a defined channel. Water present in the tributary can also be observed in aerial photos. Approximtely 85% of the area surrounding the tributary has been developed with residential homes, which has resulted in increased impervious surface, strongly supporting the conclusion that the discharges through the tributary have increased. After reviewing all available information, the tributary was determined to be an RPW with seasonal flow.** .

     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.

Provide acreage estimates for jurisdictional wetlands in the review area: **0.2** acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

7. **Impoundments of jurisdictional waters.[9]**
As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
☐ Demonstrate that impoundment was created from "waters of the U.S.," 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).
Explain:

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.

[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.*

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): **Five ditches were assessed in the field and determined to be non-jurisdictional. All 5 ditches were excavated entirely out of uplands and drain only uplands.**

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):

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Maps prepared by Johnson's Environmental Consulting and the Corps**.

☐ 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. The Corps concurs with the data sheets that were taken in the upland. However, the cunsultant did not fill out any data sheets in the wetland.

☐ 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. 3040208

☒ U.S. Geological Survey map(s). Cite scale & quad name: **Wampee, Quad depicts a solid blue line for the off-site RPW assessed on this form. No blue lines or wetland symbols are depicted on the subject site**.

☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **p.65, Ogeechee (Hydric soil)**.

☒ National wetlands inventory map(s). Cite name: **U21 (upland) However, wetlands were discovered on-site**.

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

☒ FEMA/FIRM maps: **Site is outside of the 100-year floodplain (Zone X). Map# 45051C0581**.

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

☒ Photographs: ☒ Aerial (Name & Date): **99-11226:85; SCDNR 2006**.
or ☐ Other (Name & Date): .

☐ Previous determination(s). File no. and date of response letter: .

☐ Applicable/supporting case law: .

☐ Applicable/supporting scientific literature: .

☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: All wetlands evaluated in this significant nexus determination (SND) which are similarly situated and adjacent (both directly abutting and non-abutting) to the RPW are collectively performing biological, chemical, and physical functions. The 0.2 acre wetland in the review area is approximately 0-1 river miles from the nearest TNW. Water discharging from the wetland enters an RPW in less than 1 river mile via two non-jurisdictional man-made ditches. The other 1.1 acre wetland evaluated in this SND directly abuts the RPW. The wetlands adjacent to the RPW are mixed pine/hardwood depressional wetlands that provide breeding grounds and shelter for aquatic species, foraging areas for wetland dependent species, and spawning areas for species that inhabit the main channel as adults. The on-site wetland was recently clear-cut. These wetlands also provide organic carbon to the unnammed RPW, resulting in the nourishment of the downstream food web. The unnamed tributary is a perennial RPW that flows directly into the AIWW (TNW). The wetlands evaluated in this SND provide the important

collective functions of removal of excess nutrients which are contributed by runoff from the surrounding development and agriculture and silviculture land. The wetlands reduce nitrogen and phosphorus loading downstream, and effectively prevent oxygen depletion that can result from eutrophication. The wetlands also collectively perform flow maintenance functions, including retaining runoff inflow and storing flood water temporarily.

Five ditches were assessed in the field and determined to be non-jurisdictional. All 5 ditches were excavated entirely out of uplands and drain only uplands.