APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers
FORM 1 of 1

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): 26MAR2015

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Charleston District, RLJ Management-Barony St. Apts., SAC-2014-01165

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: South Carolina County/parish/borough: **Berkeley** City: **Moncks Corner**
Center coordinates of site (lat/long in degree decimal format): Lat. **33.198410° N**, Long. **-79.987055° W**.
Universal Transverse Mercator:
Name of nearest waterbody: **unnamed tributary system**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Cooper River**
Name of watershed or Hydrologic Unit Code (HUC): Upper Portion of the Cooper River/Charleston Harbor Watershed (**03050201-07)**
☒ 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: **04FEB2015**
☒ Field Determination. Date(s): **05FEB2015**

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:
   Wetlands: **Total 0.536 acres; specifically, Wetland A, 0.510 ac; Wetland D, 0.024 ac; and Wetland W, 0.002 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] **[Including potentially jurisdictional features that upon assessment are NOT waters or wetlands]**
   ☒ **Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: A system of linear conveyance features located on the site was evaluated as potentially jurisdictional**

[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.

pursuant to Clean Water Act Section 404. Two of these features were determined NOT to be jurisdictional based on their status as manmade ditches constructed and located outside wetlands; and which do not carry a relatively permanent flow of water. However, the features act as a means of hydrologic conveyance to establish jurisdiction to wetlands onsite; specifically, Wetland A. The two non-jurisdictional linear features are depicted on a supplemental sketch in the project file and are noted with regard to the center line of ditch (typical) on the plat.

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: **206,457 acres**
Drainage area: **235 acres**
Average annual rainfall: **48.11** inches
Average annual snowfall: inches

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

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Identify flow route to TNW[5]: **The onsite wetlands flow to an offsite tributary via a ditch and stormwater pond. The tributary then flows to the Cooper River (a TNW).**
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: **The onsite wetlands flow to an offsite tributary via a system of ditches and a stormwater pond. The tributary then flows to the Cooper River (a TNW). The tributary was evaluated at publicly accessible locations and road crossings. Two of the aforementioned ditches are non-jurisdictional (one along the north property line and one along the south) and provide flow west during wetter seasons and/or after rain events when surface water may be present. Both non-jurisdictional ditches are straight/linear manmade features and have possibly been widened and/or deepened to improve drainage of surrounding wetlands and uplands.**

Tributary properties with respect to top of bank (estimate):
Average width: **18** feet
Average depth: **10** 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 banks are vegetated and appeared to be stable; any erosion would be minimal**.
Presence of run/riffle/pool complexes. Explain: **N/A**.
Tributary geometry: **Relatively straight.**
Tributary gradient (approximate average slope): **1** %

(c) Flow:

Tributary provides for: **Perennial flow**
Estimate average number of flow events in review area/year: **11-20**
Describe flow regime:
Other information on duration and volume: .

Surface flow is: **Confined.** Characteristics: .

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

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☐ clear, natural line impressed on the bank	☒ 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;

[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.
[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.

☐ 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 water color was clear, showed no signs of an oily film, and was flowing during the site visit. The surrounding land is continuously cleared/mowed and consists of uplands and wetlands with a herbaceous ground cover. The surrounding lands are a mix of vacant land, agricultural, commercial, and residential uses. The two non-jurisdictional ditch features did not have observable flow during the site visit.**

Identify specific pollutants, if known: .

(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width): .
☒ Wetland fringe. Characteristics: **The tributary contains surrounding wetlands that form a riparian corridor along the majority of its reach that consist of herbaceous and scrub/shrub wetlands**.
☒ Habitat for:
☐ Federally Listed species. Explain findings: .
☐ Fish/spawn areas. Explain findings: .
☐ Other environmentally-sensitive species. Explain findings: .
☒ Aquatic/wildlife diversity. Explain findings: **The offsite tributary has areas of vegetation, leaf litter, and debris that may provide habitat for small organisms such as small fish, insects, and amphibians. Larger wildlife such as mammals and wading birds may also utilize the tributary as a food and water source; as well as a corridor for movement of aquatic organisms from wetland to wetland.**

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

******Wetland A, D, & W******

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
Wetland size: **Wetland A, 0.510 acres; Wetland D, 0.024 acres; and Wetland W, 0.002 acres**
Wetland type. Explain: **Herbaceous**.
Wetland quality. Explain: **Low quality and moderately impacted due to continuous clearing/mowing activities.**
Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Wetland A: Flow is: **Ephemeral flow**. Explain: Wetland A is connected to SRPW1 by means of two manmade linear non-jurisdictional drainage features. Flow from the wetland is frequently associated with events during wetter seasons and/or after rain events when surface water in the wetland may be present.
Wetland D: Flow is: **Intermittent flow**. Explain: The feature has continuous flow in parts of its stream bed for at least 3 months of the year during normal rainfall due to connectivity to offsite wetlands and drainage features.
Wetland W: Flow is: **Ephemeral flow**. Explain: Although no flow was observed between Wetland W and the offsite tributary during the site visit, the depressional topography of the wetland and surrounding uplands is fairly flat and uniform; it appears that ephemeral flow occurs during wetter seasons and/or after rain events when surface water in the wetland is present.

Wetland A: Surface flow is**: Discrete and confined**
Characteristics: Flow via non-jurisdictional ditches during wetter seasons and/or after rain events.
Wetland D: Surface flow is**: Discrete and confined**
Characteristics: Flow is confined to linear tributary.
Wetland W: Surface flow is**: Overland sheetflow**
Characteristics: Flow across uplands to the adjacent tributary and retention pond due to events during wetter seasons and/or after rain events.

Wetland A, D, & W: Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☐ Directly abutting :
☒ Not directly abutting

☒ Discrete wetland hydrologic connection. Explain: **Although no flow was observed between Wetland W and the offsite tributary during the site visit, the depressional topography of the wetland and surrounding uplands is fairly flat and uniform. It appears that ephemeral flow occurs during wetter seasons and/or after rain events when surface water in the wetland is present.**

☒ Ecological connection. Explain: **Wetland W is a wetland depression located approximately 100 feet from a seasonal tributary. This wetland is surrounded by undeveloped uplands that are routinely cleared/mowed, which can provide a pathway for wildlife to move between the wetland depression and the RPW, as well as other nearby wetlands and tributaries. Due to the close proximity of Wetland W to the offsite tributary system, as well as its position in the landscape, organisms that typically utilize herbaceous wetlands, such as mammals, reptiles, amphibians, and birds, may also utilize the tributary and vice versa**.

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **1-2** river miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Flow is from: **Wetland to/from navigable waters.**
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: **Surface water was observed in Wetland A, D, & W during the site visit and appeared to be clear in color and of good water quality with no oily film layer. The surrounding land consists of recently cleared/mowed uplands with ground cover, developed properties, forested uplands, and wetlands. Residential and commercial developments, as well as agricultural activities are located within the drainage area**.

Identify specific pollutants, if known: .

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

☒ Riparian buffer. Characteristics (type, average width): **Vegetation type in Wetland D varies from sapling and scrub/shrub, then transitions into revegetated herbaceous layers in adjacent uplands, as well as Wetland A and Wetland W; which are routinely cleared/mowed. Percent cover is >90%**.

☐ 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: **Wetland D is a riparian wetland associated with tributaries. The vegetation observed onsite includes, but is not limited to *Juncus effusus, Solidago spp, Arundinaria gigantea, Myrica cerifera, Ligustrum sinense, Campsis radicans, and Vitis rotundifolia.* A wetland such as this may attract diverse wildlife, which may include various species of insects, amphibians, reptiles, mammals, and birds; all of which may use the wetlands for all or part of their lives for foraging, nesting and/or shelter**.

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

All wetland(s) being considered in the cumulative analysis: **5**
Approximately (**42**) 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)
Wetland A – No	**0.510**		
Wetland D - No	**0.024**		
Wetland W - No	**0.002**		
Offsite North - Yes	**14.35**		
Offsite South - Yes	**26.30**		

Summarize overall biological, chemical and physical functions being performed: **The review area includes Wetlands A D, and W, as well as an additional 40.65 acres of undeveloped land to the north and south of the project site that includes approximately 3,858 linear feet of tributaries and is comprised of poorly to moderately drained sandy/loam soils. The review area is part of a larger braided system that is comprised of perennial and seasonal tributaries, as well as abutting and adjacent wetlands. These systems provide a variety of functions that are important for the downstream waters and the watershed as a whole. The wetlands and tributaries not only provide habitat for various aquatic and terrestrial organisms, including a variety of insects, amphibians, reptiles, mammals and birds, but are also a source of food, nutrients, and carbon for organisms located downstream. The system of wetlands and tributary is especially important for the water quality of the watershed. Water runoff from adjacent uplands containing pollutants, sediments, excess nutrients, etc., flows through the wetlands before entering the tributary system, which then are filtered out/removed prior to flowing to the downstream TNW. In addition, excess water can temporarily be stored; thereby, minimizing potential flooding of downstream areas**

and can also slowly release water downstream to maintain seasonal flow volumes. Runoff water may also transport organisms, nutrients, and carbon from the wetlands into the tributaries; which continue to flow to the downstream TNW. Small tributaries often have shallow water, low volume, and slow flow; which allows for more surface area of the water column to come into contact with channel substrate and any vegetation that may be present; thereby, allowing for sediments and pollutants to settle out of or be filtered from the water column before flowing to downstream TNWs.

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:

   Wetland A, D, and W are adjacent to, but do not directly abut the offsite tributary. Wetland A has a surface hydrologic connection via two linear non-jurisdictional drainage features which flow through Wetland D and into a ditch and stormwater pond before flowing into the offsite tributary. Wetland W is located in close proximity to the offsite tributary and has an ecological and surface flow connection. Due to the close proximity of the wetlands to the offsite tributary, wildlife that typically utilize wetland systems, such as mammals, reptiles, amphibians, and birds, may also utilize the tributary and vice versa; as well as other nearby wetlands and tributaries in the watershed. In addition, excess water can temporarily be stored in the wetland areas; thereby, minimizing potential flooding of the downstream areas and maintain seasonal flow volumes by slowly releasing the stored water.

   Furthermore, Wetland A, D, and W play a role in the water quality of the downstream waters and TNW (e.g. the West Branch Cooper River) in that water runoff from surrounding uplands (which may contain pollutants, sediments, excess nutrients, organisms, carbon, etc.) that flow through the onsite wetlands before entering the tributary will have the opportunity to be filtered out prior to reaching the downstream TNW. Per the South Carolina Department of Health and Environmental Control, monitoring of water quality in the TNW, downstream from the project site, indicates significant decreasing trends in dissolved oxygen concentration and increasing trends in five-day biological oxygen demand and total phosphorous concentration. Although dissolved oxygen excursions occurred, they were typical of values seen in such systems and were considered natural, not standard violations. The aforementioned trends are indicative of the significant and beneficial role the wetlands in the review area have on downstream waters and the Cooper River.

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:

     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: **SRPW1 flows through the middle of Wetland D; therefore, Wetland D shares a boundary with SRPW1 and has a direct hydrologic surface connection. Surface water from Wetland D can flow directly into the channel of SRPW1. Similarly, water from SRPW1 can flood the banks and flow directy into Wetland D.**

   Provide acreage estimates for jurisdictional wetlands in the review area: **0.024** 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:
   Wetland A, 0.510 ac; Wetland D, 0.024 ac; and Wetland W, 0.002 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:

[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

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: **ECS Carolinas, LLP**
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
☒ Office concurs with data sheets/delineation report. *Concurs with the conclusions reached.
☐ 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: **SC015 (Lenoir, Meggett, Goldsboro)**.
☒ National wetlands inventory map(s). Cite name: **PSS1/4Bd**.
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): **Google Earth 2015**.

[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.*

or ☒ Other (Name & Date): **Site photos provided by consultant**.

☐ 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:

This JD form documents the jurisdictional status of 3 wetlands adjacent to an offsite perrenial RPW. All of the adjacent wetlands are non-abuting; therefore, a Significant Nexus Determination was performed to include all wetlands onsite and those in the drainage area outside of the project boundary. Based on the documentation provided in Section III, C of this form, the nexus between the onsite wetlands and the downstream TNW is a Significant Nexus and on this basis all tributaries and wetlands on this form are within the jurisdiction of the Clean Water Act.