

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

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): August 18, 2017**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 1 of 1; SAC # 2016-01200 Agru America Plant Combined Site**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: South Carolina County/parish/borough: **Georgetown** City: **Georgetown**  
Center coordinates of site (lat/long in degree decimal format): Lat. **33.3946° N**, Long. **-79.3542° W**.  
Universal Transverse Mercator:

Name of nearest waterbody: **Cannan Branch**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Sampit River**

Name of watershed or Hydrologic Unit Code (HUC): **3040207 / Sampit River Basin**

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: **August 10, 2017**

Field Determination. Date(s):

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

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

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: .

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are** "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):<sup>1</sup>**

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (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: **Wetland A / 0.4 acres + Wetland B / 30.7 acres.**

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual, Established by OHWM, Pick List**

Elevation of established OHWM (if known): .

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: **Located within the boundary of the site in review is a non-jurisdictional upland dug pond of approximately 0.2 acres and five upland excavated non-jurisdictional ditches that exhibited no jurisdictional features..**

**SECTION III: CWA ANALYSIS**

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

**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: **Sampit River**.

Summarize rationale supporting determination: **Subject to the ebb and flow of the tide.**

**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<sup>4</sup> 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: **105,287 acres** ;

Drainage area: **840 acres**

Average annual rainfall: **48 inches**

Average annual snowfall: **0 inches**

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through **2** tributaries before entering TNW.

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

Project waters are **1 (or less)** river miles from RPW.

Project waters are **1-2** 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<sup>5</sup>: **Wetlands discharge into non-jurisdictional conveyance, eventually discharging into an unnamed perennial RPW, which discharges into a tributary known as Canaan Branch. Canaan Branch is represented by a solid blue line on USGS topographic maps, indicating perennial flow, which serves as a portion of the headwaters of the Sampit River (TNW).**

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary stream order, if known: .

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

- Tributary is:**  Natural  
 Artificial (man-made). Explain: .  
 Manipulated (man-altered). Explain: **Portions of the tributary are man altered and portions**

**are in the natural, sinuous state..**

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

Average width: **5** feet  
Average depth: **3** feet  
Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

- |  |  |                                   |
|--|--|-----------------------------------|
| <input type="checkbox"/> Silts             | <input checked="" type="checkbox"/> Sands  | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles           | <input checked="" type="checkbox"/> Gravel   | <input type="checkbox"/> Muck     |
| <input type="checkbox"/> Bedrock           | <input checked="" type="checkbox"/> Vegetation. Type/% cover: <b>varying based on aerial imagery review.</b> |                                   |
| <input type="checkbox"/> Other. Explain: . |  |                                   |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Stabilized by vegetation.

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Meandering.** .

Tributary gradient (approximate average slope): **1-2** %

(c) Flow:

Tributary provides for: **Perennial flow**

Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: **flow regime consists of** .

Other information on duration and volume: .

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

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

Dye (or other) test performed: .

Tributary has (check all that apply):

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Bed and banks                             |   |
| <input type="checkbox"/> OHWM <sup>6</sup> (check all indicators that apply): |   |
| <input type="checkbox"/> clear, natural line impressed on the bank            | <input type="checkbox"/> the presence of litter and debris          |
| <input type="checkbox"/> changes in the character of soil                     | <input type="checkbox"/> destruction of terrestrial vegetation      |
| <input type="checkbox"/> shelving   | <input type="checkbox"/> the presence of wrack line                 |
| <input type="checkbox"/> vegetation matted down, bent, or absent              | <input type="checkbox"/> sediment sorting                           |
| <input type="checkbox"/> leaf litter disturbed or washed away                 | <input type="checkbox"/> scour                                      |
| <input type="checkbox"/> sediment deposition                                  | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining                                       | <input type="checkbox"/> abrupt change in plant community           |
| <input type="checkbox"/> other (list):  |   |

Discontinuous OHWM.<sup>7</sup> Explain: **Evaluation of this tributary was completed using available office resources, maps, and aerial imagery. The perennial portions of this tributary are located offsite on privately owned that does not allow observation from public access. USGS topographic maps indicate a solid blue line which is the symbol for perennial flow.**

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

- |  |  |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by:              | <input type="checkbox"/> Mean High Water Mark indicated by:            |
| <input type="checkbox"/> oil or scum line along shore objects      | <input type="checkbox"/> survey to available datum;                    |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings;                            |
| <input type="checkbox"/> physical markings/characteristics         | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges                              |  |
| <input type="checkbox"/> other (list):                             |  |

(iii) **Chemical Characteristics:**

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

Explain: **Specific characteristics of the tributary could not be observed due to lack of public access, but a review of**

<sup>6</sup>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.

<sup>7</sup>Ibid.

aerial imagery indicate a primarily forested surrounding area and a lack of potential harmful inputs from farming and industry.

Identify specific pollutants, if known: **Unknown at this time.**

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

Riparian corridor. Characteristics (type, average width): **typical riparial vegetation.**

Wetland fringe. Characteristics:

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings: **Perennial flow supports life cycles and foraging areas for aquatic species and those are typically observed in similar systems in the area.**

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: **The wetland and tributary are surrounded by vegetational systems that support the life cycles of wildlife dependent upon these ecosystems.**

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: **(Wetland A / 0.4 + Wetland B / 30.7 = 31.1** acres

Wetland type. Explain: **Palustrine forested wetlands.**

Wetland quality. Explain: **Forested / undisturbed and fully functioning.**

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: **Water is discharged from Wetland A & B through series of non-jurisdictional conveyances and eventually discharge into an offsite unamed perennial RPW, into Canaan Branch (PRPW), then directly into the Sampit River (TNW).**

Surface flow is: **Discrete and confined**

Characteristics: **Water leaves the wetland during cycles of high water table and / or storm events.**

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: **Water is discharged from Wetland A & B through series of non-jurisdictional conveyances and eventually discharge into an offsite unamed perennial RPW, into Canaan Branch (PRPW), then directly into the Sampit River (TNW).**

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

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

Project waters are **1-2** 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: **This determination was made from the office without a SV so the exact conditions in the field were not recorded.**

Identify specific pollutants, if known: **Specific characteristics of the tributary could not be observed due to lack of public access, but a review of aerial imagery indicate a primarily forested surrounding area and a lack of potential harmful inputs from farming and industr.**

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

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain: **Vegetation within a wetland consists of predominantly Fac, Fac Wet, and Obligate species.**

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: **This wetland provides habitat for forage, cover, and breeding for fauna that require wetland area for various portions of their life cycle.**

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

All wetland(s) being considered in the cumulative analysis: **5**  
 Approximately ( **840** ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
<b>Y</b>	<b>5.8</b>		
<b>N</b>	<b>8.3</b>		
<b>N</b>	<b>4.18</b>		
<b>N</b>	<b>30.6</b>		
<b>N</b>	<b>13.5</b>		

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 six wetlands in the review area are approximately 1-2 river miles from the nearest TNW. Water discharging from the wetlands enter an offsite unnamed perennial RPW that flows directly into Canann Branch, also perennial RPW which flows into the Sampit River (TNW). Water from the onsite wetlands (Wetlands A&B) specifically flowthrough a series of non-jurisdictional ditches that cross under the rail road and Georgetown County Road S-22-119 and eventually U.S. Highway 17, located to the south. Aerial imagery indicate that the construction U.S. Highway 17 bisected the offsite continuation of Wetland B. Chemical, biological, and physical connection to the downstream / offsite perennial RPW is maintained through a portion of non-jurisdictional ditches and culverts and eventually discharges into the PRPW. The onsite and offsite wetlands are similar and 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. These wetlands also provide organic carbon to the downstream tributaries and ultimately into the Atlantic Ocean, resulting in the nourishment of the downstream food web. The wetlands evaluated in this SND provide the important collective functions of removal of excess nutrients which are contributed by runoff from the surrounding urban areas. 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. The importance of the above mentioned functions are underscored by the fact that the wetlands evaluated in this SND serve as the headwaters for a major formational tributary of the Sampit River.**

**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: **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 six wetlands in the review area are approximately 1-2 river miles from the nearest TNW. Water discharging from the wetlands enter an offsite unammed perennial RPW that flows directly into Canann Branch, also perennial RPW which flows into the Sampit River (TNW). Water from the onsite wetlands (Wetlands A&B) specifically flowthrough a series of non-jurisdictional ditches that cross under the rail road and Georgetown County Road S-22-119 and eventually U.S. Highway 17, located to the south. Aerial imagery indicate that the construction U.S. Highway 17 bisected the offsite continuation of Wetland B. Chemical, biological, and physical connection to the downstream / offsite perennial RPW is maintained through a portion of non-jurisdictional ditches and culverts and eventually discharges into the RPW. The onsite and offsite wetlands are similar and 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. These wetlands also provide organic carbon to the downstream tributaries and ultimately into the Atlantic Ocean, resulting in the nourishment of the downstream food web. The wetlands evaluated in this SND provide the important collective functions of removal of excess nutrients which are contributed by runoff from the surrounding urban areas. 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. The importance of the above mentioned functions are underscored by the fact that the wetlands evaluated in this SND serve as the headwaters for a major formational tributary of the Sampit River.**

Documentation for the Record only: Significant nexus findings for seasonal RPWs and/or wetlands abutting seasonal RPWs:

**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<sup>8</sup> 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:

<sup>8</sup>See Footnote # 3.

- 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **31.1** 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.<sup>9</sup>**

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):<sup>10</sup>**

- 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: **0.2** acres.
- Other non-wetland waters:                  acres. List type of aquatic resource: .
- Wetlands:                  acres.

<sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> 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.

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 Ecological Services / Plate prepared by Kellahan & Associates, dated June 16, 2011 and revised on June 28, 2011.**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant. The initial data forms submitted by the consultant required revisions which were submitted after the site audit and approved by this office.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **USGS topographic map / Georgetown North Quad / depicts a mixture of forested wetland and upland areas .**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Georgetown County Soil Survey (soils listed below).**
- National wetlands inventory map(s). Cite name: **Georgetown County NWI / listed below.**
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **2006 SCDNR aerial photography / 2016 Google Earth imagery.**  
or  Other (Name & Date):
- Previous determination(s). File no. and date of response letter: **A previous determination covered a portion of this review in SAC-2011-00469 dated January 14, 2011.**
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetland boundaries were established using the 1987 Wetland Delineation manual. Wetland A is connected to Canaan Branch (perennial RPW) through a series of non-jurisdictional ditches that cross under the rail road and Georgetown County Road S-22-119 located to the south. Wetland B was a naturally occurring wetland run that was bisected by the construction of US Highway 17. However the historical connection to Canaan Branch remains with the man altered conveyance of culverts and ditches under the highway. Aerial photography depicts the continuation of the wetland run, eventually discharging into the main body of Canaan Branch. Canaan Branch is a part of the wetland system / complex that eventually become the Sampit River, a named TNW. Two 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 six wetlands in the review area are approximately 1-2 river miles from the nearest TNW. Water discharging from the wetlands enter an offsite unnamed perennial RPW that flows directly into Canaan Branch, also perennial RPW which flows into the Sampit River (TNW). Water from the onsite wetlands (Wetlands A&B) specifically flows through a series of non-jurisdictional ditches that cross under the rail road and Georgetown County Road S-22-119 and eventually U.S. Highway 17, located to the south. Aerial imagery indicate that the construction U.S. Highway 17 bisected the offsite continuation of Wetland B. Chemical, biological, and physical connection to the downstream / offsite perennial RPW is maintained through a portion of non-jurisdictional ditches and culverts and eventually discharges into the PRPW. The onsite and offsite wetlands are similar and are mixed pine/hardwood depositional 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. These wetlands also provide organic carbon to the downstream tributaries and ultimately into the Atlantic Ocean, resulting in the nourishment of the downstream food web. The wetlands evaluated in this SND provide the important collective functions of removal of excess nutrients which are contributed by runoff from the surrounding urban areas. 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. The importance of the above mentioned functions are underscored by the fact that the wetlands evaluated in this SND serve as the headwaters for a major formational tributary of the Sampit River.**



Located within the boundary of the site in review is a non-jurisdictional upland dug pond of approximately 0.2 acres and five upland excavated non-jurisdictional ditches that exhibited no jurisdictional features.

Soils onsite are as follows: Cape Fear, Yemassee, Yauhannah, Eulonia

NWI classifications are as follows: U12 (upland), U14 (uplands), U42P (upland), PFO1Cd (forested palustrine wetland), PFO1Cd/SS1Cd (forested palustrine wetland), PFO1Cd(forested palustrine wetland),

This site is assessed on a single basis form with both wetlands A & B being jurisdictional.