

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):

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 1 of 1; SAC-2022-00223 Eutaw Road Tract

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: South Carolina County: Orangeburg County City: Holly Hill
Center coordinates of site (lat/long in degree decimal format): Lat. 33.3356°, Long. -80.4054°.
Universal Transverse Mercator:

Name of nearest waterbody: Briner Branch

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

Name of watershed or Hydrologic Unit Code (HUC): 03050205

☒ 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: July 28, 2022

☐ 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 and are not** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

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

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☒ Relatively permanent waters² (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: **3544** linear feet: width (ft) and/or **0.81** acres.

Wetlands: Jurisdictional Wetland 1 (5.70 acres) and Jurisdictional Wetland 2 (8.17 acres) Total: **13.87** acres.

c. Limits (boundaries) of jurisdiction based on: **Established by OHWM. 1987 Delineation Manual**
AGCP Regional Supplement

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: **This office has determined that Non-Jurisdictional Ditches 1-7 in Section III Part F of this form do not exhibit hydrologic indicators such as: ordinary high water mark, bed, bank, substrate and sediment sorting. Therefore, for**

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.

these reasons these features were determined to be non-jurisdictional under Section 404 of the CWA. Non-Jurisdictional Ditches³⁻⁵ provide a surface connection to downstream waters detailed later in this form. Also located on the property is Non-jurisdictional Borrow Pit 1, located in uplands and previously used for the purpose of road construction. As stated in the Preamble to the November 13, 1986, Regulations found on page 41217, “waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and resulting body of water meets the definition of waters of the United States. For these reasons, Non-Jurisdictional Ditches 1-7 and Non-Jurisdictional Borrow Pit 1 are determined to be non-jurisdictional and not regulated by Section 404 of the CWA.

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 waterbody⁴ 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

*** On-site Jurisdictional Tributary 1 (Briner Branch)***

(i) General Area Conditions:

Watershed size: 59,800 acres

Drainage area: 3,443 acres

Average annual rainfall: 49 inches

Average annual snowfall: _____ inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

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

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

Project waters are **25-30** river miles from TNW.

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

Project waters are **20-25** 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: Jurisdictional Tributary 1 (**Briner Branch**), flows to **Four Hole Swamp**, flows to the **Edisto River**, a TNW.

Identify flow route to TNW⁵: .

Tributary stream order, if known: .

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

Tributary is: ☒ Natural

☐ Artificial (man-made). Explain: .

☐ Manipulated (man-altered). Explain: .

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

Average width: 27 feet

Average depth: 2 feet

Average side slopes: **4:1 (or greater)**.

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: Jurisdictional Tributary 1 (**Briner Branch**) **appeared to be stable**.

Erosion and channel manipulation appeared to be minimal.

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

Tributary geometry: **Meandering**

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Perennial**

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

Describe flow regime: Jurisdictional Tributary 1 (**Briner Branch**) **has consistent flow throughout the year..**

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

☒ OHWM⁶ (check all indicators that apply):

☒ clear, natural line impressed on the bank

☐ changes in the character of soil

☐ shelving

☐ vegetation matted down, bent, or absent

☐ leaf litter disturbed or washed away

☒ sediment deposition

☐ water staining

☐ other (list):

☐ Discontinuous OHWM.⁷ Explain: .

☐ the presence of litter and debris

☐ destruction of terrestrial vegetation

☐ the presence of wrack line

☐ sediment sorting

☐ scour

☐ multiple observed or predicted flow events

☐ abrupt change in plant community

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

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.

- | | |
|--|--|
| <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: **The general watershed is a mix of forested and agricultural land. There is moderate residential development within the watershed.**

Identify specific pollutants, if known: .

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

- ☒ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☒ Habitat for:
- ☐ Federally Listed species. Explain findings: .
- ☐ Fish/spawn areas. Explain findings: .
- ☐ Other environmentally-sensitive species. Explain findings: .
- ☒ Aquatic/wildlife diversity. Explain findings: **The channel of Jurisdictional Tributary 1 (Briner Branch) 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 channels as a food and water source.

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: **5.7 acres**

Wetland type. Explain: **Palustrine Forested.**

Wetland quality. Explain: **Moderately Functional (Development around the wetlands has likely degraded wetland functionality to some degree).**

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow.** Explain: **Jurisdictional Wetland 1 is connected to Jurisdictional Tributary 1 (Briner Branch) through a series of non-jurisdictional ditches.**

Surface flow is: **Discrete and confined**

Characteristics: .

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: **As noted above, water discretely flows during rainfall and other storm events into Jurisdictional Wetland 1 and through a series of non-jurisdictional ditches to the Jurisdictional Tributary 1 (Briner Branch), a perennial tributary.**

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **25-30** river miles from TNW.

Project waters are **20-25** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **50 - 100-year** 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: **Land use within this watershed and smaller drainage area is comprised of residential, forested land and forested wetland.**

Identify specific pollutants, if known: .

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

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☒ Habitat for:
- ☐ Federally Listed species. Explain findings: .
- ☐ Fish/spawn areas. Explain findings: .
- ☐ Other environmentally-sensitive species. Explain findings: .
- ☒ Aquatic/wildlife diversity. Explain findings: **A diverse forested wetland often attracts 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, such as for foraging, nesting and/or for shelter.**

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

All wetland(s) being considered in the cumulative analysis: **wetlands within the relevant reach of Briner Branch**

Approximately (3200) 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>
Jurisdictional Wetland 1	5.7	N	
Jurisdictional Wetland 2	8.17	Y	
Offsite Wetlands	3200	Y & N	

Summarize overall biological, chemical and physical functions being performed: **The wetlands listed above are providing important biological, chemical, and physical functions. These wetlands act as a catch basin to help filter out pollutants from the neighboring uplands and hold runoff prior to it flowing downstream into the on-site Jurisdictional Tributary 1 (Briner Branch), through Four Hole Swamp and ultimately into the Edisto River, a TNW. Besides the obvious functions of stormwater attenuation, absorption, and overstory biomass input into the food web, these wetlands provide a uniquely important ecological connection to the downstream TNW. These wetlands are providing important biological, chemical, and physical functions within a watershed comprised primarily of urban land use. The biological functions being performed include providing breeding grounds and shelter for aquatic animals and diversifying the plant life within the watershed. As a result, these wetlands in the drainage area supply food sources for a variety of water dependent species, such as invertebrates, amphibians, reptiles, and mammals. The chemical functions being performed consist of the removal of excess pollutants, which are contributed by runoff from the surrounding uplands, from reaching the downstream tributary and ultimately, the TNW. This reduces nitrogen and phosphorus loading downstream and effectively prevents oxygen depletion that can result from eutrophication. Physically, these wetlands help reduce stormwater flow. Not only does this prevent the accumulation of sediment downstream, which can smother fish and other aquatic wildlife, but it also reduces the amount of pollutants downstream because these pollutants are usually transported by sediment particles.**

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: **The onsite wetlands referenced above provide stormwater attenuation, absorption, and overstory biomass input into the food web. These wetlands also provide an important ecological connection to the downstream TNW via important biological, chemical, and physical functions within a watershed comprised primarily of agricultural land use. The biological functions being performed include providing breeding grounds and shelter for aquatic animals and diversifying the plant life within the watershed. The onsite wetlands and other waters of the US within the drainage area also supply food sources for a variety of water dependent species, such as invertebrates, amphibians, reptiles, and mammals. The chemical functions being performed consist of the removal of excess pollutants, which are contributed by runoff from the surrounding residential areas and uplands, from reaching the downstream TNW. This reduces nitrogen and phosphorus loading downstream and effectively prevents oxygen depletion that can result from eutrophication. Physically, the wetlands help reduce stormwater flow. This prevents the accumulation of sediment downstream, which can smother fish and other aquatic wildlife, and also reduces the amount of pollutants downstream because these pollutants are usually transported by sediment particles. Therefore, based on the collective functions described above and their importance to the biological, chemical, and physical integrity of the traditional navigable waters of the Edisto River, it has been determined that there is a significant nexus between the relevant reach of the offsite, Briner Branch and its adjacent wetlands (including onsite Jurisdictional Wetlands 1 & 2), that ultimately flow to the TNW, the Edisto River.**

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: **The Jurisdictional Tributary 1 (Briner Branch) is a perennial stream and appears on topo maps as both a blue line and named tributary. The tributary, including the channel and water within the tributary, are visible in aerial photography. It has a drainage area of 3,443 acres and the United States Fish and Wildlife Service's (USFWS) National Wetland Inventory (NWI), classifies Jurisdictional Tributary 1 (Briner Branch) as a riverine, unknown perennial, unconsolidated bottom, and permanently flooded (R2UBH) habitat. For these reasons, Briner Branch was determined to have perennial flow.**
☐ 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: **3,544** linear feet **12** width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

3. **Non-RPWs⁸ 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: .

⁸See Footnote # 3.

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: Jurisdictional Tributary 1 (Briner Branch) flows through **Jurisdictional Wetland 2 and shares a boundary with the wetland. Therefore, Jurisdictional Wetland 2 directly abuts the OHWM of Jurisdictional Tributary 1.**
- ☐ 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: **8.17** 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: **5.7** 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).

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.

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.

- ☒ Other: (explain, if not covered above): **This office has determined that Non-Jurisdictional Ditches 1-7 in Section III Part F of this form do not exhibit hydrologic indicators such as: ordinary high water mark, bed, bank, substrate and sediment sorting. Therefore, for these reasons these features were determined to be non-jurisdictional under Section 404 of the CWA. Non-Jurisdictional Ditches 3-5 provide a surface connection to downstream waters detailed later in this form. Also located on the property is Non-jurisdictional Borrow Pit 1, located in uplands and previously used for the purpose of road construction. As stated in the Preamble to the November 13, 1986, Regulations found on page 41217, "waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and resulting body of water meets the definition of waters of the United States. For these reasons, Non-Jurisdictional Ditches 1-7 and Non-Jurisdictional Borrow Pit 1 are determined to be non-jurisdictional and not regulated by Section 404 of the CWA.**

☐ 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.

☐ 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.

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: **Request for Corps Jurisdictional Determination, February 2, 2022.**

☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.

☐ Office concurs with data sheets/delineation report.

☐ Office does not concur with data sheets/delineation report.

☐ Data sheets prepared by the Corps: .

☐ Corps navigable waters' study: .

☐ U.S. Geological Survey Hydrologic Atlas: .

☐ USGS NHD data.

☐ USGS 8 and 12 digit HUC maps.

☒ U.S. Geological Survey map(s). Cite scale & quad name: **Figure 3. Quad Sheet (Holly Hill), (1/20/22).**

☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Figure 4. Soils Map, (1/20/22).**

☒ National wetlands inventory map(s). Cite name: **Figure 5, Aerial with NWI Map, (1/2/22).**

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

☐ FEMA/FIRM maps: .

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

☒ Photographs: ☐ Aerial (Name & Date): .

or ☒ Other (Name & Date): **Photo-stations 1-14, (2/2/22), Photo-stations 15-20, (7/6/22).**

☐ 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: Jurisdictional Tributary 1 and Jurisdictional Wetlands 1 and 2 discussed on this form are jurisdictional and subject to regulation by Section 404 of the Clean Water Act. As noted above, Non-Jurisdictional Ditches 1-7 did not exhibit hydrologic indicators such as: ordinary high water mark, bed, bank, substrate and sediment sorting. Therefore, for these reasons these features were determined to be non-jurisdictional under Section 404 of the CWA. However, Non-Jurisdictional Ditches 3-5 do provide a surface connection for Jurisdictional Wetland 1 to other downstream waters detailed in Section B of this form. Also located on the property is Non-jurisdictional Borrow Pit 1, located in uplands and previously used for the purpose of road construction. As stated in the Preamble to the November 13, 1986, Regulations found on page 41217, "waterfilled

depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and resulting body of water meets the definition of waters of the United States. For these reasons, Non-Jurisdictional Ditches 1-7 and Non-Jurisdictional Borrow Pit 1 are determined to be non-jurisdictional and not regulated by Section 404 of the CWA.