

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 2011-01357-4M Sumter County - Babb Tract

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: South Carolina County/parish/borough: **Sumter** City: **Concord Township**
Center coordinates of site (lat/long in degree decimal format): Lat. **33.863367° N**, Long. **-80.309936° W**.
Universal Transverse Mercator:

Name of nearest waterbody: **Unnamed Tributary of the Pocotaligo River**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **The Aquatic Resource on site is confined within the boundaries of the project area and therefore does not flow into a TNW.**

Name of watershed or Hydrologic Unit Code (HUC): **Black River HUC: 3040205**

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: **January 6, 2015**

Field Determination. Date(s): **January 11, 2012 ; March 15, 2012; January 14, 2015**

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 no** "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: linear feet: width (ft) and/or acres.

Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List, 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]

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.

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: A **potentially jurisdictional wetland** located within the project area was determined to be non-jurisdictional due to the lack of discernable or traceable outfall connections to other Waters of the US. Although in itself the wetland meets the criteria set forth in the 1987 Wetland Delineation Manual and the 2010 Coastal Plain Supplement, all water on site drains into the wetland. A site visit conducted on 3/15/2012 revealed that the wetland onsite is completely encompassed by soils that do not meet the hydrology criteria, and therefore disrupt any possible hydrologic connection to other wetlands or Waters of the US.

There are three non jurisdictional drainage ditches located within the project area. These ditches are determined to have been constructed out of uplands, drain only uplands, and lack evidence of an OHWM. Ditch #1 is located near the southwest corner of the project area and is determined to have been excavated out of uplands and drain only uplands. The wetland on site is separated from this ditch by approximately 840 linear feet of uplands. Further examination of this ditch, during a site visit conducted on 3/15/2012, revealed that this upland excavated feature was filled with leaf litter, overgrown with terrestrial vegetation and lacked any evidence of an OHWM.

Ditch #2 transects the northeastern border of the project area. The origin of this ditch was determined to be excavated out of uplands near but not within the boundary of the wetland on site. This ditch connects to a road side drainage ditch. During a site visit conducted on 1/11/12 this ditch was documented as a possible hydrologic conveyance, although there was no hydrology in the soils that separated the origin of this ditch from the wetland, the ditch was filled with leaf litter and no OHWM was observed. A second site visit conducted on 3/15/2014 was conducted to further investigate the possible hydrologic connection. During this visit several soil samples were taken between ditch #2 and the wetland on site, no hydric soils were observed. On 12/19/2014 a topographic survey prepared by Black River Land Surveying, LLC was submitted that revealed an increase in elevation of 140'-143' between the wetland on-site and ditch # 2. A third site visit conducted on 1/14/2015 less than 48 hours after the last recorded rain fall event revealed that although the wetland on site was inundated and flowing water was observed in a ditch on the opposite (north) side of Race Track Road, there was no observable surface flow, subsurface flow, or drainage pattern within the boundaries of the project area. Additionally, due to mechanized land clearing, the ditch in question had been filled with excavated material and debris. There was no standing water, flowing water, or drainage pattern observed near or where the ditch had once been located. No flowing water or seepage was observed in the road side ditch adjacent to the project area (on the south side of Race Track Road) and this ditch was still filled with leaf litter and debris.

Ditch #3 is located along the entire northeast boundary of the project area. This ditch runs parallel to the wetland on site and is separated from the wetland by approximately 1,000 linear feet of forested uplands. A site visit conducted on 3/15/2012 revealed that this ditch had been excavated out of uplands and draining only uplands. Additionally, ditch #3 was filled with leaf litter and lacked an OHWM. For the reasons listed above all three ditches on site were determined to provide NO hydrologic connection between off-site RPWs/TNWs and the on-site wetland.

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

(i) General Area Conditions:

Watershed size: **Pick List** ;
Drainage area: **Pick List**
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain:

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: feet
Average depth: feet
Average side slopes: **Pick List**.

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:

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Pick List**.

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:

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

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

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):

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

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:

oil or scum line along shore objects

fine shell or debris deposits (foreshore)

physical markings/characteristics

tidal gauges

other (list):

Mean High Water Mark indicated by:

survey to available datum;

physical markings;

vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

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

Explain: .

Identify specific pollutants, if known: .

⁶A 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.

⁷Ibid.

(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: .

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: acres

Wetland type. Explain: .

Wetland quality. Explain: .

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

- Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: .

Ecological connection. Explain: .

Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

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: .

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: .

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

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately () 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>

Summarize overall biological, chemical and physical functions being performed: _____

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- 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: _____

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-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: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
 Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

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

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
 Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
 Demonstrate that water is isolated with a nexus to commerce (see E below).

Explain:

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

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

⁸See Footnote # 3.

⁹To 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.

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):

There are three non jurisdictional drainage ditches located within the project area. These ditches are determined to have been constructed out of uplands, drain only uplands, and lack evidence of an OHWM. Ditch #1 is located near the southwest corner of the project area and is determined to have been excavated out of uplands and drain only uplands. The wetland on site is seperated from this ditch by approximatly 840 linear feet of uplands. Further examination of this ditch, during a site visit conducted on 3/15/2012, revealed that this upland excavated feature was filled with leaf litter, over grown with terrestrial vegetation and lacked any evidence of an OHWM.

Ditch #2 transects the northeastern border of the project area. The origin of this ditch was determined to be excavated out of uplands near but not within the boundary of the wetland on site. This ditch connects to a road side drainage ditch. During a site visit conducted on 1/11/12 this ditch was documented as a possible hydrologic conveyence, although there was no hydrology in the soils that seperated the origin of this ditch from the wetlands, the ditch was filled with leaf litter and no OHWM was observed. A second site visit conducted on 3/15/2014 was conducted to further investigate the possible hydrologic connection. During this visit several soil samples were taken between ditch #2 and the wetland on site, no hydric soils were observed. On 12/19/2014 a topographic survey prepared by Black River Land Surveying, LLC was submitted that revealed an increase in elevation of 140-143 between the wetland on-site and ditch # 2. A third site visit conducted on 1/14/2015 less than 48 hours after the last recorded rain fall event revealed that although the wetland on site was inundated and flowing water was observed in a ditch on the opposite (north) side of Race Track Road, there was no observable surface flow, subsurface flow, or drainage pattern within the boudaries of the project area. Additionally, due to mechanized land clearing, the ditch in question had been filled with excavated material and debris. There was no standing water, flowing water, or drainage pattern observed near or where the ditch had once been located. No flowing water or seepage was obseved in the road side ditch adjacent to the project area (on the south side of Race Track Road) and this ditch was still filled with leaf litter and debris..

Ditch #3 is located along the entire northeast boundary of the project area. This ditch runs parrall to the wetland on site and is seperated from the wetland by approximately 1,000 linear feet of forested uplands. A site visit conducted on 3/15/2012 revealed that this ditch had been excavated out of lands and drained only uplands. Additionaly, ditch #3 was filled with leaf litter and lacked an OHWM. For the reasons listed above all three ditches on site were determined to provide NO hydrologic connection between off-site RPWs/TNWs and the on-site wetland .

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: **4.07** 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: **The project area is depicted on the survey plat, submitted by the applicant, prepared by Black River Land Survey, LLC, titled, "BOUNDARY AND WETLAND SURVEY / RACETRACK ROAD AND US HWY 521 / SITUATED IN CONCORD TOWNSHIP, COUNTY OF SUMTER / STATE OF SOUTH CAROLINA," and dated 12/09/2014.**
- 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: **Brogdon Quad; USGS topographic survey information within Brogdon quad depicts the project area as a combination of cleared and forested uplands with a small wetland located at the center of the project area. The quad does not depict any blue line features, that would typically represent a water of the United States located within the project area.**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Sumter County Soil Sheet # 85; Sumter County Soil Survey information depicts the project area as being comprised of the following soil types: Norfolk and Coxville. Coxville is an all hydric poorly drained sandy loam and Norfolk is a partially hydric well drained loamy sand.**
- National wetlands inventory map(s). Cite name: **U21, PFO1 and PFO4; The NWIs depict the project area as a combination of upland pasture/cropland and palustrine forest.**
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **99:11203:9 and SCDNR 2006.**
or Other (Name & Date): **Site Photos taken by Josh Mitchell of the Corps taken on 3/15/2012..**
- 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 form address a 39.62 acre tract that contains 35.19 acres of uplands and 4.07 acres of wetlands that lack a hydrologic connection to other waters of the United States.

The wetland located within the project area was determined to be non-jurisdictional due to the lack of discernable or traceable outfall connections to other Waters of the US. Although in itself the wetland meets the criteria set forth in the 1987 Wetland Delineation Manual and the 2010 Coastal Plain Supplement, all water on site was found to drain into the wetland. A site visit conducted on 3/15/2012 revealed that the wetland onsite is completely encompassed by soils that do not meet the hydrology criteria, and therefor disrupt any possible hydrologic connection to other wetlands or Waters of the US.

There are three non jurisdictional drainage ditches located within the project area. These ditches are determined to have been constructed out of uplands, drain only uplands, and lack evidence of an OHWM. Ditch #1 is located near the southwest corner of the project area and is determined to have been excavated out of uplands and drain only uplands. The wetland on site is seperated from this ditch by approximatly 840 linear feet of uplands. Further examination of this ditch, during a site visit conducted on 3/15/2012, revealed that this upland excavated feature was filled with leaf litter, over grown with terrestrial vegetation and lacked any evidence of an OHWM.

Ditch #2 transects the northeastern border of the project area. The origin of this ditch was determined to be excavated out of uplands near but not within the boundary of the wetland on site. This ditch connects to a road side drainage ditch. During a site visit conducted on 1/11/12 this ditch was documented as a possible hydrologic conveyence, although there was no hydrology in the soils that seperated the origin of this ditch from the wetlands, the ditch was filled with leaf litter and no OHWM was observed. A second site visit conducted on 3/15/2014 was conducted to further investigate the possible hydrologic connection. During this visit several soil samples were taken between ditch #2 and the wetland on site, no hydric soils were observed. On 12/19/2014 a topographic survey prepared by Black River Land Surveying, LLC was submitted that revealed an increase in elevation of 140'-143' between the wetland on-site and ditch # 2. A third site visit conducted on 1/14/2015 less than 48 hours after the last recorded rain fall event revealed that although the wetland on site was inundated and flowing water was observed in a ditch on the opposite (north) side of Race Track Road, there was no observable surface flow, subsurface flow, or drainage pattern within the boudaries of the project area. Additionally, due to mechanized land clearing, the ditch in question had been filled with excavated material and debris. There was no standing water, flowing water, or drainage pattern observed near or where the ditch had once been located. No flowing water or seepage was obseved in the road side ditch adjacent to the project area (on the south side of Race Track Road) and this ditch was still filled with leaf litter and debris.

Ditch #3 is located along the entire northeast boundary of the project area. This ditch runs parrall to the wetland on site and is seperated from the wetland by approximatly 1,000 linear feet of forested uplands. A site visit conducted on 3/15/2012 revealed that this ditch had been excavated out of uplands and drained only uplands. Additioinaly, ditch #3 was filled with leaf litter and lacked an OHWM. For the reasons listed above all three ditches on site were determined to provide NO hydrologic connection between off-site RPWs/TNWs and the on-site wetland.