

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

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** February 13, 2023

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** JD Form 1 of 2; SAC-2010-00830 Clarios, LLC / Florence Recycling Center Tract

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

State: South Carolina County/parish/borough: Florence County City:  
Center coordinates of site (lat/long in degree decimal format): Lat. 34.1608°, Long. -79.5668°. Universal Transverse Mercator:

Name of nearest waterbody: Great Pee Dee River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: The aquatic resources documented on this form were determined to be isolated and do not flow into a TNW.

Name of watershed or Hydrologic Unit Code (HUC): HUC 03040201-1003 & 03040201-0905

☒ 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: October 3, 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 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):<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: acres.

**c. Limits (boundaries) of jurisdiction based on: 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: **Two potentially jurisdictional wetlands, labeled Non-jurisdictional Wetland I and Non-jurisdictional Wetland J and totaling 13.16 acres, are located within the project area. These two depressional wetlands are depicted as uplands on the topographic map. The topographic map does not depict any blue lines adjacent to these two wetlands.**

<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.

The soil survey maps these two areas as Pantego, which is a hydric soil. The NWIs map these two wetlands as PFO1/2Fd. Both of these wetlands are depressional wetlands with no discernible outfall. Based on information submitted by the agent, the two onsite non-jurisdictional wetlands were determined to be surrounded by non-hydric soils and have no connection to any other potential WOUS. A previous JD that encompassed this site determined that both of these wetlands were isolated. Therefore, based on the review of the information provided by the agent in the submittal dated September 18, 2020, and revised on August 31, 2022, as well as aerials, topographic maps, soil survey, and NWIs, Non-jurisdictional Wetlands I and J were determined to be isolated and non-jurisdictional.

These depressional wetlands exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfies the criteria set forth in the 1987 Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement. All water located within or draining toward these wetlands has no connection to any WOUS. Additionally, these wetlands are completely surrounded by uplands, which further disrupts any possible connection to any WOUS. Because of the lack of discernible outfall, topography grades and lack of evidence of chemical, physical, or biological connection, these two wetlands were determined to be isolated, non-jurisdictional.

### **SECTION III: CWA ANALYSIS**

#### **A. TNWs AND WETLANDS ADJACENT TO TNWs**

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

**1. TNW**

Identify TNW: .

Summarize rationale supporting determination: .

**2. Wetland adjacent to TNW**

Summarize rationale supporting conclusion that wetland is “adjacent”: .

#### **B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):**

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<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: **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 TNW<sup>5</sup>: .

Tributary stream order, if known: .

<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.

(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):**

<input type="checkbox"/> Silts	<input type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover:	
<input type="checkbox"/> 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:** .

☐ Dye (or other) test performed: .

**Tributary has (check all that apply):**

<input 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):	
<input type="checkbox"/> Discontinuous OHWM. <sup>7</sup> Explain: .	

**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:** .

**Identify specific pollutants, if known:** .

<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.

(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:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

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: .

### 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: .  
☐ 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.<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).

**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:** .

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

<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 estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
- Identify type(s) of waters: .
- ☐ Wetlands: acres.

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

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

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: 13.16 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: Report and Sketch by TRC Environmental Corp.
- ☒ 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: USGS Topographic Map / 7.5 Minute Index / Pee Dee Quad.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS Soil Survey Geographic Database (SSURGO) Map Service created on March 31, 2021, and updated on April 26, 2021.
- ☒ National wetlands inventory map(s). Cite name: Wetlands Raster REST Map dated March 30, 2021, and updated on May 19, 2021.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth aerials dated May 8, 2021.  
or ☒ Other (Name & Date): Site photographs submitted by the agent dated June 26, 2019
- ☒ Previous determination(s). File no. and date of response letter: SAC-2010-00830, letter dated August 30, 2011.
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** Two potentially jurisdictional wetlands, labeled Non-jurisdictional Wetland I and Non-jurisdictional Wetland J and totaling 13.16 acres, are located within the project area. These two depressional wetlands are depicted as uplands on the topographic map. The topographic map does not depict any blue lines adjacent to these two wetlands. The soil survey maps



these two areas as Pantego, which is a hydric soil. The NWIs map these two wetlands as PFO1/2Fd. Both of these wetlands are depressional wetlands with no discernible outfall. Based on information submitted by the agent, the two onsite non-jurisdictional wetlands were determined to be surrounded by non-hydric soils and have no connection to any other potential WOUS. A previous JD that encompassed this site determined that both of these wetlands were isolated. Therefore, based on the review of the information provided by the agent in the submittal dated September 18, 2020, and revised on August 31, 2022, as well as aerials, topographic maps, soil survey, and NWIs, Non-jurisdictional Wetlands I and J were determined to be isolated and non-jurisdictional.

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Universal Transverse Mercator:

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Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Great Pee Dee River.

Name of watershed or Hydrologic Unit Code (HUC): HUC 03040201-0905

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

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- ☐ 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: acres.

**c. Limits (boundaries) of jurisdiction based on: **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: **A potentially jurisdictional linear feature is present within the review area. This 66.10 If feature is located between Jurisdictional Wetland C and Jurisdictional Wetland D; however, it was determined to be excavated out of uplands. Although the NWIs map this area as wetlands, data points taken by the agent in this area found no indicators**

<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.

of hydrology, hydrophytic vegetation, nor hydric soils. Therefore, this linear feature was determined to be a non-jurisdictional ditch.

### **SECTION III: CWA ANALYSIS**

#### **A. TNWs AND WETLANDS ADJACENT TO TNWs**

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

**1. TNW**

Identify TNW: .

Summarize rationale supporting determination: .

**2. Wetland adjacent to TNW**

Summarize rationale supporting conclusion that wetland is “adjacent”: .

#### **B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):**

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<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: **31,038.18 acres**; HUC: **03040201-0905 Lower Jeffries Creek Watershed**

Drainage area: **216.5 acres**

Average annual rainfall: 44.76 inches

Average annual snowfall: 0-1 inches

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

☐ Tributary flows directly into TNW.

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

Project waters are **5-10** river miles from TNW.

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

Project waters are **1 (or less)** aerial (straight) miles from TNW.

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

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

Identify flow route to TNW<sup>5</sup>: The tributary named Moore Branch flows into a second order stream before flowing into Jeffries Creek, a pRPW. Jeffries Creek continues southeast where it enters the Great Pee Dee River, a 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: 1<sup>st</sup> Order Stream.

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

**Tributary is:** ☐ Natural  
☐ Artificial (man-made). Explain: .  
☒ Manipulated (man-altered). Explain: Portions of Moore Branch have been straightened.

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

Average width: 4-6 feet

Average depth: 2-4 feet

Average side slopes: **Vertical**.

Primary tributary substrate composition (check all that apply):

☒ Silts ☒ Sands ☐ Concrete  
☐ Cobbles ☐ Gravel ☐ Muck  
☐ Bedrock ☐ Vegetation. Type/% cover:  
☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: The tributary is relatively stable with no erosion or sloughing banks present.

Presence of run/riffle/pool complexes. Explain: No run/riffle/pool complexes.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): 0-1 %

(c) Flow:

Tributary provides for: **Perennial Flow**

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

Describe flow regime: According to the NHD and topographic map, this tributary is a 1<sup>st</sup> order stream that is depicted as a blue line on both the NHD and the topographic map.

Other information on duration and volume: The tributary is recharged by groundwater as well as overland sheetflow from adjacent wetlands.

Surface flow is: **Discrete and confined**. Characteristics: Under normal circumstances, surface flow is restricted to the bed and banks of the tributary.

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

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

☒ Bed and banks  
☒ OHWM<sup>6</sup> (check all indicators that apply):  
☒ clear, natural line impressed on the bank ☐ the presence of litter and debris  
☐ changes in the character of soil ☒ destruction of terrestrial vegetation  
☐ shelving ☐ the presence of wrack line  
☒ vegetation matted down, bent, or absent ☐ sediment sorting  
☒ leaf litter disturbed or washed away ☐ scour  
☐ sediment deposition ☐ multiple observed or predicted flow events  
☐ water staining ☐ abrupt change in plant community  
☐ other (list):  
☐ Discontinuous OHWM.<sup>7</sup> Explain: .

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

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

(iii) **Chemical Characteristics:**

<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.

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

Explain: The offsite tributary named Moore Branch has no discoloration or oily film present. Land use in the Jeffries Creek Watershed (HUC: 03040201-09) is comprised of 28.3% forested wetland, 27.5% agricultural land, 23.9% forested land, 18.4% urban land, 1.4% nonforested wetland, 0.4% water, and 0.1% barren land. There are a total of 229.5 stream miles and 353.2 acres of lake waters in this watershed.

Identify specific pollutants, if known: According to the SCDHEC Watershed Assessment, the downstream monitoring station on Jeffries Creek (PD-231), which is located at the intersection of Moore Branch and Jeffries Creek, shows that aquatic life uses and recreational uses are fully supported. However, there are significant decreasing trends in dissolved oxygen concentration and increasing trends in fecal coliform bacteria, turbidity, and five-day biological oxygen demand.

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

☒ Riparian corridor. Characteristics (type, average width): A review of arials determined that this tributary supports a riparian zone, which contributes to the overall health of the aquatic system by filtering out pollutants and preventing erosion.

☐ 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: (Jurisdictional Wetland C) 7.71 acres + (Jurisdictional Wetland D) 2.47 acres = 10.18 acres

Wetland type. Explain: Freshwater Palustrine Forested/Shrub Wetlands.

Wetland quality. Explain: Fully functional and slightly impaired. A portion of the wetland system is located within a power line easement and has been cleared.

Project wetlands cross or serve as state boundaries. Explain: N/A.

**(b) General Flow Relationship with Non-TNW:**

Flow is: **Ephemeral Flow**. Explain: The wetlands flow into the downstream tributary after rainfall events.

Surface flow is: **Overland Sheetflow**

Characteristics: Wetland C flows into Moore Branch via overland sheetflow. Wetland D flows into Moore Branch via a non-jurisdictional ditch and overland sheetflow.

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: Wetland D has a direct hydrological connection to the downstream Moore Branch via a non-jurisdictional ditch and overland sheetflow.

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

**(d) Proximity (Relationship) to TNW**

Project wetlands are **5-10** river miles from TNW.

Project waters are **1 (or less)** aerial (straight) miles from TNW.

Flow is from: **Wetland to Navigable Waters**.

Estimate approximate location of wetland as within the **100-500 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: According to the site photographs submitted by the agent, the wetlands have no discoloration or oily film present. Land use in the Jeffries Creek Watershed (HUC: 03040201-09) is comprised of 28.3% forested wetland, 27.5% agricultural land, 23.9% forested land, 18.4% urban land, 1.4% nonforested wetland, 0.4% water, and 0.1% barren land. There are a total of 229.5 stream miles and 353.2 acres of lake waters in this watershed.

Identify specific pollutants, if known: According to the SCDHEC Watershed Assessment, the downstream monitoring station on Jeffries Creek (PD-231), which is located at the intersection of Moore Branch and Jeffries Creek, shows that aquatic life uses and

recreational uses are fully supported. However, there are significant decreasing trends in dissolved oxygen concentration and increasing trends in fecal coliform bacteria, turbidity, and five-day biological oxygen demand.

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

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☒ Vegetation type/percent cover. Explain: Acer rubrum, Quercus nigra, Pinus taeda, Magnolia virginiana, Rhexia alifanus, Polygala lutea, and Juncus tenuis.
- ☐ 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: **4**

Approximately ( 22 ) 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>
Y	7.71 acres	N	2.47 acres
Y	5.84 acres	N	5.61 acres

Summarize overall biological, chemical and physical functions being performed: The downstream perennial RPW, which is named Moore Branch and is a tributary of Jeffries Creek, and its adjacent wetlands, are performing important biological, chemical, and physical functions within a 216.5 acre drainage area. According to the SC DHEC Watershed Assessment, this watershed (HUC: 03040201-09) is comprised of 28.3% forested wetland, 27.5% agricultural land, 23.9% forested land, 18.4% urban land, and 1.4% nonforested wetland. This watershed has a large percentage of forested land and land that is in agricultural production, which means the potential exists for sediments and herbicides to enter the downstream TNW. The majority of the wetlands in this drainage area are depressional wetlands that receive and store runoff from the uplands. This water storage prevents flood flows from high rainfall events from moving quickly downstream. The perennial RPW and its adjacent wetlands are acting as a catch basin to help filter out pollutants. This wetland system enhances wildlife diversity, supports the downstream food web, and provides nutrient fixation, flood attenuation, and flow maintenance functions. See Section III.C.3 below for more information.

## 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 offsite tributary and all similarly situated and adjacent freshwater wetlands are collectively performing functions consistent with the following: Biological – wetlands adjacent to this RPW include depressional wetlands. As such a variety of biological functions are being performed which include providing breeding grounds and shelter for aquatic species and foraging areas for wetland dependent species. These wetlands and the RPW are essential in providing organic carbons in the form of their collective primary productivity to downstream waters, resulting in the nourishment of the downstream food web. Chemical – the wetlands and RPW in the drainage area are providing the important collective functions of the removal of excess nutrients from the downstream TNW. These pollutants, which are contributed by runoff from the adjacent uplands, are prevented from being discharged downstream due to suspended sediments and other pollutants being retained within the wetlands. The low velocity and gradient of the RPW also contributes to the removal of pollutants because the suspended pollutants have time to settle out of the water. This reduces nitrogen and phosphorus loading downstream and effectively prevents oxygen depletion that can result from eutrophication. Physical – The RPW and adjacent wetlands are collectively performing flow maintenance functions, including retaining runoff inflow and storing rainwater temporarily. Flow maintenance results in the reduction of downstream peak flows (discharge and volumes), helping to maintain seasonal flow volumes and reducing the frequency of overbank events which flood adjacent properties. Increased water velocity also increases the rate of erosion downstream, which not only leads to a loss of land but also increases the amount of sediment and other pollutants in the TNW. Based on the collective functions described above and their importance to the biological, chemical, and physical integrity of the traditional navigable waters of the Great Pee Dee River, it has been determined that there is a significant nexus between the relevant reach of the 1<sup>st</sup> order stream named Moore Branch and all adjacent wetlands to the downstream TNW.

**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: Moore Branch, located immediately downstream of the onsite jurisdictional wetlands, is a 1<sup>st</sup> order stream that is depicted as a blue line on the topographic map and the NHD. Therefore, this tributary 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: 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: Jurisdictional Wetland C is a portion of a larger wetland system that continues west off site. The blue line depicted on the NHD and topo map named Moore Branch is located immediately west of the site and

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



intersects the boundary of this wetland. Therefore, Jurisdictional Wetland C was determined to directly abut the perennial RPW named Moore Branch.

- ☐ 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: (Jurisdictional Wetland C) 7.71 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: (Jurisdictional Wetland D) 2.47 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).

**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): A non-jurisdictional ditch is in the review area.

<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, 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: 13.16 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: Report and Sketch by TRC Environmental Corp.  
☒ 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: USGS Topographic Map / 7.5 Minute Index / Pee Dee Quad.  
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS Soil Survey Geographic Database (SSURGO) Map Service created on March 31, 2021, and updated on April 26, 2021.  
☒ National wetlands inventory map(s). Cite name: Wetlands Raster REST Map dated March 30, 2021, and updated on May 19, 2021.  
☐ State/Local wetland inventory map(s): .  
☐ FEMA/FIRM maps: .  
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)  
☒ Photographs: ☒ Aerial (Name & Date): Google Earth aerials dated May 8, 2021.  
☐ or ☒ Other (Name & Date): Site photographs submitted by the agent dated June 26, 2019  
☒ Previous determination(s). File no. and date of response letter: SAC-2010-00830, letter dated August 30, 2011.  
☐ Applicable/supporting case law: .  
☐ Applicable/supporting scientific literature: .  
☐ Other information (please specify): .

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** Two jurisdictional wetlands, labeled Jurisdictional Wetland C and Jurisdictional Wetland D are located within the project area. These two wetlands are depicted as freshwater Palustrine Forested/Shrub Wetlands on the NWIs and as Pantego, a hydric soil, on the soil survey. The topographic map and NHD depict a blue line immediately west of the jurisdictional wetlands. Jurisdictional Wetland C was determined to continue west off site and directly abut this blue line named Moore Branch. Jurisdictional Wetland D was determined to have a direct hydrological connection to the downstream tributary named Moore Branch (See Section IIIC for significant nexus determination). The previous determination for this site (SAC-2010-00830, letter dated August 30, 2011) found both of these wetlands were jurisdictional. Moore Branch, the off site tributary, was determined to have perennial flow based on a review of the topographic map, soil survey, NWIs, and NHD. The soil survey maps this tributary and the adjacent offsite wetlands as Coxville, a hydric soil. The NWIs, NHD, and topographic map depict this tributary as a blue line. Moore Branch, a 1<sup>st</sup> order tributary, becomes a 2<sup>nd</sup> order tributary before flowing into Jeffries Creek, a perennial RPW, that continues southeast into the Great Pee Dee River, a TNW.