

**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): October 29, 2012**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 1 of 1; SAC#2012-00410-2JR; Trident Commercial, Inc.**

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

State: South Carolina County/parish/borough: **Berkeley** City: **Goose Creek**  
Center coordinates of site (lat/long in degree decimal format): Lat. **33.039874° N**, Long. **-80.070886° W**.  
Universal Transverse Mercator:

Name of nearest waterbody: **Daisy Swamp**

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

Name of watershed or Hydrologic Unit Code (HUC): **3050201**

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:

Field Determination. Date(s): **5/8/12, 7/18/12**

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

Explain: .

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

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

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

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: ~284.16 linear feet: width (ft) and/or 0.07 acres.

Wetlands: **0.24** acres.

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

Elevation of established OHWM (if known): .

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup> [Including potentially jurisdictional features that upon assessment are NOT waters or wetlands]**

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: .

<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.

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: **49,168 acres** ;

Drainage area: **72 acres**

Average annual rainfall: **48 inches**

Average annual snowfall: **0 inches**

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through **5** tributaries before entering TNW.

Project waters are **15-20** river miles from TNW.

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

Project waters are **5-10** 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: \_\_\_\_\_ .

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

Identify flow route to TNW<sup>5</sup>: **To the south, Daisy Swamp intercepts Huckhold Swamp which flows to Bluehouse Swamp which is contiguous with Goose Creek which flows to the Cooper River. To the north, Daisy Swamp is bisected by Hwy 176, but the system continues on and intercepts the Back River which flows to the Cooper River.**  
Tributary stream order, if known:

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

Tributary is:  Natural  
 Artificial (man-made). Explain:  
 Manipulated (man-altered). Explain: **The project site and wetland to the NW were all one**

**system in the past, but have been bisected by Devon Road and are connected now via a culvert under Devon Road. There may have been a natural tributary here in the past that was routed around the project site when Devon Road was constructed.**

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

Average width: **9 feet at top of bank** feet

Average depth: **3** feet

Average side slopes: **3:1**.

Primary tributary substrate composition (check all that apply):

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

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: **stable.**

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

Tributary geometry: **Relatively straight.**

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

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **11-20**

Describe flow regime: **Flow is based on rainfall/storm events and/or seasonal rainfall.**

Other information on duration and volume:

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

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

Dye (or other) test performed:

Tributary has (check all that apply):

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>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.

<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 water flowing through the tributary is clear of debris and sediment. There is no oily film and the water quality appears good. There are no industries in the area, only residential areas and some small businesses.**  
Identify specific pollutants, if known: **Unknown.**

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

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
- Federally Listed species. Explain findings:
- Fish/spawn areas. Explain findings:
- Other environmentally-sensitive species. Explain findings:
- Aquatic/wildlife diversity. Explain findings: **The fringe vegetation along the SRPW provides habitat for insects, amphibians, reptiles, and small mammals.**

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: **0.24** acres

Wetland type. Explain: **freshwater herbaceous.**

Wetland quality. Explain: **partially impacted, as the site has been cleared.**

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: **Flow between the on-site wetland and the off-site roadside ditch / SRPW is expected to be based on rainfall/storm events and/or seasonal rainfall**

Surface flow is: **Overland sheetflow**

Characteristics:

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

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **15-20** river miles from TNW.

Project waters are **5-10** aerial (straight) miles from TNW.

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

Estimate approximate location of wetland as within the **50 - 100-year** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: **Standing water was clear. The subject tract was cleared within the last year and the vegetation is currently composed of shrub and herbaceous such as *Woodwardia areolata*, *Pteridium aquilinum* and *Pinus taeda*. The watershed is bounded by a 4 lane highway (Hwy 176) to the north, a small commercial business directly to the east with Daisy Swamp immediately adjacent to the east of that business, a residential area to the south, and a road (Devon Road) to the west, with palustrine uplands and wetlands immediately adjacent west of Devon Road.**

Identify specific pollutants, if known: **Runoff may include oils and grease from Hwy 176.**

(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: **The subject wetland has been impacted by clearing previously, but vegetation is returning and includes such species as *Woodwardia areolata*, *Pteridium aquilinum* and *Pinus taeda*. This area would attract small mammals, resident and migratory bird species, and a variety of herptile fauna and insects. The wetlands provide a "safe haven" for organisms moving between wetlands and tributaries in the vicinity, in addition to providing habitat for all or part of the lives of wildlife using the wetland.**

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

All wetland(s) being considered in the cumulative analysis: **2**

Approximately ( **1.74** ) 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>
Upstream off-site <b>Y</b>	<b>1.5</b>		
On-site <b>Y</b>	<b>0.24</b>		

Summarize overall biological, chemical and physical functions being performed: This review area includes 1 upstream, off-site wetland and the on-site wetland. It is approximately 72 acres in size and comprised of ~ 1.74 acres of wetlands. The review area is located at the headwaters of the watershed and includes a SRPW that drains from an off-site wetland, through a culvert onto the subject site, before flowing into an off-site ditch / SPRW that runs alongside St. James Avenue / Hwy 176 and drains into Daisy Swamp, a large system that is bisected by St. James Avenue. However, the swamp drains to the north and the south through a series of swamps and RPWs before reaching the Cooper River. Headwater systems provide a variety of functions that are important for the downstream waters and the watershed as a whole. The wetlands and tributaries not only provide habitat for various aquatic and terrestrial organisms, including a variety of insects, amphibians, reptiles, mammals, and birds, but area also a source of food, nutrients, and carbon for organisms located downstream. The headwater wetlands and tributaries are especially important for the water quality of a watershed. Water runoff from adjacent uplands that may contain pollutants, sediments, excess nutrients (i.e. phosphorus and nitrogen), etc, that flows through the wetlands before entering the tributaries may be filtered out prior to flowing to downstream TNWs, thereby reducing eutrophication. In addition, excess water can be stored temporarily, minimizing potential flooding of downstream areas and slowly release water downstream to maintain seasonal flow volumes. Runoff water may also transport organisms, nutrients, and carbon from the wetlands into the tributaries, which continue to flow to downstream TNWs.

**C. SIGNIFICANT NEXUS DETERMINATION**

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

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

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

**Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:**

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

**Documentation for the Record only: Significant nexus findings for seasonal RPWs and/or wetlands abutting seasonal RPWs:** The tributary originates off-site, in wetlands west of the subject tract. It is piped under Devon Blvd. and flows toward Hwy 176 where it drains into a large roadside ditch/SRPW which drains into Daisy Swamp. (It is noted that upstream of the confluence point of the on-site SRPW and the roadside ditch/SRPW, the roadside ditch is not a jurisdictional feature.) The original tributary and off-site wetlands are located in Meggett soils. This soil system is continuous to and throughout Daisy Swamp. The tributary had a sandy bottom, exhibited bed and bank and an OHWM. This off-site and on-site tributary provides an ecological connection with downstream waters as small wildlife can move along the tributary from the upstream wetland to the SE to Daisy Swamp and vice versa. Organisms that typically use these areas include mammals, reptiles, amphibians, and birds. The DHEC Watershed analysis indicates that the project area is located in HUC#03050201-060, Back River Watershed. However, Daisy Swamp, to which this SRPW flows, is located in both the Back River Watershed and the Goose Creek Watershed (HUC#3050201-070). Downstream of the project site, aquatic life uses are not fully supported at the closest monitoring stations in Goose Creek, due to dissolved oxygen excursions, nor in the Back River, due to dissolved oxygen excursions and copper occurrences. The DHEC report for the Goose Creek Watershed states, "Significant decreasing trends in five-day biochemical oxygen demand, turbidity, and total nitrogen concentration suggest improving conditions for these parameters. There is a significant increasing trend in pH. Recreational uses are partially supported at this site due to fecal coliform bacteria excursions, however, a significant decreasing trend in fecal coliform bacteria concentration suggests improving conditions for this parameter". The DHEC report for the Back River Watershed states, "Aquatic life uses are not supported due to occurrences of copper in excess of the aquatic life acute criterion and dissolved oxygen excursions. Recreational uses are fully supported." The Back River Reservoir is used for electric power generation, water intake by industry, and by the public for recreation. These adjacent, off-site and on-site wetlands are ecologically important in the upper reaches of this watershed because they protect the quality of downstream waters by filtering out pollutants, sediments, and excess nutrients, etc. from water runoff from adjacent uplands. In addition, excess water can be stored here minimizing potential flooding of downstream areas and can also slowly release water downstream to maintain seasonal flow volumes. Runoff water through the SRPW may also transport organisms, nutrients, and carbon from the wetlands into the tributaries, which continue to flow to downstream TNWs. The SRPW and adjacent wetlands have a significant nexus 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: .
- 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: **The tributary originates off-site, in wetlands west of the subject tract. It is piped under Devon Blvd. and flows toward Hwy 176 where it intercepts a large roadside ditch./SRPW which drains into Daisy Swamp. To the south, Daisy Swamp intercepts Huckhold Swamp which flows to Bluehouse Swamp which is contiguous with Goose Creek which flows to the Cooper River. To the north, Daisy Swamp is bisected by Hwy 176, but the system continues on and intercepts the Back River which flows to the Cooper River. The original tributary and off-site wetlands are located in Meggett soils. This soil system continuous to and throughout Daisy Swamp. The tributary had a sandy bottom, exhibited bed and bank and an OHWM. It was not flowing at the initial site visit, but it was flowing during the second site visit. Based on the flow pattern and the physical characteristics, it is considered a seasonal tributary.**

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

- Tributary waters: **284.16** linear feet **3** 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: .

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

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

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
- Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **The wetland in question is located at the eastern corner of the subject site. It abuts and drains into the roadside ditch/SRPW which flows approximately 150 feet downstream directly into Daisy Swamp. The on-site wetland may have been part of the larger wetland system (Daisy Swamp) to the SE prior to construction of the adjacent business, as the Meggett soils on the subject site extend off-site through the larger wetland system.**
- 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: **0.24** 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).

**Explain:**

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

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

**Identify water body and summarize rationale supporting determination:**

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

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

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

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).

<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.**

- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): .

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

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

#### **SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Red Bay Environmental; Jud Goff.**
- 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: **Mt. Holly.**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Berkeley County Soil Survey; soil sheet 80.**
- National wetlands inventory map(s). Cite name: **Mt. Holly map info.**
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **2006 map info.**
  - or  Other (Name & Date): .
- 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: It is the determination of this office that the 0.24 acres of wetlands and the ~284.16 feet/0.07 acre SRPW located on the project site are jurisdictional as the wetlands and the SRPW ultimately connect with and flow into Daisy Swamp, which flows through various other swamp/tributary systems prior to discharging into the Cooper River. This determination was made through an on-site visit and the use and review of available information such as: aerial photos, USGS quad sheets/topo maps, USDA soil survey data, National Wetland Inventory data, and Google Earth satellite photos.**