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): December 6, 2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SAC # 2016-01306 (Form 1 of 2) Cannon Tract

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. 33.050617° N, Long. -80.091428 ° W.
   Universal Transverse Mercator:
   Name of nearest waterbody: King Branch
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: None
   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: 10/20/16
   ☑ Field Determination. Date(s): 9/21/16

SECTION II: SUMMARY OF FINDINGS
A. RHA SECTION 10 DETERMINATION OF JURISDICTION.
   There Are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]
   □ Waters subject to the ebb and flow of the tide.
   □ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.
   There Are no “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]
   1. Waters of the U.S.
      a. Indicate presence of waters of U.S. in review area (check all that apply): 1
         □ TNWs, including territorial seas
         □ Wetlands adjacent to TNWs
         □ Relatively permanent waters2 (RPWs) that flow directly or indirectly into TNWs
         □ Non-RPWs that flow directly or indirectly into TNWs
         □ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
         □ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
         □ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
         □ Impoundments of jurisdictional waters
         □ Isolated (interstate or intrastate) waters, including isolated wetlands

      b. Identify (estimate) size of waters of the U.S. in the review area:
         Non-wetland waters: linear feet: width (ft) and/or acres.
         Wetlands: acres.

      c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual, Pick List, Pick List
         Elevation of established OHWM (if known): .

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

1 Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2 For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least “seasonally” (e.g., typically 3 months).
3 Supporting documentation is presented in Section III.F.
Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: There are three (3) wetlands located within the project review area that were determined to be non-jurisdictional. Wetland C is approximately 0.28 acre in size. It is surrounded by uplands and is a depressional wetland positioned lower in the landscape than the surrounding uplands. There is a linear feature (Linear Feature C) that begins in the wetland and flows out of the wetland through the uplands, but the linear feature ends in the uplands and does not connect through to any wetlands or other waters of the U.S. No evidence of a discrete surface hydrologic connection through the uplands to any wetlands or other waters of the U.S. was observed. There was also no apparent shallow subsurface hydrologic connection, and no apparent physical, chemical, or biological connection, to waters of the U.S. In addition, the wetland has no apparent ecological interconnection to waters of the U.S. For these reasons, the Wetland C was determined to be isolated and non-jurisdictional, therefore not regulated by Section 404 of the CWA.

The above referenced Linear Feature C was also determined to be non-jurisdictional. The linear feature was excavated mostly from uplands (except for the small portion excavated from within the wetland), was a shallow swale like feature, had no OHW mark, had no evidence of relatively permanent flow, and did not connect from a wetland to another wetland or waters of the U.S. It ended in the uplands. For these reasons, Linear Feature C was determined to be non-jurisdictional, therefore not regulated by Section 404 of the CWA.

Wetland D is approximately 1.57 acres in size. It is surrounded by uplands and is a depressional wetland positioned lower in the landscape than the surrounding uplands. No evidence of a discrete surface hydrologic connection through the uplands to any wetlands or other waters of the U.S. was observed. There was also no apparent shallow subsurface hydrologic connection, and no apparent physical, chemical, or biological connection, to waters of the U.S. In addition, the wetland has no apparent ecological interconnection to waters of the U.S. For these reasons, the Wetland D was determined to be isolated and non-jurisdictional, therefore not regulated by Section 404 of the CWA.

Wetland E is approximately 2.12 acres in size. It is surrounded by uplands and is a depressional wetland positioned lower in the landscape than the surrounding uplands. No evidence of a discrete surface hydrologic connection through the uplands to any wetlands or other waters of the U.S. was observed. There was also no apparent shallow subsurface hydrologic connection, and no apparent physical, chemical, or biological connection, to waters of the U.S. In addition, the wetland has no apparent ecological interconnection to waters of the U.S. For these reasons, the Wetland E was determined to be isolated and non-jurisdictional, therefore not regulated by Section 404 of the CWA.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
   Identify TNW:
   Summarize rationale supporting determination:

2. Wetland adjacent to TNW
   Summarize rationale supporting conclusion that wetland is “adjacent”:

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

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

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

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

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

   Tributary is:  □ Natural  □ Artificial (man-made). Explain:  .

   Tributary properties with respect to top of bank (estimate):
   Average width:  feet
   Average depth:  feet
   Average side slopes: Pick List.

   Primary tributary substrate composition (check all that apply):
   □ Silts  □ Sands  □ Concrete
   □ Cobbles  □ Gravel  □ Muck
   □ Bedrock  □ Vegetation. Type/% cover:
   □ Other. Explain:  .

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

   Subsurface flow: Pick List. Explain findings:  .
   □ Dye (or other) test performed:  .

   Tributary has (check all that apply):

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

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

OHWM\(^6\) (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
- sediment deposition
- scour
- water staining
- multiple observed or predicted flow events
- abrupt change in plant community

other (list):

Discontinuous OHWM.\(^7\) Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
- High Tide Line indicated by:
  - oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gauges
  - vegetation lines/changes in vegetation types.

Mean High Water Mark indicated by:
- survey to available datum;
- physical markings;
- other (list):

(ii) 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:

(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width): .
- 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:
- General Wetland Characteristics:
  Properties:
  - Wetland size: acres
  - Wetland type. Explain:
  - Wetland quality. Explain:
  - Project wetlands cross or serve as state boundaries. Explain:

- 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:

- Wetland Adjacency Determination with Non-TNW:
  - Directly abutting
  - Not directly abutting
  - Discrete wetland hydrologic connection. Explain:
  - Ecological connection. Explain:
  - Separated by berm/barrier. Explain:

- Proximity (Relationship) to TNW
  Project wetlands are Pick List river miles from TNW.

\(^6\)A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody’s flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

\(^7\)Ibid.
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:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

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

C. SIGNIFICANT NEXUS DETERMINATION

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

Draw connections between the features documented and the effects on the TNW, as identified in the Rapanos Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

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

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .
2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: 

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:
   - TNWs: linear feet width (ft), Or, acres.
   - Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.
   - Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: 
   - Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:
     - Provide estimates for jurisdictional waters in the review area (check all that apply):
       - Tributary waters: linear feet width (ft).
       - Other non-wetland waters: acres.
       - Identify type(s) of waters: 

3. Non-RPWs* 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.

*See Footnote # 3.
Provide estimates for jurisdictional wetlands in the review area: __________ acres.

7. **Impoundments of jurisdictional waters.**
   
   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):**
   
   - 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): **Linear Feature C was determined to be non-jurisdictional. The linear feature was excavated mostly from uplands (except for the small portion excavated from within the wetland), was a shallow swale like feature, had no OHW mark, had no evidence of relatively permanent flow, and did not connect from a wetland to another wetland or waters of the U.S. It ended in the uplands. For these reasons, Linear Feature C was determined to be non-jurisdictional, therefore not regulated by Section 404 of the CWA.**
   
   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: **Approximately 3.97** 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: **Passarella & Associates.**

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9 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
10 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.
B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands C, D and E are isolated non-jurisdiction and therefore not regulated by Section 404 of the CWA. Linear Feature C was also determined to be non-jurisdictional and not regulated by Section 404 of the CWA. The remaining wetlands, waters, and features are discussed on Form 2 of 2.
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): December 6, 2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SAC # 2016-01306 (Form 2 of 2) Cannon Tract

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. 33.050617° N, Long. -80.091428 ° W.
   Universal Transverse Mercator:
   Name of nearest waterbody: King Branch
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Goose Creek Reservoir
   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: 10/20/16
   [☐] Field Determination. Date(s): 9/21/16

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): ¹
         [☐] TNWs, including territorial seas
         [☐] Wetlands adjacent to TNWs
         [☐] Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
         [☐] Non-RPWs that flow directly or indirectly into TNWs
         [☐] Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
         [☐] Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
         [☐] Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
         [☐] Impoundments of jurisdictional waters
         [☐] Isolated (interstate or intrastate) waters, including isolated wetlands

      b. Identify (estimate) size of waters of the U.S. in the review area:
         Non-wetland waters: 407 linear feet: width (ft) and/or acres.
         Wetlands: Wetland A: 2.51 acres; Wetland B: 0.12 acre; Wetland F: 0.17 acres; Total: 2.8 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): ³ [Including potentially jurisdictional features that upon assessment are NOT waters or wetlands]

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.
² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least “seasonally” (e.g., typically 3 months).
³ Supporting documentation is presented in Section III.F.
Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: There are two linear features, Linear Feature A and B, located within the project review. Please note that Linear Feature C was discussed on Form 1 of 2. Linear Feature A was determined to be non-jurisdictional. It appears to have been excavated from uplands and flows into and through Wetland A. Linear Feature A was several feet wide and deep, was dry at the time of the site visit, and displayed no OHW mark or evidence of relatively permanent flow. For these reasons, Linear Feature A was determined to be non-jurisdictional. Linear Feature A does provide a hydrologic connection from upstream wetlands located offsite, as well as from onsite Wetland B. The second linear feature is Linear Feature B. This feature is a shallow swale and provides a hydrologic connection from Wetland B to Linear Feature A through Wetland A to the downstream tributary. By definition, the swale is not considered a water of the U.S., and therefore is non-jurisdictional. Both Linear Feature A and B are not regulated by Section 404 of the CWA. The jurisdictional status of wetlands A, B and F are discussed in detail on this Form 2 of 2.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”:

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

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

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

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

If the waterbody4 is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: 206,475 acres
Drainage area: Approximately 960 acres
The drainage area was approximated using topo maps for the purposes of this jurisdictional determination only.

Average annual rainfall: 48 inches
Average annual snowfall: <1 inches

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

Identify flow route to TNW: **PRPW A (King Branch) to Laurel Bay to Goose Creek Reservoir/Goose Creek.**

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

- Tributary is:  
  - Natural
  - Manipulated (man-altered). Explain: It is natural but appears to have been channelized/cleaned out in the portion observed onsite.

  Tributary properties with respect to top of bank (estimate):
  - Average width: **8** feet
  - Average depth: **4** feet
  - Average side slopes: 2:1.

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: The tributary appeared to be stable at the portion observed onsite.


Tributary geometry: **Meandering.**

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

(c) **Flow:**

Tributary provides for: **Perennial flow**

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

Describe flow regime: .

Other information on duration and volume: The tributary was flowing at the time of the site visit. It appears as a named blue line tributary (King Branch) on topo maps and has a drainage area of approximately 960 acres that includes wetlands.

Surface flow is: **Confined.** Characteristics: .

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

Dye (or other) test performed: .

Tributary has (check all that apply):

- Bed and banks
- OHWM* (check all indicators that apply):
  - clear, natural line impressed on the bank
  - changes in the character of soil
  - shelving
  - vegetation matted down, bent, or absent
  - leaf litter disturbed or washed away
  - sediment deposition
  - water staining
  - other (list): .

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* 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.

*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.
Discontinuous OHWM. 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
- fine shell or debris deposits (foreshore)
- physical markings/characteristics
- tidal gauges
- other (list):

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: Water quality appeared to be good. The water was clear and no known sources of pollutants. The drainage area and surrounding area are partially developed. Based on aerial photographs, the area surrounding the relevant reach drainage area consists of forested uplands and wetlands, roads, residential subdivisions, small retail/commercial development, and areas under construction.

Identify specific pollutants, if known:

(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
- Aquatic/wildlife diversity. Explain findings: The tributary channel likely provides habitat for various aquatic organisms including fish, reptiles, amphibians, as well as various birds and mammals.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

**Wetlands A, B and F**

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
- Wetland size: Wetland A: 2.51 acres; Wetland B: 0.12 acre; Wetland F: 0.17 acres; Total: 2.8 acres
- Wetland type. Explain: Forested.
- Wetland quality. Explain: Quality appeared to be good.
- Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
Flow is: Intermittent flow. Explain: Flow from the wetlands to the PRPW is intermittent and may occur seasonally and/or after rain events when surface water in the wetlands is present.

Surface flow is: Discrete and confined
Characteristics:

Subsurface flow: Unknown. Explain findings:
- Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:
- Directly abutting. Wetland A
- Not directly abutting
- Discrete wetland hydrologic connection. Explain: Wetland B has a surface hydrologic connection to PRPW A via non-jurisdictional Linear Conveyance B to non-jurisdictional Linear Conveyance A. The channel of Linear Conveyance A flows through Wetland A directly into PRPW A (King Branch). Wetland F has a surface hydrologic connection to PRPW A via a culvert beneath a dirt road through an offsite wetland that abuts PRPW A.
- 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 5-10 aerial (straight) miles from TNW.
Flow is from: Wetland to navigable waters.

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3Ibid.
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: Water quality of the wetlands appeared to be good. The surrounding area consists of forested uplands and wetlands, roads, residential subdivisions, small retail/commercial development, and areas under construction...
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: Wetlands A, B and F include vegetation that consists of, but is not limited to, Nyssa biflora, Acer rubrum, Quercus laurifolia and Liquidambar styraciflua. A diverse forested wetland often attracts diverse wildlife, which may include various species of insects, amphibians, reptiles, mammals, and birds, all of which may use the wetlands for all or part of their lives, such as for foraging, nesting and/or for shelter.

3. **Characteristics of all wetlands adjacent to the tributary (if any)**
   All wetland(s) being considered in the cumulative analysis: 7
   Approximately (102.43) acres in total are being considered in the cumulative analysis.

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offsite 1: N</td>
<td>80</td>
<td>Onsite A:</td>
<td>2.51</td>
</tr>
<tr>
<td>Offsite 2 : N</td>
<td>8.25</td>
<td>Onsite B:</td>
<td>0.12</td>
</tr>
<tr>
<td>Offsite 3: N</td>
<td>5.7</td>
<td>Onsite F:</td>
<td>0.17</td>
</tr>
<tr>
<td>Offsite 4: N</td>
<td>5.68</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Summarize overall biological, chemical and physical functions being performed: The project review area includes the onsite wetlands which total 2.8 acres, the offsite wetlands totaling approximately 99.63 acres, and approximately 6,000 linear feet of tributary (King Branch). These wetlands within the review area provide a variety of functions that are important for the downstream waters and the watershed as a whole. The wetlands not only provide habitat for various aquatic and terrestrial organisms, including a variety of insects, amphibians, reptiles, mammals and birds, but are also a source of food, nutrients, and carbon for organisms located downstream. The headwater wetlands are especially important for the water quality of a watershed. Water runoff from adjacent uplands that may contain pollutants, sediments, excess nutrients, etc., that flow through the wetlands before entering the tributaries has the opportunity to be filtered out prior to flowing to downstream TNWs. In addition, excess water can temporarily be stored thereby minimizing potential flooding of downstream areas and can also 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: A significant nexus determination was previously made under SAC-2014-01294 for an upstream adjacent property. The significant nexus determination included the approximate 960-acre drainage area of the onsite PRPW (King Branch), which includes the subject project review area and onsite Wetlands A, B and F.

The project review area includes the onsite jurisdictional wetlands which total 2.8 acres, the offsite wetlands totaling approximately 99.63 acres, and approximately 6,000 linear feet of tributary (King Branch), including the 407 linear feet located within the subject review area. Wetland A abuts PRPWA offsite. Wetlands B and F do not directly abut the PRPW A, thus a significant nexus determination is being performed. Wetlands A, B and F and the PRPW A drain into Laurel Bay, which extends approximately 6 miles to the Goose Creek Reservoir/Goose Creek and then to the Cooper River. The wetlands provide a variety of functions that are important for the downstream waters and the watershed as a whole. The wetlands not only provide habitat for various aquatic and terrestrial organisms, including a variety of insects, amphibians, reptiles, mammals and birds, but are also a source of food, nutrients, and carbon for organisms located downstream. The wetlands are especially important for the water quality of a watershed. Water runoff from adjacent uplands that may contain pollutants, sediments, excess nutrients, etc., that flow through the wetlands before entering the tributaries has the opportunity to be filtered out prior to flowing to downstream TNWs. In addition, excess water can temporarily be stored thereby minimizing potential flooding of downstream areas and can also 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. According to the SCDHEC Watershed Assessment information available online, this watershed includes the Town of Moncks Corner, Hanahan, Goose Creek, Ladson, and portions of the City of Charleston, North Charleston and the Town of Summerville. Future growth is expected and is occurring in the watershed. There are eight monitoring stations along the Goose Creek Reservoir and two in Goose Creek. In the Goose Creek Reservoir, recreational activities are fully supported at all of the monitoring sites. For sites RL-04390, 06434, 08065, and 07017, aquatic life uses are partially supported due to dissolved oxygen excursions. At the next downstream station, ST-33, aquatic life uses are not supported due to total phosphorus excursions. Aquatic life uses are supported at RL-05412 and ST-032, aquatic life uses are not supported due to total phosphorus excursions and there is a significant increasing trend in total phosphorus concentration. The project area is located within an area of Berkeley County that is being developed. Recent and ongoing development is visible in areas surrounding the project review area and the 960 acre drainage area being discussed in this significant nexus determination. Currently, the wetlands located within this 960 acre drainage area are likely performing many of the services that wetlands and tributaries provide; however, when wetlands and tributaries are filled or altered, the services they provide may be compromised and the loss of those services affects downstream waters and TNWs, including Goose Creek Reservoir/Goose Creek and the Cooper River. The wetlands within the review area have a significant nexus to downstream TNWs as they provide a source of carbon and nutrients, can provide water quality functions, can store excess water minimizing flooding impacts downstream, can maintain seasonal flow volumes, and can transport organisms, carbon, and nutrients. In addition, the wetlands within the review area are contributing to the relatively good water quality and integrity of the downstream TNW.

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

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):**

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - TNWs: linear feet width (ft), Or, acres.
   - Wetlands adjacent to TNWs: acres.
2. RPWs that flow directly or indirectly into TNWs.
   Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial. PRPW A is a named tributary (King Branch), is a blue-line stream on topo maps, and was observed to be flowing at the time of the site visit. In addition, PRPW A was determined to be perennial under a previous jurisdictional determination for SAC-2014-01294.

   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\(^8\) 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 abutting an 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: Wetland A is part of a larger wetland that continues offsite and is contiguous with PRPW A. PRPWA shares a direct hydrologic connection with Wetland A. Water from Wetland A can flow directly into PRPW A, and when PRPWA overtops its banks, the water will flow directly into offsite portions of Wetland A.

   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: Wetlands B and F: 0.29 acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
   Wetlands adjacent to such waters, and when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

7. Impoundments of jurisdictional waters.\(^9\)
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - Demonstrate that impoundment was created from "waters of the U.S.," or
   - Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - Demonstrate that water is isolated with a nexus to commerce (see E below).

   Explain:

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

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\(^8\) See Footnote # 3.
\(^9\) To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
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): There are two linear features, Linear Feature A and B, located within the project review. Please note that Linear Feature C was discussed on Form 1 of 2. Linear Feature A was determined to be non-jurisdictional. It appears to have been excavated from uplands and flows into and through Wetland A. Linear Feature A was several feet wide and deep, was dry at the time of the site visit, and displayed no OHW mark or evidence of relatively permanenet flow. For these reasons, Linear Feature A was determined to be non-jurisdictional. Linear Feature A does provide a hydrologic connection from upstream wetlands located offsite, as well as from onsite Wetland B. The second linear feature is Linear Feature B. This feature is a shallow swale and provides a hydrologic from Wetland B to Linear Feature A through Wetland A to the downstream tributary. By definition, the swale is not considered a water of the U.S., and therefore is non-jurisdictional. Both Linear Feature A and B are not regulated by Section 404 of the CWA. The jurisdictional status of wetlands A, B and F are discussed in detail on this Form 2 of 2. .

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: Approximately 3.97 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: Passarella & Associates.
  - Data sheets prepared/submitted by or on behalf of the applicant/consultant. Concurs with conclusions
    - 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: .
  - USGS NHD data: .
  - USGS 8 and 12 digit HUC maps: .
  - U.S. Geological Survey map(s). Cite scale & quad name: .
  - USDA Natural Resources Conservation Service Soil Survey. Citation: Goldsboro loamy sand, Norfolk loamy sand, Meggett loam

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.
B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands A, B, F, and perennial tributary, PRPW A, located within the project review area are jurisdictional and subject to regulation under Section 404 of the CWA. Linear Features A and B were determined to be non-jurisdictional and not subject to regulation under Section 404 of the CWA. The jurisdictional status of the remaining wetlands and linear feature located within the project review area are discussed on Form 1 of 2.