SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 14 December 2018

B. DISTRICT OFFICE, FILE NUMBER, FILE NAME: JD Form 1 of 1; SAC-2018-01773 Queens Cove, LLC

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: South Carolina  County/parish/borough: Horry County
   City:
   Center coordinates of site (lat/long in degree decimal format): Lat. 33.7571° N, Long. -78.8424° W.
   Universal Transverse Mercator:
   Name of nearest waterbody: Atlantic Intracoastal Waterway (AIWW)
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: The project area was void of any aquatic resources.
   Name of watershed or Hydrologic Unit Code (HUC): HUC 0304020803
   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: December 11, 2018
   Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 328) 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.

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area (check all that apply): 1
      - TNWs, including territorial seas
      - Wetlands adjacent to TNWs
      - Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
      - Non-RPWs that flow directly or indirectly into TNWs
      - Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      - Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      - Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      - Impoundments of jurisdictional waters
      - Isolated (interstate or intrastate) waters, including isolated wetlands

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

   c. Limits (boundaries) of jurisdiction based on: Pick List Pick List Pick List
Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be

Explain: Onsite is an upland excavated stormwater ditch determined not to be a tributary.

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 Section III.B below; otherwise, see Section III.D 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 A

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, to 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., months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has (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. EPA regions will include in the record any available information that documents the existence of a significant relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigation waterbody. Although 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 whether the tributary has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation should consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that considers the tributary in combination with all of its adjacent wetlands is used whether the review area is identified in the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary and onsite. 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:
      Relationship with TNW:
      ☐ Tributary flows directly into TNW.
      ☐ Tributary flows through Pick List tributaries before entering TNW.
Identify flow route to TNW:\(^5\):  
Tributary stream order, if known:  

(b) General Tributary Characteristics (check all that apply):  
Tributary is:  
\[\square\] Natural 
\[\square\] Artificial (man-made). Explain:  
\[\square\] Manipulated (man-altered). Explain:  

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

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

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:  
Presence of run/riffle/pool complexes. Explain:  
Tributary geometry: **Pick List**  
Tributary gradient (approximate average slope):  \%  

(c) Flow:  
Tributary provides for: **Pick List**  
Estimate average number of flow events in review area/year: **Pick List**  
Describe flow regime:  
Other information on duration and volume:  
Surface flow is: **Pick List** Characteristics:  
Subsurface flow: **Pick List** Explain findings:  
\[\square\] Dye (or other) test performed:  

Tributary has (check all that apply):  
\[\square\] Bed and banks  
\[\square\] OHWM\(^6\) (check all indicators that apply):  
\[\square\] clear, natural line impressed on the bank  
\[\square\] changes in the character of soil  
\[\square\] shelving  
\[\square\] vegetation matted down, bent, or absent  
\[\square\] leaf litter disturbed or washed away  
\[\square\] sediment deposition  
\[\square\] water staining  
\[\square\] other (list):  
\[\square\] Discontinuous OHWM.\(^7\) Explain:  

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all):  
\[\square\] High Tide Line indicated by:  
\[\square\] Mean High Water Mark indicated by:  
\[\square\] oil or scum line along shore objects  
\[\square\] fine shell or debris deposits (foreshore)  
\[\square\] physical markings/characteristics  
\[\square\] tidal gauges  
\[\square\] other (list):
(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

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

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
- Wetland size: acres
- Wetland type. Explain:
- Wetland quality. Explain:
Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
Flow is: Pick List Explain:

Surface flow is: Pick List
Characteristics:

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

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

(d) Proximity (Relationship) to TNW
Project wetlands are Pick List river miles from TNW.
Project waters are Pick List aerial (straight) miles from TNW.
Flow is from: Pick List
Estimate approximate location of wetland as within the Pick List floodplain.

(ii) Chemical Characteristics:
Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general wetland 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
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>
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</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 the 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 water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance between a tributary and its adjacent wetland or between a tributary and the TNW. Similarly, the fact an adjacent wetland is 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 Case 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 into 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 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 support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, and biological integrity of the TNW?

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

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into a TNW.** 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 a TNW.** 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...
Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year). 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:

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 the 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:

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 directly abutting an RPW:

Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland abutting an RPW:

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

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 connected 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.

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 connected 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.

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 OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING SUCH WATERS (CHECK ALL THAT APPLY): which are or could be used by interstate or foreign travelers for recreational or other purposes.
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.
- 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 Corp 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 by “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): Onsite is an upland excavated stormwater ditch determined not to be onsite feature drains only uplands.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is presence of migratory birds, presence of endangered species, use of water for irrigated agriculture, using 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 requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Maps report and plat prepared by the Brigman Company.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps.
- Corps navigable waters’ study:
- U.S. Geological Survey Hydrologic Atlas:
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: USGS topographic maps depicts the project area as wetlands.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Horry County soil survey depicts the project area as soil type of Ogeechee which is listed on the National Hydric Soil List.
- National wetlands inventory map(s). Cite name: Horry NWI depicts the project area as uplands.
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
B. ADDITIONAL COMMENTS TO SUPPORT JD: The project area is a 4.5 acre site that is situated between HI and AIWW. A review of site photos provided by Brigman in the submittal, 2017 Google Earth aerial photos and submittal prepared by Brigman, this office has determined the project area is comprised entirely of uplands.