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): December 3, 2019

B. DISTRICT OFFICE, FILE NUMBER, FILE NAME: JD Form 2 of 3; SAC-2018-01311 Quarter Creek Plantation

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: South Carolina County/parish/borough: **Berkeley County** City: **Huger**
Center coordinates of site (lat/long in degree decimal format): Lat. **33.0123** ° **N**, Long. **-79.8295** ° **W**.
Universal Transverse Mercator:
Name of nearest waterbody: **French Quarter Creek**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **French Quarter Creek**
Name of watershed or Hydrologic Unit Code (HUC): **03050201**
☒ 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: **November 18, 2019**
☒ Field Determination. Date(s): **October 9, 2018**

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 waters[2] (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: **Tributary 2: 2384** linear feet: width (ft) and/or acres.
   Wetlands: **Wetland U: 0.93 acres, Wetland R: 2.36 acres, Wetland Q: 1.54 acres, Wetland L: 0.24 acres, Wetland BB: 0.21 acres, Wetland N: 0.01 acres, Wetland O: 0.01 acres, Wetland X: 0.53 acres, Wetland W: 0.50 acres, Wetland H: 6.76 acres, Wetland J: 0.15 acres, Wetland D: 1.44** acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**, **Established by OHWM.**, **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: **The entire project area contains 1 ditch determined to be a non-jurisdictional feature. This feature was excavated wholly out of uplands. The ditch does provide a surface water connection for Wetland D to Wetland H, which abuts Tributary 2. However, the ditch does not appear to carry relatively permanent flow, nor does it contain an OHWM or bed and bank, therefore, it was not considered a tributary. In addition, the site contains 7 non-jurisdictional, upland excavated borrow ponds. These ponds were wholly excavated out of upland for the purpose of sand mining and do not currently meet the 3 parameters for a wetland. As stated in the Preamble to the November 13, 1986, Regulations found on page 41217 (Federal Register vol. 51 No. 219) "waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and resulting body of water meets the definition of waters of the United States" are generally not considered waters of the U.S. For these reasons, these features were determined to be non-jurisdictional under 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[4] 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: **119,005 acres ;**
Drainage area: **198.8 acres**
Average annual rainfall: **45-55** inches
Average annual snowfall: **0** inches

(ii) Physical Characteristics:
(a) Relationship with TNW:

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

☐ Tributary flows directly into TNW.
☒ Tributary flows through **2** tributaries before entering TNW.

Project waters are **1-2** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **1-2** 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[5]: **The unnamed USGS blue line stream originates offsite to the east, enters the site and flows for approximately 2,384 linear feet, where it exits the site to the north and discharges offsite into Gobel Swamp, a named USGS blue lined stream. Gobel Swamp carries flow approximately 1500 linear feet west, where it discharges into French Quarter Creek, a named USGS blue line stream. French Quarter Creek flows approximately for 1 mile to the northwest, where it begins to intercept tidal flow and becomes navigable in fact. At this point, approximately, 1 mile downstream of the intersection with Gobel Swamp, French Quarter Creek becomes a TNW**.
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):
Average width: **3** feet
Average depth: **2** feet
Average side slopes: **4:1 (or greater).**

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: Based on onsite observations, the tribuatry appears stable, with an observable riparian area and little to no evidence of recent or historical manipulation.
Presence of run/riffle/pool complexes. Explain: **None observed.**.
Tributary geometry: **Meandering.**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: **Perennial flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: **Based on the LiDAR imagery of the feature, size of the drainage area, fact that the feature is a USGS blue line stream, and onsite observations, it is determined that this tributary has a perennial flow regime**.
Other information on duration and volume: .

Surface flow is: **Confined.** Characteristics: **Within the onsite, unnamed tributary, flow is confined to the tributary channel, as defined by the bed and bank of the tributary**.

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

Tributary has (check all that apply):
☒ 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	☐ scour

[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.
[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.

☒ sediment deposition
☒ water staining
☐ other (list):
☐ multiple observed or predicted flow events
☐ abrupt change in plant community

☐ Discontinuous OHWM.[7] Explain: .

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

☐ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

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

Explain: **Water quality detriments to the tributary are likely limited, as the immediate surrounding land use and broader land use in the watershed is primarily silviculture, with limited residential and commercial development, due to the presence of the Francis Marion National Forest (FMNF). Water quality was not directly tested during the site visit, but no visible deteriments to water quality in the tributary were observed or could be inferred**.

Identify specific pollutants, if known: .

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

☒ Riparian corridor. Characteristics (type, average width): **Based on a review of infrared imagery, it appears that the tributary is surrounded and abutted by forested wetland areas that serve as a riparian corridor/buffer. This riparian zone exists within a majority of the tributary's reach**.

☐ 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 provides aquatic habitat for many aquatic fauna, due to the unnaltered state of the tributary and potential for high quality chemical characteristics**.

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: **Wetland U: 0.93 acres, Wetland R: 2.36 acres, Wetland Q: 1.54 acres, Wetland L: 0.24 acres, Wetland BB: 0.21 acres, Wetland N: 0.01 acres, Wetland O: 0.01 acres, Wetland X: 0.53 acres, Wetland W: 0.50 acres, Wetland H: 6.76 acres, Wetland J: 0.15 acres, Wetland D: 1.44** acres

Wetland type. Explain: **Palustrine forested**.

Wetland quality. Explain: **Fully functional**.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: **Wetlands BB, R, H, W, X, N, O, Q, and U phycisally abut the tributary, or are part of an offsite contiguous wetland system that abuts the tributary. Wetland D contributes intermittent flow into the non-jurisdictional ditch, which then flows into the onsite unnamed tributary. These flow events from the above referenced abutting wetlands, and Wetland D into the ditch, are likely confined to periods of high rainfall and other storm events, and time periods shortly thereafter**.

Surface flow is**: Discrete and confined**

Characteristics: **Water discretely flows through the wetlands, where it then flows directly into the onsite unnamed tributary, or in the case of Wetland D, through the non-jurisdictional ditch to the onsite unnamed tributary. The wetlands discretely flow during rainfall events as described above, with flow being confined for Wetland D into the non-jurisdictional ditch to the onsite unnamed tributary**.

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

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting: Wetlands BB, R, H, W, X, N, O, Q, U

☒ Not directly abutting: Wetlands D, L, J

[7]Ibid.

☒ Discrete wetland hydrologic connection. Explain: **As described above, water discretely flows during rainfall and other storm events from Wetland D to the non-jurisdictional ditch. The water then continues through the non-jurisdictional ditch, where it discharges into the onsite unnamed tributary**.

☒ Ecological connection. Explain: **Wetlands L and J do not have a physical hydrologic connection to the onsite unnamed tributary. However, these wetlands have a strong ecological connection to the tributary. As discussed above, the onsite unnamed tributary is unaltered in its current state, and due to the lack of development and detrimental activities to water quality surrounding the tributary, is highly functional and likely serves as aquatic habitat for many macroinvertebrate species. Wetlands L and J serve a vital role in filtering potential pollutants that may travel across the upland slope and ultimately downhill to the tributary. A review of the LiDAR imagery supports a general downsward slope from the surrounding uplands to the tributary and its riparian wetlands. Lastly, due to the high quality aquatic habitat of the wetlands and the tributary, it is likely that the wetlands could support Federally threatened and endangered species. While not observed in Wetlands L and J, individual counts of pondberry (Oxypolis canbyi) were observed nearby in Wetland U. Also, due to close proximity of Wetlands L and J to the tributary, many aquatic species may move from the wetlands to the tributary and vice versa. Wetlands L and J have a direct ecological effect on the tributary due to their proximity in the landscape, and their similarly situated nature to the other wetlands in the drainage area**.

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **1-2** river miles from TNW.
Project waters are **1-2** aerial (straight) miles from TNW.
Flow is from: **Wetland to navigable waters.**
Estimate approximate location of wetland as within the **500-year or greater** 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: **During the site visit, the wetlands were saturated and inundated. Land use within this watershed comprised of agricultural land, forested land, and forested wetland (swamp)**.

Identify specific pollutants, if known: **Because a large portion of the watershed is comprised of forested land, the potential exists for herbicides and other pesticides, as well as runoff from land disturbing activities such as plowing and harvesting, to enter the on-site tributary. Because managed forested lands require temporary manipulation of the soils, forested activities can create an increase in suspended sediments. However, no direct evidence of visible contamination from these sources and activities was observed in the wetlands during the site visit**.

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

☒ Riparian buffer. Characteristics (type, average width): **Bottomland hardwood forested wetland; average width of 150 feet**.

☒ Vegetation type/percent cover. Explain: **Bottomland hardwood species, such as tupelo gum (Nyssa biflora) and persimmon (Diosporys virginiana)**.

☒ Habitat for:

☒ Federally Listed species. Explain findings: **Wetland U contained individual observations of pondberry (Oxypolis canbyi). While not observed in other onsite wetlands, the likelihood the species exist in these areas is high, due to the quality of habitat and historic prescribed fire regime on the site**.

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: **As stated above, the proximity of the wetlands support aquatic life between the wetlands and the tributary and vice versa. As such, the wetlands support aquatic/wildlife diversity that links a nexus between the aquatic/wildlife diversity existing within the tributary**.

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

All wetland(s) being considered in the cumulative analysis: **13**
Approximately (**198.8**) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
Wetland H (Y)	**6.76**	**Wetland Q (Y)**	**1.54**
Wetland D (N)	**1.44**	**Wetland O (Y)**	**0.01**
Wetland BB (Y)	**0.21**	**Wetland N (Y)**	**0.01**
Wetland L (N)	**0.24**	**Wetland J (N)**	**0.15**
Wetland R (Y)	**2.36**	**Wetland W (Y)**	**0.50**
Wetland U (Y)	**0.93**	**Wetland X (Y)**	**0.53**
		Offsite Contiguous Wetland	**20.5**

Summarize overall biological, chemical and physical functions being performed: **The wetlands listed above are providing important biological, chemical, and physical functions to the adjacent tributary. These wetlands act as a catch basin to help filter out pollutants from the neighboring uplands and hold runoff prior to it flowing downstream into the**

offsite tributary and ultimately into the TNW. Besides the obvious functions of stormwater attenuation, absorption, and overstory biomass input into the food web, these wetlands provide a uniquely important ecological connection to the downstream TNW. These wetlands are providing important biological, chemical, and physical functions within a watershed comprised primarily of managed forested land use. The biological functions being performed include providing breeding grounds and shelter for aquatic animals and diversifying the plant life within the watershed. In addition, some of the wetlands serve as habitat or potential habitat to Federally endangered and threatened species. These wetlands in the drainage area supply food sources for a variety of water dependent species, such as invertebrates, amphibians, reptiles, and mammals. The chemical functions being performed consist of the removal of excess pollutants, which are contributed by runoff from the surrounding uplands, from reaching the downstream tributary and ultimately, the TNW. This reduces nitrogen and phosphorus loading downstream and effectively prevents oxygen depletion that can result from eutrophication. Physically, these wetlands help reduce stormwater flow. Not only does this prevent the accumulation of sediment downstream, which can smother fish and other aquatic wildlife, but it also reduces the amount of pollutants downstream because these pollutants are usually transported by sediment particles..

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: **Land use/land cover in the watershed includes: 46.4% forested land, 43.2% forested wetland, 5.1% nonforested wetland, 2.8% agricultural land, 1.2% urban land, 1.2% water, and 0.1% barren land. There is a low potential for growth expected in this watershed, which is almost entirely within the Francis Marion National Forest. There are numerous historic structures located in the area, and great public sentiment to preserve the historic character of the area. However, large-acre tracts in private ownership are likely to experience development pressures, especially for residential purposes. The onsite wetlands referenced above provide stormwater attenuation and absorption critical to flood mitigation efforts that would likely be a concern of future residential developments in the area. These wetlands also provide an important ecological connection to the downstream TNW via important biological, chemical, and physical functions within a watershed comprised primarily of forested land use. The biological functions being performed include providing breeding grounds and shelter for aquatic animals and diversifying the plant life within the watershed. The onsite wetlands and other waters of the US within the drainage area also supply food sources for a variety of water dependent species, such as invertebrates, amphibians, reptiles, mammals and even Federally endangered species. The chemical functions being performed consist of the removal of excess pollutants, which are contributed by runoff from the surrounding forested areas and uplands during intermittent management periods, from reaching the downstream TNW. This reduces nitrogen and phosphorus loading downstream and effectively prevents oxygen depletion that can result from eutrophication. Physically, the wetlands help reduce stormwater flow. This prevents the accumulation of sediment downstream, which can negatively impact fish and other aquatic wildlife, and also reduces the amount of pollutants downstream because these pollutants are**

usually transported by sediment particles. This is supported when analyzing the landscape of the wetlands in relation to the onsite unnamed tributary and to the other wetlands onsite. These wetlands listed above in Section B.3 are similarly situated in nature around the tributary, capturing pollutants and runoff on the slope from the uplands to the riparian wetland and the tributary itself. Therefore, based on the collective functions described above, similar position in the landscape, and their importance to the biological, chemical, and physical integrity of the traditional navigable waters of French Quarter Creek, it has been determined that there is a significant nexus between the relevant reach of the unnamed onsite tributary and its adjacent wetlands, including those listed in Section B.3.

Documentation for the Record only: Significant nexus findings for seasonal RPWs and/or wetlands abutting seasonal RPWs:
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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: **The unnamed onsite USGS blue line tributary travels through the site for approximately 2384 linear feet. This tributary then travels approximately 500 feet north, where it discharges into Gobel Swamp, a named USGS blue line stream/tributary. Gobel Swamp travels 500 linear feet to the northwest, where it discharges into French Quarter Creek. Four Hole Swamp is a perennial, named tributary system. French Quarter Creek travels for 1.5 miles northwest, where it intercepts tidal flow and becomes navigable in fact. At this point, French Quarter Creek is determined to be a TNW**.

☐ 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: **2384** 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 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 R, BB, H, W, X, Q, U, O, and N physically abut the tributary onsite, or are part of a larger contiguous offsite wetland system that abuts the tributary in offsite. By abutting the tributary, these wetlands have a direct, surface water hydrologic connection to the tributary.**

☐ 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: **Wetland R: 2.36 acres, Wetland BB: 0.21 acres, Wetland H: 6.76 acres, Wetland W: 0.50 acres, Wetland X: 0.53 acres, Wetland Q: 1.54 acres, Wetland U: 0.93 acres, Wetland O: 0.01 acres, and Wetland N: 0.01** acres.

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

[8]See Footnote # 3.

☒ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **Wetland J: 0.15 acres, Wetland L: 0.24 acres, Wetland D: 1.44** acres.

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

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

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

7. Impoundments of jurisdictional waters.[9]

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

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

Explain:

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

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

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): **The entire project area contains 1 ditch determined to be a non-jurisdictional feature. This feature was excavated wholly out of uplands. The ditch does provide a surface water connection for Wetland D to Wetland H, which abuts Tributary 2. However, the ditch does not appear to carry relatively permanent water, nor does it contain an OHWM or bed and bank, therefore, it was not considered a tributary. In addition, the site contains 7 non-jurisdictional, upland excavated borrow ponds. These ponds were wholly excavated out of upland for the purpose of sand mining and do not currently meet the 3 parameters for a wetland. As stated in the Preamble to the November 13, 1986, Regulations found on page 41217 (Federal Register vol. 51 No. 219) "waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and resulting body of water meets the definition of waters of the United States" are generally not considered waters of the U.S. For these reasons, these features were determined to be non-jurisdictional under 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).

[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.***

☐ 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: **Quarter Creek Plantation Aerial with Boundary Coordinates and Features**.
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant. Office concurs with the conclusions reached by the delineation report/data sheets.
  ☐ 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 Topo Quad - Huger**.
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **NRCS Soil Survey- Berkeley County**.
☒ National wetlands inventory map(s). Cite name: **USFWS NWI**.
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☐ Aerial (Name & Date): .
  or ☒ Other (Name & Date): **Site photographs**.
☐ 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: The review area described in this form contains 12 jurisdictional wetlands that have been determined to either abut an onsite unnamed tributary, or are considered adjacent to the tributary. Also described on this form are 7 non-jurisdictional upland excavated borrow ponds and one non-jurisdictional ditch.