

**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): 1/5/2018**

**B. DISTRICT OFFICE, FILE NUMBER, FILE NAME: JD Form 1 of 1; SAC-2016-00925 Sabal Homes - Woodruff Road**

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

State: South Carolina County/parish/borough: **Greenville County** City: Five Forks  
Center coordinates of site (lat/long in degree decimal format): Lat. **34.8032° N**, Long. **82.2068° W**.  
Universal Transverse Mercator: NAD 83

Name of nearest waterbody: **Peters Creek**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Enoree River

Name of watershed or Hydrologic Unit Code (HUC): 030501080104 Peters Creek-Enoree River

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: **14-Nov-2017**

Field Determination. Date(s): **26-Jul-2016**

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

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

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

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

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

TNWs, including territorial seas

Wetlands adjacent to TNWs

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

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

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

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

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: Waters of the U.S. 1=700 linear feet, Waters of the U.S. 3=610 linear feet: width (ft) and/or .42 acres.

Wetlands Waters of the U.S. 2=0.16 acres.

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual, Established by OHWM.**

Elevation of established OHWM (if known): .

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

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

- There is a non-jurisdictional upland dug pond located on site. Per site visit, the upland dug pond did exhibit emergent herbaceous wetland vegetation, but did not exhibit hydric soils or hydrology. Soils within the upland dug pond were consistent with DP1 which is adjacent to the upland dug pond. The soils adjacent to the upland dug pond were not hydric soils. This upland dug pond was constructed entirely in uplands and is not an impoundment of any water of the U.S. While it shows signs of becoming a wetland, it does not yet have the 3 parameters to meet the definition of a wetland.

### 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”: The wetland (Waters of the U.S. 2) is 0.16 acres and contributes directly to the flow of the perennial RPW (Waters of the U.S. 1). It is not depicted as a blue line on the topographical maps, however it does appear on LiDAR maps. It is located near residential, and agricultural development. Land use/land cover in the watershed includes: 38.7% forested land, 29.1% agricultural land, 27.9% urban land, 2.3% forested wetland, 0.8% barren land, 0.7% scrub/shrubland, and 0.5% water. The wetland is located near residential, and agricultural development. There are possible pollutants from automobiles, trains, cattle, agriculture, etc.

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

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

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

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

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

###### (i) General Area Conditions:

Watershed size: 167,348 acres ;

Drainage area: 41.98 acres

Average annual rainfall: 50 inches

Average annual snowfall: 3 inches

###### (ii) Physical Characteristics:

###### (a) Relationship with TNW:

Tributary flows directly into TNW.

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

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

Project waters are **2-5** 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<sup>5</sup>: **Unnamed SRPW (Waters of the U.S. 3) flows to Peters Creek which flows to the Enoree River (Traditional Navigable Water).**

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: 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: **This tributary is located on a site mapped by the soil survey that is comprised primarily of Pacolet and Cartecay soils. Pacolet is a "well drained" soil, and Cartecay is categorized a "somewhat poorly drained."**

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

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Relatively straight.**

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: **Waters of the U.S. 3 is seasonal and flows 3 months out of the year during normal conditions. This tributary is not shown on either topo or the soil survey maps, but the topo map does show a strong drainage feature where the tributary is located and it is shown on the LiDAR map.**

Other information on duration and volume: **This tributary has a clear OHWM and distinct channel.**

Surface flow is: **Discrete and confined.** Characteristics: **Tributary flows in channel during normal conditions.**

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

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks

OHWM<sup>6</sup> (check all indicators that apply):

clear, natural line impressed on the bank

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):

Discontinuous OHWM.<sup>7</sup> Explain:

the presence of litter and debris

destruction of terrestrial vegetation

the presence of wrack line

sediment sorting

scour

multiple observed or predicted flow events

abrupt change in plant community

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

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

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

<sup>7</sup> Ibid.

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

**(iii) Chemical Characteristics:**

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

Explain: **Land use/land cover in the watershed includes: 38.7% forested land, 29.1% agricultural land, 27.9% urban land, 2.3% forested wetland, 0.8% barren land, 0.7% scrub/shrub land, and 0.5% water. There is a high potential for residential, commercial, and industrial growth in this watershed, which contains the eastern portion of the greater Greenville area, a portion of the City of Greer, and the Cities of Travelers Rest, Mauldin, Fountain Inn, Simpsonville, and Woodruff.**

Identify specific pollutants, if known: **This site has potential pollutants from surrounding residential development, and roads.**

(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: **The tributary provides breeding grounds for aquatic species.**
  - Other environmentally-sensitive species. Explain findings: .
  - Aquatic/wildlife diversity. Explain findings: **The tributary provides habitat for wildlife in the area.**

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

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size:            acres

Wetland type. Explain: .

Wetland quality. Explain: .

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: .

Ecological connection. Explain: .

Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:.

Identify specific pollutants, if known:.

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

Riparian buffer. Characteristics (type, average width): .

Vegetation type/percent cover. Explain: .

Habitat for:

Federally Listed species. Explain findings: .

Fish/spawn areas. Explain findings:.

Other environmentally-sensitive species. Explain findings: .

Aquatic/wildlife diversity. Explain findings:.

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

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

Approximately () acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>

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: The Seasonal RPW is performing a variety of functions related to the biological, chemical, and physical integrity of the downstream TNW. The seasonal RPW is located less than one mile from the on-site perennial RPW and within 5 miles of the TNW. The tributary provides breeding grounds for aquatic species and habitat for wildlife in the area. The tributary helps to filter pollutants from surrounding residential development, and roads.). The seasonal tributary also helps to store water during times of heavy rain and the wetter months before it travels downstream to the TNW. This flow maintenance helps in the reduction of downstream peak flows helping to maintain seasonal flow volumes. Based on the collective functions described above and their importance to the biological, chemical, and physical integrity of the Traditional Navigable Water, it has been determined that there is a significant nexus between the seasonal RPW and downstream TNW.**

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

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

- TNWs: linear feet width (ft), Or, acres.  
 Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**

Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: **Peters Creek (Waters of the U.S. 1) located onsite has a clear OHWM and a distinct channel. This perennial stream had signs of relatively permanent flow, it is shown as a blue line on the topo map, and it is shown as a tributary on the soils map. The tributary was observed flowing during flagging and the Corps site visit. Stream characteristics observed and available data led this office to conclude the tributary has a perennial flow regime.**

Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: **The unnamed tributary to Peters Creek (Waters of the U.S. 3) located onsite has a clear OHWM, scour lines in the banks, sediment deposition, and a distinct channel. This stream had signs of intermittent flow, and it is observable on the LiDAR map. The tributary had flowing water in sections and pockets of water and saturated soils in other sections during the Corps site visit. Stream characteristics observed and available data led this office to conclude the tributary has a seasonal flow regime.**

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

- Tributary waters: **Waters of the U.S. 1 = 700 linear feet, Water of the U.S. 3 = 610 linear feet** width (ft).  
 Other non-wetland waters: acres.  
Identify type(s) of waters: .

3. **Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs.**

Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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

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

Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Wetland Waters of the U.S. 2 directly abuts the perennial RPW Waters of the U.S. 1.**

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

Provide acreage estimates for jurisdictional wetlands in the review area: **0.16** acres.

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

Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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

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

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

7. **Impoundments of jurisdictional waters.<sup>9</sup>**

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

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

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

<sup>9</sup>To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

**Explain:**

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

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

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

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

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

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

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): **There is a non-jurisdictional upland dug pond located on site. Per site visit, the upland dug pond did exhibit emergent herbaceous wetland vegetation, but did not exhibit hydric soils or hydrology. Soils within the upland dug pond were consistent with DP1 which is adjacent to the upland dug pond. The soils adjacent to the upland dug pond were not hydric soils. This upland dug pond was constructed entirely in uplands and is not an impoundment of any water of the U.S. While it shows signs of becoming a wetland, it does not yet have the 3 parameters to meet the definition of a wetland.**

**There is a non-jurisdictional upland dug pond located on site. Per site visit, the upland dug pond did exhibit emergent herbaceous wetland vegetation, but did not exhibit hydric soils or hydrology. Soils within the upland dug pond were consistent with DP1 which is adjacent to the upland dug pond. The soils adjacent to the upland dug pond were not hydric soils. This upland dug pond was constructed entirely in uplands and is not an impoundment of any water of the U.S. While it shows signs of becoming a wetland, it does not yet have the 3 parameters to meet the definition of a wetland.**

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

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

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

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

**SECTION IV: DATA SOURCES.**

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

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Environmental Permitting Consultants, Inc.**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report. This office agrees with the conclusions of the submitted data sheets.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study: **1977 Navigability Survey..**
- U.S. Geological Survey Hydrologic Atlas: **HA 730-G, 1990..**
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps. 030501080103 Gilder Creek
- U.S. Geological Survey map(s). Cite scale & quad name: **Pelham 1:24:000.**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **SSURGO soil data: Pacolet, Cecil.**

<sup>10</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.



- National wetlands inventory map(s). Cite name: **USFWS NWI 1994..**
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **Google Earth 06/07/2016.**  
or  Other (Name & Date): **Consultant provided photos 1-29 of 29 dated 01/06/2016.**
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): **Corps site visit.**

**B. ADDITIONAL COMMENTS TO SUPPORT JD: This JD form documents the jurisdictional status of one perennial RPW, one seasonal RPW, and one wetland directly abutting to a perennial RPW. Based on guidance provided, RPWs and abutting wetlands are jurisdictional, however, the significant nexus findings for the record are included for the seasonal RPW as required by Rapanos Guidance. Based on the documentation provided in Section III, C of this form, the nexus between the seasonal RPW and TNW is significant. The RPWs and wetland documented on this form are waters of the U.S. and within jurisdiction of the Clean Water Act.**