

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): June 23, 2015

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CESAC-RD-NE; SAC# 2007-01207-3B Pitch Landing Hwy 110 Tract

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: South Carolina County/parish/borough: **Horry** City: **Conway**
Center coordinates of site (lat/long in degree decimal format): Lat. **33.78774° N**, Long. **-79.10677° W**.
Universal Transverse Mercator:

Name of nearest waterbody: **Baiter Swamp**

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

Name of watershed or Hydrologic Unit Code (HUC): **03040206-09 Waccamaw 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:

Field Determination. Date(s): **April 23, 2015**

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: linear feet: width (ft) and/or acres.

Wetlands: **0.40(Wetland A)+12.94(Wetland B)+3.24(Wetland C) = 16.58** 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

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: **Several dashed blue lines (intermittent tributaries) are depicted on topographic maps. After conducting the site visit, it was determined that two of the dashed blue lines (as shown on drawing in the file titled "Aerial Photograph / 61-Acre Highway 110 Tract / Conway, South Carolina" and dated December 2014) were determined to be upland**

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.

excavated non-jurisdictional ditches. The remaining blue lines depicted on the topo map did not exist. Two ponds were also assessed in the field and determined to be upland excavated non-jurisdictional ponds. The two non-jurisdictional ditches that provide a hydrologic connection for the onsite wetlands are located offsite.

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: **Waccamaw River.**

Summarize rationale supporting determination: **The Waccamaw River is a major riverine system that is tidally influenced.**

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: **136,317 acres** ; HUC: **03040206-09 Waccamaw River**

Drainage area: **1,052 acres**

Average annual rainfall: **53.27 inches**

Average annual snowfall: **1.4 inches**

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through **1** 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 **2-5** aerial (straight) miles from TNW.

Project waters are **1-2** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain:

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

Identify flow route to TNW⁵: **Baiter Swamp (PRPW) flows directly into Bear Swamp (PRPW) which flows directly into the Waccamaw River (TNW).**

Tributary stream order, if known: **1.**

(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: **4-5** feet
Average depth: **3-4** feet
Average side slopes: **Vertical (1:1 or less).**

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: Baiter Swamp has a natural tributary within the wetlands with stable banks on the north side of Pitch Landing Road. The tributary on the south side of Pitch Landing Road widens out into a braided system within the swamp.

Presence of run/riffle/pool complexes. Explain: **None.**

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: **Tributary exhibited characteristics of flow at least 90% throughout the year under normal climactic conditions. Water was flowing at time of the site visit. OHWM, wrack lines, siltation, and scouring were observed in the field. The tributary is also a named feature on topographic maps and is depicted as a solid blue line.**

Other information on duration and volume:

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

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

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks
 OHWM⁶ (check all indicators that apply):
 clear, natural line impressed on the bank the presence of litter and debris
 changes in the character of soil destruction of terrestrial vegetation
 shelving the presence of wrack line
 vegetation matted down, bent, or absent sediment sorting
 leaf litter disturbed or washed away scour
 sediment deposition multiple observed or predicted flow events
 water staining abrupt change in plant community
 other (list):
 Discontinuous OHWM.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: Mean High Water Mark indicated by:
 oil or scum line along shore objects survey to available datum;
 fine shell or debris deposits (foreshore) physical markings;
 physical markings/characteristics vegetation lines/changes in vegetation types.
 tidal gauges
 other (list):

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.

⁷Ibid.

(iii) **Chemical Characteristics:**

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

Explain: **Water was discolored (murky) at the time of site visit due to sediment runoff from a recent heavy rain event (6/19/2015). The watershed occupies 136,317 acres of the Lower Coastal Plain and Coastal Zone of South Carolina. Land use/land cover in the watershed includes: 44.6% forested wetland, 19% forested land, 15.5% urban land, 14.8% agricultural land, 2.8% scrub/shrub land, 1.6% water, 1.5% nonforested wetland, and 0.2% barren land.**

Identify specific pollutants, if known: **None known. However, there is potential for pollutants to enter the tributary from nonpoint source runoff from surrounding development.**

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

Riparian corridor. Characteristics (type, average width): **The riparian corridor consists of forested wetlands. The forested wetland area shades and buffers the tributary and provides filtering of runoff before it enters the tributary.**

Wetland fringe. Characteristics: **Palustrine forested wetland.**

Habitat for:

Federally Listed species. Explain findings: .

Fish/spawn areas. Explain findings: **minnows were observed in the tributary.**

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: **0.40(Wetland A)+12.94(Wetland B)+3.24(Wetland C) = 16.58 acres**

Wetland type. Explain: **Palustrine forested. Predominately hardwoods with some Loblolly pine.**

Wetland quality. Explain: **Wetlands are forested and fully functional.**

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow.** Explain: **During wetter months of the year.**

Surface flow is: **Discrete and confined**

Characteristics: **Wetlands A,B, and C directly abut non-jurisdictional ditches which flow directly into Baiter**

Swamp.

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

Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: **Wetlands A,B, and C directly abut non-jurisdictional**

ditches which flow directly into Baiter Swamp.

Ecological connection. Explain: .

Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **2-5** 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: **Water was discolored (brown, murky) at the time of the site visit due to sediment runoff from a recent heavy rain event. See Section B.1.C.iii above.**

Identify specific pollutants, if known: **None known. However, there is potential for pollutants to enter the tributary from nonpoint source runoff from surrounding development.**

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

Riparian buffer. Characteristics (type, average width): **While the wetlands are not truly a riparian, they do act as a buffer to the adjacent tributary which is a direct conduit to the downstream TNW (Waccamaw River). The wetlands retain and filter runoff before it enters the adjacent tributary.**

Vegetation type/percent cover. Explain: **Within the 30' plot size represented on the data sheets, dominant vegetation consisted of: Tree Stratum: Pinus taeda (Loblolly pine) 40%, Liquidambar styraciflua (Sweetgum) 30%; Sapling Stratum:**

Pinus taeda 60%, Liquidambar styraciflua 20%, Liriodendron tulipifera (Yellow Poplar); Shrub Stratum: Ligustrum sinense (Chinese privet) 60%; Woody Vine Stratum: Gelsemium sempervirens (Yellow Jessamine) 20%; Vitis rotundifolia (Muscadine) 20%.

- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings: **Evidence of foraging, nesting and travel within and around the tributary of various upland wildlife was observed to include Whitetail deer and Neotropical songbirds..**

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

All wetland(s) being considered in the cumulative analysis: **7**
 Approximately (**225**) 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>
N	0.4	N	12.94
N	3.24	Y	77
Y	62	N	44
N	25		

Summarize overall biological, chemical and physical functions being performed: **Wetlands in the review area, and its tributary (Baiter Swamp) provide a significant physical, biological, and chemical benefit and investment to that ecosystem. The collective system provides an immediate function of flood and stormwater attenuation, providing a catch basin for the surrounding drainage area. The wetlands retard runoff to a manageable level before allowing it to flow into the Bear Swamp, reducing erosion and sediment deposition. Along with velocity attenuation, it also serves to trap, treat, and impeded the flow of harmful pollutants and excess nutrients into the ecosystems found downstream in the Waccamaw River. The filtering of the wetland and tributary work to maintain a balanced chemical makeup eventually effecting the Waccamaw River. They serve as primary producers by way of injecting biomass into the system. This provides a part of the basic food web for primary feeders which other organisms in the ecosystem. The wetlands also provide habitat for foraging, nesting, and travel corridors for a variety of wetland dependent and non-dependent species. All wetlands evaluated in this significant nexus determination (SND) which are similarly situated and adjacent (both directly abutting and non-abutting) to the RPW (Baiter Swamp) are collectively performing biological, chemical, and physical functions. The onsite wetlands in the review area are situated less than approximately 2-3 river mile from the nearest TNW (Waccamaw River). Water discharging from the wetlands enter offsite non-jurisdictional ditches which flow into a non-jurisdictional roadside ditch along Pitch Landing Road which flows directly into Baiter Swamp. Offsite wetlands 1 and 2 directly abut the tributary and water flows directly from the wetlands into the tributary. Wetlands A, B, C, 4, and 5 are adjacent non-abutting the tributary via man-made ditches.**

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: **Wetlands in the review area, and its tributary (Baiter Swamp) provide a significant physical, biological, and chemical benefit and investment to that ecosystem. The collective system provides an immediate function of flood and stormwater attenuation, providing a catch basin for the surrounding drainage area. The wetlands retard runoff to a manageable level before allowing it to flow into the Bear Swamp, reducing erosion and sediment deposition. Along with velocity attenuation, it also serves to trap, treat, and impede the flow of harmful pollutants and excess nutrients into the ecosystems found downstream in the Waccamaw River. The filtering of the wetland and tributary work to maintain a balanced chemical makeup eventually effecting the Waccamaw River. They serve as primary producers by way of injecting biomass into the system. This provides a part of the basic food web for primary feeders which other organisms in the ecosystem. The wetlands also provide habitat for foraging, nesting, and travel corridors for a variety of wetland dependent and non-dependent species. All wetlands evaluated in this significant nexus determination (SND) which are similarly situated and adjacent (both directly abutting and non-abutting) to the RPW (Baiter Swamp) are collectively performing biological, chemical, and physical functions. The onsite wetlands in the review area are situated less than approximately 2-3 river mile from the nearest TNW (Waccamaw River). Water discharging from the wetlands enter offsite non-jurisdictional ditches which flow into a non-jurisdictional roadside ditch along Pitch Landing Road which flows directly into Baiter Swamp. Offsite wetlands 1 and 2 directly abut the tributary and water flows directly from the wetlands into the tributary. Wetlands A, B, C, 4, and 5 are adjacent non-abutting the tributary via man-made ditches.**

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: The tributary located in Baiter Swamp is a natural tributary flowing within both wetlands and uplands with stable banks located to the north of Pitch Landing Road. The tributary on the south side of Pitch Landing Road widens out into a braided system within the swamp. Tributary exhibited characteristics of flow at least 90% throughout the year under normal climactic conditions. Water was flowing at time of the site visit. OHWM, wrack lines, siltation, and scouring were observed in the field. The tributary is also a named feature on topographic maps and is depicted as a solid blue line.
 - 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: **6,000** linear feet **4-5** width (ft).
 - Other non-wetland waters: acres.
 - Identify type(s) of waters:
- 3. Non-RPWs⁸ 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):

⁸See Footnote # 3.

- 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: **0.40(Wetland A)+12.94(Wetland B)+3.24(Wetland C) = 16.58** 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.

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.

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): **Several dashed blue lines (intermittent tributaries) are depicted on topographic maps.**

After conducting the site visit, it was determined that two of the dashed blue lines (as shown on drawing in the file titled "Aerial Photograph / 61-Acre Highway 110 Tract / Conway, South Carolina" and dated December 2014) were determined to be upland excavated non-jurisdictional ditches. The remaining blue lines depicted on the topo map did not exist. Two ponds were also assessed in the field and determined to be upland excavated non-jurisdictional ponds. The two non-jurisdictional ditches that provide a hydrologic connection for the onsite wetlands are located offsite.

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: **Survey plat prepare by Pee Dee Land Surveying, LLC. dated April 14, 2015 entitled "WETLANDS SURVEY OF 60.86 ACRES / OF LAND LOCATED ALONG / PITCH LANDING ROAD / BUCKS TOWNSHIP, Horry County, S.C. / PREPARED FOR: PITCH LANDING PARTNERSHIP".**

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. 03040206-09

U.S. Geological Survey map(s). Cite scale & quad name: **Conway (blue lines are depicted on the topo map and are discussed above).**

USDA Natural Resources Conservation Service Soil Survey. Citation: **p. 69, Yauhannah (non-hydric), Pocomoke (Hydric), Ogeechee (Hydric).**

National wetlands inventory map(s). Cite name: **PFO1Bd (Palustrine Forested Broad-Leaved Deciduous).**

State/Local wetland inventory map(s): .

FEMA/FIRM maps: .

100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

Photographs: Aerial (Name & Date): **99-11222:108, SCDNR 2006.**

or Other (Name & Date): **Photos taken during site visit.**

Previous determination(s). File no. and date of response letter: **SAC# 2007-01205-3 (Letter dated December 9, 2008), SAC# 2007-01395-3JH (Letter dated January 7, 2008).**

Applicable/supporting case law: .

Applicable/supporting scientific literature: .

Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands B and C were previously determined to be jurisdictional under SAC# 2007-01207-3 (Letter dated December 9, 2008). The JD letter has expired and the landowner requested a new determination. An additional 0.40 acre of jurisdictional wetlands (Wetland A) were discovered onsite. The JD dated December 9, 2008 determined that the onsite wetlands (Wetland B and C) directly abut an offsite seasonal RPW (determined seasonal under SAC# 2007-01395-3JH). However, after further review, it was determined that the offsite seasonal RPW is a non-jurisdictional man-made ditch. The hydrologic connection from the onsite wetlands to the downstream TNW is documented in the Significant Nexus Determination above. One site visit was performed.