

**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-March-2018**

**B. DISTRICT OFFICE, FILE NUMBER, FILE NAME: JD Form 1 of 1; SAC-2008-01012 Bikas Property Site**

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

State: South Carolina County/parish/borough: **Anderson County** City: **Centerville**  
Center coordinates of site (lat/long in degree decimal format): Lat. **34.5215° N**, Long. **82.6940° W**.  
Universal Transverse Mercator: **NAD 83**

Name of nearest waterbody: **Unnamed Tributary of Fivemile Creek**

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

Name of watershed or Hydrologic Unit Code (HUC): **03060103-04**

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: **9-February-2018**

Field Determination. Date(s): **15-August-2017**

**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: **SRPW=220** linear feet.

Wetlands: **Wetland 1=0.26 acres and Wetland 2=0.05** acres.

\*Wetland 1 and Wetland 2 are documented as separate wetlands on the drawing, but are only separated by an upland berm. According to the Memorandum to Re-evaluate Jurisdiction for NWP-2007-428, the presence of an artificial barrier (berm) does not sever the areas from functioning as one wetland. Therefore, Wetland 1 and Wetland 2 will be documented as one wetland on this form.

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

Elevation of established OHWM (if known): .

<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).

2. **Non-regulated waters/wetlands (check if applicable):**<sup>3</sup>

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: **The site has an upland dug detention pond located near the wetland and tributary. The pond has not impacted the wetland or tributary and has not been constructed on waters of the U.S.**

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<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: 217,939 acres ; 03060103-04

Drainage area: Pick List

Average annual rainfall: 49.69 inches

Average annual snowfall: 1.6 inches

(ii) **Physical Characteristics:**

(a) **Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

Project waters are 15-20 river miles from TNW.

Project waters are 1-2 river miles from RPW.

Project waters are 15-20 aerial (straight) miles from TNW.

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

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

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

Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW<sup>5</sup>: **Unnamed Tributary which flows to Fivemile Creek which flows to Big Generostee Creek which flows to the Savannah River (Traditional Navigable Water and Navigable Water of the U.S.).**  
Tributary stream order, if known: **first**.

(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: **3 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: **According to the soil survey, the tributary is surrounded by Cartecay-Chewacla soils.**

**These soils are somewhat poorly drained.**

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Appeared to be stable with a lot of sediment at the start.

Presence of run/riffle/pool complexes. Explain: **Unknown**.

Tributary geometry: **Meandering**.

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Seasonal flow**

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

Describe flow regime: **This tributary has seasonal flow. It was observed flowing at the time of the Corps site visit. Seasonal flow is defined as tributaries that have continuous flow at least three months each year under normal conditions. This tributary has a clear OHWM with a distinct channel.**

Other information on duration and volume: **The tributary is shown as intermittent on the soil map and as a dashed blue line on the topo map.**

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  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.<sup>7</sup> 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.

<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.

- tidal gauges
- other (list):

**(iii) Chemical Characteristics:**

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

Explain: **This tributary is located in the Savannah River/Lake Russell watershed (03060103-04). The land use/land cover in this watershed includes 44.4% forested land, 34.2% agricultural land, 12.3 % urban land, 7.2% water, and 1.4%forested wetland (swamp)..**

Identify specific pollutants, if known: **The site is located in an area that is very developed. There are possible pollutants from nearby roads and businesses.**

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

- Riparian corridor. Characteristics (type, average width): **The tributary flows through a forested area on-site.**
- Wetland fringe. Characteristics:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings: **Breeding grounds for aquatic species.**
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings: **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: **Wetland =0.31** acres

Wetland type. Explain: **Forested.**

Wetland quality. Explain: **The wetland has been disturbed by work on adjacent lands and on the property. A permit was issued in 2008 to impact the wetland. It appears work has been done on the site, but the wetland has not been completely filled in..**

Project wetlands cross or serve as state boundaries. Explain:

**(b) General Flow Relationship with Non-TNW:**

Flow is: **Ephemeral flow**. Explain: **Water flows from wetlands to the seasonal RPW overland during times of rain and during the wetter months.**

Surface flow is: **Overland sheetflow**

Characteristics: **The wetland is directly abutting the seasonal RPW.**

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

Dye (or other) test performed:

**(c) Wetland Adjacency Determination with Non-TNW:**

Directly abutting The wetland is directly abutting the seasonal RPW.

\*Wetland 1 and Wetland 2 are documented as separate wetlands on the drawing, but are only separated by an upland berm. According to the Memorandum to Re-evaluate Jurisdiction for NWP-2007-428, the presence of an artificial barrier (berm) does not sever the areas from functioning as one wetland. Therefore, Wetland 1 and Wetland 2 will be documented as one wetland on this form.

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

**(d) Proximity (Relationship) to TNW**

Project wetlands are **15-20** river miles from TNW.

Project waters are **15-20** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

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: **The wetland is located in the Savannah River/Lake Russell watershed (03060103-04). The land use/land cover in this watershed includes 44.4% forested land, 34.2% agricultural land, 12.3 % urban land, 7.2% water, and 1.4%forested wetland (swamp)..**

Identify specific pollutants, if known: **The site is located in an area that is very developed. There are possible pollutants from nearby roads and businesses.**

**(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: **Breeding grounds for aquatic species.**
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings: **Habitat and foraging areas for wildlife in the area.**

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

All wetland(s) being considered in the cumulative analysis: **1**  
 Approximately ( **0.31** ) 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>
Wetland (Y)	0.31		

Summarize overall biological, chemical and physical functions being performed: **The wetland evaluated in this significant nexus evaluation and is directly abutting the seasonal RPW is collectively performing biological, chemical, and physical functions that relate to the integrity of the downstream TNW. The downstream TNW is 15-20 miles from the site, however the waters are less than 2 miles from the nearest perennial RPW. The wetland has a manmade berm that is running through it, but there is a breach in the berm. The wetlands is forested, provides breeding grounds for aquatic species, provides habitat and foraging areas for wildlife in the area, and provides spawning areas for adult species that inhabit the wetlands. The wetland is located in an area where there is a lot of development and possible pollutants from nearby businesses and high traveled roads. The wetland helps to filter pollutants from the developemnt before they can travel to the downstream TNW. The wetland also helps to perform flow maintenance functions that include retaining runoff and storing flood water temporarily during times of heavy rain and during the wetter months.**

**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 wetland and seasonal RPW evaluated in this significant nexus evaluation are collectively performing biological, chemical, and physical functions that relate to the integrity of the down stream TNW. The downstream TNW is 15-20 miles from the site, however the waters are less than 2 miles from the nearest perennial RPW. The wetland has a manmade berm that is running through it, but there is a breach in the berm. The wetland is forested. The wetland and seasonal RPW provide breeding grounds for aquatic species, provide habitat and foraging areas for wildlife in the area, and provide spawning areas for adult species that inhabit the wetlands and seasonal RPW. The wetland and seasonal RPW are located in an area where there is a lot of development and possible pollutants from nearby businesses and high traveled roads. The wetland and seasonal RPW help to filter pollutants from the developemnt before they can travel to the downstream TNW. The wetland and seasonal RPW also help to perform flowmaintenance functions that include retaining runoff and storing flood water temporarily during times of heavy rain and during the wetter months. Based on the collective functions described above and their importance to the biological, chemical, and physical integrity of the downstream TNW, it has been determined that there is a significant nexus between the relevant reach of the tributary and its abutting wetland to the 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:
  - 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 seasonal RPW located on-site is shown as intermittent on the soil map and as a dashed blue line on the topo map. This tributary had a clear OHWM and distinct channel. It was observed flowing 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: **SRPW=220** 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:
    - 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: **The wetland directly abuts the seasonal RPW. This was observed in the field.**

Provide acreage estimates for jurisdictional wetlands in the review area: **Wetland =0.31** acres.

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

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).

**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): **The site has an upland dug detention pond located near the wetland and tributary. The pond has not impacted the wetland or tributary and has not been constructed on waters of the U.S.**

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).

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

<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.

- 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: **Ecological Associates.**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report. While the Corps may not agree with all information on the submitted data sheets, the Corps agrees with the conclusions of the data sheets.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:            .
- Corps navigable waters' study: **1977 Navigability Study.**
- U.S. Geological Survey Hydrologic Atlas: **HA 730-G, 1990.**
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **1:24,000 Anderson North.**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **SSURGO data and Anderson County Soil Map 30, Cartecay-Chewacla, Appling, Cecil-Urban.**
- National wetlands inventory map(s). Cite name: **FWS NWI data.**
- State/Local wetland inventory map(s):            .
- FEMA/FIRM maps:            .
- 100-year Floodplain Elevation is:            (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **Google Earth image dated 10/30/2017.**  
or  Other (Name & Date): **Photos 1-6 of 6 taken by Ecological Associates dated 7/11/2017, photos 1-11 of 11 taken by Corps dated 8/15/2017.**
- Previous determination(s). File no. and date of response letter: **SAC 81-2005-0265(K), June 28, 2006.**
- Applicable/supporting case law:            .
- Applicable/supporting scientific literature:            .
- Other information (please specify): **Corps Site Visit.**

**B. ADDITIONAL COMMENTS TO SUPPORT JD: The site has 1 wetland (Wetland 1 and Wetland 2) that is directly abutting a seasonal RPW. A Significant Nexus Determination was performed and is documented on Section III. C of this form. Based on the information documented, there is a significant nexus between the seasonal RPW and its adjacent wetland (abutting) to the downstream TNW.**

**Wetland 1 and Wetland 2 are separated by a manmade berm. According to the Memorandum to Re-Evaluate Jurisdiction for NWP-2007-428, the presence of an artificial barrier (berm) does not sever the areas from functioning as one wetland. Therefore, Wetland 1 and Wetland 2 are still considered one wetland.**

**The wetland and seasonal RPW documented on this form are considered waters of the U.S. and are jurisdictional under the Clean Water Act.**