

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): March 2, 2020

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: ;Form 1 of 2 (Western Waters); Charleston Corps District; Fairfield Commerce Center; SAC 2010-00448

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Project is located approximately 3.5 miles west of Ridgeway in Fairfield County, SC

State: **South Carolina** County/parish/borough: **Fairfield** City: **Ridgeway**

Center coordinates of site (lat/long in degree decimal format): Lat. **34.2905° N**, Long. **81.0185° W**.

Universal Transverse Mercator: **NAD 83**

Name of nearest waterbody: **Cedar Creek 0305010606-01**

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

Name of watershed or Hydrologic Unit Code (HUC): **Cedar Creek Watershed 03050106-06**

☒ 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: **March 2, 2020**

☒ Field Determination. Date(s): **May 18, 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):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: Tributary S-1A: 2,176 linear feet, Tributary S-1B: 2,414 linear feet, Tributary S-3: 44 linear feet, Tributary S-4: 198 linear feet, Tributary S-5: 449 linear feet, Tributary S-10: 65 linear feet, Tributary S-2: 5,532 linear feet, Tributary S-6: 130 linear feet: **Variable channel** width (ft) or **a total of 2.411** acres.

Wetlands: Wetland A: 0.01 acre, Wetland B: 0.42 acre, Wetland C: 0.13, acre, Wetland D: 0.22 acre, Wetland E: 0.36 acre, wetland F: 0.06 acres, Wetland G: 0.42 acre, Wetland H: 0.18 acre, Wetland I: 0.14 acre, Wetland J: 0.01 acre, Wetland K: 0.004 acre, Wetland L: 0.05 acre, Wetland M: 0.76 acre and Wetland N: 0.22 acre. Total Wetland area 2.984 acres.

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

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).

Elevation of established OHWM (if known): N/A.

2. **Non-regulated waters/wetlands (check if applicable):³ [Including potentially jurisdictional features that upon assessment are NOT waters or wetlands]**
- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Aquatic feature Pond 1 was excavated in uplands as part of creation of detention basins for NPDES # SCR10T495. Since this is a stormwater detention basin created in uplands, it is not considered to be jurisdictional by the Corps.**

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 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: **64,581 acres** ; Big Cedar Creek 03050106-06

Drainage area: **133 acres** This is the drainage area for the site.

Average annual rainfall: **43.91** inches based on data from usclimatedata.com

Average annual snowfall: **0** inches

(ii) **Physical Characteristics:**

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

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

³ Supporting documentation is presented in Section III.F.

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

Project waters are **15-20** river miles from TNW.
Project waters are **1-2** river miles from RPW.
Project waters are **10-15** aerial (straight) miles from TNW.
Project waters are **1-2** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: **N/A**.

Identify flow route to TNW⁵: The identified first and second order tributaries on this form flow to Cedar Creek, which flows to Big Cedar Creek, which flows to the Broad River (Traditional Navigable Water).
Tributary stream order, if known: First and Second Order.

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: **some areas may have been altered by historic land management practices & logging.**

Tributary properties with respect to top of bank (estimate):

Average width: **3-6** feet
Average depth: **3-4** feet
Average side slopes: **2:1**.

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: Tributaries are relatively stable with no erosion or sloughing banks observed.

Presence of run/riffle/pool complexes. Explain: **Presence of run/riffle/pool complexes were not observed.**

Tributary geometry: **Meandering**.

Tributary gradient (approximate average slope): **unknown** %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **11-20**

Describe flow regime: Tributary S-1B: 2,414 linear feet and Tributary S-2: 5,532 linear feet are tributaries that experience flow throughout the typical year, thereby having perennial flow regime. These identified tributaries are indicated by a solid blue line on the USGS quadrangle mapping and flow within defined bed and banks, with a clear ordinary high water mark and had observed flow during field view of this site.

Tributary S-3: 44 linear feet, Tributary S-4: 198 linear feet, Tributary S-5: 449 linear feet, Tributary S-10: 65 linear feet and Tributary S-6: 130 linear feet are tributaries that would experience flow for at least three consecutive months throughout the typical year. These identified tributaries had defined bed and banks, had several indicators of flow/ordinary high water mark, but may not have had observable flow during the field view. These tributaries receive hydrology (in some cases) from abutting/adjacent wetland, from overland surface flows and from shallow ground water sources. These hydrologic sources drive continuous flow beyond precipitation events and for at least three months during the typical year providing for the season flow regime in these tributaries.

Other information on duration and volume: The presence of water/flow in RPW Tributaries S-1A, S-1B & S-2 was observed along with the indicators of flow in SRPW Tributaries S-3, S-4, S-5, S-6 & S-10 during January 2016 field view.

Surface flow is: **Discrete and confined**. Characteristics: **Water flows across established beds and is confined within established banks..**

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):

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.

- | | |
|---|--|
| ☒ 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): | |

(iii) Chemical Characteristics:

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

Explain:

Based upon information provided by SCDHEC, Watershed 03050106-06 is located in Fairfield and Richland Counties and consists primarily of Cedar Creek and its tributaries. The watershed occupies 64,581 acres of the Piedmont region of South Carolina. Big Cedar Creek originates near the Town of Ridgeway and accepts drainage from Center Creek (Rock Dam Creek), Persimmon Fork, Horse Creek, Williams Branch (Big Branch), and Little Cedar Creek (Crooked Run Creek, Bethel Pond, Smith Branch, Chappel Branch). Big Cedar Creek merges with Harmon Creek (Little Horse Branch, Elkins Creek) to form Cedar Creek, which flows into the Broad River. There are a total of 285.8 stream miles and 493.3 acres of lake waters in this watershed, all classified FW.

There is a low potential for growth in the majority of this watershed. Portions of the Towns of Ridgeway and Blythewood are located along the eastern edge of the watershed. Water and sewer services are available in the Blythewood area, which is expected to be a moderate to high growth area.

These tributaries have a firm, sandy/gravel/cobble bottom with normal coloring. The watershed land use includes 14.8% agricultural land, 75.1% forested land, 1.3% forested wetland, 21.6% water, 6.8% urban land, 0.07% scrub/shrub land, 0.7% water, and 0.6% barren land.

Identify specific pollutants, if known: **According to SCDHEC, a review of downstream monitoring station for Big Cedar Creek (B-320/RS-02453) indicate aquatic life uses are fully-supported; however there are significant increasing trends in five-day biochemical oxygen demand and total nitrogen**

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

- ☒ Riparian corridor. Characteristics (type, average width): **Forested; 100+ feet .**
- ☒ Wetland fringe. Characteristics: **Wetland A-G directly abut perennial tributary S-1A/ S-1B. Wetland I, Wetland J, Wetland K, and Wetland M directly abut tributary S-2.**
- ☒ Habitat for:

- ☐ Federally Listed species. Explain findings: .
- ☒ Fish/spawn areas. Explain findings: **Tributaries provide breeding grounds for aquatic species..**
- ☐ Other environmentally-sensitive species. Explain findings: .
- ☒ Aquatic/wildlife diversity. Explain findings: **Provides habitat and corridor for wildlife as well as connection to downstream TNW for aquatic species.**

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 H: 0.18 acre, Wetland L: 0.05 acre and Wetland N: 0.22 acre.

Wetland type. Explain: **Palustrine Forested Wetlands..**

Wetland quality. Explain: **wetlands appear to have experienced some impairment from land clearing/logging.**
Project wetlands cross or serve as state boundaries. Explain: **N/A.**

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: **flow from identified wetlands to the TNW is intermittent throughout the typical year..**

⁷Ibid.

Surface flow is: **Discrete and confined**

Characteristics: **Most of the identified wetlands are directly abutting perennial tributaries and flow directly into them. The adjacent wetlands have overland sheet flow hydrologic connections..**

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

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting Wetland A, Wetland B, Wetland C, Wetland D, Wetland E, Wetland F, Wetland G, Wetlands I, Wetlands J, wetlands K, and Wetland M directly about tributaries S-1B, S-1A, and S-2.

☒ Not directly abutting Wetland H is adjacent to tributary S-1B and Wetland L and Wetland N are adjacent to tributary S-2.

☒ Discrete wetland hydrologic connection. Explain: Wetland H has an observed overland sheetflow hydrologic connection to Tributary S-1B and is located within 100 ft of Tributary S-1B. Wetland L and Wetland N are adjacent to Tributary S-2 and are located within 50 feet of Tributary S-2.

☐ 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 **10-15** aerial (straight) miles from TNW.

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

Estimate approximate location of wetland as within the **2 - 5-year** 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:

Based upon information provided by SCDHEC, Watershed 03050106-06 is located in Fairfield and Richland Counties and consists primarily of Cedar Creek and its tributaries. The watershed occupies 64,581 acres of the Piedmont region of South Carolina. Big Cedar Creek originates near the Town of Ridgeway and accepts drainage from Center Creek (Rock Dam Creek), Persimmon Fork, Horse Creek, Williams Branch (Big Branch), and Little Cedar Creek (Crooked Run Creek, Bethel Pond, Smith Branch, Chappel Branch). Big Cedar Creek merges with Harmon Creek (Little Horse Branch, Elkins Creek) to form Cedar Creek, which flows into the Broad River. There are a total of 285.8 stream miles and 493.3 acres of lake waters in this watershed, all classified FW.

There is a low potential for growth in the majority of this watershed. Portions of the Towns of Ridgeway and Blythewood are located along the eastern edge of the watershed. Water and sewer services are available in the Blythewood area, which is expected to be a moderate to high growth area.

The watershed land use includes 14.8% agricultural land, 75.1% forested land, 1.3% forested wetland, 21.6% water, 6.8% urban land, 0.07% scrub/shrub land, 0.7% water, and 0.6% barren land.

Identify specific pollutants, if known: **According to SCDHEC, a review of downstream monitoring station for Big Cedar Creek (B-320/RS-02453) indicate aquatic life uses are fully-supported; however there are significant increasing trends in five-day biochemical oxygen demand and total nitrogen.**

(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: **These wetlands provide breeding and rearing areas for aquatic and terrestrial species.**

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: **These wetlands provide forage and cover areas for wildlife.**

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

All wetland(s) being considered in the cumulative analysis: **14**

Approximately (**2.984**) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Wetland A (Y)	0.01	Wetland B (Y)	0.42
Wetland C (Y)	0.13	Wetland D (Y)	0.22
Wetland E (Y)	0.36	Wetland F (Y)	0.06
Wetland G (Y)	0.42	Wetland H (N)	0.18
Wetland I (Y)	0.14	Wetland J (Y)	0.01
Wetland K (Y)	0.7	Wetland L (N)	0.05
Wetland M (Y)	0.76	Wetland N (N)	0.22

Summarize overall biological, chemical and physical functions being performed: The wetlands being evaluated in this significant nexus determination adjacent to perennial Tributaries S-1B and S-2 are performing biological, chemical, and physical functions that relate to the integrity of the TNW (Broad River). Wetland H is adjacent to Tributary S-1B (within 100 feet) and has an observed direct overland hydrologic connection to this tributary via SRPW S-10. Likewise, Wetland L and Wetland N are adjacent to Tributary S-2 (within 50 feet) and have observed direct overland hydrologic connections to this tributary. The wetlands are predominately forested and are performing a variety of biological functions that include providing breeding grounds for aquatic species in the area and habitat for wildlife in the area. The wetlands also perform chemical functions that include filtering pollutants from nearby roads, upland development and clearing. The wetlands also perform physical functions that include flow maintenance like retaining runoff and storing stormwater temporarily during the wetter months and in times of heavy rain. This helps to reduce downstream peak flows and helps to maintain seasonal flow volumes.

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:

Wetland H is within 100 feet of Tributary S-1B (RPW) and has an observed direct overland hydrologic connection to this tributary via SRPW S-10. Likewise, Wetland L and Wetland N are within 50 feet of Tributary S-2 (RPW) and have observed direct overland hydrologic connections to this tributary. The wetlands are predominately forested and are performing a variety of biological functions that include providing breeding grounds for aquatic species in the area and habitat for wildlife in the area. The wetlands also perform chemical functions that include filtering pollutants from nearby roads, upland development and clearing. The wetlands also perform physical functions that include flow maintenance like retaining runoff and storing stormwater temporarily during the wetter months and in times of heavy rain. This helps to reduce downstream peak flows and helps to maintain seasonal flow volumes. 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 there is a significant nexus between the relevant reach of the tributaries and adjacent wetlands to the downstream TNW (Broad River).

Documentation for the Record only: Significant nexus findings for seasonal RPWs and/or wetlands abutting seasonal RPWs:

The seasonal tributaries on the site (Tributary 3, Tributary S-4, Tributary S-5, Tributary S-6 and Tributary S-10) are performing a variety of functions that relate to the biological, chemical, and physical functions of the downstream TNW (Broad River). These seasonal RPWs are performing a variety of biological functions that include providing breeding grounds for aquatic species and habitat for wildlife in the area by providing cover and feeding areas. The tributaries are also performing chemical functions that include filtering pollutants from nearby roads, from upland development and clearing. These seasonal RPWs are also performing physical functions that include contributing to the base hydrology flows in downstream tributaries. Thereby helping to maintain continuous perennial flow in downstream tributaries. 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 there is a significant nexus between the relevant reach of the tributaries to the downstream TNW (Broad River).

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 S-1A, S-1B & S-2 are shown as blue line features on the USGS topographic map and are shown streams on the soil survey maps prepared by NRCS. These tributaries had observed flow during field views, had defined bed and banks with a clear indication of OHWM. In addition, shelving, movement of bedload material and the presence of riffles and pools within these tributaries indicate that these tributaries which have perennial flow regimes. Based on stream characteristics observed and available data, this office concluded these tributaries have perennial flow regimes.

☒ 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: Tributary S-3: 44 linear feet, Tributary S-4: 198 linear feet, Tributary S-5: 449 linear feet, Tributary S-10: 65 linear feet and Tributary S-6: 130 linear feet are tributaries that would experience flow for at least three consecutive months throughout the typical year. These identified tributaries had defined bed and banks, had several indicators of flow/ordinary high water mark, but may not have had observable flow during the field view. These tributaries receive hydrology (in some cases) from abutting/adjacent wetland, from overland surface flows and from shallow ground water sources. These hydrologic sources drive continuous flow beyond precipitation events and for at least three months during the typical year providing for the season flow regime in these tributaries. Based on stream characteristics observed and available data, this office concluded these tributaries have seasonal flow regimes.

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

- ☒ Tributary waters: **Tributary S-1A: 2,176 linear feet, Tributary S-1B: 2,414 linear feet, Tributary S-3: 44 linear feet, Tributary S-4: 198 linear feet, Tributary S-5: 449 linear feet, Tributary S-10: 65 linear feet, Tributary S-2: 5,532 linear feet, Tributary S-6: 130 linear feet: Variable channel width (ft) or** a total of **2.411 acres**
☐ 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):

- ☐ 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: **As identified in this document, Wetlands A, B, C, D, E, F, G, I, J, K & M are directly abutting RPW (Tributaries S-1A, S-1B or S-2) and have direct hydrologic connection to these tributaries.**

⁸See Footnote # 3.

- ☒ 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: **Wetland H is within 100 feet of Tributary S-1B (RPW) and directly abuts Tributary SRPW S-10 (direct overland hydrologic connection to Tributary S-1B).**

Provide acreage estimates for jurisdictional wetlands in the review area: **Wetland A: 0.01 acre, Wetland B: 0.42 acre, Wetland C: 0.13, acre, Wetland D: 0.22 acre, Wetland E: 0.36 acre, wetland F: 0.06 acres, Wetland G: 0.42 acre, Wetland H: 0.18 acre, Wetland I: 0.14 acre, Wetland J: 0.01 acre, Wetland K: 0.004 acre & Wetland M: 0.76 acre.**

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: **Wetland L: 0.05 acre & Wetland N: 0.22 acres.**

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

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

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

7. **Impoundments of jurisdictional waters.⁹**

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

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

Explain:

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

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

Identify water body and summarize rationale supporting determination: _____

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

- ☐ Tributary waters: _____ linear feet _____ width (ft).
☐ Other non-wetland waters: _____ acres.

Identify type(s) of waters: _____

- ☐ Wetlands: _____ acres.

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

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in “*SWANCC*,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
☐ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: _____
☒ Other: (explain, if not covered above): **Aquatic feature Pond 1 was excavated in uplands as part of creation of detention basins for NPDES # SCR10T495. Since this is a stormwater detention basin created in uplands, it is not considered to be jurisdictional by the Corps.**

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.

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: **S&ME.**
☒ 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 data sheets and submitted report.

- ☐ 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. 030501060601 Cedar Creek-Lower Broad River
☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 Winnsboro Mills, SC quadrangle
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **USDA-NRCS data: Pacolet, Chewacla, Herndon, Hiawassee, Cecil Toccoa, Winnsboro, Rion & Georgeville .**
☒ National wetlands inventory map(s). Cite name: **USFWS NWI data: PFO1A, PUBHh, R5UBH & R4SBC.**
☐ State/Local wetland inventory map(s): .
☒ FEMA/FIRM maps: **FIRM 45039C0375C (May 3, 2011).**
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): **Google Earth aeriels (1994-2015)..**
or ☒ Other (Name & Date): **Photographs provided by S&ME.**
☒ Previous determination(s). File no. and date of response letter: **SAC 2010-00448-5JK, December 17, 2010 .**
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify): **Corps site visit on May 18, 2016.**

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Aquatic resources documented on this site include perennial tributaries with adjacent wetlands and several seasonal tributaries. Based on guidance provided to the Corps, “relatively permanent waters” (RPWs) that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months) and wetlands that directly abut an RPW are jurisdictional, however, the significant nexus finding for the record are required by Rapanos Guidance.

This office performed the required Significant Nexus Determination and on this basis has made the determination that all the waters documented on this form (with the exception of upland excavated Pond #1-NPDES stormwater facility), including all wetlands adjacent to the relevant reach evaluated in the SND, are jurisdictional Waters of the U.S.

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): March 2, 2020

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Form 2 of 2 (Eastern Waters); Charleston Corps District; Fairfield Commerce Center; SAC 2010-00448

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Project is located approximately 3.5 miles west of Ridgeway in Fairfield County, SC

State: **South Carolina** County/parish/borough: **Fairfield** City: **Ridgeway**

Center coordinates of site (lat/long in degree decimal format): Lat. **34.2905° N**, Long. **81.0185° W**.

Universal Transverse Mercator: **NAD 83**

Name of nearest waterbody: **Cedar Creek 0305010606-01**

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

Name of watershed or Hydrologic Unit Code (HUC): **Cedar Creek Watershed 03050106-06**

☒ 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: **March 2, 2020**

☒ Field Determination. Date(s): **May 18, 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):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: Tributary S-7: 2521 linear feet, Tributary S-8: 1192 linear feet, Tributary S-9A: 3,138 linear feet, Tributary S-9B: 4,094 linear feet, Tributary S-11: 250 linear feet, Tributary S-12: 488 linear feet, Tributary S-13: 640 linear feet, Tributary S-14: 395 linear feet, Tributary S-15: 1,476 linear feet, Tributary S-16: 147 linear feet, Tributary S-17: 2,298 linear feet, Tributary S-18: 427 linear feet, Tributary S-19: 36 linear feet: **Variable channel** width (ft) or **a total of 2.722 acres**.

Wetlands: Wetland O: 0.09 acre, Wetland P: 0.07 acre, Wetland Q: 0.02 acre, Wetland R: 0.09 acre, Wetland S: 0.05 acre, Wetland T: 0.04 acres, Wetland U: 0.04 acre, Wetland V: 0.33 acre, Wetland W: 0.01 acre, Wetland X: 0.07 acre, Wetland Y: 0.33 acre, Wetland Z: 0.12 acre, Wetland AA: 0.05 acre, Wetland BB: 0.07 acre, Wetland CC: 0.03 acre, Wetland DD: 0.02 acre, Wetland EE:

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).

0.04 acre, Wetland FF: 0.02 acre, Wetland GG: 0.03 acre, Wetland HH: 0.01 acre, Wetland II: 0.05 acre, Wetland JJ: 0.1 acre, Wetland KK: 0.06 acre, Wetland LL: 0.16 acre, Wetland MM: 0.52 acre and Wetland NN: 0.08 acre. Total Wetland area 2.5 acres.

c. **Limits (boundaries) of jurisdiction** based on: **Established by OHWM., 1987 Delineation Manual, Pick List**
Elevation of established OHWM (if known): **N/A.**

2. **Non-regulated waters/wetlands (check if applicable):**³ [Including potentially jurisdictional features that upon assessment are NOT waters or wetlands]
☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: **Aquatic feature Pond 2 (0.36 acre) was excavated in uplands as part of creation of detention basins for NPDES # SCR10T495. Since this is a stormwater detention basin created in uplands, it is not considered to be jurisdictional by the Corps..**

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 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: **64,581 acres** ; Big Cedar Creek 03050106-06

Drainage area: **133 acres** This is the drainage area for the site.

Average annual rainfall: **43.91** inches based on data from usclimatedata.com

Average annual snowfall: **0** inches

³ Supporting documentation is presented in Section III.F.

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

(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 **10-15** aerial (straight) miles from TNW.
Project waters are **1-2** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: **N/A**.

Identify flow route to TNW⁵: The identified first and second order tributaries on this form flow to Cedar Creek, which flows to Big Cedar Creek, which flows to the Broad River (Traditional Navigable Water).
Tributary stream order, if known: First and Second Order.

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: **some areas may have been altered by historic land management practices & logging.**

Tributary properties with respect to top of bank (estimate):

Average width: **3-6** feet
Average depth: **3-4** feet
Average side slopes: **2:1**.

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: Tributaries are relatively stable with no erosion or sloughing banks observed.

Presence of run/riffle/pool complexes. Explain: **Presence of run/riffle/pool complexes were not observed.**

Tributary geometry: **Meandering.**

Tributary gradient (approximate average slope): **unknown %**

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **11-20**

Describe flow regime: Tributary S-7: 2,571 linear feet, Tributary S-9A: 3,138 linear feet, Tributary S-9B: 4,095 linear feet and Tributary S-15: 1,476 linear feet are tributaries that experience flow throughout the typical year, thereby having perennial flow regime. These identified tributaries are indicated by a solid blue line on the USGS quadrangle mapping and flow within defined bed and banks, with a clear ordinary high water mark and had observed flow during field view of this site.

Tributary S-8: 1,192 linear feet, Tributary S-11: 250 linear feet, Tributary S-12: 488 linear feet, Tributary S-13: 640 linear feet, Tributary S-14: 395 linear feet, Tributary S-16: 147 linear feet, Tributary S-17: 2,298 linear feet, Tributary S-18: 427 linear feet and Tributary S-19: 36 linear feet are tributaries that would experience flow for at least three consecutive months throughout the typical year. These identified tributaries had defined bed and banks, had several indicators of flow/ordinary high water mark, but may not have had observable flow during the field view. These tributaries receive hydrology (in some cases) from abutting/adjacent wetland, from overland surface flows and from shallow ground water sources. These hydrologic sources drive continuous flow beyond precipitation events and for at least three months during the typical year providing for the season flow regime in these tributaries.

Other information on duration and volume: The presence of water/flow in RPW Tributaries S-7, S-9A, S-9B & S-15 was observed along with the indicators of flow in SRPW Tributaries S-8, S-11 S-12, S-13, S-14, S-16, S-17, S-18 & S-19 during January 2016 field view.

Surface flow is: **Discrete and confined.** Characteristics: **Water flows across established beds and is confined within established banks..**

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

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.

☐ 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

☐ 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):

☒ 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

☐ Discontinuous OHWM.⁷ Explain: .

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

☐ High Tide Line indicated by:

☐ oil or scum line along shore objects

☐ fine shell or debris deposits (foreshore)

☐ physical markings/characteristics

☐ tidal gauges

☐ other (list):

☐ Mean High Water Mark indicated by:

☐ survey to available datum;

☐ physical markings;

☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

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

Explain:

Based upon information provided by SCDHEC, Watershed 03050106-06 is located in Fairfield and Richland Counties and consists primarily of Cedar Creek and its tributaries. The watershed occupies 64,581 acres of the Piedmont region of South Carolina. Big Cedar Creek originates near the Town of Ridgeway and accepts drainage from Center Creek (Rock Dam Creek), Persimmon Fork, Horse Creek, Williams Branch (Big Branch), and Little Cedar Creek (Crooked Run Creek, Bethel Pond, Smith Branch, Chappel Branch). Big Cedar Creek merges with Harmon Creek (Little Horse Branch, Elkins Creek) to form Cedar Creek, which flows into the Broad River. There are a total of 285.8 stream miles and 493.3 acres of lake waters in this watershed, all classified FW.

There is a low potential for growth in the majority of this watershed. Portions of the Towns of Ridgeway and Blythewood are located along the eastern edge of the watershed. Water and sewer services are available in the Blythewood area, which is expected to be a moderate to high growth area.

These tributaries have a firm, sandy/gravel/cobble bottom with normal coloring. The watershed land use includes 14.8% agricultural land, 75.1% forested land, 1.3% forested wetland, 21.6% water, 6.8% urban land, 0.07% scrub/shrub land, 0.7% water, and 0.6% barren land.

Identify specific pollutants, if known: **According to SCDHEC, a review of downstream monitoring station for Big Cedar Creek (B-320/RS-02453) indicate aquatic life uses are fully-supported; however there are significant increasing trends in five-day biochemical oxygen demand and total nitrogen**

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

☒ Riparian corridor. Characteristics (type, average width): **Forested; 100+ feet** .

☒ Wetland fringe. Characteristics: **Only Wetland Q, Wetland U, Wetland EE and Wetland NN are adjacent to tributaries. All other identified Wetlands directly abut a perennial or seasonal RPW.**

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☒ Fish/spawn areas. Explain findings: **Tributaries provide breeding grounds for aquatic species.**

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: **Provides habitat and corridor for wildlife as well as connection to downstream TNW for aquatic species.**

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

⁶A 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.

Wetland size: Wetland Q: 0.02, acre, Wetland T: 0.04 acres, Wetland U: 0.04 acre, Wetland BB: 0.07 acre, Wetland DD: 0.02 acre, Wetland EE: 0.04 acre, Wetland GG: 0.03 acre, Wetland HH: 0.01 acre, Wetland JJ: 0.1 acre, Wetland MM: 0.52 acre and Wetland NN: 0.08 acre.

Wetland type. Explain: **Palustrine Forested Wetlands.**

Wetland quality. Explain: **wetlands appear to have experienced some impairment from land clearing/logging.**
Project wetlands cross or serve as state boundaries. Explain: N/A.

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: **flow from identified wetlands to the TNW is intermittent throughout the typical year..**

Surface flow is: **Discrete and confined**

Characteristics: **Most of the identified wetlands are directly abutting perennial tributaries and flow directly into them. The adjacent wetlands have overland sheet flow hydrologic connections..**

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

☐ Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting: Wetland V, Wetland W, Wetland X, Wetland Y and Wetland Z abut RPW Tributary S-7. Wetland CC, Wetland AA, Wetland R, Wetland S, Wetland P, and Wetland O abut RPW Tributary S-9B. Wetland II and Wetland LL directly abut RPW Tributary S-9A.

Wetland JJ abuts seasonal Tributary S-14. Wetland BB abuts seasonal Tributary S-13. Wetland T abuts seasonal Tributary S-11. Wetland GG and Wetland HH abut seasonal Tributary S-18. Wetland FF and Wetland KK abut seasonal Tributary S-15

☒ Not directly abutting: Wetland Q, Wetland DD and Wetland U are adjacent to RPW Tributary S-9B. Wetland MM is adjacent to RPW Tributary S-9A. Wetland NN is adjacent to RPW Tributary S-7.

Wetland EE is adjacent to RPW Tributary S-15.

☒ Discrete wetland hydrologic connection. Explain: Wetland NN has an observed overland hydrologic connection to RPW Tributary S-7. Wetland MM has an observed overland hydrologic connection to RPW Tributary S-9B.

Wetland Q, Wetland DD and Wetland U adjacent to RPW Tributary S-9B and are located within 50 ft of the Tributary. Due to proximity of the wetlands to the RPW Tributary S-9B, it is anticipated that these wetlands have a shallow sub-surface connection to the tributary and likely experience some intermittent overland flow to the tributary during the wetter months of the year.

☐ 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 **10-15** aerial (straight) miles from TNW.

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

Estimate approximate location of wetland as within the **2 - 5-year** 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:

Based upon information provided by SCDHEC, Watershed 03050106-06 is located in Fairfield and Richland Counties and consists primarily of Cedar Creek and its tributaries. The watershed occupies 64,581 acres of the Piedmont region of South Carolina. Big Cedar Creek originates near the Town of Ridgeway and accepts drainage from Center Creek (Rock Dam Creek), Persimmon Fork, Horse Creek, Williams Branch (Big Branch), and Little Cedar Creek (Crooked Run Creek, Bethel Pond, Smith Branch, Chappel Branch). Big Cedar Creek merges with Harmon Creek (Little Horse Branch, Elkins Creek) to form Cedar Creek, which flows into the Broad River. There are a total of 285.8 stream miles and 493.3 acres of lake waters in this watershed, all classified FW.

There is a low potential for growth in the majority of this watershed. Portions of the Towns of Ridgeway and Blythewood are located along the eastern edge of the watershed. Water and sewer services are available in the Blythewood area, which is expected to be a moderate to high growth area.

The watershed land use includes 14.8% agricultural land, 75.1% forested land, 1.3% forested wetland, 21.6% water, 6.8% urban land, 0.07% scrub/shrub land, 0.7% water, and 0.6% barren land.

Identify specific pollutants, if known: According to SCDHEC, a review of downstream monitoring station for Big Cedar Creek (B-320/RS-02453) indicate aquatic life uses are fully-supported; however there are significant increasing trends in five-day biochemical oxygen demand and total nitrogen.

(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: **These wetlands provide breeding and rearing areas for aquatic and terrestrial species.**
 - ☐ Other environmentally-sensitive species. Explain findings:
 - ☒ Aquatic/wildlife diversity. Explain findings: **These wetlands provide forage and cover areas for wildlife.**

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

All wetland(s) being considered in the cumulative analysis: **25-30**

Approximately (**2.5**) 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 O (Y)	0.09	Wetland P (Y)	0.07
Wetland Q (N)	0.02	Wetland R (Y)	0.09
Wetland S (Y)	0.05	Wetland T (Y)	0.04
Wetland U (N)	0.04	Wetland V (Y)	0.33
Wetland W (Y)	0.01	Wetland X (Y)	0.07
Wetland Y (Y)	0.33	Wetland Z (Y)	0.12
Wetland AA (Y)	0.05	Wetland BB (Y)	0.07
Wetland CC (Y)	0.03	Wetland DD (N)	0.02
Wetland EE(N)	0.04	Wetland FF (Y)	0.02
Wetland GG (Y)	0.03	Wetland HH (Y)	0.01
Wetland II (Y)	0.05	Wetland JJ (Y)	0.1
Wetland KK (Y)	0.06	Wetland LL (Y)	0.16
Wetland MM (N)	0.52	Wetland NN (N)	0.08

Summarize overall biological, chemical and physical functions being performed: **The wetlands being evaluated in this significant nexus determination adjacent to perennial Tributaries S-9A, S-9B, S-7 and S-15 are performing biological, chemical, and physical functions that relate to the integrity of the TNW.**

Of the wetlands that are adjacent, Wetland NN has an observed overland hydrologic connection to RPW Tributary S-7 and Wetland MM has an observed overland hydrologic connection to RPW Tributary S-9B. For those adjacent wetlands without observed overland hydrologic connections, Wetland Q, Wetland DD and Wetland U adjacent to RPW Tributary S-9B are located within 50 ft of the Tributary. Wetland EE is adjacent to RPW Tributary S-15. Due to proximity of these wetlands to RPW Tributary S-9B and RPW S-15, it is anticipated that these wetlands have a shallow sub-surface connection to the tributary and likely experience some intermittent overland flow to the tributary during the wetter months of the year.

All of the wetlands are predominately forested and are performing a variety of biological functions that include providing breeding grounds for aquatic species in the area and habitat for wildlife in the area. The wetlands also perform chemical functions that include filtering pollutants from nearby roads, upland development and clearing. The wetlands also perform physical functions that include flow maintenance like retaining runoff and storing stormwater temporarily during the wetter months and in times of heavy rain. This helps to reduce downstream peak flows and helps to maintain seasonal flow volumes.

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:

Wetland NN has an observed overland hydrologic connection to RPW Tributary S-7 and Wetland MM has an observed overland hydrologic connection to RPW Tributary S-9B. For those adjacent wetlands without observed overland hydrologic connections, Wetland Q, Wetland DD and Wetland U adjacent to RPW Tributary S-9B and are located within 50 ft of the Tributary. Wetland EE is adjacent to RPW Tributary S-15. Due to proximity of the wetlands to the RPW Tributary S-9B Tributary S-15, it is anticipated that these wetlands have a shallow sub-surface connection to the tributary and likely experience some intermittent overland flow to the tributary during the wetter months of the year. These wetlands are predominately forested and are performing a variety of biological functions that include providing breeding grounds for aquatic species in the area and habitat for wildlife in the area. The wetlands also perform chemical functions that include filtering pollutants from nearby roads, upland development and clearing. The wetlands also perform physical functions that include flow maintenance like retaining runoff and storing stormwater temporarily during the wetter months and in times of heavy rain. This helps to reduce downstream peak flows and helps to maintain seasonal flow volumes. 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 there is a significant nexus between the relevant reach of the tributaries and adjacent wetlands to the downstream TNW (Broad River).

Documentation for the Record only: Significant nexus findings for seasonal RPWs and/or wetlands abutting seasonal RPWs:

The seasonal tributaries on the site (Tributary S-8, Tributary S-11, Tributary S-12, Tributary S-13, Tributary S-14, Tributary S-16, Tributary S-17, Tributary S-18 and Tributary S-19) are performing a variety of functions that relate to the biological, chemical, and physical functions of the downstream TNW (Broad River). These seasonal tributaries have directly abutting wetlands (Wetlands T, BB, GG, HH & JJ). These seasonal RPWs and abutting wetlands are performing a variety of biological functions that include providing breeding grounds for aquatic species and habitat for wildlife in the area by providing cover and feeding areas. The tributaries and the wetlands are also performing chemical functions that include filtering pollutants from nearby major roads, from upland development and clearing. These seasonal RPWs and the wetlands are also performing physical functions that include flow maintenance like retaining runoff and storing stormwater temporarily during the winter and spring seasons and during times of heavy rain. This helps to reduce downstream peak flows and helps to maintain seasonal flow volumes. 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 there is a significant nexus between the relevant reach of the tributaries and adjacent wetlands to the downstream TNW (Broad River).

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 S-7, S-9A, S-9B & S-15 are shown as blue line features on the USGS topographic map and are shown streams on the soil survey maps prepared by NRCS. These tributaries had observed flow during field views, had defined bed and banks with a clear indication of OHWM. In addition, shelving, movement of bedload material and the presence of riffles and pools within these tributaries indicate that these tributaries which have perennial flow regimes. Stream characteristics observed and available data led this office to conclude the tributaries have 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: This evaluation includes the following seasonal RPW’s: Tributary S-8: 1192 linear feet, Tributary S-11: 250 linear feet, Tributary S-12: 488 linear feet, Tributary S-13: 640 linear feet, Tributary S-14: 395 linear feet, Tributary S-16: 147 linear feet, Tributary S-17: 2,298 linear feet, Tributary S-18: 427 linear feet, Tributary S-19: 39 linear feet. These are tributaries that would experience continuous flow for at least three consecutive months throughout the typical year. These identified tributaries had defined bed and banks, had several indicators of flow/ordinary high water mark, but may not have had observable flow during the field view. These tributaries receive hydrology (in some cases) from abutting/adjacent wetland, from overland surface flows and from shallow ground water sources. These hydrologic sources drive continuous flow beyond precipitation events and for at least three months during the typical year providing for the season flow regime in these tributaries. Stream characteristics observed and available data led this office to conclude the tributaries have a seasonal flow regime.

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

- ☒ Tributary waters: **Tributary S-7: 2521 linear feet, Tributary S-8: 1192 linear feet, Tributary S-9A: 3,138 linear feet, Tributary S-9B: 4,095 linear feet, Tributary S-11: 250 linear feet, Tributary S-12: 488 linear feet, Tributary S-13: 640 linear feet, Tributary S-14: 395 linear feet, Tributary S-15: 1,476 linear feet, Tributary S-16: 147 linear feet, Tributary S-17: 2,298 linear feet, Tributary S-18: 427 linear feet, Tributary S-19: 39 linear feet: Variable channel width (ft) or a total of 2.5 acres.**
☐ 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):

- ☐ 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: **As identified in this document, Wetlands CC, AA, RS, O & P are directly abutting RPW Tributary S-9B. Wetlands Z, Y, X, V & W are directly abutting RPW Tributary S-7. Wetlands II & LL are directly abutting RPW Tributary S-9A. Wetlands FF & KK are directly abutting RPW S-15.**
☒ 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: **Seasonal tributaries on the site (Tributary S-11, Tributary S-13, Tributary S-14, and Tributary S-18) have abutting wetlands observed during the field view of this site. Specifically Wetland T directly abuts Tributary S-11, Wetland BB directly abuts Tributary S-3, Wetland JJ directly abuts Tributary S-14 and both Wetland GG and HH directly abut Tributary S-18**

Provide acreage estimates for jurisdictional wetlands in the review area: **Wetland O: 0.09 acre, Wetland P: 0.07 acre, Wetland Q: 0.02, acre, Wetland R: 0.09 acre, Wetland S: 0.05 acre, wetland T: 0.04 acres, Wetland U: 0.04 acre, Wetland V: 0.33 acre, Wetland W: 0.01 acre, Wetland X: 0.07 acre, Wetland Y: 0.33 acre, Wetland Z: 0.12 acre, Wetland AA: 0.05 acre, Wetland BB: 0.07 acre, Wetland CC: 0.03 acre, Wetland DD: 0.02 acre, Wetland EE: 0.04 acre, Wetland FF: 0.02 acre, Wetland GG: 0.03 acre, Wetland HH: 0.01 acre, Wetland II: 0.05 acre, Wetland JJ: 0.1 acre, Wetland KK: 0.06 acre, Wetland LL: 0.16 acre, Wetland MM: 0.52 acre and Wetland NN: 0.08 acre. Total Wetland area 2.5 acres.**

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

⁸See Footnote # 3.

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

Provide acreage estimates for jurisdictional wetlands in the review area: Wetland EE: 0.04 acre, Wetland Q: 0.02 acre, Wetland DD: 0.02 acre, Wetland NN: 0.08 acre, Wetland MM: 0.52 acre and Wetland U: 0.04 acre.

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

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

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

7. Impoundments of jurisdictional waters.⁹

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

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

Explain:

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

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

Identify water body and summarize rationale supporting determination: _____.

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

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

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

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in “*SWANCC*,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
☐ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: _____.
☒ Other: (explain, if not covered above): **Aquatic feature Pond 2 (0.36 acre) was excavated in uplands as part of creation of detention basins for NPDES # SCR10T495. Since this is a stormwater detention basin created in uplands, it is not considered to be jurisdictional by the Corps..**

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):

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.

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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):

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report.

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B. ADDITIONAL COMMENTS TO SUPPORT JD:

Aquatic resources documented on this site include perennial tributaries with adjacent wetlands and several seasonal tributaries with adjacent wetlands. Based on guidance provided to the Corps, “relatively permanent waters” (RPWs) that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months) and wetlands that directly abuts an RPW are jurisdictional, however, the significant nexus finding for the record are required by Rapanos Guidance.

This office performed the required Significant Nexus Determination and on this basis has made the determination that all the waters documented on this form (with the exception of upland excavated Pond #2-NPDES stormwater facility), including all wetlands adjacent to the relevant reach evaluated in the SND, are jurisdictional Waters of the U.S.