

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): September 14, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 1 of 1; Charleston District, SAC-2021-01874 Hopkins Energy Center

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: South Carolina County: Richland County City: Gadsden

Center coordinates of site (lat/long in degree decimal format): Lat. 33.838734 °, Long. -80.822823 °.

Universal Transverse Mercator: NAD 83

Name of nearest waterbody: Dry Branch

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

Name of watershed or Hydrologic Unit Code (HUC): 030501100307. Dry Branch

☒ 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: September 13, 2022

☒ Field Determination. Date(s): December 10, 2021

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 T1 (total): 722 linear feet and Tributary T2: 178 linear feet: Varies width (ft) and/or acres.

Wetlands: Wetland W1: 2.76 acres, Wetland W2: 5.08 acres and Wetland W3: 7.02 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual and established by OHWM

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: .

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

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

³ Supporting documentation is presented in Section III.F.

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: 11,001 **acres** 030501100307. Dry Branch
Drainage area: Approximately 150 **acres**
Average annual rainfall: 47.75 inches USC in Columbia, SC
Average annual snowfall: 1.0 inches USC in Columbia, SC

(ii) **Physical Characteristics:**

(a) **Relationship with TNW:**

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

Project waters are **2-5** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **2-5** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: N/A.

Identify flow route to TNW⁵: Unnamed tributary to Dry Branch to Weston Lake (Cedar Creek) to Congaree River.
Tributary stream order, if known: First order.

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

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.

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

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: Portions of the identified tributaries are natural, however, most of the tributaries appear to be in channels that were man made due to sidcast and straightness of channel.

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

Average width: 4-6 feet

Average depth: 2-5 feet

Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

☒ Silts

☒ Sands

☐ Concrete

☐ Cobbles

☐ Gravel

☒ Muck

☐ Bedrock

☐ Vegetation. Type/% cover:

☒ Other. Explain: According to soil survey, these tributaries are surrounded by Smithboro, Persanti and Fuquay soils. Fuquay soils are well drained, Pesanti soils are moderately well drained and Smithboro soils are somewhat poorly drained.

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

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

Tributary geometry: **Relatively straight**

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 T1 and Tributary T2 both have clear OHWM, distinct channels (bed & banks) and evidence of flow.

Other information on duration and volume: Both Tributary T1 and Tributary T2 flow continually at least 3 months during the typical year.

Surface flow is: **Discrete and confined.** Characteristics: The tributaries flow within a channel during normal conditions.

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

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

☒ Bed and banks

☒ OHWM⁶ (check all indicators that apply):

☒ clear, natural line impressed on the bank

☐ 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: Watershed 03050110-03 (formerly 03050110-010, 040, 050) is located in Richland, Lexington, and Calhoun

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.

Counties and consists primarily of the Congaree River and its tributaries from its origin to Cedar Creek. The watershed occupies 232,276 acres of the Sandhills and Upper Coastal Plain regions of South Carolina. Land use/land cover in the watershed includes: 35.8% forested land, 27.0% agricultural land, 24.4% forested wetland (swamp), 10.9% urban land, 1.5% water, 0.4% non-forested wetland (marsh), and 0.2% barren land.

Identify specific pollutants, if known: Unknown.

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

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☒ Habitat for:
 - ☐ Federally Listed species. Explain findings: .
 - ☒ Fish/spawn areas. Explain findings: Tributaries T1 & T2 provide aquatic habitat for invertebrates and amphibians.
 - ☐ Other environmentally-sensitive species. Explain findings: .
 - ☒ Aquatic/wildlife diversity. Explain findings: Tributaries T1 & T2 provide 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 W1: 2.76 acres, Wetland W2: 5.08 acres and Wetland W3: 7.02 acres

Wetland type. Explain: Forested.

Wetland quality. Explain: .

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain:

Surface flow is: **Overland sheetflow**

Characteristics: Wetlands W1, W2 & W3 directly abut Seasonal RPWs and flow is by overland flow.

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

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☒ Directly abutting
- ☐ Not directly abutting
 - ☐ Discrete wetland hydrologic connection. Explain: .
 - ☐ Ecological connection. Explain: .
 - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **2-5** river miles from TNW.

Project waters are **2-5** 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: Watershed 03050110-03 (formerly 03050110-010, 040, 050) is located in Richland, Lexington, and Calhoun Counties and consists primarily of the Congaree River and its tributaries from its origin to Cedar Creek. The watershed occupies 232,276 acres of the Sandhills and Upper Coastal Plain regions of South Carolina. Land use/land cover in the watershed includes: 35.8% forested land, 27.0% agricultural land, 24.4% forested wetland (swamp), 10.9% urban land, 1.5% water, 0.4% non-forested wetland (marsh), and 0.2% barren land.

Identify specific pollutants, if known: Unknown.

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

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain
- ☒ Habitat for:
 - ☐ Federally Listed species. Explain findings: .
 - ☐ Fish/spawn areas. Explain findings: .
 - ☐ Other environmentally-sensitive species. Explain findings: .
 - ☒ Aquatic/wildlife diversity. Explain findings: The wetlands provide habitat 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: **3**

Approximately (14.86) 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 W1: Y	2.76	Wetland W2: Y	5.08
Wetland W3: Y	7.02		

Summarize overall biological, chemical and physical functions being performed: The wetlands being evaluated in this significant nexus determination are directly abutting two seasonal RPWs that are collectively performing biological, chemical, and physical functions that relate to the integrity of the TNW (Congaree River). The wetlands are forested and there are areas of the site that have been cleared for possible agricultural/silvicultural practices. The wetlands 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. They also provide vegetation diversity on a site that has some cleared areas. The wetlands are performing chemical functions that include filtering pollutants from nearby roads and agriculture areas. The wetlands are performing physical functions that include flow maintenance like retaining runoff and storing rainwater 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: .

Documentation for the Record only: Significant nexus findings for seasonal RPWs and/or wetlands abutting seasonal RPWs: This form documents two seasonal RPWs (Tributary T1 and T2) and three wetland areas (Wetlands W1, W2 & W3) directly abutting these SRPWs (Tributary T1 and T2). These RPWs and wetlands are located in areas that have experienced limited land clearing and are in an area abutting the Congaree National Park, which includes forested uplands and forested wetlands. These tributaries and wetlands are providing a variety of biological functions that include providing breeding grounds for aquatic invertebrates and amphibians and habitat for other terrestrial wildlife in the area. The tributaries and wetlands are

also performing chemical functions that include filtering pollutants from nearby roads and agricultural areas. The tributaries and wetlands are performing physical functions that include flow maintenance like retaining runoff and storing rainwater temporarily during the wetter months and in times of heavy rain. This helps to reduce downstream peak flows and help to maintain seasonal flow volumes in downstream waters. Based on the collective functions described above and their importance to the biological, chemical and physical integrity of the downstream TNW (Congaree River), it has been determined there is a significant nexus between the relevant reach of these tributaries 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: **Tributaries T1 & T2 are seasonal RPWs. Both T1 and T2 are shown as a drainage features/channels on the LIDAR mapping. During the field view it was observed that both these tributaries have distinct channels (bed & banks) with a clear OHWM. Also, during the field view water was observed sitting within portions of the channels of tributary T1 & T2. The indicators of flow are documented above in Section III.B.1. It appears that these tributaries have been manipulated and Tributary T1 flows through a culvert under a roadway and flows to the west outside of this project boundary project site. Stream characteristics observed and available data have led this office to conclude that both Tributaries T1 and T2 have seasonal flow regime.**

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

- ☒ Tributary waters: **Tributary T1 (total): 722 linear feet and Tributary T2: 178 linear feet Varies** width (ft).
☐ Other non-wetland waters: acres.
 Identify type(s) of waters: .

3. Non-RPWs⁸ that flow directly or indirectly into TNWs.

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

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

- ☐ 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: **Both Wetland W1 & W3 abut Tributary T1 and Wetland W2 abuts both Tributary T1 and Tributary T2. Both Tributaries T1 and T2 are identified as Seasonal RPWs in Section III.D.2.**

Provide acreage estimates for jurisdictional wetlands in the review area: **Wetland W1: 2.76 acres, Wetland W2: 5.08 acres and Wetland W3: 7.02 acres.**

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

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

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

⁸See Footnote # 3.

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).

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): .

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.

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*.

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: "Hopkins Energy, LLC 835 Bluff Rd Hopkins, Richland County, South Carolina Potential Waters of the U.S. Map" dated February 2, 2022 .
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☒ Office concurs with data sheets/delineation report. The Corps agrees with the boundaries of aquatic resources represented in the drawings and based on the information provided.
 - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☒ Corps navigable waters' study: Charleston District Navigability Study 1977.
- ☒ U.S. Geological Survey Hydrologic Atlas:HA 730-G 1990.
 - ☐ USGS NHD data.
 - ☒ USGS 8 and 12 digit HUC maps. 03050110 Congaree River, 030501100307. Dry Branch
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 Gadsen, SC quadrangle .
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: As provided by the consultant and confirmed on Corps Reg Viewer: Cantey, Dothan, Fuquay, Persanti and Smithboro soil series.
- ☒ National wetlands inventory map(s). Cite name: As provided by the consultant and confirmed on Corps Reg Viewer: PEM1Cd, PSS1Ad, PFO1Cd, R4SBC, PFO1C & PFO1B.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): As provided by consultant.
or ☒ Other (Name & Date): As provided by consultant.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify): Field view December 10, 2021.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The aquatic resources documented on this form include two Seasonal RPWs with three abutting wetlands. Since there are Seasonal RPWs, documentation for the record was performed that includes observation made during the field and documentation provided in Section C.III of this form, a nexus between the Seasonal RPWs and the abutting wetlands to the downstream TNW (Congaree River) is significant. The waters documented on this form are under jurisdiction of the Clean Water Act and considered water of the U.S.