

#171310114



DEPARTMENT OF THE ARMY  
CHARLESTON DISTRICT, CORPS OF ENGINEERS  
69A Hagood Avenue  
CHARLESTON, SOUTH CAROLINA 29403-5107

REPLY TO  
ATTENTION OF

October 20, 2008

Regulatory Division

Mr. Ryan Robol  
Stantec Consulting Services, Inc.  
4969 Centre Pointe Drive Suite 200  
North Charleston, South Carolina 29418

Re: SAC 2008-00706-2JY

Dear Mr. Robol:

This is in response to your letter received March 24, 2008, requesting a wetland determination, on behalf of MeadWestvaco Forestry, LLC, for a 393.086 acre tract located on the north side of North Railroad Avenue approximately 700 feet northwest of the intersection with Main Street in the Town of Ridgeville, Dorchester County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by Stantec Consulting Services, Inc., dated March 4, 2008 and entitled "Wetland Delineation Survey of TMS 097-00-00-002, TMS 097-00-00-010, and TMS 097-00-00-011 Owned by MeadWestvaco Forestry, LLC. Located in Ridgeville, Dorchester County, South Carolina".

This plat depicts surveyed boundaries of wetlands or other waters of the United States as established by your office. You have requested that this office verify the accuracy of this mapping as a true representation of wetlands or other waters of the United States within the regulatory authority of this office. The property in question contains 26.21 acres of federally defined jurisdictional freshwater wetlands or other waters of the United States subject to the jurisdiction of this office. The location and configuration of these areas are reflected on the plat referenced above.

Based on a review of aerial photography and soil survey information, it has been determined that the surveyed jurisdictional boundaries shown on the referenced plat are an accurate representation of jurisdictional areas within our regulatory authority. This office should be contacted prior to performing any work in these areas. Enclosed is a form describing the basis of jurisdiction for the areas in question. You should also be aware that these areas may be subject to restrictions or requirements of other state or local governmental entities.


If a permit application is forthcoming as a result of this delineation, a copy of this letter, as well as the verified survey plat, should be submitted as part of the application. Otherwise, a delay could occur in confirming that a delineation was performed for the permit project area.

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. This **approved** jurisdictional determination is an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331. The administrative appeal options, process and appeals request form is attached for your convenience and use.

In future correspondence concerning this matter, please refer to SAC 2008-00706-2JY. You may still need state or local assent. Prior to performing any work, you should contact the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management. A copy of this letter is being forwarded to them for their information.

If you have any questions concerning this matter, please contact David Chamberlain at 843-329-8044 or toll free (outside of the Charleston area) at 1-866-329-8187.

Respectfully,

  
Charles R. Crosby  
Chief, South Branch

Enclosures:  
Basis for Jurisdiction  
Notification of Appeal Options

Copy Furnished:

S.C. Department of Health  
and Environmental Control  
Office of Ocean and Coastal Resource Management  
1362 McMillan Avenue, Suite 400  
Charleston, South Carolina 29405

**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 9, 2008

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Charleston, MeadWestvaco Forestry, LLC Southern Railroad Site, SAC 2008-00706-2JY

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

State: South Carolina County/parish/borough: Dorchester City: Ridgeville  
Center coordinates of site (lat/long in degree decimal format): Lat. 33.10490° N, Long. -80.32055° W.  
Universal Transverse Mercator:

Name of nearest waterbody: Timothy Creek

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

Name of watershed or Hydrologic Unit Code (HUC): 03050206-070

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

Office (Desk) Determination. Date: 9-9-08

Field Determination. Date(s):

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

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

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

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

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

TNWs, including territorial seas

Wetlands adjacent to TNWs

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

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

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

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

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: linear feet: width (ft) and/or acres.

Wetlands: 26.21 acres.

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual**

Elevation of established OHWM (if known):

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

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

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

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

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

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs**

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

**1. TNW**

Identify TNW: .

Summarize rationale supporting determination: .

**2. Wetland adjacent to TNW**

Summarize rationale supporting conclusion that wetland is "adjacent": .

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

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

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

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

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

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

**(i) General Area Conditions:**

Watershed size: 78,723 acres  
Drainage area: 755.2 acres  
Average annual rainfall: 48 inches  
Average annual snowfall: NA inches

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

- Tributary flows directly into TNW.  
 Tributary flows through 3 tributaries before entering TNW.

Project waters are 5-10 river miles from TNW.  
Project waters are 1 (or less) river miles from RPW.  
Project waters are 5-10 aerial (straight) miles from TNW.  
Project waters are 1 (or less) aerial (straight) miles from RPW.  
Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW<sup>5</sup>: Project site to Timothy Creek to Four Hole Swamp to Edisto River (TMW).  
Tributary stream order, if known:

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

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

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

Tributary is:  Natural  
 Artificial (man-made). Explain:  
 Manipulated (man-altered). Explain:

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

Average width: feet  
Average depth: feet  
Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):

Silts  Sands  Concrete  
 Cobbles  Gravel  Muck  
 Bedrock  Vegetation. Type/% cover:  
 Other. Explain:

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

Presence of run/riffle/pool complexes. Explain: NA.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): <1 %

(c) Flow:

Tributary provides for: **Seasonal flow**

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

Describe flow regime:

Other information on duration and volume:

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

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

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks  
 OHWM<sup>6</sup> (check all indicators that apply):  
 clear, natural line impressed on the bank  the presence of litter and debris  
 changes in the character of soil  destruction of terrestrial vegetation  
 shelving  the presence of wrack line  
 vegetation matted down, bent, or absent  sediment sorting  
 leaf litter disturbed or washed away  scour  
 sediment deposition  multiple observed or predicted flow events  
 water staining  abrupt change in plant community  
 other (list):  
 Discontinuous OHWM.<sup>7</sup> Explain:

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

High Tide Line indicated by:  Mean High Water Mark indicated by:  
 oil or scum line along shore objects  survey to available datum;  
 fine shell or debris deposits (foreshore)  physical markings;  
 physical markings/characteristics  vegetation lines/changes in vegetation types.  
 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:

Identify specific pollutants, if known:

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

<sup>7</sup>Ibid.

(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:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings: Local, southeastern herptile fauna.

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

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size:        acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

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

Surface flow is: **Overland sheetflow**

Characteristics:

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: Flat terrain allows sheet flow to tributary.

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **5-10** river miles from TNW.

Project waters are **5-10** aerial (straight) miles from TNW.

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

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Generally high quality with minor amount of silt in runoff.

Identify specific pollutants, if known: silt.

(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: Common southeastern herptile fauna as well as neo-tropical migrant

songbirds.

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

All wetland(s) being considered in the cumulative analysis: **15-20**

Approximately ( 84.99 ) 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> |
|------------------------------|---|------------------------|------------------------------|------------------------|
| A                            | N | 3.171                  |                              |                        |
| B                            | N | 0.553                  |                              |                        |
| D                            | N | 0.817                  |                              |                        |
| E                            | N | 1.112                  |                              |                        |
| F                            | N | 2.390                  |                              |                        |
| G                            | N | 0.002                  |                              |                        |
| H                            | N | 1.688                  |                              |                        |
| Ditch                        | N | 1.330                  |                              |                        |
| J                            | N | 7.306                  |                              |                        |
| K                            | N | 2.344                  |                              |                        |
| L                            | N | 1.482                  |                              |                        |
| M                            | N | 0.334                  |                              |                        |
| N                            | N | 0.360                  |                              |                        |
| O                            | N | 0.359                  |                              |                        |
| P                            | N | 0.358                  |                              |                        |
| Q                            | N | 0.895                  |                              |                        |
| R                            | N | 0.227                  |                              |                        |
| S                            | N | 1.498                  |                              |                        |

Summarize overall biological, chemical and physical functions being performed: The forested and emergent palustrine wetlands which are similarly situated and adjacent, both abutting and non-abutting, to the RPW are collectively performing functions consistent with the following: Biological - wetlands adjacent to the RPW include riparian or bottomland swamp, as well as depressional wetlands. A broad variety of biological functions are being performed which include providing breeding grounds and shelter for aquatic species, foraging areas for wetland dependent species, and important spawning areas for fish species. These wetlands are essential in providing organic carbon in the form of their collective primary productivity to downstream waters, resulting in the nourishment of the downstream food web. Chemical - Wetlands in the review area are providing the important collective functions of removal of excess nutrients which are contributed by runoff from the surrounding uplands, reducing nitrogen and phosphorus loading downstream, and effectively preventing oxygen depletion that results in eutrophication. Physical - wetlands in the review area are collectively performing flow maintenance functions, including retaining runoff inflow and storing flood water temporarily. Flow maintenance results in the reduction of 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 *Rapnos* 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: The forested and emergent palustrine wetlands which are similarly situated and adjacent, both abutting and non-abutting, to the RPW are collectively performing functions consistent with the following: Biological - wetlands adjacent to the RPW include riparian or bottomland swamp, as well as depressional wetlands. A broad variety of biological functions are being performed which include providing breeding grounds and shelter for aquatic species, foraging areas for wetland dependent species, and important spawning areas for fish species. These wetlands are essential in providing organic carbon in the form of their collective primary productivity to downstream waters, resulting in the nourishment of the downstream food web. Chemical - Wetlands in the review area are providing the important collective functions of removal of excess nutrients which are contributed by runoff from the surrounding uplands, reducing nitrogen and phosphorus loading downstream, and effectively preventing oxygen depletion that results in eutrophication. Physical - wetlands in the review area are collectively performing flow maintenance functions, including retaining runoff inflow and storing flood water temporarily. Flow maintenance results in the reduction of 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 traditional navigable waters of the Edisto River, this office has determined that there is a Significant Nexus between the review area Relevant Reach and its adjacent wetlands and 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:

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:

3. **Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs.**
  - Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
  - Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
  - Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

<sup>8</sup>Sec 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:

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

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

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

Provide acreage estimates for jurisdictional wetlands in the review area: 26.21 acres.

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

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

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

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

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

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

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

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

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

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

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

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

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.  
 Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.  
 Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).  
 Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:  
 Other: (explain, if not covered above):

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):

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

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

- 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: .
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: .
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: .
- USDA Natural Resources Conservation Service Soil Survey. Citation: Dorchester 28.
- National wetlands inventory map(s). Cite name: 11204:71.
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):99:11204:71.
  - or  Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): .

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** This JD form documents the jurisdictional status of one RPW and 17 wetlands adjacent to it. The adjacent wetlands are non-abutting, therefore a Significant Nexus Determination was performed which includes on-site wetlands and those in the drainage area outside the property limits. Based on the documentation provided in Section III, C of this form, the nexus between the RPW and its adjacent wetlands and the downstream TNW is a Significant Nexus and on this basis all wetlands documented on this form are within the jurisdiction of the Clean Water Act.