



DEPARTMENT OF THE ARMY  
CHARLESTON DISTRICT, CORPS OF ENGINEERS  
69A HAGOOD AVENUE  
CHARLESTON, SC 29403-5107

APR 20 2016

Regulatory Division

Mr. Jeff Sicheloff  
South Carolina Department of Transportation  
P.O. Box 191  
Columbia, South Carolina 29201-0191

Dear Mr. Sicheloff:

This letter is in response to your request for a Preliminary Jurisdictional Determination (SAC-2015-00915-DS) received in our office on February 26, 2016, for a 1,755-acre site located on and along approximately 16 miles of Interstate 85 (I-85) from Mile Marker 80 to Mile Marker 96 in Cherokee and Spartanburg Counties, South Carolina (Latitude: 35.074466 °N, Longitude: - 81.729021 °W). The site in question is depicted in the sketches on the enclosed DVD-RW (Figures 6-1 to 6-36) entitled "PROPOSED INTERSTATE 85 (I-85) WIDENING AND INTERCHANGE IMPROVEMENTS PROJECT, FROM MILE MARKER 80 TO MILE MARKER 96, CHEROKEE AND SPARTANBURG COUNTIES, SOUTH CAROLINA SCDOT PIN 27114" and revised February 19, 2016, prepared by Mead & Hunt. A Preliminary JD is used to indicate that this office has identified wetlands and/or other waters on the property, and that in lieu of making an Approved Jurisdictional Determination, relies on the presumption of jurisdiction pursuant to 33 CFR 328.3(a) for the purpose of expediting the request for a Preliminary JD.

Based on an on-site inspection, a review of aerial photography, topographic maps, National Wetlands Inventory maps, soil survey information, and Wetland Determination Data Form(s), it has been concluded that the boundaries shown on the referenced sketch are a reasonable approximation of the wetlands and/or other waters found within the site. The site in question contains approximately 7.91 acres and 22,656 linear feet of federally defined wetlands and/or other waters. You are cautioned that the boundaries of the delineated wetlands and/or other waters depicted on the enclosed sketch are approximate and subject to change.

You should be aware that a permit from this office may be required for certain activities in the areas identified as wetlands and/or other presumed waters of the United States, and these areas may be subject to restrictions or requirements of other state or local government entities. In order for a definitive determination of jurisdiction to be provided, you must submit a request for an Approved Jurisdictional Determination (Approved JD). Enclosed is a Preliminary Jurisdictional Determination Form describing the areas in question and clarifying the option to request an Approved JD.

Please note that this is a Preliminary JD, and as such is not an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331. If a permit application is forthcoming as a result of this Preliminary JD, a copy of this letter, as well as the

sketches should be submitted as part of the application. Otherwise, a delay could occur in confirming that a Preliminary JD was performed for the proposed project area.

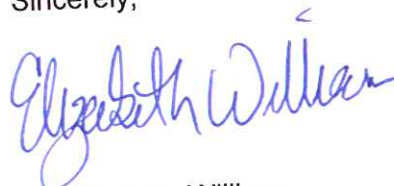
This Preliminary JD is a non-binding action and as such has no expiration until it is superseded by an Approved JD. If you intend to request an Approved JD in the future, you are advised not to commence work in these wetlands and/or waters prior to receiving the Approved JD. Please be aware that due to your revisions to project area, the issuance of this Approximate-Preliminary Jurisdictional Determination supersedes the previous Approximate-Preliminary Jurisdictional Determination, dated November 17, 2015.

This delineation/determination has been conducted pursuant to Corps of Engineers regulatory authority for the purpose of identifying the geographic extent of waters on the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

Enclosed are two copies of the Preliminary Jurisdictional Determination Form signed by our office. Please sign both copies, retain one copy for your records and return one signed copy to this office in the enclosed self-addressed envelope.

Your cooperation in the protection and preservation of our navigable waters and natural resources is appreciated. In all future correspondence concerning this matter, please refer to file number SAC-2015-00915-DS. A copy of this letter is being forwarded to certain State and/or Federal agencies for their information. If you have any questions concerning this matter, please contact Stephen A. Brumagin, Project Manager, at 803-253-3445.

Sincerely,



Elizabeth G. Williams  
Chief, Special Projects Branch

Enclosures:  
Preliminary Jurisdictional Determination Form  
Notification of Appeal Options  
Self-addressed envelope  
DVD-RW with sketches 6-1 to 6-36

Copies Furnished:

Mr. Matt DeWitt  
Mead & Hunt, Inc.  
307 W. Main Street  
Lexington, South Carolina 29072

Mr. Chuck Hightower  
South Carolina Department of  
Health and Environmental Control  
Bureau of Water  
2600 Bull Street  
Columbia, South Carolina 29201

**ATTACHMENT**

**PRELIMINARY JURISDICTIONAL DETERMINATION FORM**

**BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): April 12, 2016**

**B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:**

Mr. Sean Connolly, SCDOT Permit Division Manager  
SC Dept. of Transportation  
P.O. Box 191  
Columbia, South Carolina 29202-0191

**C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Charleston District, SAC 2015-00915-DS, SCDOT I-85 Widening project in Spartanburg and Cherokee Counties**

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:** Project is located on and along a segment of I-85 from Mile Marker 80 to Mile Marker 96

**(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)**

State: South Carolina County/parish/borough: Cherokee & Spartanburg

City: Gaffney

Center coordinates of site (lat/long in degree decimal format): Lat. 35.081311° N, Long. 81.706789° W.

Universal Transverse Mercator: NAD 83

Name of nearest waterbody: Pacolet River, Thicketty Creek, & Broad River

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 22,656 linear feet: Varies width (ft) and 3.534 (ponds) acres.

Cowardin Class: Riverine

Stream Flow: Perennial

Wetlands: 4.373 acres.

Cowardin Class: Forested

Name of any water bodies on the site that have been identified as Section 10 waters: Tidal: N/A Non-Tidal: N/A

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

Office (Desk) Determination. Date: April 12, 2016

Field Determination. Date(s): September 16, 2015

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

**SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply**

- checked items should 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: Hunt & Mead: M. DeWitt.

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.

**Although the Corps may not agree with all the information provided by the agent in the data forms describing wetlands, the Corps agrees with the conclusion and boundary established from site information documented.**

Data sheets prepared by the Corps:

Corps navigable waters' study:HH 730-G, 1990.

U.S. Geological Survey Hydrologic Atlas:03050105-15 Pacolet River, 03050105-10 Thicketty Creek, & 03050105-16 Broad River.

USGS NHD data.

USGS 8 and 12 digit HUC maps.

U.S. Geological Survey map(s). Cite scale & quad name:Cowpens, Gaffney, and Blacksburg South, SC, 1:24,000.

USDA Natural Resources Conservation Service Soil Survey.

Citation:Spartanburg Pages 20 & 26: Cecil , Pacolet, Appling, & Made land series. Cherokee Pages 7, 8, 11, & 12: Buncombe, Chewacla, Local Alluvial Land, Appling, Mixed Alluvial Land, Madison, & Gullied Land series..

National wetlands inventory map(s). Cite name:U14, R2UBH, PUBHh, PUBHx, PFO1A, PSS1C, L1UBHh, PFO1C.

State/Local wetland inventory map(s):

FEMA/FIRM maps:

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


Photographs:  Aerial (Name & Date):(1999) 11188:213, 112000:10, 11189:136.

or  Other (Name & Date):Photos provided by consultant and photos taken by Corps 9-16-15.

Previous determination(s). File no. and date of response letter: SAC 2015-00915, Nov. 17, 2015.

Other information (please specify):Field View on Sept. 16, 2015.

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

  
Signature and date of  
Regulatory Project Manager  
(REQUIRED)

\_\_\_\_\_  
Signature and date of  
person requesting preliminary JD  
(REQUIRED, unless obtaining  
the signature is impracticable)

2015-00915, SCDOT I-85 widening MM 80- MM 96 in Cherokee Co PIN#27114  
 Revised April 2016

2015-00915, SCDOT I-85 widening MM 80- MM 96 in Cherokee Co PIN#27114

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
Tributary 1	35.028464	- 81.876124	Riverine	80 linear feet	non-section 10 – non-wetland
Tributary 2	35.025167	- 81.874874	Riverine	58 linear feet	non-section 10 – non-wetland
Tributary 3	35.030743	- 81.861896	Riverine	36 linear feet	non-section 10 – non-wetland
Tributary 4	35.030871	- 81.856941	Riverine	994 linear feet	non-section 10 – non-wetland
Tributary 5	35.033531	- 81.850541	Riverine	63 linear feet	non-section 10 – non-wetland
Tributary 6	35.032463	- 81.849525	Riverine	711 linear feet	non-section 10 – non-wetland
Tributary 7	35.033831	- 81.844932	Riverine	62 linear feet	non-section 10 – non-wetland
Tributary 8	35.033671	- 81.844864	Riverine	128 linear feet	non-section 10 – non-wetland
Tributary 9	35.037522	- 81.832834	Riverine	260 linear feet	non-section 10 – non-wetland
Tributary 10	35.040822	- 81.821676	Riverine	1187 linear feet	non-section 10 – non-wetland
Tributary 11	35.042914	- 81.820684	Riverine	504 linear feet	non-section 10 – non-wetland
Tributary 12	35.041124	- 81.819158	Riverine	2314 linear feet	non-section 10 – non-wetland
Tributary 13	35.050290	- 81.814009	Riverine	641 linear feet	non-section 10 – non-wetland

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Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
Tributary 14	35.047203	- 81.810332	Riverine	104 linear feet	non-section 10 – non-wetland
Tributary 15	35.041186	- 81.817338	Riverine	406 linear feet	non-section 10 – non-wetland
Tributary 16	35.048113	- 81.806555	Riverine	273 linear feet	non-section 10 – non-wetland
Tributary 17	35.050276	- 81.801461	Riverine	289 linear feet	non-section 10 – non-wetland
Tributary 18	35.050882	- 81.801250	Riverine	144 linear feet	non-section 10 – non-wetland
Tributary 19	35.060967	- 81.777567	Riverine	166 linear feet	non-section 10 – non-wetland
Tributary 20	35.062072	- 81.775615	Riverine	linear feet	non-section 10 – non-wetland

Tributary 21	35.074933	- 81.764096	Riverine	178 linear feet	non-section 10 – non-wetland
Tributary 22	35.076445	- 81.760217	Riverine	1099 linear feet	non-section 10 – non-wetland
Tributary 23	35.071596	- 81.758471	Riverine	453 linear feet	non-section 10 – non-wetland
Tributary 24	35.070794	- 81.756905	Riverine	945 linear feet	non-section 10 – non-wetland
Tributary 25	35.070851	- 81.757294	Riverine	59 linear feet	non-section 10 – non-wetland
Tributary 26	35.070470	- 81.757603	Riverine	744 linear feet	non-section 10 – non-wetland



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Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
Tributary 27	35.077495	- 81.727613	Riverine	153 linear feet	non-section 10 – non-wetland
Tributary 28	35.077523	- 81.723970	Riverine	540 linear feet	non-section 10 – non-wetland
Tributary 29	35.078268	- 81.722639	Riverine	1056 linear feet	non-section 10 – non-wetland
Tributary 30	35.078475	- 81.717203	Riverine	201 linear feet	non-section 10 – non-wetland
Tributary 31	35.080886	- 81.708152	Riverine	33 linear feet	non-section 10 – non-wetland
Tributary 32	35.086089	- 81.701013	Riverine	513 linear feet	non-section 10 – non-wetland
Tributary 33	35.086542	- 81.700352	Riverine	12 linear feet	non-section 10 – non-wetland
Tributary 34	35.085704	- 81.699718	Riverine	184 linear feet	non-section 10 – non-wetland
Tributary 35	35.092250	- 81.687354	Riverine	113 linear feet	non-section 10 – non-wetland
Tributary 36	35.096027	- 81.680361	Riverine	239 linear feet	non-section 10 – non-wetland
Tributary 37	35.096751	- 81.672312	Riverine	98 linear feet	non-section 10 – non-wetland
Tributary 38	35.101343	- 81.642190	Riverine	96 linear feet	non-section 10 – non-wetland
Tributary 39	35.102936	- 81.639735	Riverine	131 linear feet	non-section 10 – non-wetland

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Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
Tributary 40	35.101537	- 81.629348	Riverine	345 linear feet	non-section 10 – non-wetland

Tributary 41	35.105772	- 81.622505	Riverine	1254 linear feet	non-section 10 – non-wetland
Tributary 42	35.104902	- 81.624073	Riverine	103 linear feet	non-section 10 – non-wetland
Tributary 43	35.105264	- 81.623414	Riverine	589 linear feet	non-section 10 – non-wetland
Tributary 44	35.104845	- 81.619484	Riverine	258 linear feet	non-section 10 – non-wetland
Tributary 45	35.099833	- 81.627169	Riverine	921 linear feet	non-section 10 – non-wetland
Tributary 46	35.098872	- 81.628210	Riverine	300 linear feet	non-section 10 – non-wetland
Tributary 47	35.107083	- 81.613494	Riverine	68 linear feet	non-section 10 – non-wetland
Tributary 48	35.106590	- 81.612908	Riverine	766 linear feet	non-section 10 – non-wetland
Tributary 49	35.112518	- 81.600189	Riverine	1292 linear feet	non-section 10 – non-wetland
Tributary 50	35.113372	- 81.599124	Riverine	61 linear feet	non-section 10 – non-wetland
Tributary 51	111311	- 81.601195	Riverine	81 linear feet	non-section 10 – non-wetland
Tributary 52	35.111266	- 81.601045	Riverine	34 linear feet	non-section 10 – non-wetland

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Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
Tributary 53	35.107097	- 81.605377	Riverine	200 linear feet	non-section 10 – non-wetland
Tributary 54	35.106697	- 81.602946	Riverine	869 linear feet	non-section 10 – non-wetland
Wetland 1	35.037245	- 81.832273	Palustrine	0.126 acre	non-section 10 –wetland
Wetland 2	35.078097	- 81.717114	Palustrine	0.046 acre	non-section 10 –wetland
Wetland 3	35.092426	- 81.687442	Palustrine	0.346 acre	non-section 10 –wetland
Wetland 4	35.095892	- 81.683243	Palustrine	0.094 acre	non-section 10 –wetland
Wetland 5	35.101504	- 81.642539	Palustrine	0.352 acre	non-section 10 –wetland
Wetland 6	35.107469	- 81.612239	Palustrine	0.005 acre	non-section 10 –wetland

Wetland 7	35.108119	- 81.607291	Palustrine	0.009 acre	non-section 10 –wetland
Wetland 8	35.113789	- 81.581075	Palustrine	0.059 acre	non-section 10 –wetland
Wetland 9	35.35.046957	- 81.810324	Palustrine	0.094 acre	non-section 10 – wetland
Wetland 10	35.074826	- 81.764410	Palustrine	0.006 acre	non-section 10 –wetland
Wetland 11	35.074914	- 81.760233	Palustrine	0.011 acre	non-section 10 –wetland
Wetland 12	35.071199	- 81.757997	Palustrine	0.047 acre	non-section 10 –wetland
Wetland 13	35.071040	- 81.757454	Palustrine	0.053 acre	non-section 10 –wetland
Wetland 14	35.070928	- 81.757192	Palustrine	0.673 acre	non-section 10 –wetland
Wetland 15	35.070673	- 81.756909	Palustrine	0.155 acre	non-section 10 –wetland

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Wetland 16	35.069791	- 81.758656	Palustrine	2.297 acre	non-section 10 – wetland
Pond 1	35.029210	- 81.867878	Lacustrine	0.43 acre	non-section 10 – non-wetland
Pond 2	35.030565	- 81.858638	Lacustrine	0.019 acre	non-section 10 – non-wetland
Pond 3	35.041686	- 81.824207	Lacustrine	0.056 acre	non-section 10 – non-wetland
Pond 4	35.073566	- 81.762897	Lacustrine	0.098 acre	non-section 10 – non-wetland
Pond 5	35.073949	- 81.759945	Lacustrine	2.058 acre	non-section 10 – non-wetland
Pond 6	35.093516	- 81.687656	Lacustrine	0.348 acre	non-section 10 – non-wetland
Pond 7	35.107485	- 81.622192	Lacustrine	0.33 acre	non-section 10 – non-wetland
Pond 8	35.108160	- 81.606785	Lacustrine	0.082 acre	non-section 10 – non-wetland
Pond 9	35.108147	-81606376	Lacustrine	0113 acre	non-section 10 – non-wetland