



REPLY TO
ATTENTION OF

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

February 20, 2013

RECEIVED

FEB 25 2013

Regulatory Division

Mr. Sean Connolly
South Carolina Department of Transportation
P.O. Box 191, 955 Park Street
Columbia, South Carolina 29202-0191

Environmental Management
SCDOT

Dear Mr. Connolly:

This is in response to your letter of August 30, 2012 requesting a Preliminary Jurisdictional Determination (Preliminary) for a 48.2 acre project area, located along S-103 (Oak Park Road) and across Fishing Creek in York County, South Carolina (SCDOT PIN# 31919_BR01). The project area is depicted on the enclosed sketches (Figures 4 & 4B) entitled "SR 103 Bridge Replacement Project, South Carolina Department of Transportation" and dated October 30, 2012. A preliminary jurisdictional determination is used to indicate that this office has identified wetlands or other waters on the property and believes these waters may be jurisdictional waters of the United States. Since the Preliminary does not verify the actual jurisdictional status of wetlands and/or waters of the United States on the property, it relies on the presumption of jurisdiction for the purpose of expediting the request for a Preliminary.

Based on an on-site inspection, a review of aerial photography, topographic maps, National Wetland Inventory maps and soil survey information, information provided by GAI Consultants, it has been concluded that the boundaries shown on the referenced sketch or plat are a reasonable approximation of the location and boundaries of the waters found on this site. The area in question contains approximately 1636 linear feet of federally defined freshwater wetlands or other waters. Specifically, this determination includes reaches of Fishing Creek and two unnamed tributaries to Fishing Creek. This office should be contacted prior to performing any work in or around these wetlands or other waters. In order for a definitive determination to be provided, these areas should be located and marked on-site, sketched or surveyed, platted on a map, and should be accompanied by a request for an Approved Jurisdictional Determination. Upon receipt of such a request, this office can then issue an approved determination as to jurisdiction (rather than the presumption of jurisdiction). You should also be aware that the areas identified as wetlands or other waters may be subject to restrictions or requirements of other state or local government entities.

Please note that since this jurisdictional determination is a Preliminary, it is subject to change and therefore 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, a copy of this letter, as well as the attached sketch or plat should be submitted as part of the application. Otherwise, a delay could occur in confirming that a preliminary jurisdictional determination was performed for the permit project area.

This preliminary jurisdictional determination is a non-binding action and as such has no expiration until it is superseded by an Approved Jurisdictional Determination. If you intend to request an Approved Jurisdictional Determination in the future, you are advised not to commence work in these wetlands and/or waters prior to receiving the Approved Jurisdictional Determination.

In future correspondence concerning this matter, please refer to SAC 2012-00884-DS. 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.

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.

If you have any questions concerning this matter, please contact Stephen Brumagin at 803-253-3445.

Sincerely,

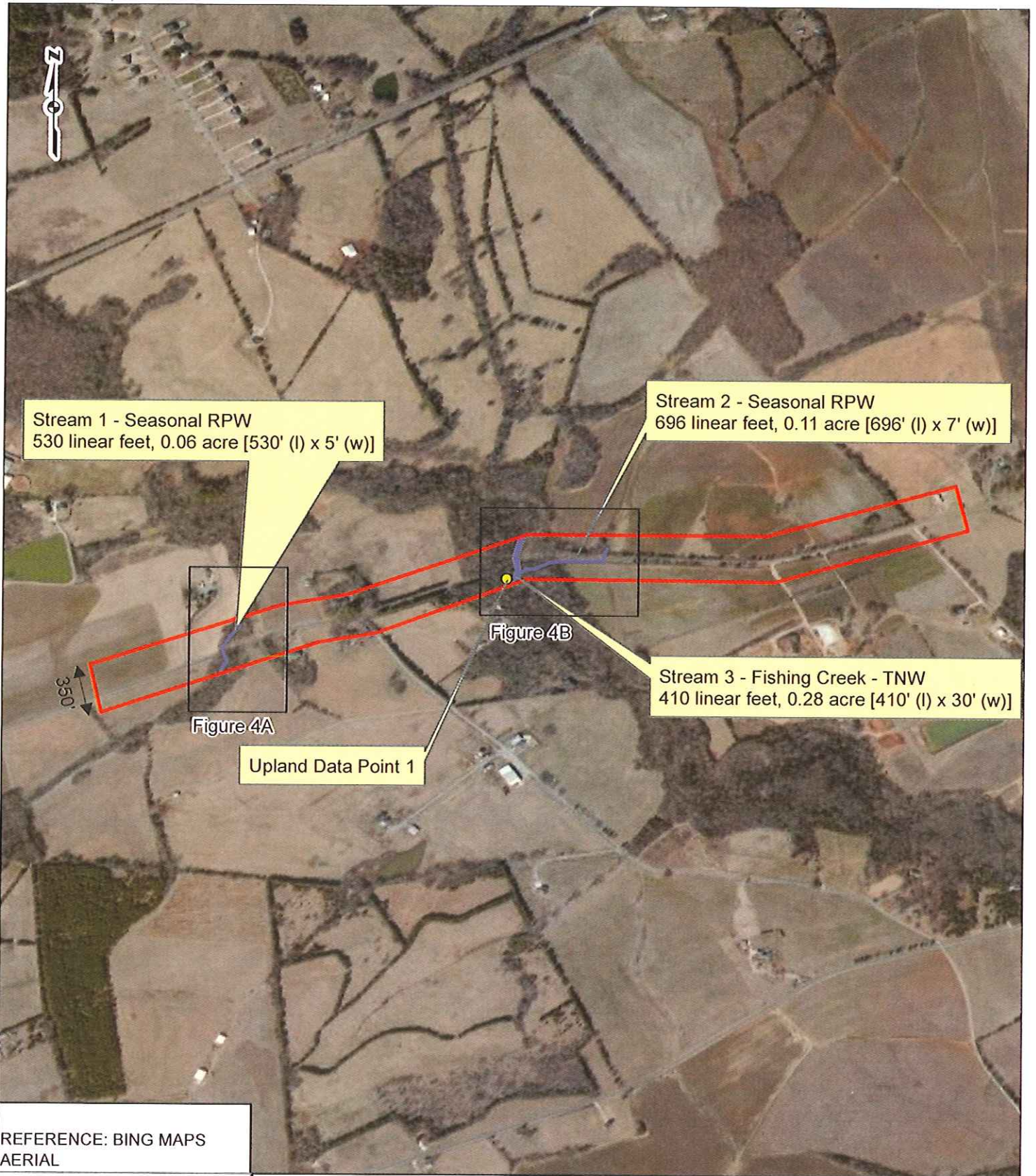
A handwritten signature in black ink, appearing to read 'Travis G. Hughes', with a long horizontal line extending to the right.

Travis G. Hughes
Chief, Special Projects Branch

Enclosure:
Preliminary Jurisdictional Determination Form

Copy Furnished:

Mr. Melvin M. Stroble, Sr., Senior Environmental Manager
GAI Consultants, Charlotte Office
6100 Fairview Road, Suite 616
Charlotte, North Carolina 28210



REFERENCE: BING MAPS
AERIAL



gai consultants
YORK COUNTY,
SOUTH CAROLINA

LEGEND



Project Study Corridor
(48.2 Acres)



Jurisdictional Stream

0 330 660 1,320 1,980 2,640
Feet

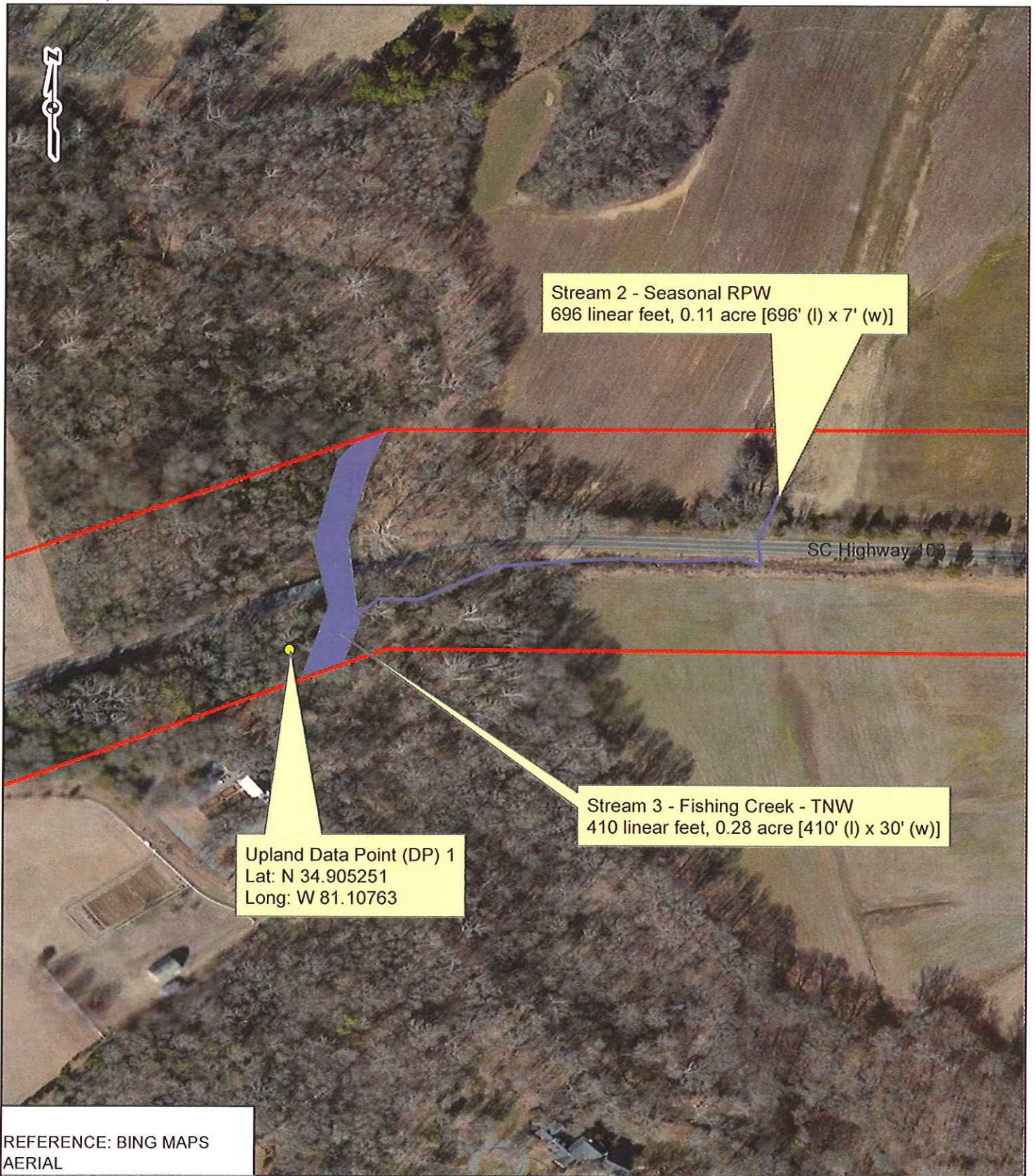
Revised: 1/23/2013

FIGURE 4 JD Overview Map

SR103 Bridge Replacement Project
South Carolina Department
of Transportation

DRAWN BY: AWN
CHECKED: MMS

DATE: 8/22/2012
APPROVED: 10/30/2012



gai consultants
YORK COUNTY,
SOUTH CAROLINA

LEGEND

Project Study Corridor
(48.2 Acres)

Jurisdictional Stream

0 65 130 260 390 520 Feet

Revised: 1/23/2013

FIGURE 4B
Streams 2 & 3 JD Map

SR103 Bridge Replacement Project
South Carolina Department
of Transportation

DRAWN BY: AWN DATE: 8/22/2012
CHECKED: MMS APPROVED: 10/30/2012

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): February 8, 2013

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:

Mr. Sean Connolly
South Carolina Department of Transportation
P.O. Box 191, 955 Park Street
Columbia, South Carolina 29202-0191

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Charleston District Office, SAC 2012-00884-DS, SCDOT S-103 (Oak Park Road) across Fishing Creek.

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION: Project is located along S-103 (Oak Park Road) across Fishing Creek in York County, South Carolina.

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

State: South Carolina County/parish/borough: York County City:

Center coordinates of site (lat/long in degree decimal format): Lat.

34.905471° N, Long. 81.107465° W.

Universal Transverse Mercator:

Name of nearest waterbody: Fishing Creek

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

Non-wetland waters: 1636 linear feet: Varies width (ft) and/or acres.

Cowardin Class: Riverine

Stream Flow: Perennial

Wetlands: N/A acres.

Cowardin Class:

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: February 8, 2013
☒ Field Determination. Date(s): January 23, 2013

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: GAI Consultants.
- ☐ 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: Rock Hill West, South Carolina Quadrangle.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Page 60, Elbert, Mixed Alluvial Soils, and Iredell series.
- ☒ National wetlands inventory map(s). Cite name: U21, U43, & U41.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): (1999) 12090:47.
or ☐ Other (Name & Date): .
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Other information (please specify): .

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.

154 2/20/13
Signature and date of
Regulatory Project Manager
(REQUIRED)

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

SAMPLE

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
Stream 1, Tributary to Fishing Creek	34.90342	- 81.114105	Riverine	530 linear feet	Non-section 10, non-tidal, non-wetland
Stream 2, Tributary to Fishing Creek	34.903585	- 81.113977	Riverine	696 linear feet	Non-section 10, non-tidal, non-wetland
Stream 3, Fishing Creek	34.905471	- 81.107465	Riverine	410 linear feet	Non-section 10, non-tidal, non-wetland