

North American Land Trust

BASELINE DOCUMENTATION



CAROLINA BAYS RESORT CONSERVATION AREA

Horry County ❖ South Carolina



ESTABLISHED TO PRESERVE OUR NATURAL HERITAGE
THE UNDERLYING GOAL OF EACH OF OUR PROJECTS IS TO PROVIDE BENEFIT TO THE
PUBLIC WHILE RESPECTING LANDOWNERS' RIGHTS AND ECONOMIC INTERESTS.

Purposes of Baseline Documentation as Defined by the Land Trust Alliance

1. Records both the important conservation values and the current conditions of the property.
2. Serves to support qualification for tax benefits and substantiating overall public benefit by describing why the property is being conserved and documenting current conditions.
3. Operates as evidence in future litigation, if it meets court-specific rules for admissibility, and provides a foundation for future monitoring and enforcement activities.
4. Enables land trust staff to identify worthwhile projects, to retain institutional knowledge and to communicate with landowners about stewardship responsibilities.

Treasury Regulations 26 C.F.R. § 1.170A-14(g)(5)(i)

(5) Protection of conservation purpose where taxpayer reserves certain rights—

(i) Documentation. In the case of a donation made after February 13, 1986, of any qualified real property interest when the donor reserves rights the exercise of which may impair the conservation interests associated with the property, for a deduction to be allowable under this section the donor must make available to the donee, prior to the time the donation is made, documentation sufficient to establish the condition of the property at the time of the gift. Such documentation is designed to protect the conservation interests associated with the property, which although protected in perpetuity by the easement, could be adversely affected by the exercise of the reserved rights. Such documentation may include:

(A) The appropriate survey maps from the United States Geological Survey, showing the property line and other contiguous or nearby protected areas;

(B) A map of the area drawn to scale showing all existing man-made improvements or incursions (such as roads, buildings, fences, or gravel pits), vegetation and identification of flora and fauna (including, for example, rare species locations, animal breeding and roosting areas, and migration routes), land use history (including present uses and recent past disturbances), and distinct natural features (such as large trees and aquatic areas);

(C) An aerial photograph of the property at an appropriate scale taken as close as possible to the date the donation is made; and

(D) On-site photographs taken at appropriate locations on the property. If the terms of the donation contain restrictions with regard to a particular natural resource to be protected, such as water quality or air quality, the condition of the resource at or near the time of the gift must be established. The documentation, including the maps and photographs, must be accompanied by a statement signed by the donor and a representative of the donee clearly referencing the documentation and in substance saying "This natural resources inventory is an accurate representation of [the protected property] at the time of the transfer."



~Carolina Bays Resort Conservation Area~

Horry County,
South Carolina

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A. Owner Acknowledgment



~Baseline Documentation Acknowledgment~


Property: Carolina Bays Resort Conservation Area

Location: Horry County, South Carolina

By signing below, the Owner and Land Trust certify that they have received and fully reviewed the attached Baseline Documentation in its entirety prior to recordation, and that it is an accurate representation of the physical condition of the Conservation Area to the best of their knowledge.

NORTH AMERICAN LAND TRUST:

Signature:


Steven W. Carter, NALT Stewardship Coordinator

Date:

12/19/2014

CAROLINA BAYS RESORT, LLC:

Signature:



Date:

12/19/2014



<p>B. Baseline Documentation Overview</p>



NORTH AMERICAN LAND TRUST
Conservation Easement
Baseline Documentation

~Carolina Bays Resort
Conservation Area~

Horry County,
South Carolina

~Baseline Documentation Overview~

I. Donor Information

Carolina Bays Resort, LLC
2200 Century Parkway
Suite 550
Atlanta, Georgia 30345

II. Introduction

The following Baseline Documentation describes the Conservation Values and physical condition of the Carolina Bays Resort Conservation Area located in Horry County, South Carolina. A Conservation Easement was donated on the property by Carolina Bays Resort, LLC to North American Land Trust on December 30, 2014. The Carolina Bays Resort Conservation Area is comprised of approximately 116 acres.

The Carolina Bays Resort Conservation Area is located in northeast South Carolina, just north of Myrtle Beach. The property supports a mature Mesic Mixed Hardwood Forest (Coastal Plain Subtype). Approximately 1,255 linear feet border the Atlantic Intracoastal Waterway along the property's southeastern edge. The property is highly visible from the AIW, SC Highway 31 (Carolina Bays Parkway), which borders the property to the northwest, and Bourne Trail. There are no structures on the property and a limited unimproved road system that is largely overgrown.

A ±20.44 acre “Building Zone” as shown in Exhibit A of the Carolina Bays Resort recorded Conservation Easement has been established. Within the “Building Zone,” five (5) 1.5 acre “Building Areas” are permitted by the terms of the easement. Please see section 4.1. and subsections 4.1.1. - 4.1.6. in the Carolina Bays Resort Conservation Easement for additional information regarding the “Building Zone” and associated “Building Areas”. The location of “Building Zone” as shown in Exhibit A has been carefully considered by NALT’s land planning and stewardship staff, and strategically located to avoid adverse impacts to the protected conservation values and purposes.

Please reference the Existing Condition Report, Photographic Documentation, and Supportive Mapping sections of this Baseline Documentation which further describe the Conservation Values of the Carolina Bays Resort Conservation Area.

III. Conservation Purposes

The IRS Tax Code Section 26 U.S.C. § 170 (h)(4)(a) and 26 CFR § 170A-14(d)(i), has established specific ‘Conservation Purposes’ that, if perpetually protected through the donation Conservation Easement, could render the donor eligible for a charitable contribution. In particular, the Carolina Bays Resort Conservation Area satisfies three (3) Conservation Purposes:

1. *Preservation of the Conservation Area as a relatively natural habitat of fish, wildlife, or plants or similar ecosystem; and*
2. *Preservation of the Conservation Area as open space which provides scenic enjoyment to the general public and yields a significant public benefit; and*
3. *Preservation of the Conservation Area as open space which, if preserved, will advance a clearly delineated Federal, State or local governmental conservation policy and will yield a significant public benefit.*

IV. Conservation Values

The following ‘Conservation Values’ document the ecological and environmental significance of the Carolina Bays Resort Conservation Area. Please reference the Existing Conditions Report, Photographic Documentation, and Supportive Mapping sections of the Baseline Document that examine the Conservation Values of the Conservation Area in greater detail.

- The Conservation Area provides wildlife corridors, breeding habitat, foraging habitat and shelter for at least fifty species of animals.
- The Conservation Area provides the natural ecological requirements for at least one hundred-fifty species of plants.

- The Conservation Area is highly visible from Highway 31 (Carolina Bays Parkway), and Bourne Trail, along with visible viewsheds from the Atlantic Intracoastal Waterway, thus providing a natural scenic view to the general public.
- The Conservation Area supports one good quality natural community: Mesic Mixed Hardwood Forest Coastal Plain Subtype.

The following government conservation policies are supported by the grant of this Conservation Easement and the Conservation Values described above achieve a significant public benefit towards the fulfillment of these conservation policies:

- The Conservation Area helps to fulfill the goals of the South Carolina Forest Legacy Program, including the following specified goals: “protect river systems, wetlands, and their associated upland habitats; reduce forest fragmentation caused by development; provide buffer areas and connectivity to already protected areas; and promote Best Management Practices for forestry”.
- South Carolina Code Annotated 48-59-20 et seq., states that “rapid land development and economic growth which has benefited the state's people and economy, but has also led to the loss of forestlands, farmlands, wildlife habitats, outstanding natural areas, beaches and public areas for outdoor recreation; and has impacted the health of the state's streams, rivers, wetlands, estuaries, and bays, all of which impacts the quality of life of the state's current and future citizens and may jeopardize the well-being of the state's environment and economy if not addressed appropriately”.
- South Carolina Code Annotated 48-59-20 et seq., also notes that “the protection of open space by acquisition of interests in real property from willing sellers is essential to ensure that the State continues to enjoy the benefits of wildlife habitats, forestlands, farmlands, parks, historical sites, and healthy streams, rivers, bays, and estuaries; for recreational purposes, for scientific study, for aesthetic appreciation, for protection of critical water resources, to maintain the state's position as an attractive location for visitors and new industry, and to preserve the opportunities of future generations to access and benefit from the existence of the state's outstanding natural and historical sites.”
- The Horry County Parks and Open Space Plan sets forth the following public objectives that are advanced by the conservation of the Conservation Area by this Conservation Easement:
 - Promote the preservation of open space, scenic areas and vistas greenways, squares and village greens;
 - Promote the protection and conservation of environmental or natural resources.

- The Horry County Comprehensive Plan sets forth the following public Water Resource needs and goals that are advanced by the conservation of the Conservation Area by this Conservation Easement:
 - Maintain and improve the surface water quality for all waterbodies located in Horry County.
 - Maintain and improve water quality in the coastal zone.
 - Conserve the essential flood reduction, groundwater recharge, pollution filtering, and recreation functions of wetlands.
 - Recognize the link between land use and water quality, use a combination of regulation and Incentives to ensure that new development adequately mitigates its impacts on water quality.
 - Encourage development techniques which maintain or improve water quality.
- The Horry County Comprehensive Plan sets forth the following public Land Resource needs and goals that are advanced by the conservation of the Conservation Area by this Conservation Easement:
 - Horry County needs to protect and conserve its forests, agriculture, plant and animal habitat, and urban trees while increasing its preserved open areas, scenic areas and recreational opportunities.
 - Protect, promote, and enhance, the forestlands of Horry County in a manner consistent with achieving the greatest good for its citizens.
 - Recognize the fragmentation of the natural landscape that is occurring and take steps to mitigate these effects.
 - The use of native species should be encouraged whenever possible.
- The Horry County Comprehensive Plan sets forth the following public Implementation Strategies that are advanced as part of the by the conservation of the Conservation Area by this Conservation Easement:
 - Cooperate with the Natural Resource Conservation Service to promote the Wetlands Reserve Program as a viable conservation option for qualified landowners.
 - Provide incentives for developers to preserve natural vegetation at residential development sites.
 - Encourage private forest landowners to participate in the SCFC Forest Stewardship Program and the Forest Land Enhancement Program
 - Use the open space fund to purchase large tracts of land designated as ecologically significant by the open space plan.
 - Explore creative planning techniques, such as transfer of development rights, as a means to conserve important natural and scenic features of the County.
- The South Carolina Comprehensive Wildlife Conservation Strategy sets forth the following conservation actions to be taken that are advanced by the conservation of this Conservation Area by this Conservation Easement:

- Develop and enhance education and outreach programs that encourage land stewardship values, particularly to private landowners in priority habitats.
[Highest priority]
- Develop and enhance education and outreach programs that inform the public about the importance of prescribed burning to benefit wildlife species.
[Highest priority]
- The South Carolina Statewide Forest Resource Assessment and Strategy sets forth the following goal that is advanced by the conservation of the Conservation Area by this Conservation Easement:
 - Conserve and manage working forest landscapes in South Carolina to achieve multiple objectives.
- The South Carolina Forest Legacy Program Assessment of Need sets forth the following goals that are advanced by the conservation of the Conservation Area by this Conservation Easement:
 - Identify and protect environmentally important forest lands threatened with conversion to non-forest uses;
 - Protect river systems, wetlands, and their associated upland habitats;
 - Maintain important scenic resources of the state;
 - Promote Forest Stewardship;
 - Promote Best Management Practices for forestry;
 - Enhance forest diversity.

V. Reserved Rights

The Reserved Rights that have been allowed in the Conservation Easement have been carefully reviewed for consistency with the Conservation Purposes and the protection of the Conservation Values. Approval of the Reserved Rights by Holder must be conducted under the notice and review procedure set forth in the Conservation Easement, which assures that the Holder may reject any exercise of the Reserved Rights that fails to protect the Conservation Purposes and the Conservation Values. Consideration of certain Reserved Rights are specifically addressed below:

- Roads and Driveways. These are strictly controlled by Holder and must be reviewed and approved subject to the obligation of the Owner to protect the Conservation Purposes and the Conservation Values.
- Single Family Dwelling and Accessory Structures in Building Area. Limited residential use is permitted in the Reserved Rights. Protection of the Conservation Purposes and the Conservation Values is assured by restrictions on the area and location of disturbance and use. The Holder has a right of prior approval of any such activity. The amount of disturbance is *de minimis* as compared to the dimensions of the Conservation Area.

- Alternative Energy Structures. It is important to address issues of climate change that alternative energy structures be permitted on conserved properties, subject to review and limitations. The Conservation Easement requires that any such structures serve only permitted uses in the Conservation Area and are pre-approved by Holder.
- Buildings. All other buildings are subject to strict size limitations assuring that they are only *de minimis* as compared to the size of the Conservation Area and are subject to approval by the Holder for consistency with the Conservation Purposes and Conservation Values.
- Trails. Trails of various sorts are needed for the proper management and permitted use of the Conservation Area. Accordingly, trails are permitted, but only subject to limitations that will serve to protect the Conservation Purposes and the Conservation Values.
- Water Courses. Dredging, channelizing or other manipulation of previously-altered natural or manmade water courses within the Conservation Area may only be conducted if necessary to maintain wetlands, if any, existing on the Conservation Area, to restore wetlands previously existing on the Conservation Area.
- Subdivision and Allocation of Reserved Rights. Subdivision will have no impact on the legal enforceability of the Conservation Easement on the Conservation Area or any lots created from the Conservation Area. Nevertheless, in order to prevent any impact in the ability of Holder to monitor and enforce the Conservation Area or on the long term stewardship of the Conservation Area, Owner may only subdivide the Conservation Area with prior approval from Holder.
- Existing Structures. Structures existing on the Conservation Area on the date of this Conservation Easement may only be maintained or, in some case, enlarged to limited degree, in order to protect the Conservation Purposes and the Conservation Values.
- Utility Installations. Utilities are necessary for any property to function. However, they are restricted to those necessary to service the permitted uses and the Conservation Easement imposes certain other limitations designed to protect the Conservation Purposes and the Conservation Values, including Holder approval.
- Tree Cutting and Forest Management. Tree harvesting is appropriately limited. Primarily, there are areas where the Conservation Easement prohibits or restricts harvesting and all forestry activity must be done only in accordance with a Forest Management Plan, which must meet the professional standards set forth in the Conservation Easement, as well as Best Management Practices. Failure to do so is an enforceable violation of the Conservation Easement

VI. Conservation Management

The following section regarding Conservation Management is meant to serve as a general guideline for NALT's Conservation Easements. NALT recognizes that each property has its own unique characteristics and conditions which may utilize a wide variety of Conservation Management techniques that may be absent or deviate from what is described below. Please reference the Existing Conditions Report and recorded Conservation Easement document in this Baseline Documentation for more specific detail regarding Conservation Management on your particular property.

Aquatic Features Management

NALT's desired outcome of protecting aquatic features within the CA is to maintain or enhance water quality, natural hydrology, and aquatic habitats for species of viability concern.

Alteration of natural hydrology, stream channels, wetlands, or other watercourses is prohibited in the Conservation Area. Introduction of non-native plant or animal species to natural aquatic features is also prohibited. The introduction of fish, particularly predatory fish (such as bass, sunfish, and trout) to otherwise fish-free ponds, is discouraged.

Landowners should recognize that streams benefit from forest cover and shading, and that woody debris in streams and wetlands is an important ecological component. Removal of woody debris from aquatic features should be avoided. Some aquatic features, such as bogs, may require active management, such as shrub removal, to maintain habitats for rare species.

All efforts to control stream bank erosion or any other manipulation of aquatic features require consultation with, and pre-approval from, NALT and may also require government permits.

Aquatic feature conditions will be assessed on each monitoring visit by a NALT representative. If necessary, management suggestions will be outlined in the monitoring report.

VII. Monitoring Policy

Part of the responsibility NALT assumes when it accepts the donation of a Conservation Easement is the perpetual monitoring of the subject property to ensure that the integrity of the Conservation Purposes remains intact. This Baseline Document will provide the basis for the monitoring program. By chronicling the property through photographs, professional reports, and maps an accurate depiction of the property is presented at the time of the donation. This will prove essential to a future NALT representative who can quickly compare data and photographs to determine how the property has changed.

Regularly scheduled monitoring visits will also help establish a sound relationship between the landowner and land trust. This is an important ingredient for effective stewardship.

The Monitoring Process:

1. Notify the landowner prior to the monitoring visit and provide them, or their representative, an opportunity to meet and/or accompany you.
2. Review the Baseline Documentation for the property and become familiar with the Restrictions and Reserved Rights clauses in the Conservation Easement.
3. Survey the property and record any apparent changes since the previous monitoring visit, or discrepancies from the Baseline Documentation. Attempt to take photographs in the same position and location as previous photographs.
4. Communicate with the landowner about the visit and ask if they have questions. Find out if they intend to initiate any Reserved Rights in the immediate future.
5. Draft a report describing the visit and provide to landowner for review and comment.
6. Our monitoring and enforcement program has proven effective in regularly viewing the easement property, enforcing the restrictions, and keeping the landowners informed - which will be done in perpetuity.

It is crucial that the landowner communicate with NALT about any future activities within the Conservation Easement Area. This includes exercising any of the Reserved Rights in Article 4. This will ensure NALT's files remain updated and will avoid any potential misunderstandings during regularly scheduled monitoring visits.

NALT is confident these steps will ensure a harmonious relationship between landowner and land trust while protecting the Conservation Areas. Thank you for your cooperation.

VIII. Mission Statement

The Mission of North American Land Trust is to promote long-term stewardship of our natural and cultural heritage by implementing successful private land conservation projects and promoting innovative land conservation techniques.



C. NALT IRS Information



ESTABLISHED TO PRESERVE OUR NATURAL HERITAGE
THE UNDERLYING GOAL OF EACH OF OUR PROJECTS IS TO PROVIDE BENEFIT TO THE
PUBLIC WHILE RESPECTING LANDOWNERS' RIGHTS AND ECONOMIC INTERESTS.

Important Tax Information Regarding North American Land Trust

The following information is attached regarding NALT's current status:

Internal Revenue Service – Charitable Status

The IRS notified NALT that it had granted it permanent status on June 25, 1997 as a publicly supported 501 (c) (3) organization as described in section 509 (a)(1) and 170 (b) (1) (A) (vi). The notification is attached to this memorandum. Tax returns (IRS form 990) have been filed annually and are available upon request.

Internal Revenue Service – Employer Identification Number

NALT was assigned an Employer Identification Number on August 28, 1992 (Notification # CP 575 E).

The EIN that was assigned is: **23-2698266**

A copy of the notification is attached to this memorandum.

Commonwealth of Pennsylvania – Bureau of Charitable Organizations

NALT is registered with the Bureau of Charitable Organizations and has submitted annual reports by the required deadlines.

The registration number is: **0014473**

Auditor's Report

NALT has an annual audit that is performed by the following firm:

O'Connell & Company
Certified Public Accountants
Suite 213
One Washington Square
8101 Washington lane
Wyncote, Pa 19095

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

Employer Identification Number:
23-2698266

DLN:

17053088920007

Contact Person:

D. A. DOWNING

Contact Telephone Number:

(513) 241-5199

Our Letter Dated:

November 1992

Addendum Applies:

No

NORTH AMERICAN LAND TRUST
C/O ANDREW JOHNSON
PO BOX 134
CHADDS FORD, PA 19317-0134

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more you pay to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

You are required to file Form 990 only if your gross receipts each year are normally more than \$25,000. For guidance in determining whether your gross receipts are "normally" more than \$25,000, see the instructions for Form 990. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$10 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$5,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Letter 1050 (DO/CG)

NORTH AMERICAN LAND TRUST

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

A handwritten signature in dark ink, appearing to be "H. L. H.", written over a horizontal line.

District Director

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
PHILADELPHIA PA 19255

DATE OF THIS NOTICE: 09-28-92
NUMBER OF THIS NOTICE: CP 575 E
EMPLOYER IDENTIFICATION NUMBER: 23-2698266
FORM: SS-4 TAX PERIOD: N/A
2820722445 0

FOR ASSISTANCE PLEASE
WRITE TO US AT:

INTERNAL REVENUE SERVICE
PHILADELPHIA PA 19255

BE SURE TO ATTACH THE
BOTTOM PART OF NOTICE

OR YOU MAY CALL US AT:

574-9900 LOCAL PHIL.
1-800-829-1040 OTHER PA

NORTH AMERICAN LAND TRUST
X GAIL CUMMINGS LEVAN
3800 CENTRE SQUARE WEST
PHILADELPHIA PA 191022186

NOTICE OF NEW EMPLOYER IDENTIFICATION NUMBER ASSIGNED

Thank you for your Form SS-4, Application for Employer Identification Number (EIN). The number assigned to you is shown above. It will be used to identify your business account, tax returns and documents, even if you don't have employees.

1. Keep a copy of the number in your permanent records.
2. Use your name and the number exactly as shown above on all Federal tax forms.
3. Use the number on all tax payments and tax-related correspondence or documents.

Using a variation of your name or number may result in delays or errors in posting payments to your account. It also could result in the assignment of more than one Employer Identification Number.

We have established the filing requirements and tax period shown above for your account based upon the information provided. If you need help to determine your required tax year, get publication 538, Accounting Periods and Methods, which is available at most IRS offices.

Assigning an Employer Identification Number does not grant tax-exempt status to nonprofit organizations. Any organization, other than a private foundation, having annual gross receipts normally of \$5,000 or less is exempt by statute if it meets Internal Revenue Code requirements. Such organizations are not required to file Form 1023, Application for Recognition of Exemption, or Form 990, Return of Organization Exempt from Income Tax.

However, if your organization wants to establish its exemption and receive a ruling or determination letter recognizing its exempt status, file Form 1023 with the Key District Director. For details on how to apply for the exemption, see Publication 557, Tax-Exempt Status for Your Organization.

Thank you for your cooperation.

Commonwealth of Pennsylvania



Department of State Bureau of Corporations and Charitable Organizations

Certificate of Registration

No. 14473

*This is to certify that **North American Land Trust** is registered as a **Charitable Organization** with the Department of State, Bureau of Corporations and Charitable Organizations under The Solicitation of Funds for Charitable Purposes Act, 10 P.S. § 162.1 et seq., and is authorized to solicit charitable contributions under the conditions and limitations set forth under the Act.*

This certificate is not to be used as identification, nor does it constitute an endorsement.

A handwritten signature in black ink, appearing to read "Carol Aichele".

Secretary of the Commonwealth

EXPIRATION DATE & AUTOMATIC EXTENSION: 11/11/2014



D. NALT Board Resolution and Minutes



NORTH AMERICAN LAND TRUST
Board Resolution & Minutes

October 17, 2014

The meeting of the Board of Directors was called to order at 10:00 am. with the following members in attendance: John Halsey, Andy Johnson, John Witherspoon, John Snook, Paul Haldeman, Lee Stephens, and Chuck Perry. Others in attendance were: Steve Carter, Jamie McVickar, Amy Bruckner, and Lee Echols.

Excerpt from Minutes of Meeting:

- The Board **approved** the acceptance of a Conservation Easement on the Carolina Bay Resort Conservation Area located in Horry County, South Carolina consisting of approximately ± 116 acres.

The above is a true and correct excerpt of the minutes of the Board Meeting on October 17, 2014.

A handwritten signature in black ink, appearing to read "A. L. Johnson", is written over a horizontal line.

Andrew L. Johnson
President



E. Recorded Conservation Easement



~Carolina Bays Resort
Conservation Area~

Horry County,
South Carolina

~Recorded Conservation Easement and
Declaration of Restrictions & Covenants~

<i>Date Recorded:</i>	December 30, 2014
<i>Grantor:</i>	Carolina Bays Resort, LLC
<i>Easement Acreage:</i>	~116 acres

Prepared by, and after recording please return to:
George Asimos, Esquire
North American Land Trust
P.O. Box 467
Chadds Ford, PA 19317
(610)388-3670

**NOTICE OF CONVEYANCE
AND TRANSFER FEE PAYMENT
REQUIRED – SEE ARTICLE 7**

TMS# 143-00-01-078

**CONSERVATION EASEMENT
AND
DECLARATION OF RESTRICTIONS AND COVENANTS**

**THIS CONSERVATION EASEMENT AND DECLARATION OF
RESTRICTIONS AND COVENANTS** ("Conservation Easement") first executed on December
18, 2014, to be effective on December 30, 2014, is made by and between **CAROLINA
BAYS RESORT, LLC**, a Delaware limited liability company ("Owner"), having an address of
2200 Century Parkway, Suite 550, Atlanta, Georgia 30345, and **NORTH AMERICAN LAND
TRUST** ("Holder"), a Pennsylvania non-profit corporation having an address of Post Office Box
467, Chadds Ford, PA 19317.

ARTICLE 1. BACKGROUND

- 1.1 Owner is the owner of certain real property in Little River Township, Horry County, South Carolina that consists of 115.737 acres of land, more or less (hereinafter called the "Conservation Area") as described in a deed to Owner that was recorded on November 18, 2014 in the office of the Registrar of Deeds of Horry County as Instrument # 2014000136347 at Deed Book 3779 page 956 and therein described as "Tract E containing 115.737 AC \pm " as shown on plat entitled "McDuffy Tract, Canal Holdings, LLC Tract, Gibson-Wall Company Tract, H.F. Bell Tract and R.E. Bell No. 2 Tract", prepared by Thomas & Hutton Engineering Co., dated March 25, 2005, and recorded June 1, 2005, in Plat Book 205, pages 156 through 156D in the office of the Registrar of Deeds of Horry County, which deed and plat are incorporated in this Conservation Easement only for the purpose of describing the boundaries of the Conservation Area.

- 1.2 Holder is a non-profit corporation, having a tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter called the "Code"), which has been established as a public charity for the purpose of preserving and conserving scenic landscapes, natural habitats and environmentally sensitive areas and for other charitable, scientific and educational purposes and which is a "qualified organization" under Section 170(h)(3) of the Code (hereinafter a "Qualified Organization").
- 1.3 Preservation of the Conservation Area by this Conservation Easement shall serve the following purposes pursuant to 26 U.S.C. § 170 (h)(4)(a) and 26 CFR §1.170A-14(d)(i), (the "Conservation Purposes"):
 - 1.3.1 Preservation of the Conservation Area as a relatively natural habitat of fish, wildlife, or plants or similar ecosystem; and
 - 1.3.2 Preservation of the Conservation Area as open space which provides scenic enjoyment to the general public and yields a significant public benefit; and
 - 1.3.3 Preservation of the Conservation Area as open space which, if preserved, will advance a clearly delineated Federal, State or local governmental conservation policy and will yield a significant public benefit.
- 1.4 The Conservation Purposes and the natural, physical or other characteristics of the Conservation Area that support and justify the Conservation Purposes (which may be hereinafter called the "Conservation Values") have been documented and established in the reports, plans, photographs, and documents assembled by, and retained in the offices of, North American Land Trust (collectively called the "Baseline Documentation"), pursuant to 26 CFR §1.170A-14(g)(5). The Baseline Documentation describes the following Conservation Values of the Conservation Area, among others:
 - 1.4.1 The Conservation Area provides wildlife corridors, breeding habitat, foraging habitat and shelter for at least fifty species of animals.
 - 1.4.2 The Conservation Area provides the natural ecological requirements for at least one hundred-fifty species of plants.
 - 1.4.3 The Conservation Area is highly visible from Highway 31 (Carolina Bays Parkway), and Bourne Trail, along with visible viewsheds from the Atlantic Intracoastal Waterway, thus providing a natural scenic view to the general public.
 - 1.4.4 The Conservation Area supports one good quality natural community: Mesic Mixed Hardwood Forest Coastal Plain Subtype.
- 1.5 The following government conservation policies are supported by the grant of this Conservation Easement and the Conservation Values described above achieve a significant public benefit towards the fulfillment of these conservation policies:

- 1.5.1 The Conservation Area helps to fulfill the goals of the South Carolina Forest Legacy Program, including the following specified goals: “protect river systems, wetlands, and their associated upland habitats; reduce forest fragmentation caused by development; provide buffer areas and connectivity to already protected areas; and promote Best Management Practices for forestry”.
- 1.5.2 South Carolina Code Annotated 48-59-20 et seq., states that “rapid land development and economic growth which has benefited the state's people and economy, but has also led to the loss of forestlands, farmlands, wildlife habitats, outstanding natural areas, beaches and public areas for outdoor recreation; and has impacted the health of the state's streams, rivers, wetlands, estuaries, and bays, all of which impacts the quality of life of the state's current and future citizens and may jeopardize the well-being of the state's environment and economy if not addressed appropriately”.
- 1.5.3 South Carolina Code Annotated 48-59-20 et seq., also notes that “the protection of open space by acquisition of interests in real property from willing sellers is essential to ensure that the State continues to enjoy the benefits of wildlife habitats, forestlands, farmlands, parks, historical sites, and healthy streams, rivers, bays, and estuaries; for recreational purposes, for scientific study, for aesthetic appreciation, for protection of critical water resources, to maintain the state's position as an attractive location for visitors and new industry, and to preserve the opportunities of future generations to access and benefit from the existence of the state's outstanding natural and historical sites.”
- 1.5.4 The Horry County Parks and Open Space Plan sets forth the following public objectives that are advanced by the conservation of the Conservation Area by this Conservation Easement:
- (a) Promote the preservation of open space, scenic areas and vistas greenways, squares and village greens;
 - (b) Promote the protection and conservation of environmental or natural resources.
- 1.5.5 The Horry County Comprehensive Plan sets forth the following public Water Resource needs and goals that are advanced by the conservation of the Conservation Area by this Conservation Easement:
- (a) Maintain and improve the surface water quality for all waterbodies located in Horry County.
 - (b) Maintain and improve water quality in the coastal zone.
 - (c) Conserve the essential flood reduction, groundwater recharge, pollution filtering, and recreation functions of wetlands.

- (d) Recognize the link between land use and water quality, use a combination of regulation and Incentives to ensure that new development adequately mitigates its impacts on water quality.
- (e) Encourage development techniques which maintain or improve water quality.

1.5.6 The Horry County Comprehensive Plan sets forth the following public Land Resource needs and goals that are advanced by the conservation of the Conservation Area by this Conservation Easement:

- (a) Horry County needs to protect and conserve its forests, agriculture, plant and animal habitat, and urban trees while increasing its preserved open areas, scenic areas and recreational opportunities.
- (b) Protect, promote, and enhance, the forestlands of Horry County in a manner consistent with achieving the greatest good for its citizens.
- (c) Recognize the fragmentation of the natural landscape that is occurring and take steps to mitigate these effects.
- (d) The use of native species should be encouraged whenever possible.

1.5.7 The Horry County Comprehensive Plan sets forth the following public Implementation Strategies that are advanced by the conservation of the Conservation Area by this Conservation Easement:

- (a) Cooperate with the Natural Resource Conservation Service to promote the Wetlands Reserve Program as a viable conservation option for qualified landowners.
- (b) Provide incentives for developers to preserve natural vegetation at residential development sites.
- (c) Encourage private forest landowners to participate in the SCFC Forest Stewardship Program and the Forest Land Enhancement Program.
- (d) Use the open space fund to purchase large tracts of land designated as ecologically significant by the open space plan.
- (e) Explore creative planning techniques, such as transfer of development rights, as a means to conserve important natural and scenic features of the County.

1.5.8 The South Carolina Comprehensive Wildlife Conservation Strategy sets forth the following conservation actions to be taken that are advanced by conserving the Conservation Area by this Conservation Easement:

(a) Develop and enhance education and outreach programs that encourage land stewardship values, particularly to private landowners in priority habitats. [Highest priority]

(b) Develop and enhance education and outreach programs that inform the public about the importance of prescribed burning to benefit wildlife species. [Highest priority]

1.5.9 The South Carolina Statewide Forest Resource Assessment and Strategy sets forth the following goal that is advanced by the conservation of the Conservation Area by this Conservation Easement:

(a) Conserve and manage working forest landscapes in South Carolina to achieve multiple objectives.

1.5.10 The South Carolina Forest Legacy Program Assessment of Need sets forth the following goals that are advanced by the conservation of the Conservation Area by this Conservation Easement:

(a) Identify and protect environmentally important forest lands threatened with conversion to non-forest uses;

(b) Protect river systems, wetlands, and their associated upland habitats;

(c) Maintain important scenic resources of the state;

(d) Promote Forest Stewardship;

(e) Promote Best Management Practices for forestry;

(f) Enhance forest diversity.

1.6 Owner and Holder desire to perpetually accomplish, fulfill and protect the Conservation Purposes and conserve the Conservation Values.

1.7 Owner intends to grant the easement and impose the restrictive covenants on the Conservation Area as set forth in this Conservation Easement to accomplish the Conservation Purposes.

1.8 Owner and Holder intend that this document be a "conservation easement" as defined in the Conservation Easement Act of 1991, as amended (the "State Conservation Easement Law"), Sections 27-8-10 et seq. of the South Carolina Code of Laws.

NOW, THEREFORE, for no consideration and as an absolute charitable gift and further in consideration of the above premises, the mutual covenants, terms, conditions, restrictions, and promises contained in this Conservation Easement, and intending to be legally bound hereby,

Owner hereby voluntarily, unconditionally and absolutely grants and conveys unto Holder, its successors and assigns, the easements, covenants, prohibitions, and restrictions set forth in this Conservation Easement, in perpetuity, to accomplish the Conservation Purposes. Holder hereby accepts the grant of such easement and the right to enforce such covenants, prohibitions and restrictions and agrees to hold such easements and rights exclusively for the Conservation Purposes and to enforce the terms of the covenants, prohibitions and restrictions set forth in this Conservation Easement.

ARTICLE 2. GRANT OF EASEMENT

Owner hereby voluntarily, unconditionally and absolutely grants and conveys unto Holder, its successors and assigns, a perpetual conservation easement and easement in gross over the Conservation Area for the purpose of preserving and protecting the Conservation Purposes and enforcing the restrictive covenants set forth below. In addition, Owner hereby grants and conveys unto Holder, its successors and assigns, pursuant to 26 CFR §1.170A-14(g)(5)(ii), the easement and right of Holder and its agents to enter upon and inspect the Conservation Area for compliance with this Conservation Easement at any time and from time to time. Holder shall make a reasonable effort to give Owner notice of any such entry and inspection at least seven (7) days in advance, except in instances when Holder reasonably suspects or knows of a violation of this Conservation Easement.

ARTICLE 3. OWNER'S DECLARATION OF COVENANTS AND RESTRICTIONS

Owner, for Owner and Owner's successors and assigns, covenants and declares that the Conservation Area shall be, and hereby is, bound by and made subject to the following covenants and restrictions in perpetuity, SUBJECT TO AND EXCEPTING however the Reserved Rights which are reserved to Owner and Owner's successors and assigns, as set forth in Article 4 of this Conservation Easement:

- 3.1 Use Restrictions. The Conservation Area shall not be used for a residence or for any commercial, institutional, industrial or agricultural purpose or purposes. Among the uses prohibited by the preceding sentence are, without limiting the meaning or interpretation of the preceding sentence, any of the following: (1) construction or occupancy of any dwellings; (2) manufacture or assembly of any products, goods, equipment, chemicals, materials or substances of any kind or nature whatsoever; (3) sale of any products, goods, equipment, chemicals, materials, substances or services of any kind or nature whatsoever; (4) storage of any products, goods, equipment, chemicals, materials or substances of any kind or nature, except if stored for use upon the Conservation Area in connection with activities not prohibited by this Conservation Easement; and (5) offices for persons involved in the sale, manufacture or assembly of goods or services or for the performance of services.
- 3.2 Structures Prohibited. No Structure (hereinafter defined) of any kind shall be built, erected, installed, placed, affixed or assembled within or upon the Conservation Area or upon any trees or other natural features upon the Conservation Area. "Structure" shall

mean any assembly of material forming a construction for occupancy or use for any purpose and erected upon or attached to the ground including, for example but not to limit the foregoing definition, the following: building; platform; shed; bin; shelter; dam; dike; tower; tank; antenna; bulkhead; or paved, stone or concrete street, driveway or vehicle parking area.

- 3.3 Removal of Ground or Surface Water from Conservation Area. No ground or surface water from the Conservation Area shall be removed, collected, impounded, stored, transported, diverted or otherwise used for any purpose or use outside the Conservation Area unless approved by Holder in its sole discretion without obligation to do so nor for any purpose or use within the Conservation Area that is prohibited by this Conservation Easement.
- 3.4 Roads, Driveways, Etc. There shall not be constructed, cut, created or placed on the Conservation Area any road, driveway, cartway, path or other means or right of passage across or upon the Conservation Area. No road, driveway, cartway, path or other means or right of passage located on the Conservation Area shall be used for access to any use (whether or not upon the Conservation Area) which is prohibited by this Conservation Easement.
- 3.5 Live Trees. No cutting, removal or destruction of live trees shall be permitted upon or within the Conservation Area.
- 3.6 Signs and Similar Structures. No signs, billboards or outdoor advertising structures shall be placed, erected or maintained within the Conservation Area.
- 3.7 Land Disturbance; Mineral Extraction. There shall be no filling, excavating, dredging, surface mining, drilling or any removal of topsoil, sand, gravel, rock, peat, gas, oil, coal, other minerals or other materials, upon or from the Conservation Area; provided however that this Conservation Easement shall not prohibit production of natural gas, oil and accompanying liquids from beneath the Conservation Area provided that (a) only horizontal or similar drilling methods from surface locations not within the Conservation Area are used; (b) within the Conservation Area no surface mining or drilling methods are used, and no pipeline construction, equipment or water storage, or other land disturbance occurs; (c) no visible or discernible impact on the surface of the Conservation Area occurs; (d) no methods shall be permitted which enter or interfere with the water bearing zones under the Conservation Area; and (e) any impact upon the biological, aquatic, hydrologic or other natural resources of the Conservation Area is prohibited.
- 3.8 Dumping and Pollution. There shall be no dumping of ashes, trash, garbage, or any other unsightly or offensive materials at any place on, under or within the Conservation Area. There shall be no discharge of chemicals, waste water or other pollutants onto the Conservation Area or into any permanent or intermittent water course within the Conservation Area.

- 3.9 Change of Topography. There shall be no change in the topography of the Conservation Area by any means or method.
- 3.10 Water Courses. There shall be no dredging, channelizing or other manipulation of natural water course or of any other water course existing within the Conservation Area as of the date of this Conservation Easement except that manmade drainage swales, ditches or storm water management facilities may be dredged or otherwise altered for maintenance purposes or to maintain its function for its intended purpose on the date of this Conservation Easement.
- 3.11 Wetland and Riparian Protection Area.
- 3.11.1 “Wetland and Riparian Protection Area” shall mean that part of the Conservation Area that lies within, or within 100 feet of: (a) any body of water or permanent or intermittent watercourse (including but not limited to any lake or pond, but excluding manmade storm water swales or ditches not fed by a spring, pond or other natural source) as defined by its banks or the mean water elevation as Holder deems relevant and appropriate in the circumstances; or (b) any wetland under the regulatory jurisdiction of the federal or state government; but does not include any area within the Building Zone (hereinafter defined).
- 3.11.2 There shall be no clearing, cutting or removal of live or dead trees, other clearing or removal of vegetation, clearing or removal of leaf litter or other natural detritus, or digging, earth movement or other alteration of the earth surface or topography within the Wetland And Riparian Protection Area, except that areas within the Wetland And Riparian Protection Area that are predominantly in grasses on the date of this Conservation Easement may be mowed.
- 3.11.3 Owner shall be responsible for ascertaining the boundaries of the Wetland And Riparian Protection Area, at Owner’s expense, in consultation with Holder, before undertaking any action that is or may be prohibited in the Wetland And Riparian Protection Area. If the banks of a water course are not clearly defined then Holder shall, in its reasonable discretion, establish a line of the mean water elevation to substitute for that purpose upon request by Owner, relying on available topographic, hydrologic information, and other maps and relevant information. Owner shall bear the expense of any survey or field work necessary to establish the line.
- 3.11.4 Any approvals by Holder of Reserved Rights to be conducted within the Wetland And Riparian Protection Area, if permitted under this Conservation Easement subject to approval by Holder, shall be granted by Holder only if Holder concludes that the Reserved Rights shall have no material adverse effect on the habitat within the Wetland And Riparian Protection Area and thus on the Conservation Values and Conservation Purposes pertaining to the Wetland And Riparian Protection Area.

- 3.12 Soil Erosion and Sedimentation Control. All activity on the Conservation Area shall be conducted so as to avoid the occurrence of soil erosion and sedimentation of streams or other water courses. Without limitation of the foregoing, Owner and Holder shall, in identifying practices that will prevent soil erosion and sedimentation, refer to the soil conservation practices as then established or recommended by the Natural Resources Conservation Service of the United States Department of Agriculture or any successor governmental office or organization performing the same function within the United States government, as approved by Holder.
- 3.13 Non-Native Plant Species. There shall be no introduction of plant species within the Conservation Area except those that are native to the area in which the Conservation Area is located or that are recognized as non-invasive horticultural specimens or fruit orchard trees. Within one year from the date of this Conservation Easement the Owner shall develop a plan (the "Invasive Species Eradication Plan") for the substantial eradication of nonnative invasive species such as kudzu in those areas in which they presently infest the Conservation Area and represent a threat to future protection of the native trees and other native vegetation within the Conservation Area. The Invasive Species Eradication Plan shall be presented to Holder for approval within one year after the date of this Conservation Easement. The Invasive Species Eradication Plan shall be implemented by Owner at Owner's sole cost and expense. Implementation of the Invasive Species Eradication Plan shall commence within two years after the date of this Conservation Easement and implementation shall continue without substantial interruption until Holder concludes that eradication has been successfully accomplished.
- 3.14 Transfers of Development Rights or Development Density Credits. The Conservation Area may not be used as open space for purposes of obtaining or qualifying for governmental approval of any subdivision or development on lands outside the boundaries of the Conservation Area nor, without limitation of the foregoing, may the Conservation Area be used in the calculation of the amount or density of housing units or other construction for development or other impervious ground coverage on lands outside the boundaries of the Conservation Area or for sale by Owner.
- 3.15 No Subdivision. There shall be no subdivision or other division of the Conservation Area into one or more lots, tracts or parcels of land under separate ownership.
- 3.16 Notice of Exercise of Reserved Rights. As required by 26 C.F.R. § 1.170A-14(g)(5)(ii), Owner shall notify Holder in writing before exercising any Reserved Right that may impair the conservation interests associated with the Conservation Area.
- 3.17 Preservation of Conservation Area. The parties recognize that this Conservation Easement cannot address every circumstance that may arise in the future, and the parties agree that the purpose of this Conservation Easement is to preserve the Conservation Values of the Conservation Area and to fulfill the Conservation Purposes in accordance with 26 U.S.C. § 170(h). Without limiting the preceding covenants and restrictions, and in fulfillment of the requirements of 26 CFR §§1.170A-14(g)(i) and 170A-14(e)(2), any right, use or activity which is not reserved in Article 4 of this Conservation Easement and

which is inconsistent with the Conservation Purposes or which materially threatens the Conservation Purposes is prohibited.

- 3.18 Restrictions Cumulative. The prohibitions and restrictions in this Conservation Easement shall be considered cumulative. No prohibition or restriction contained herein shall be interpreted as a limitation on the meaning, effect, interpretation or enforceability of another prohibitive or restrictive provision.

ARTICLE 4. RESERVED RIGHTS

Owner reserves for Owner and Owner's successors and assigns who may now or hereafter be an owner of all or part of the Conservation Area the rights set forth in this Article 4 (the "Reserved Rights"). Owner and Holder intend that these Reserved Rights and the activities and uses which are described below as the Reserved Rights are exceptions to the prohibitions and restrictions set forth in Article 3 and, hence, may be conducted as described below without having an adverse effect on the Conservation Purposes; except, however, that none of the Reserved Rights shall supersede the protections of the Wetland And Riparian Protection Area set forth in Article 3 unless expressly permitted below and with the approval of Holder in its discretion. A Reserved Right to "construct" a Structure or other improvement shall include the right to maintain, repair, replace, use, and occupy such Structure or improvement for the purpose and within the limitations stated in this Article.

4.1 Single Family Dwelling and Accessory Structures in Building Zone.

- 4.1.1 Owner may engage in residential use, and construct five (5) single family dwellings, within the area described as the "Building Zone Area" in Building Zone Area Exhibit "A" (the "Building Zone") attached to and incorporated in this Conservation Easement. Each single family dwelling and Structures customarily accessory to residential use such as a shed, kennel, garage, gazebo, septic system, well, or swimming pool, shall be constructed within a "Building Area" to be identified and located within the Building Zone as provided below. Permitted residential use within a Building Area shall include, without limitation, customary home occupations such as an office for a home-based business or a craft business such as furniture making, provided that the business is actively operated by one or more of the residents of the permitted dwelling and that the business use does not occupy the majority of the space within the buildings in the Building Area.

4.1.2 Within the Building Zone Owner may

- (a) remove vegetation and perform grading to the extent reasonably necessary to facilitate the construction and use of the buildings and other Structures permitted in this Section;
- (b) install landscaping and other vegetation (including ornamental gardens) and irrigation system;

- (c) construct storm water drainage systems; and
- (d) install roads, driveways, utilities, and walkways.
- (e) Any permitted clearing or construction shall be done so as to minimize the impact on surrounding vegetation, and shall be done in accordance with best management practices.

4.1.3 Each Building Area shall be no more than one and one-half (1.5) acres in area.

4.1.4 The location and dimensions of each Building Area and the permitted roads and driveways serving the Building Area shall have been reviewed and approved by Holder.

4.1.5 The description of the Building Area and, when approved by Holder, acknowledgment of the review and approval of the Building Area by Holder shall be set forth in a written document, signed by duly authorized officers of Holder and by Owner, which shall be recorded in the same place of public record in which this Conservation Easement was recorded.

4.2 Road and Driveway. Owner may construct a road and driveway for access to the Building Zone and each Building Area within the Building Zone in a location or locations approved by Holder. The width of the road and driveway and any area of land disturbance, grading or tree removal for such driveway shall be no greater than the minimum necessary to meet any legal requirements or, to the extent no legal requirements apply or are lawfully waived, the minimum practicable consistent with sound engineering techniques and methods.

4.3 Alternative Energy Structures. Owner may construct Structures to generate energy for the conduct of any of the permitted activities in the Conservation Area, provided that the energy is derived from a natural source such as solar or wind energy, substantially all of the energy produced is consumed on the Conservation Area for the permitted uses and not sold or otherwise transferred for use off of the Conservation Area, and the location and appearance of any such Structures are approved by Holder.

4.4 Picnic Shelters and Areas. Owner may construct in locations approved by Holder roofed shelters for outdoor picnicking and similar outdoor recreation uses provided they are open, without walls, on at least three sides and that the aggregate ground coverage area of all such shelters shall not exceed 2,500 square feet for all shelters. Owner may construct picnic tables and benches, charcoal cooking grills, fire pits or rings, and similar Structures commonly associated with outdoor picnicking and similar outdoor recreation.

4.5 Buildings for Storage. Owner may construct, within or outside the Building Zone, buildings for storage of equipment and materials used in the maintenance of the Conservation Area, also commonly referred to as a shed or barn, provided that the aggregate ground coverage area of all such buildings shall not exceed 5,000 square feet in

locations approved by Holder. This ground coverage limitation shall not apply to such buildings within any Building Area.

- 4.6 Unpaved Vehicle Trails. Owner may also construct unpaved vehicle trails for limited vehicular access to the areas of the Conservation Area otherwise inaccessible by vehicle for use in maintenance, emergency access, and other permitted uses of the Conservation Area if the following requirements and conditions are satisfied: (a) the surface of such trails shall remain pervious (such as dirt or gravel); (b) such trails shall be located, to the extent possible, in the path of forestry roads existing on the date of this Conservation Easement; (c) the width of the area cleared for such trails shall not exceed that which is necessary for a single lane of vehicular traffic; (d) and such trails shall be otherwise constructed in a manner to avoid unnecessary tree removal and land disturbance; (e) if such trails require any grading or change in topography, then such grading shall blend into the natural topography of the Conservation Area, shall control erosion, and shall be of a design and location approved, in advance, by the Holder in its discretion; and (f) Holder approves the proposed service vehicle trail based on the foregoing requirements.
- 4.7 Trails and Raised Walkways. Owner may construct trails or paths for nature education and outdoor recreation purposes if the following requirements and conditions are satisfied: (a) the surface of the trail shall remain pervious (such as dirt, wood chips or gravel); (b) the trail shall be located, to the extent possible, in the path of a trail or forestry road existing on the date of this Conservation Easement; (c) the width of the area cleared and improved for the trail shall not exceed that which is necessary for pedestrian or equestrian use; and (d) the trail shall be otherwise constructed in a manner to avoid unnecessary tree removal, grading and other land disturbance. Owner may construct raised walkways (but not bridges or similar structures for motor vehicle use) for access to any or all of the land within the Conservation Area if the following requirements and conditions are satisfied: (a) it can be demonstrated to Holder that it is not feasible to use any existing walkway or pathway or to improve any existing walkway or pathway for such access purpose; (b) Owner shall comply with all other covenants and restrictions of this Conservation Easement; and (c) Holder approves the proposed walkway based on the foregoing requirements.
- 4.8 Modification of Building Zone. The boundaries of the Building Zone may be modified if the following requirements are met:
- 4.8.1 Each boundary modification is approved by Holder in accordance with the requirements and limitations for approval of Reserved Rights set forth below.
- 4.8.2 The area of the Building Zone shall not be increased.
- 4.8.3 Any Structure existing at the time of the modification and that is permitted only in the Building Zone shall be contained within the modified Building Zone after such modification.

- 4.8.4 No additional rights to dwellings or other Reserved Rights shall be created or result from such modification.
- 4.8.5 The modification shall be set forth in a document signed by duly authorized officers of Holder and by the legal owner or owners of the portion of the Conservation Area which is the subject of the Building Zone modification at the time of modification. The document shall be recorded in the same place of public record in which this Conservation Easement was recorded and shall not be effective until so recorded.
- 4.9 Permitted Work within a Wetland And Riparian Protection Area. Owner may, with the approval of Holder, dredge or otherwise manipulate previously-altered natural or manmade water courses within the Wetland And Riparian Protection Area or perform work, including the removal of vegetation or disturbance of land, within the Wetland And Riparian Protection Area if necessary to (a) maintain wetlands existing on the Conservation Area, (b) restore wetlands previously existing on the Conservation Area, or (c) restore natural stream channel morphology and natural wetland hydrology
- 4.10 Subdivision and Allocation of Reserved Rights. Owner may, with prior approval from Holder, subdivide the Conservation Area into lots for separate conveyance and ownership. Holder's review and decision whether to approve subdivision shall take into consideration the effect of the proposed lot boundaries and intended transfer upon the Conservation Purposes, the lot size and combination with any Structure or Reserved Rights that would be most likely to promote the long term care, maintenance and stewardship of the Conservation Area, and the burdens of monitoring and enforcing this Conservation Easement. Holder shall cooperate with Owner to identify at least one subdivided lot for each dwelling permitted within a Building Area with boundaries acceptable consistent with the foregoing considerations. Subdivision shall result in no addition to or other amendment of the Reserved Rights and any parcel subdivided from out of the Conservation Area shall remain under and subject to this Conservation Easement. Owner acknowledges that, if the Conservation Area is subdivided, Reserved Rights which are limited in number or area must be allocated between the lots resulting from such subdivision. In connection with any subdivision or partition of the Conservation Area by any means, the following procedures shall apply:
- 4.10.1 Owner shall allocate, but not increase, such Reserved Rights between or among the lots resulting from such subdivision. Such allocation shall be set forth in a document which shall be subject to review and approval by Holder and which shall be recorded in the place of public record in which this Conservation Easement has been recorded before any conveyance of an interest in the lots resulting from such subdivision. Such allocation shall specifically identify, with respect to number or the allowable ground coverage, how much of the unused coverage or other Reserved Rights permitted by this Conservation Easement will be allocated to the respective lots.

- 4.10.2 If Owner fails to make such allocation in a written document for such purpose before conveying title to or any beneficial interest in any of the lots resulting from such subdivision, then the Reserved Rights, whether or not built, shall be allocated proportionately among the lots resulting from such subdivision, in proportion to the relative area of such lots, as determined by Holder in its discretion, it being understood that this allocation shall not result in allowing any increase in the Reserved Rights.
- 4.10.3 After any subdivision of the Conservation Area and conveyance of one or more lots resulting from such subdivision, and subject to Holder's prior approval thereof (such approval not to be unreasonably withheld, consistent with and taking into consideration the fulfillment of the Conservation Purposes and the preservation of the Conservation Values), the owners of such respective lots may mutually agree among themselves to re-allocate, but not increase, such Reserved Rights in a manner different from the original allocation as determined above, provided that such allocation or re-allocation of Reserved Rights as among such lots does not result in any increase in Reserved Rights, is reflected in a document that is signed by all owners of such lots and by Holder and is recorded in the place of public record in which this Conservation Easement has been recorded. The form and content of any such document shall be subject to Holder's review and approval.
- 4.11 Fences and Boundaries.
- 4.11.1 Owner may construct fences, provided that no fence shall be permitted if, in the reasonable opinion of Holder, it impairs the scenic view into the Conservation Area in any material respect. Any fence that shall be visible from a public road or a waterway accessible to the public shall be approved by Holder before construction.
- 4.11.2 Nothing in this Conservation Easement shall prohibit Owner from identifying (by survey or marking) and otherwise maintaining visual indications of the boundary lines around the perimeter of the Conservation Area to protect the Conservation Area from trespassing and to assist Owner in the management and supervision of the management of the Conservation Area in accordance with this Conservation Easement, provided that such action shall not obstruct the public scenic view into the Conservation Area.
- 4.12 Wildlife Stands, Nests and "Blinds". Owner may construct a reasonable number of wildlife hunting or observation stands and "blinds" and houses, nests or perches for birds or other wildlife; provided that in the construction of any such Structure Owner shall comply with all other covenants and restrictions of this Conservation Easement.
- 4.13 Existing Structures. Structures existing on the Conservation Area on the date of this Conservation Easement, whether or not such Structure would be permitted to be constructed on the Conservation Area under these Reserved Rights, may, nevertheless, be

repaired, restored or replaced but only within the vertical and horizontal dimensions in which the Structure existed on date of this Conservation Easement, but with no change of use except to a use that would be permitted under this Conservation Easement in its location, provided however that an existing structure located within a Building Area shall not be subject to the limitations on dimensions in this Section but instead shall be subject to the covenants and restrictions imposed on any Structure located within the Building Area.

- 4.14 Utility Installations. Owner may construct facilities normally used in connection with supplying utilities, removing sanitary sewage effluent and controlling storm water runoff if the following requirements and conditions are satisfied: (a) such facilities may only be constructed and used to serve the uses, Structures and improvements permitted under the terms of this Conservation Easement; (b) all such facilities be located underground to the extent feasible; (c) all such construction and maintenance is conducted in a manner designed to produce no material adverse effect on the Conservation Purposes; and (d) Holder approves the proposed utility facility based on the foregoing requirements.
- 4.15 Wildlife Harvesting and other Outdoor Activities Not Prohibited. Nothing in this Conservation Easement shall be construed to limit the right of Owner to: hunt with or without dogs, shoot, fish, trap, conduct field trials, train dogs, or conduct ecotourism activities or other outdoor recreational activities on the Conservation Area; trap or otherwise capture and remove any invasive species or harmful pest that might negatively impact the populations of game or native wildlife on the Conservation Area; use motorized vehicles for any such purpose provided such use does not violate an expressed prohibition in this Conservation Easement; or lease all or any portion of the Conservation Area for any of such activities.
- 4.16 Tree Cutting and Forest Management. Owner shall have the right, for the benefit of Owner and Owner's representatives, agents, contractors, subcontractors, licensees, and lessees, to conduct the following activities within the Conservation Area if the requirements of this Section are met:
- 4.16.1 A live tree that has been damaged or disturbed by forces of nature or by disease or that is evidently at risk of falling may be cut and removed if such tree presents a threat of injury to persons or livestock or other property or blocks a trail, road or other means of access to any part of the Conservation Area.
- 4.16.2 Trees may be removed to the most limited extent necessary to construct the Structures and other improvements expressly permitted in this Conservation Easement, according to a plan approved in advance by Holder.
- 4.16.3 Early successional tree species may be selectively removed within areas existing in a meadow condition at the time this Conservation Easement is granted, for the purpose of preserving such areas as meadow.

4.16.4 "Forestry Activities" shall mean (i) harvesting, cutting, removal and sale of trees and forest products (including, but not limited to, trees, logs, poles, posts, pulpwood, firewood, chips, seeds, bark, pine straw, stumps and other forest products); (ii) planting and growing of trees for the foregoing purposes; (iii) treating trees with herbicides, pesticides and fertilizer customarily used in the forest industry; (iv) constructing forest skid trails in connection with tree harvesting operations; (v) placing or storing sawdust, bark, sawtimber, logs, or other forest products in the Conservation Area; (vi) conducting prescribed burning; and (vii) undertaking such activities as may be necessary to facilitate production of forest products or to protect forest health and (viii) removing trees to establish wildlife food plots up to a maximum area of five (5) acres and in locations approved by Holder. Owner may conduct Forestry Activities only if all of the following requirements are met:

- (a) Forestry Activities shall not be conducted within the Wetland and Riparian Buffer Protection Area, within mixed hardwood forest outside the Wetland And Riparian Protection Area or within areas reasonably determined by Holder to be Freshwater Emergent Wetland or Forested and Shrub Wetland except (i) in accordance with a Forest Management Plan and (ii) only for the purpose of promoting the maturing and ecological enhancement of forest conditions. In determining areas that are Freshwater Emergent Wetland or Forested and Shrub Wetland Holder may refer to the methodology used by the U.S. Fish & Wildlife Service for its National Wetland Inventory or similar methodology selected by Holder, though the area need not be shown as such on a National Wetland Inventory map.
- (b) Before conducting Forestry Activities Owner shall prepare a tree harvest and forest management plan (the "Forest Management Plan"). The Forest Management Plan shall be submitted to and approved by Holder.
- (c) The Forest Management Plan must address and provide information regarding the following matters in such detail as Holder may reasonably request: the proposed location of harvesting activity, wetland delineation within the harvest area, harvesting plans and protocols, proposed road locations and design standards, erosion control measures, and replanting plans and schedule. The Forest Management Plan shall also contain: a statement of Owner's forest management objectives and goals, including the Forest Management Objectives (hereinafter defined); forest stand descriptions, including species composition, age classes and, where available, soil types; a forest stand map; and an outline of proposed silvicultural practices.
- (d) The Forest Management Plan must include the Invasive Species Eradication Plan.

- (e) The Forest Management Plan must be prepared at Owner's expense by qualified natural resource personnel (e.g. a registered forester), who are experienced in the preparation of forest management plans.
- (f) The Forest Management Plan shall be prepared in a manner that is designed to achieve the following purposes and forest management objectives (collectively, the "Forest Management Objectives"): (i) minimizing insect infestation; (ii) identifying and protecting habitat for exceptionally rare, threatened or endangered species; (iii) avoidance of water pollution from Forestry Activities, erosion or sedimentation; (iv) protection of the Conservation Values and fulfillment of the Conservation Purposes; (v) promotion of sustainable forestry; (vi) assuring artificial or natural regeneration of the forest in both sufficient quantity and quality; (vii) compliance with all applicable federal, state and local laws, rules, orders and regulations; (viii) identifying strategies to promote wildlife habitat and private recreational activities permitted by this Conservation Easement; and (ix) compliance with then-current best management practices published by the South Carolina Forestry Commission or its successor ("BMPs"). In the event of a conflict between the preceding Forest Management Objectives, the protection of the Conservation Values and fulfillment of the Conservation Purposes shall be the paramount consideration.
- (g) All Forestry Activities shall be conducted in accordance with (a) the Forest Management Plan; (b) BMPs; and (c) this Conservation Easement.

4.17 Signs. Owner may construct a reasonable number of signs of the following types:

- 4.17.1 regulatory or directional signs including, for example but not for limitation of the foregoing, "no trespassing" signs, "no gunning" signs, or "no hunting" signs;
- 4.17.2 signs stating the common name of the Conservation Area, the names and addresses of the occupants or both;
- 4.17.3 signs advertising or directing participants to an activity permitted under the provisions of this Conservation Easement;
- 4.17.4 signs identifying the interest of Owner or Holder in the Conservation Area; and
- 4.17.5 signs educating the public as to the ecology of the area.

Notwithstanding the foregoing, any sign that is greater than four square feet in surface area and visible from any public road or waterway accessible to the public shall be prohibited unless such sign shall have no material adverse effect upon the Conservation Purposes and such sign is approved in writing by Holder.

- 4.18 Maintenance of Roads, Trails, Etc. Owner may maintain in passable condition the Structures, roads, trails or walkways existing within the Conservation Area at the date of this Conservation Easement or, if applicable, constructed pursuant to the Reserved Rights in this Article 4, by such activities as the following: the pruning trees or other vegetation which threaten the safety of persons who may use or maintain the road, trail or walkway; installing or applying materials necessary to correct or impede erosion; grading earth to maintain a passable condition or to control or impede erosion; replacing existing culverts, water control structures and bridges; and dredging roadside swales and ditches.
- 4.19 Docks. Owner may construct five (5) docks, and walkways and pathways to such docks, for personal, common or shared use. The location and design of each such dock, walkway and pathway shall be as approved by Holder prior to construction. Each dock must be constructed and placed in a manner and location as will have no material adverse affect upon the Conservation Values or the Conservation Purposes, including sensitive elements of the ecosystem such as rare species nesting and foraging habitat, rare plant populations or exemplary natural communities.
- 4.20 Notice and Approval Before Exercise of Certain Reserved Rights. None of the Reserved Rights for which the approval of Holder is expressly required in any Section of this Article 4 may be exercised or undertaken unless Owner has first satisfied the following conditions and requirements:
- 4.20.1 Owner shall notify Holder in writing before exercising any of such Reserved Rights.
- 4.20.2 Holder must be satisfied, as evidenced by its prior written approval of Owner's proposed exercise of a Reserved Right, that any use or activity done in the exercise of the Reserved Right will meet the requirements and conditions for such Reserved Right, will have no material adverse effect on the Conservation Purposes or on the Conservation Values or other significant environmental features of the Conservation Area, will not alter or permit the alteration, disturbance or destruction of the use of the Conservation Area that is intended to be protected by this Conservation Easement.
- 4.20.3 Notwithstanding anything in this Conservation Easement to the contrary, if Owner undertakes to exercise a Reserved Right or other action, without prior approval of Holder, where such approval is expressly required under this Conservation Easement, then such exercise of the Reserved Right by Owner may be treated by Holder, in Holder's sole discretion, as an action that was prohibited by this Conservation Easement as fully as if the Reserved Right or other right was not contained in, or reserved to Owner under, this Conservation Easement. Should Holder elect, in its discretion, to decline to assert this prohibition and to waive a violation of the Conservation Easement arising solely from Owner's failure to seek and obtain Holder's approval before exercising a Reserved Right or other right where such approval is required, Holder shall not be thereby obligated to do

so in any future circumstance or event and Holder's waiver shall not be construed to require any waiver in a subsequent instance.

- 4.20.4 Notwithstanding the foregoing, in the event the Conservation Area is affected or in imminent danger of being affected by casualty damage resulting from an Act of God, fire or other event beyond Owner's control then the prior approval requirements of this Section shall be waived as to any action that would otherwise require such approval but which must be undertaken by Owner immediately in order to prevent loss, damage or injury to persons or property or to prevent ecological damage to the Conservation Area or neighboring property (an "Emergency Restoration Action"); provided that Owner makes a good faith effort to notify Holder prior to undertaking such Emergency Restoration Action and to keep Holder informed of its ongoing actions.
- 4.20.5 Holder's prior written approval of the exercise of Reserved Rights for which approval of Holder is required shall be obtained, conditionally obtained or declined according to the procedure provided in this Section. At least forty-five (45) days before Owner begins, or allows, any exercise of Reserved Rights on the Conservation Area Owner must notify Holder in writing of Owner's intentions to do so; provided, however that Holder may, upon written request, reduce the period of time for notice of the proposed exercise of Reserved Rights for simpler requests, in Holder's discretion. Such notice must include plans depicting, in such detail as Holder requests, the construction or other use or activity, and location thereof, which Owner intends to undertake. Owner may also be required to present to Holder for review any applications to, and approvals or permits issued by, any governmental entity that is required for the exercise of the Reserved Right for which Holder's approval is sought. Holder may request additional information or details not provided by Owner regarding Owner's proposed exercise of Reserved Rights as Holder reasonably believes necessary to determine compliance with this Article. Holder shall not be obligated to accept or respond to any request for approval of a Reserved Right if the Owner is then in violation of this Conservation Easement in any material respect. Holder shall have thirty (30) days from receipt of the notice or, if later, any additional information regarding the proposed use or activity requested by Holder, in which to make one of the following determinations:
- (a) Approve Owner's proposed exercise of a Reserved Right in accordance with the materials submitted by Owner ("Approval"). Approval on such terms shall constitute a covenant by Owner to exercise the Reserved Right solely in accordance with the notice and other information submitted to Holder; which covenant shall be enforceable by Holder as fully as if set forth in this Conservation Easement.
 - (b) Approve Owner's proposed exercise of a Reserved Right in accordance with the materials submitted by Owner but subject,

however, to such qualifications and conditions as Holder may impose in its notice of approval. Such qualifications and conditions shall be limited to those which Holder deems necessary to: assure compliance by Owner with any of the express covenants or restrictions of this Conservation Easement, preserve and protect the Conservation Purposes or restrict Owner's exercise of the Reserved Rights to that which Owner has represented to Holder. Approval on such terms shall constitute a covenant by Owner to exercise the Reserved Right, if at all, only in accordance with the notice and other information submitted to Holder, as modified or supplemented by the qualifications and conditions that Holder imposed; which covenant shall be enforceable by Holder as fully as if set forth in this Conservation Easement.

- (c) Decline to grant approval of Owner's proposed exercise of a Reserved Right on the basis of the notice and other materials submitted. Should Holder decline to grant approval Holder shall set forth in writing its reasons.

- 4.20.6 Holder shall exercise reasonable judgment in applying the standards of review and approval for the exercise of Reserved Rights, consistent with and taking into consideration the fulfillment of the Conservation Purposes and the preservation of the Conservation Values.
- 4.20.7 Holder may grant, with or without conditions, approval for recurrent exercises of Reserved Rights, particularly but not necessarily limited to activities of a de minimis nature, if Holder concludes that doing so will have no material adverse effect on the Conservation Purposes or on the burden on, and effectiveness of, Holder's monitoring and enforcement. Such approval must be in writing and shall, as with other approvals of the exercise of Reserved Rights, be limited to the description of the proposed exercise of Reserved Rights in Owner's proposal as modified or limited by the conditions in Holder's written approval.
- 4.20.8 In the event that Holder's approval is required and Holder fails to respond within the time period specified forth above and further fails to respond within ten days after a second written request by Owner to Holder, then the Holder shall be deemed to have granted Approval (as defined above) unless the activity for which approval is required is plainly prohibited by this Conservation Easement.
- 4.20.9 Owner shall be responsible for obtaining all necessary government permits and approvals for any activity for which Holder's approval is required and Holder shall have the right, but not the obligation, to require that such permits and approvals be produced for inspection by Holder before Holder's approval is granted or as a condition to approval.

- 4.20.10 Owner shall be responsible, as a condition of the right to exercise the Reserved Rights for which the approval of Holder is expressly required, for payment of Holder's reasonable costs and expenses, including legal and consultant fees, associated with review of Owner's request for approval; provided, however, that (a) Holder shall not incur expenses for its own staff or administrative time for review that can be conducted in Holder's office and (b) Holder will notify Owner before incurring any costs or expenses which it believes Owner may be obligated to pay under this Section though Holder shall not be required to predict the exact amount of the cost or expense. Holder may condition consideration of a proposal for exercise of Reserved Rights upon the deposit of a sum of money with Holder to secure payment of Holder's reasonable costs of review. The time period for Holder's consideration of Owner's request shall not run until such deposit is made.
- 4.20.11 While the parties believe that each of the Reserved Rights as to which Holder's prior approval is required can be exercised in some manner without adverse effect on the Conservation Purposes of this Conservation Easement, no assurance is given that the above Reserved Rights may be exercised in specifically the manner as Owner might initially propose without having an adverse effect on the Conservation Purposes or other significant ecological values of the Conservation Area. The foregoing procedure is established for the purpose of making that determination.
- 4.20.12 In consideration for Holder accepting the perpetual responsibility and obligation to review the proposed exercise of Reserved Rights by Owner, Owner hereby waives, for Owner, and Owner's successors, legal representatives, and assigns, to the fullest extent allowed by law, any and all right to seek or recover damages from Holder in any litigation or other legal action arising from a dispute over Holder's exercise of its rights, obligations or interpretations under this Article 4 and agrees that the sole remedy or legal right to seek redress arising from any decision of Holder pursuant to this Article 4 shall be to seek a declaratory judgment or other legal declaration by a court of competent jurisdiction as to the rights of Owner hereunder.
- 4.21 Rights of Ownership Generally. Owner retains, not as a Reserved Right but incidental to its ownership of the Conservation Area, in addition to the Reserved Rights set forth in this Article, all rights accruing from ownership of the Conservation Area, including the right to engage in or permit others to engage in all uses of the Conservation Area except to the extent prohibited, restricted, limited or conveyed to Holder according to the terms of this Conservation Easement, including the rules of construction and interpretation of this Conservation Easement; subjected to procedures set forth in this Conservation Easement; or provided in applicable law.

ARTICLE 5. HOLDER'S COVENANTS

- 5.1 Best Efforts to Enforce. Holder shall use its best efforts to enforce both the rights granted to it and the restrictions imposed upon the Conservation Area under this Conservation Easement.
- 5.2 Inability to Enforce: Procedure. If at any time Holder is unable to enforce this Conservation Easement or if Holder or any successor or assignee of Holder's rights under this Conservation Easement ceases to exist or ceases to be a Qualified Organization and if, within a reasonable period of time after the occurrence of any of these events, Holder or any successor or assignee fails to assign all of its rights and responsibilities under this Conservation Easement to a Qualified Organization and "holder", then the rights and responsibilities under this Conservation Easement shall become vested in and fall upon another Qualified Organization in accordance with a proceeding before, and the order of, any court of competent jurisdiction.
- 5.3 Assignment by Holder. Notwithstanding the foregoing or anything else in this Conservation Easement to the contrary, Holder and its successors and assigns shall have the right to assign, either wholly or partially, its right, title and interest hereunder provided that (a) the assignee is a Qualified Organization; (b) the assignee shall hold the Conservation Easement exclusively for the Conservation Purposes; and (c) the assignee agrees that the Conservation Purposes continue to be carried out. Holder agrees to notify Owner of its intent to assign the Conservation Easement, including disclosing the identity of the intended assignee, at least 30 days prior to such assignment and to offer Owner, during such period after notice and until assignment, an opportunity to comment on, but not approve or disapprove, such assignment.

ARTICLE 6. REMEDIES AND ENFORCEMENT

- 6.1 Remedies Generally. Holder shall have the right to enforce by proceedings at law or in equity each and every one of the covenants and restrictions set forth in this Conservation Easement. The foregoing shall not limit any of the rights or remedies available to Holder as specifically set forth in any law or in this Conservation Easement. Holder's remedies described in this Conservation Easement shall be cumulative and concurrent and shall be in addition to all remedies now or hereafter available or existing at law or in equity.
- 6.2 Violation of Conservation Easement. If Holder determines that this Conservation Easement is being or has been violated or that a violation is threatened or imminent then the following provisions shall apply:
- 6.2.1 Holder must notify Owner of the violation. Holder's notice may, in Holder's discretion, include its recommendations of measures to be taken by Owner to cure the violation and restore features of the Conservation Area damaged or altered as a result of the violation.
- 6.2.2 Holder shall afford Owner a period to cure the violation before undertaking action in court to enforce the Conservation Easement, provided, however, that no cure period is required if circumstances require prompt action to prevent or mitigate

irreparable harm or alteration to, or destruction of, any natural resource or other feature of the Conservation Area described in the Conservation Purposes and Conservation Values.

- 6.2.3 Owner's cure period shall expire thirty (30) days after the date of Holder's notice to Owner subject to extension for the time reasonably necessary to cure but only if all of the following conditions are satisfied: (a) Owner ceases the activity constituting the violation promptly upon receipt of Holder's notice; (b) Owner and Holder agree in writing, within the initial thirty (30) day period, upon the measures Owners will take to cure the violation; (c) Owner commences to cure within the initial thirty (30) day period; and (d) Owner continues thereafter to use best efforts and due diligence to complete the cure measures that Holder and Owner have agreed upon in writing. In no event shall Holder be obligated, notwithstanding the foregoing, to allow a cure period of more than 90 days.
- 6.3 Remedy of Specific Performance. Without limitation of any other rights of Holder in this Conservation Easement, Holder's right of enforcement of this Conservation Easement shall include the right to seek specific performance by Owner of the restoration of the Conservation Area to its condition at the time of the donation of the Conservation Easement as required by 26 C.F.R. § 1.170A-14(g)(5)(ii) or to its condition prior to any activity that violates this Conservation Easement or as otherwise may be necessary to remedy any violation of any easement, covenant, prohibition or restriction in this Conservation Easement, as Holder may elect.
- 6.4 Non-Binding Mediation. Any dispute, controversy or claim arising out of, or related to, this Conservation Easement shall be subject to mediation in accordance with this Section. If Owner and Holder are unable to resolve any dispute, controversy or claim, they shall first submit the dispute, controversy or claim to an independent third party mediator acceptable to them. Unless agreed to by Owner and Holder, neither of them shall be required to participate in mediation sessions exceeding a total of eight (8) hours as to any one dispute, controversy or claim. The cost of the mediation shall be split equally between the parties. The mediation process may be initiated by either Owner or Holder upon written request to the other. If Owner and Holder cannot agree on a mediator within fifteen (15) days of the written request, either Owner or Holder may file a request for mediation with the American Arbitration Association ("AAA") office nearest the Conservation Area, and selection of the mediator shall proceed under the Rules then established by the AAA. Within ten (10) days of selection of the mediator, Owner and Holder shall submit a written summary of its position to the mediator, with any other reasonable documentation it believes is relevant to the dispute. These submissions will be exchanged between Owner and Holder. At a time and place convenient to Holder and Owner, but not later than thirty (30) days after submission of written materials to the mediator, Owner and Holder shall meet with the mediator, discuss any nonbinding recommendations the mediator may have, and attempt in good faith to resolve the dispute. In the event Owner and Holder have not resolved the dispute, controversy or claim within thirty (30) days of the meeting with the mediator, Owner and Holder shall each have the right to initiate legal proceedings concerning such dispute, controversy or claim without

further notice to the other. If Owner or Holder breaches this obligation by refusing to participate in the mediation process outlined above (and in accordance with the established schedule), the other shall be entitled to initiate legal proceedings immediately on any dispute, controversy or claim. The content of any documents, discussions, negotiations, offers made, offers declined, settlements proposed, mitigations suggested or proposed or other matters that arise or that are produced during the mediation shall not be admissible as evidence or used as argument in any contemporaneous or subsequent legal proceeding. Notwithstanding anything in this Section to the contrary, the requirements of this Section: (a) do not create or give rise to any independent or substantive rights or cause of action not otherwise expressly set forth in this Conservation Easement and (b) shall not apply, nor shall be construed to limit or delay the right of Holder to commence and pursue litigation to enforce this Conservation Easement, in regard to any dispute, controversy or claim arising from a violation of this Conservation Easement that, in the sole and independent judgment of Holder, represents an ongoing or imminent material adverse impact upon the Conservation Values or the Conservation Purposes or upon the ultimate ability of the Owner to restore the condition of the Conservation Area.

- 6.5 Remedy of Damages. If Owner violates this Conservation Easement in such a manner as to cause damage to, extract or remove any trees, mineral resources, pond, wetland, stream, or other natural resource protected by this Conservation Easement, including violation resulting from failure to obtain Holder's approval, Holder shall be entitled to payment of damages in the amount of the value of the protected natural resource; provided, however, that if the natural resource effected by the Owner's violation of this Conservation Easement can be restored to its condition prior to the violation and if Owner does restore the natural resource to its condition prior to the violation within a time period accepted by Holder in writing, then Holder shall accept such restoration in lieu of damages. Holder may seek payment and recovery of such damages by any means available at law. The value of the protected natural resource shall be the greater of (a) the market value of the resource or, (b) the cost of immediate restoration of the Conservation Area and all resources to its condition prior to the violation. If such restoration is not reasonably possible then double the market value of the resource shall be the amount of liquidated damages. If the resource does not have a readily determinable market value then the amount of damages shall be the amount which a court having jurisdiction may determine, taking into account the importance of the resource to the fulfillment of the Conservation Purposes. Nothing in this Section is intended to limit, waive or release Holder's right so seek specific performance or other equitable remedy.
- 6.6 Rights and Remedies in Relation to Third Parties. As the owner of a real property interest under this Conservation Easement, Holder shall have the right, without limitation of any rights herein as against Owner, to assert and enforce any of the rights and remedies in this Conservation Easement against any person or entity other than Owner that engages in any action upon the Conservation Area that constitutes a violation of any of the covenants or restrictions of this Conservation Easement, whether such person or entity enters upon the Conservation Area as a tenant, guest or invitee of Owner, by an act of trespass or by any claim of right and Owner shall cooperate with Holder by joining in any action or proceeding commenced by Holder for such purpose.

- 6.7 Remedy: Failure to Pay Certain Taxes. If Owner fails to pay taxes or other governmental assessments which may become a lien on the Conservation Area or upon this Conservation Easement or the rights it represents or that it grants to Holder, Holder may, but shall have no obligation to, pay such taxes or assessments or any part thereof upon ten (10) days after sending written notice to Owner, according to any bill, statement, or estimate procured from the appropriate public office. Payment made by Holder shall become a lien on the Conservation Area in favor of Holder upon payment by Holder and shall bear interest until Holder is paid by Owner at the rate of twelve percent (12%) per annum or at the highest rate of interest per annum as is allowed by applicable law, whichever is less.
- 6.8 Certain Events Not a Violation. Notwithstanding anything herein to the contrary, Holder shall not bring any action seeking to enforce this Conservation Easement against Owner, nor shall this Conservation Easement be considered to have been violated by Owner, as a result of any damage to the Conservation Area if such damage was solely the result of: (a) a natural event such as an earthquake or flood, wind, lightning or other storm event, including those events commonly referred to as "acts of God"; (b) damage by persons trespassing upon the Conservation Area; or (c) any emergency measures reasonably and prudently taken by Owner to abate or mitigate significant injury to the Conservation Area as a result of any such natural event or trespass.
- 6.9 Enforcement After Permitted Subdivision. If ownership of the Conservation Area has been subdivided in accordance with this Conservation Easement such that the Conservation Area is no longer owned by one Owner and, thereafter, a violation of this Conservation Easement occurs or appears to Holder to have occurred, Holder need only give notice of violation or enforcement action to, and need only undertake legal and other enforcement action against, the owner of that portion of the Conservation Area on which the event, condition or circumstance which constitutes a violation has occurred or exists. Notwithstanding the foregoing, Holder may, in its discretion, give notice of a violation or enforcement action to, undertake enforcement action against and make a party to any legal action, such other Owners or parties as Holder deems necessary or appropriate to the correction of the violation, monitoring or management of the Conservation Area or the Conservation Easement, protection of Holder's rights, or fulfillment of the Conservation Purposes of this Conservation Easement.
- 6.10 No Third Party Rights of Enforcement. This Conservation Easement may only be enforced by Owner and Holder and no third party beneficiary rights, rights of enforcement or other rights are created or intended to be created or granted by this Conservation Easement in or to any other person or entity, any person or entity that was once an "Owner" but is no longer an owner of the Conservation Area, the public generally or any governmental authority except to the limited extent necessary to undertake an action under Section 5.2 or as required by statute (and only to the extent such statute cannot be waived by agreement of Holder and Owner).
- 6.11 Reimbursement of Expenses of Enforcement. In the event that Holder acts, after violation of the Conservation Easement, to enforce this Conservation Easement or any

obligation hereunder, all reasonable expenses incurred by Holder shall be charged to and paid by Owner, including reasonable attorneys' fees regardless of whether an action or proceeding is commenced and whether incurred before or after the expiration of any cure period provided in this Conservation Easement; except however that Owner shall not be responsible to Holder for costs of a frivolous action by Holder or an action brought in bad faith by Holder, as determined by a court of competent jurisdiction. All such reasonable expenses, together with costs of collection (including reasonable attorneys' fees), shall be recoverable by Holder and be subject to collection by all lawful means for the collection of a debt under the law of the state in which the Conservation Area is located.

- 6.12 No Merger of Title. Notwithstanding anything to the contrary in this Conservation Easement, should Holder become an Owner of any portion of the Conservation Area, this Conservation Easement shall not merge with any interest in the Conservation Area upon conveyance to Holder and title shall be transferred subject to the continued validity and enforceability of this Conservation Easement in accordance with the laws of the State in which the Conservation Area is located. In such event the rights of Holder under this Conservation Easement as to the portion of the Conservation Area owned by Holder shall forthwith be transferred to a Qualified Organization in accordance with Section 5.3. or, if necessary, 5.2.
- 6.13 Reimbursement of Expenses of Litigation. Owner acknowledges that for the fulfillment of Owner's purposes and intentions for this Conservation Easement, Owner requires Holder to accept perpetual obligations for the interpretation and enforcement of this Conservation Easement and that, pursuant to 26 CFR § 1.170A-14(c), Holder must maintain its reserve capacity to enforce this Conservation Easement. It is therefore agreed that, should Owner or anyone acting by, through, under or on behalf of Owner, commence litigation against Holder to enforce any rights hereunder or to dispute any actions or inaction of Holder, to enforce any alleged duty or obligation of Holder hereunder or to seek damages or specific performance against Holder then unless Holder is finally determined by a court of competent jurisdiction, beyond right of appeal, to have acted contrary to the terms of this Conservation Easement and to have failed to exercise reasonable judgment taking into account the Conservation Purposes, the Conservation Values and the circumstances of which Holder had actual knowledge at the relevant time, then Owner shall reimburse Holder on demand for all reasonable costs and expenses, including attorneys fees, reasonably incurred by Holder in its defense in such litigation. Holder shall not be considered to have failed to exercise reasonable judgment as aforesaid solely based on the fact that Holder did not or does not prevail in legal proceedings or that Holder is determined to have adopted an interpretation of this Conservation Easement not accepted by the court.
- 6.14 No Waiver of Rights of Enforcement. The failure of Holder to exercise any of its rights under this Conservation Easement on any occasion shall not be deemed a waiver of said rights and Holder retains the right in perpetuity to require full compliance by Owner of the covenants and restrictions in this Conservation Easement.

ARTICLE 7. GENERAL PROVISIONS

- 7.1 Owner and Holder Further Defined. The term Owner used in this Conservation Easement shall mean and include the above-named Owner and any of Owner's successors or assigns, whether one or more, that are the legal owners of the Conservation Area or any part thereof. The term Holder used in this Conservation Easement shall mean and include the above-named Holder and its successors and assigns, it being understood and agreed that any assignee of the rights of Holder hereunder must be a Qualified Organization and shall carry out the obligations of Holder and the intent of this Conservation Easement.
- 7.2 Vesting of Real Property Interest. This Conservation Easement gives rise to a real property right and interest immediately vested in Holder with a fair market value that is at least equal to the proportionate value that this Conservation Easement at the time of this gift bears to the value of the Conservation Area as a whole at that time. That proportionate value of the Holder's property rights shall remain constant. The fair market value of this Conservation Easement shall be the difference between the fair market value of the Conservation Area unrestricted by this Conservation Easement and the fair market value of the as restricted by this Conservation Easement.
- 7.3 Rules of Construction and Interpretation. The parties recognize the environmental, scenic, and natural values of the Conservation Area and have the common purpose of preserving these values. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to promote, protect and fulfill the Conservation Purposes and the policies and purposes of Holder. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with the Conservation Purposes that would render the provision valid should be favored over any interpretation that would render it invalid. If any provision of this Conservation Easement is determined by final judgment of a court having competent jurisdiction to be invalid, such determination shall not have the effect of rendering the remaining provisions of this Conservation Easement invalid. The parties intend that this Conservation Easement, which is by nature and character primarily prohibitive (in that Owner has restricted and limited the rights inherent in ownership of the Conservation Area), shall be construed at all times and by all parties to promote, protect and fulfill the Conservation Purposes.
- 7.4 Indemnification. Owner covenants and agrees to indemnify, defend, reimburse, and hold harmless Holder, its directors, officers and employees from, for and against any Loss (hereinafter defined) to the extent such Loss arose from an Indemnified Cause (hereinafter defined). A "Loss" shall mean any loss, cost, liability, penalty, fine, or damage of any kind or nature whatsoever which Holder or any of its directors, officers or employees may reasonably be concluded to have suffered, paid or incurred. The term "cost" shall include, but shall not be limited to, reasonable attorneys' fees and witness and court fees. An "Indemnified Cause" shall mean any of the following: the violation or alleged violation of any law in, upon or involving the Conservation Area by Owner or anyone acting by, for, through or under the direction of Owner, including but not limited to any tenant, contractor, agent, licensee or invitee of Owner; any tax or assessment upon the Conservation Area or upon this Conservation Easement or the rights it represents or

that it grants to Holder; any death or injury to any person occurring on or about the Conservation Area; any lien or attempts to enforce a lien asserted against the Conservation Area; the costs of performing any work on the Conservation Area; any loss or damage to any property on or about the Conservation Area; or any lawsuit or governmental administrative or law enforcement action which is commenced or threatened against Holder or any of its directors, officers or employees or to which any of the foregoing are made a party or called as a witness; but notwithstanding the foregoing, "Indemnified Cause" shall not include any cause which results from Holder's own acts which are finally determined by a court to have been the result of bad faith, negligence or willful misconduct of Holder. It is further agreed that no person shall have an indemnification obligation or liability under this Section as to any Indemnified Cause which arises entirely and solely from events which occurred after such person is no longer the legal owner of the Conservation Area or any part thereof and is no longer in possession of the Conservation Area or any part thereof (it being understood that one or more subsequent Owners shall have such indemnification, defense, reimbursement, and holding harmless obligation).

- 7.5 Responsibilities and Liabilities of Owner. Without limitation of anything herein to the contrary, Owner shall (a) retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operations, upkeep, and maintenance of the Conservation Area, including the general liability insurance coverage and obligation to comply with applicable law and (b) pay all taxes, levies and assessments and other governmental or municipal charges which may become a lien on the Conservation Area or upon this Conservation Easement or the rights it represents or that it grants to Holder.
- 7.6 Allocating Proceeds Following Extinguishment of Conservation Easement. It is the intention of the parties that no change in conditions, including for example but not for limitation of the foregoing changes in the use of properties adjoining or in the vicinity of the Conservation Area, will at any time or in any event result in the extinguishment of any of the covenants, restrictions or easements contained in this Conservation Easement. If, however, notwithstanding the foregoing intention, any cause or circumstance gives rise to the extinguishment of this Conservation Easement or a material term or provision hereof by judicial proceeding then Holder, on any subsequent sale, exchange or involuntary conversion of the Conservation Area, shall be entitled, as required in 26 CFR 1.170A-14(g)(6)(ii), to a portion of the proceeds at least equal to the proportionate value that the Conservation Easement at the time of this gift bears to the value of the Conservation Area as a whole at that time, unless state law provides that the Owner is entitled to the full proceeds from the conversion without regard to the terms of this Conservation Easement. All such proceeds received by Holder shall be used in a manner consistent with the Conservation Purposes.
- 7.7 Allocating Proceeds of Condemnation. Whenever all or part of the Conservation Area is taken by exercise of eminent domain by public, corporate or other authority so as to abrogate the restrictions imposed by this Conservation Easement, Owner and Holder shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking. All reasonable expenses

incurred by Owner and Holder, including reasonable attorneys' fees, in any such action shall be paid out of the recovered proceeds. Holder shall be entitled to a portion of the recovered proceeds proportioned to Holder's real property interest and shall use such proceeds in a manner consistent with the Conservation Purposes. The respective rights of the Owner and Holder set forth in Section 7.6 and this Section 7.7 shall be in addition to and not in limitation of, any rights they may have in common law with respect to a modification or termination of this Conservation Easement by reason of changed conditions or the exercise of powers of eminent domain as aforesaid.

- 7.8 Amendment. Owner and Holder recognize that applicable law of the state in which the Conservation Area is located may permit amendment of conservation easements but that, notwithstanding any such right, Holder and Owner agree that there shall be no amendment to this Conservation Easement except that which Holder approves in its sole and unlimited discretion and that Holder concludes: (a) will not impair, reduce or interfere with the fulfillment of the Conservation Purposes; (b) will not result in the destruction of any significant Conservation Values or other conservation interests of the Conservation Area; (c) does not cause this Conservation Easement to fail to qualify as a valid conservation easement or conservation agreement, as applicable, under the State Conservation Easement Law, as the same may be hereafter amended; (d) does not cause this Conservation Easement to fail to meet the requirements to be a qualified conservation contribution under Section 170(h) of the Internal Revenue Code and applicable regulations; (e) will not alter or permit the alteration, disturbance or destruction of the use of the Conservation Area as it is intended to be protected by this Conservation Easement or (f) does not violate any other law or regulation to which Holder is subject. If the Conservation Area has been subdivided then the Owner approving and executing an amendment to this Conservation Easement need only be the Owner of that portion of the Conservation Area that Holder concludes shall be materially affected by the amendment. This Section supersedes any provision in this Conservation Easement that may be to the contrary.
- 7.9 Covenants, Etc. Run With The Land. This Conservation Easement and all of the covenants, indemnifications, releases, easements and restrictions set forth in this Conservation Easement shall run with the land and be binding upon Owner and Owner's successors and assigns, unless otherwise expressly provided in this Conservation Easement.
- 7.10 Limitation on Owner Liability. An Owner shall be and remain liable, even after ownership has been transferred, for any breach or violation of this Conservation Easement if, but only if, such breach or violation occurred during such time as such Owner was the legal or equitable owner of, or is in possession of, the entire Conservation Area or that part of the Conservation Area on which the breach or violation occurred.
- 7.11 Effect On Mortgages and Other Liens. All mortgages, deeds of trust and other liens or encumbrances upon all or any part of the Conservation Area which either come into existence or are recorded in the place for the recording of such liens or encumbrances

after the date of this Conservation Easement will be subject to and subordinate to this Conservation Easement.

- 7.12 Right of Conveyance Retained; Notice Required. Nothing in this Conservation Easement shall limit the right of Owner, Owner's successors or assigns to grant or convey the Conservation Area, provided that any such grant or conveyance shall be under and subject to this Conservation Easement. Owner shall notify Holder in writing of any sale, transfer, lease or other disposition of the Conservation Area or any part thereof, whether by operation of law or otherwise, not later than 30 days after such disposition and such notice shall include a copy of the deed, lease, or other declaration of transfer, the date of transfer, and the name or names and addresses for notices of the transferee.
- 7.13 Transfer Fee. In consideration of the perpetual obligations assumed by Holder in this Conservation Easement, the costs of which are unpredictable, including, but not necessarily limited to, the obligations to travel to and inspect the Conservation Area for compliance with this Conservation Easement, communicate with present and future owners and respond to questions and other matters, and maintain financial resources for the enforcement of compliance when necessary in fulfillment of Holder's obligation to be a Qualified Organization under 26 CFR §1.170A-14(c)(1), and in consideration of Owner's desire to support Holder in its charitable mission with respect to the Conservation Area and other properties in which Holder may have accepted conservation easement restrictions, Owner agrees for itself, Owner's successors and assigns, that there shall be paid to Holder the Transfer Payment (hereinafter defined) at the time of each Qualifying Transfer (hereinafter defined) in the manner set forth herein.
- 7.13.1 The "Transfer Payment" shall be the amount equal to one percent (1.0%) of the Purchase Price (hereinafter defined) of the Conservation Area or part thereof, the improvements on the Conservation Area and all of the other land and improvements that are included in the Qualifying Transfer.
- 7.13.2 A "Qualifying Transfer" shall mean the conveyance of legal title to the Conservation Area or any part thereof, the improvements on the Conservation Area, and any other land and improvements which are conveyed by the same deed of conveyance with which the Conservation Area or part thereof is conveyed.
- 7.13.3 The "Purchase Price" shall be the sum of all of the following given in consideration for a Qualifying Transfer: (a) payment of money, (b) transfer of real or personal property or other tangible consideration, (c) purchase money indebtedness, and (d) the assumption of indebtedness. Owner shall be obligated to provide to Holder a true and correct copy of the agreement of sale pertaining to the Qualifying Transfer or other documents verifying the Purchase Price to the reasonable satisfaction of Holder.
- 7.13.4 In the event of a Qualifying Transfer in which all or part of the consideration to seller is in the form of real or personal property rather than the payment of money, purchase money indebtedness or assumption of indebtedness, the Purchase Price

shall include an amount equal to the fair market value of such real or personal property given in consideration for the Qualifying Transfer as determined by a qualified appraiser approved by Holder in its reasonable judgment. Appraisals used in the determination of the Purchase Price shall be based upon the guidelines and ethical standards of the Appraisal Institute, as then in effect, for the type of property involved. However, Owner and Holder may, if they so elect in their discretion, without obligation to do so, accept an alternate method of establishing the value of property including by contemporaneous agreement.

- 7.13.5 Purchase Price shall not impute fair market value to that portion of a Qualifying Transfer that is a gift, devise, bequest or other transfer not involving consideration by the payment of money, transfer of real or personal property, purchase money indebtedness or assumption of indebtedness.
- 7.13.6 The Transfer Payment shall not be applicable to a Qualifying Transfer into a corporation, limited liability company or general or limited partnership where the Owner that is the transferor receives all of the shares of the transferee entity as consideration and receives no other consideration.
- 7.13.7 The obligation for payment of the Transfer Fee shall be binding upon the Owner that is the transferor in the Qualifying Transfer and the purchaser or grantee that is the transferee in the Qualifying Transfer, all of whom shall be jointly and severally liable for the payment of the Transfer Fee, and also shall be binding upon their respective successors and assigns, and shall run with the land until paid.
- 7.13.8 The Transfer Payment shall be paid to Holder at or before the time of transfer of legal title as aforesaid. The amount of any Transfer Payment not paid in the amount and at the time required herein shall, (a) accrue interest payable to Holder in the amount of twelve percent (12%) per annum and (b) constitute, together with the accrued interest, to the extent permitted by applicable law, a lien on the Conservation Area in favor of the Holder until paid in full, provided that such lien shall not be superior to any mortgage, deed of trust or other lien that was executed, recorded and otherwise validly established against the Conservation Area prior to the date of the Qualifying Transfer.
- 7.13.9 Owner shall be liable for reasonable attorneys' fees and other costs of collection reasonably incurred by Holder in the enforcement of this Section.
- 7.13.10 If and to the extent the law of the state in which the Conservation Area is located so requires in order to preserve the validity of this Section, it is agreed that the Transfer Payment shall not apply to any Qualifying Transfer that occurs after the lifetime plus twenty-one (21) years of any biological child of Andrew L Johnson, President of the North American Land Trust.

- 7.13.11 Without limitation of any other provision of this Conservation Easement, neither the validity of this Section nor compliance with or enforcement of this Section shall have any bearing whatever on the validity or enforceability of any other provision of this Conservation Easement.
- 7.14 Managerial Control Retained by Owner. Nothing in this Conservation Easement shall be construed as giving rise to any right or ability of Holder to exercise physical or managerial control over day-to-day operations of the Conservation Area, or any of Owner's activities on the Conservation Area, or otherwise to become an operator with respect to the Conservation Area within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.
- 7.15 Compliance With Law. Notwithstanding provisions hereof to the contrary, if any, Owner shall be solely responsible for complying with all federal, state and local laws and regulations in connection with the conduct of any use of the Conservation Area or the erection of any Structure permitted hereunder, and Owner shall be solely responsible for obtaining any required permits, approvals from the relevant governmental authorities in connection therewith.
- 7.16 Public Access Not Created. Nothing in this Conservation Easement shall be construed to create any right of access to the Conservation Area by the public.
- 7.17 Notices. All notices required of Owner under the terms of this Conservation Easement, and all requests for the approval by Holder, shall be in writing shall be deemed to have been given when either served personally or when sent by certified mail, with return receipt requested and postage prepaid, addressed to Holder at the address set forth on the first page of this Conservation Easement or such other address provided by notice from Holder or Owner to the other for the purpose. Notices by Holder to an Owner need only be given to the Owner of the portion of the Conservation Area that is the subject of the notice.
- 7.18 Headings. The underlined headings preceding the Sections in this Conservation Easement are intended for convenience of reference only and shall not be applied in the construction or interpretation of the substance of this Conservation Easement nor shall any such headings be construed to add to, detract from or otherwise alter the substance, meaning, force or effect of any of the Sections in this Conservation Easement.
- 7.19 Availability or Amount of Tax Benefits. Holder makes no warranty, representation or other assurance regarding the availability, amount or effect of any deduction, credit or other benefit to Owner or any other person or entity under United States or any state, local or other tax law to be derived from the donation of this Conservation Easement or other transaction associated with the donation of this Conservation Easement. This donation is not conditioned upon the availability or amount of any such deduction, credit or other benefit. Holder makes no warranty, representation or other assurance regarding the value of this Conservation Easement or of the Conservation Area. As to all of the foregoing, Owner is relying upon Owner's own legal counsel, accountant, financial advisor,

appraiser or other consultant and not upon Holder or any legal counsel, accountant, financial advisor, appraiser or other consultant of Holder. In the event of any audit or other inquiry of a governmental authority into the effect of this donation upon the taxation or financial affairs involving Owner or Owner's successors or assigns or other similar matter then Holder shall be reimbursed and indemnified for any cost or expense of any kind or nature whatsoever incurred by Holder in responding or replying thereto.

7.20 Warranties and Representations of Owner. By signing this Conservation Easement, Owner acknowledges, warrants and represents to Holder that:

7.20.1 Owner has received and fully reviewed the Baseline Documentation in its present form in its entirety.

7.20.2 The Baseline Documentation includes, among other things:

- Naturalist's Report on the Conservation Area.
- Environmental Conditions Map of the Conservation Area.
- Photographs of current site conditions on the Conservation Area.
- Narrative description of the significant ecological and other conservation values and characteristics of the Conservation Area.
- Topographic map of the Conservation Area

7.20.3 The Baseline Documentation is an accurate representation of the condition of the Conservation Area at the time of granting this Conservation Easement.

7.20.4 Owner has had the opportunity to be represented by counsel of Owner's selection, and fully understands that Owner is hereby permanently relinquishing property rights which would otherwise permit Owner to have a fuller use and enjoyment of the Conservation Area.

7.20.5 The undersigned individual or individuals signing as or on behalf of Owner has all legal authority to enter into this Conservation Easement and perform all of the obligations of Owner hereunder, as the binding act of Owner.

7.20.6 Owner is seized of the Conservation Area in fee simple title. Owner has the right to grant and convey this Conservation Easement. The Conservation Area is free and clear of any Deed of Trust, Mortgage and any other liens and monetary encumbrances except: (a) liens for taxes not yet due and payable and (b) Deed of Trust or Mortgage liens that are subordinate to this Conservation Easement by virtue of the executed form of Joinder and Consent of Lienholder attached hereto and incorporated herein.

7.20.7 There are no recorded or unrecorded leases or other agreement for the production of minerals or removal of timber from the Conservation Area which would, if any of the activities permitted under such lease or other agreement was undertaken by

Owner, violate the covenants or restrictions in this Conservation Easement or otherwise defeat the Conservation Purposes.

- 7.20.8 Owner has, to the extent Owner in Owner's discretion has deemed appropriate, investigated with all due diligence the cost, practicality, right, and ability to use and improve the Building Zone according to the Reserved Rights permitted within the Building Zone under this Conservation Easement, as such use and improvement may be affected by zoning, other governmental regulation, access, availability of utilities, soil conditions, geology, topography, other physical and environmental conditions, and any other factor or condition. As to the cost, practicality, right, and ability of Owner to use and improve the Building Zone as and to the extent permitted in this Conservation Easement, Holder makes no warranty or representation, has no obligation, gives no assurance, and is released by Owner, Owner's successors and assigns from any liability and claims, both compensatory and consequential.
- 7.21 Governing Law. This Conservation Easement shall be governed by and construed under the law of the state in which the Conservation Area is located.

TO HAVE AND TO HOLD the easements and rights set forth in this Conservation Easement unto Holder, its successors and assigns, for its own use and benefit forever.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Owner and Holder have executed this Conservation Easement intending this Conservation Easement to be effective on the date of the last signature below.

CAROLINA BAYS RESORT, LLC

By: Carolina Bays Management, LLC

By: Ecovest Carolina Bays, LLC

By: Ecovest Capital, LLC

By:

Robert M. McCullough, Senior Vice
President and Chief Financial Officer

Witness:

Witness:

NORTH AMERICAN LAND TRUST

a non-profit corporation

By:

Andrew L. Johnson, President


[Seal]

Witness:

Witness:

State of Georgia
County of Cherokee

The foregoing instrument was acknowledged before me this 23rd day of December, 2014 by Robert M. McCullough, Senior Vice President and Chief Financial Officer, of Ecovest Capital, LL, Manager of Ecovest Carolina Bays, LLC, which is Manager of Carolina Bays Management, LLC, which is Manager of Carolina Bays Resort, LLC, a Delaware limited liability company, on behalf of the company.


Notary Public
My commission expires: 10/9/17



STATE OF PENNSYLVANIA

:

:

COUNTY OF CHESTER

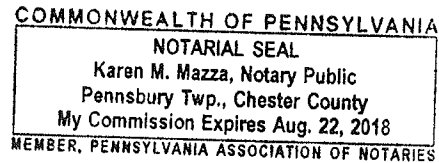
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On this, the 18th day of December, 2014, before me, a Notary Public in and for the State of Pennsylvania, the undersigned officer, personally appeared Andrew L. Johnson, who acknowledged himself to be the President of North American Land Trust, a Pennsylvania Non-Profit Corporation, and that he as such officer, being authorized to do so, executed the foregoing conservation easement for the purposes therein contained by signing the name of the corporation by himself as President.

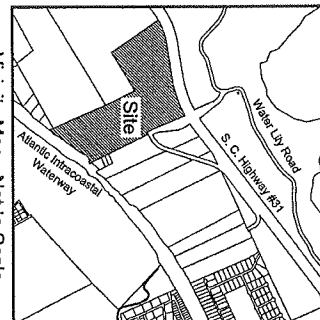
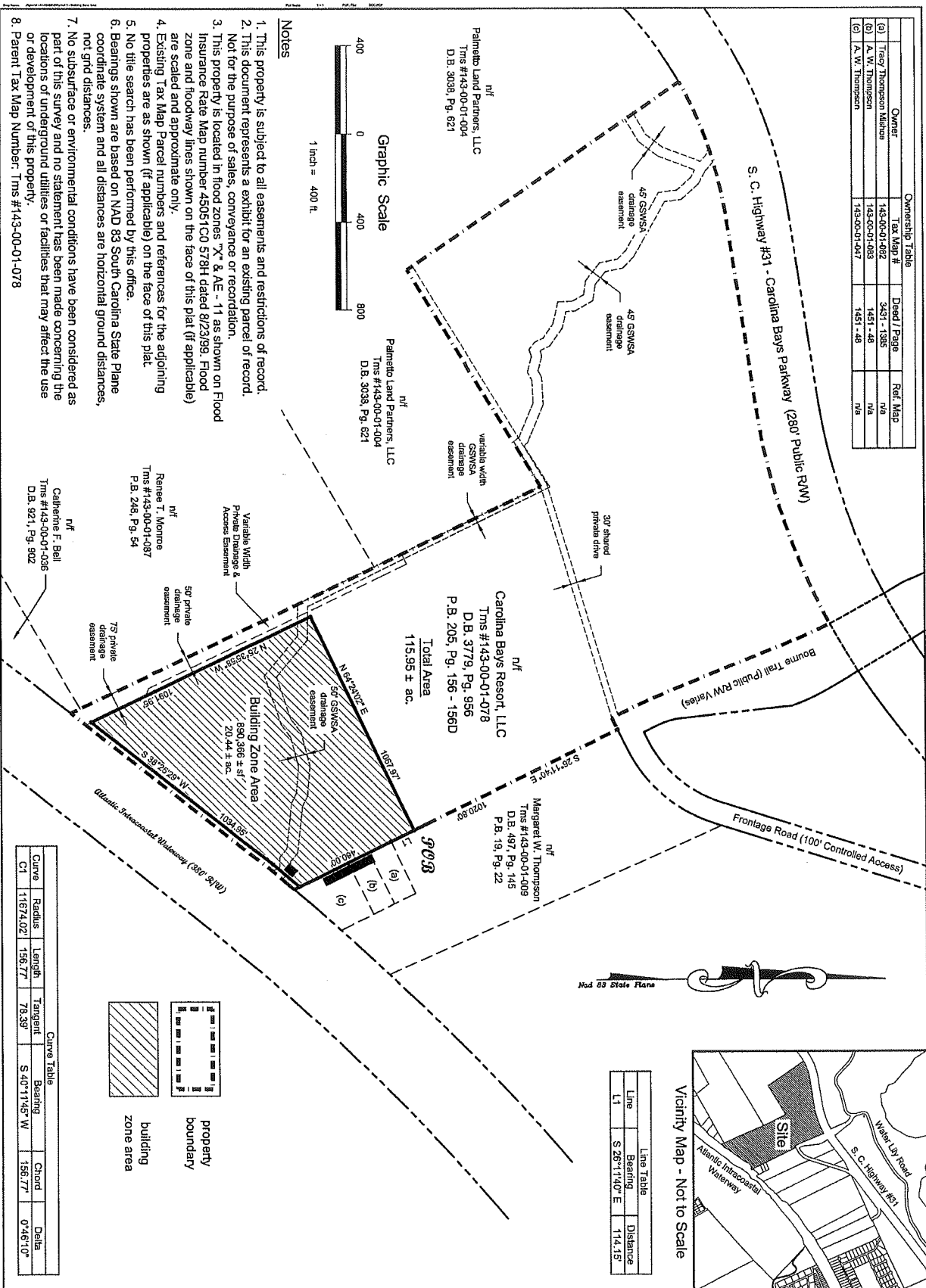
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(Seal)

Karen M. Mazza
Notary Public
My commission expires: Aug. 22, 2018

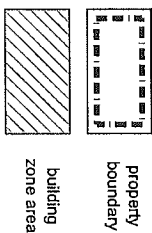


Ownership Table			
Owner	Tax Map #	Deed / Page	Ref. Map
(a) Twp. Thompson Marsh	143-00-01-002	3431 - 1385	n/a
(b) A.W. Thompson	143-00-01-003	1451 - 48	n/a
(c) A.W. Thompson	143-00-01-007	1451 - 48	n/a



Line Table			
Line	Bearing	Distance	
L1	S 26°11'40" E	114.15'	

Curve Table				
Curve	Radius	Length	Tangent	Chord
C1	11674.02'	156.77'	78.39'	156.77'



Notes

1. This property is subject to all easements and restrictions of record.
2. This document represents a exhibit for an existing parcel of record. Not for the purpose of sales, conveyance or recordation.
3. This property is located in flood zones "X" & "AE" - 11 as shown on Flood Insurance Rate Map number 45051C0 578H dated 8/23/99. Flood zone and floodway lines shown on the face of this plat (if applicable) are scaled and approximate only.
4. Existing Tax Map Parcel numbers and references for the adjoining properties are as shown (if applicable) on the face of this plat.
5. No title search has been performed by this office.
6. Bearings shown are based on NAD 83 South Carolina State Plane coordinate system and all distances are horizontal ground distances, not grid distances.
7. No subsurface or environmental conditions have been considered as part of this survey and no statement has been made concerning the locations of underground utilities or facilities that may affect the use or development of this property.
8. Parent Tax Map Number: Tms #143-00-01-078

Drawing Number 1 of 2 14826S	Carolina Bays Resort City of North Myrtle Beach, Horry County, South Carolina Building Zone Area Exhibit "A" Prepared For: Carolina Bays Resort, LLC		No. _____ Date _____ Revision _____ Description _____ Proj. No. 14826S Date: 12/10/14 Scale: 1" = 400' Design: _____ Check: _____ P. 14826S & 14826S are the only valid copies of this drawing. All other copies are void.	By _____ Date _____ Title _____ Check _____	SOUTH CAROLINA DDC ENGINEERS, INC. No. 00033 STATE OF AUTHORIZATION EXPIRATION DATE: 12/31/2016
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STATE OF SOUTH CAROLINA

)

)

AFFIDAVIT

COUNTY OF HORRY

)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The Easement being granted is described as "Conservation Easement and Declaration of Restrictions and Covenants" between Carolina Bays Resort, LLC and North American Land Trust" dated December 30, 2014.
3. The deed is exempt from the deed recording fee because (See Information section of affidavit):

SC Code Section 12-24-40 (1) - Value Less than One Hundred (\$100.00) Dollars

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty?

Check Yes or No

4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor
5. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Carolina Bays Resort, LLC

By: Carolina Bays Management, LLC, its Manager

By: Ecovest Carolina Bays, LLC, its Manager

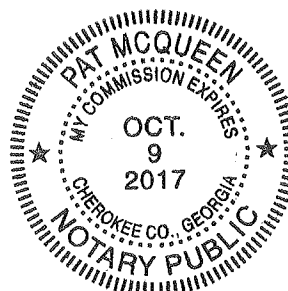
By: Ecovest Capital, LLC, its Manger

By: Robert M. McCullough

Robert M. McCullough, Senior Vice President and
Chief Financial Officer

Sworn to before me this 23rd
day of December, 2014.

Notary Public for Cherokee County, GA
My Commission Expires: 10/9/17



INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayer may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to a fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
- (13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagor or deed pursuant to foreclosure proceedings.
- (14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.

(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.



F. Existing Conditions Report

Carolina Bays Resort

**Biological Assessment
Horry County, South Carolina**

**Prepared For:
North American Land Trust
P.O Box 467, Chadds Ford, PA 19317**

**Prepared By:
Peter Smith, Conservation Biologist
North American Land Trust
NC Field Office
P.O. Box 414
Boone, NC 28607
(828) 406.1583
psmith@nalt.org**

October, 2014



American Redstart (*Setophaga ruticilla*)

DATES VISITED: 2011-08-29, 2014-09-25

COUNTY: Horry

CONSERVATION AREA SIZE: ±115.79 acres

LOCATION: Approximate property center: 33°49'20.73"N 78°43'29.06"W

UNITED STATES ECOREGION: EPA Ecoregion Level III: Middle Atlantic Coastal Plain (63); Level IV: Carolina Flatwoods (63h)

WATERSHED: Carolina Coastal-Sampit (USGS Cataloging unit: 03040207)

USGS QUAD: Wampee

GENERAL DESCRIPTION

The Carolina Bays Resort tract was most recently visited on 09/25/2014 by NALT staff Andrew Johnson, Will Gandy, and myself. The property was initially visited on 08/29/2011.

Approximately 1,255 linear feet of the wooded 115.78 acre tract border the Atlantic Intracoastal Waterway (AIW) along the properties southeastern edge. South Carolina Highway 31 borders the property to the northwest.

A mature Mesic Mixed Hardwood Forest (Coastal Plain Subtype) best describes the vegetation composition of the property. Canopy dominants include sweetgum (*Liquidambar styraciflua*), tulip poplar (*Liriodendron tulipifera*), and loblolly pine (*Pinus taeda*). Other canopy species supported include, but not limited to, swamp chestnut oak (*Quercus michauxii*), water oak (*Q. nigra*), sugarberry (*Celtis laevigata*), and elm (*Ulmus* sp.). Drier sites were noted to support limited amounts of longleaf pine (*P. palustris*) and Darlington oak (*Q. hemisphaerica*). Typical subcanopy and shrub taxa include ironwood (*Carpinus caroliniana*), American holly (*Ilex opaca*), swamp bay (*Persea palustris*), dwarf palmetto (*Sabal minor*), giant cane grass (*Arundinaria gigantea*), and others. The non-native/invasive Chinese privet (*Ligustrum sinense*) forms nearly impenetrable thickets in certain areas of the forest. Typical herbaceous taxa observed include netted chain fern (*Woodwardia areolata*), yellow jessamine (*Gelsemium sempervirens*), ebony spleenwort (*Asplenium platyneuron*), and others. Semi-open to open areas support a much more diverse herb layer. These areas are largely restricted to overgrown trails and old roadbeds. The large amounts of loblolly pine, sweetgum, and tulip poplar are likely the result of past disturbance. Historically, this woodland would support a more diverse canopy.

There are several notable invasive species occupying the tract such as kudzu (*Pueria lobata*), Chinese privet, Japanese Honeysuckle (*Lonicera japonica*), and English ivy (*Hedera helix*).

The kudzu should be removed as it threatens the integrity of the forest. The isolated stands English Ivy should also be removed when encountered. Control of both of these invasive species will need chemical applications in concert with mechanical management techniques. Removal of the Chinese Privet will be very difficult and would involve a long term commitment to eradicate which is not economically feasible. Efforts should be made to control further spread of the Chinese privet.

The property is highly visible from the AIW, SC Highway 31 (Carolina Bays Parkway), and Bourne Trail. There are no structures on the property and a limited unimproved road system that is largely overgrown.

PHYSICAL DESCRIPTION

ASPECT: Site is to flat for meaningful aspect

SLOPE: Property drains to the southeast but no meaningful slope present

ELEVATION: Approximately 25'-30'

TOPOGRAPHY: Typical outer coastal plain topography: flat

HYDROLOGY AND MOISTURE: Mesic forested land

GEOLOGY: Qso: Pleistocene: Primarily sand with clay or mud

ANIMAL HABITAT FACTORS

HABITAT HETEROGENEITY: Fairly homogeneous supporting one good quality natural community

AMPHIBIAN BREEDING SITES: Occasional. Woody debris in various states of decay and seasonally inundated depressions

DENNING SITES: None noted.

BIG TREES/LARGE CAVITIES: Occasional throughout forested areas.

MAST PRODUCING SPECIES: Oaks (*Quercus spp.*), hickories (*Carya spp.*)

AQUATIC HABITAT FACTORS

HYDROLOGY: Property borders the Atlantic Intracoastal Waterway along southeastern property line

RARE, UNCOMMON OR INDICATOR SPECIES

Global, Federal, and State ranking information for rare species is maintained by the State Natural Heritage Program and the US Fish and Wildlife Service. Any rare species discussed in the following text will follow the standardized ranking system. Global ranks are defined thusly: G1 = critically imperiled globally because of extreme rarity (5 or fewer occurrences), G2 = imperiled globally because of rarity (6 to 20 occurrences), G3 = rare or uncommon (localized within range or narrowly endemic to special habitats, generally 20-100 occurrences), G4 = apparently secure, G5 = demonstrably secure, T_ =

the rank of a subspecies or variety. State rankings follow the same categories: S1 = critically imperiled in state because of extreme rarity (5 or fewer occurrences), S2 = Imperiled in state because of rarity (6 to 20 occurrences), S3 = rare or uncommon (localized within range or narrowly endemic to special habitats, generally 20-100 occurrences), S4 = apparently secure, S5 = demonstrably secure. Watchlist status is as follows: W1 = rare, but relatively secure, W2 = rare, but taxonomically questionable, W3 = rare, but uncertain documentation, W4 = rare, but believed not native, W5A = rare because of severe decline, W5B = exploited plants, W6 = regionally rare, W7 = rare and poorly known. A “?” after a ranking indicates that the ranking is uncertain. An “X” after state or global designation indicates that the species is presumed extirpated. State Designations: E = Endangered, T = Threatened, SC = Special Concern, SR = Significantly Rare, -L = Limited, -T = Throughout, -D = Disjunct, -P = Peripheral. Federal Designations: LT = Listed Threatened, LE = Listed Endangered, FSC = Federal Species of Concern

SPECIAL STATUS SPECIES PRESENT:

Partners In Flight Species Assessment Database, Species of Regional Importance

Eastern Wood Pewee (*Contopus virens*)

Pine Warbler (*Dendroica pinus*)

Red-headed Woodpecker (*Melanerpes erythrocephalus*)

Ruby-throated Hummingbird (*Archilochus colubris*)

Tufted Titmouse (*Baeolophus bicolor*)

Yellow-throated Vireo (*Vireo flavifrons*)

Yellow-throated Warbler (*Dendroica dominica*)

POTENTIAL FOR OTHER SPECIAL STATUS SPECIES: Surveys conducted throughout the entire growing season may reveal a few other special status species.

EXOTIC/WEEDY SPECIES: See Plant Species Observed

LANDSCAPE FACTORS

ADJACENT LAND USE/OFFSITE STRESSES: Increasing pressure for suburban sprawl and coastal resort development

RELATION/CONNECTION TO OTHER SITES: Within one airmile of NALT held Long Bay Marina Conservation Area.

DEGREE OF THREAT/POTENTIAL FOR CHANGE: Very low other than Reserved Rights documented in the Conservation Easement document.

MANAGEMENT

Kudzu will replace existing vegetation over time if not eradicated. For successful long term control of kudzu, the extensive root system must be destroyed. Any remaining root

crowns can lead to reinfestation of an area. Mechanical methods involve cutting vines just above ground level and destroying all cut material. Close mowing every month for two growing seasons or repeated cultivation may be effective. Cut kudzu can be fed to livestock, burned or enclosed in plastic bags and sent to a landfill. If conducted in the spring, cutting must be repeated as regrowth appears to exhaust the plant's stored carbohydrate reserves. Late season cutting should be followed up with immediate application of a systemic herbicide (e.g., glyphosate) to cut stems, to encourage transport of the herbicide into the root system. Repeated applications of several soil-active herbicides have been used effectively on large infestations in forestry situations. Efforts are being organized by the U.S. Forest Service to begin a search for biological control agents for kudzu. For more information on kudzu management, please contact:

Robert J. Richardson, Aquatic and Noncropland Weed Management, Crop Science Department, Box 7620, North Carolina State University, Raleigh, NC 27695-7620, (919) 515-5653, Rob_Richardson at ncsu.edu

James H. Miller, USDA Forest Service, DeVall Drive, Auburn University, AL 36849
Miller at forestry.auburn.edu

PLANT SPECIES OBSERVED

Scientific Name	Common Name	Notes
<i>Acer rubrum</i>	red maple	
<i>Ampelopsis arborea</i>	peppervine	
<i>Aralia spinosa</i>	devil's walking stick	
<i>Arisaema triphyllum</i>	Jack in the pulpit	
<i>Arundinaria tecta</i>	switch cane	
<i>Asplenium platyneuron</i>	ebony spleenwort	
<i>Baccharis halimifolia</i>	eastern baccharis	
<i>Bidens bipinnata</i>	Spanish needles	
<i>Callicarpa americana</i>	American beautyberry	
<i>Carpinus caroliniana</i>	ironwood	
<i>Carya glabra</i>	pignut hickory	
<i>Castanea pumila</i>	chinkapin	
<i>Celtis laevigata</i>	sugarberry	
<i>Centella erecta</i>	erect centella	
<i>Chamaecrista fasciculata</i>	partridge pea	
<i>Cornus florida</i>	flowering dogwood	
<i>Elephantopus tomentosus</i>	devil's grandmother	
<i>Eupatorium capillifolium</i>	dog fennel	
<i>Euthamia caroliniana</i>	slender goldentop	
<i>Euypatorium incarnatum</i>	pink thoroughwort	

<i>Gelsemium sempervirens</i>	evening trumpetflower	
<i>Hedera helix</i>	English ivy	non-native/invasive
<i>Hypericum hypericoides</i>	St. Andrew's cross	
<i>Ilex opaca</i>	American holly	
<i>Ilex vomitoria</i>	yaupon	
<i>Juncus</i> sp.	rush	
<i>Juniperus virginiana</i>	eastern red cedar	
<i>Lespedeza cuneata</i>	Chinese lespedeza	non-native/invasive
<i>Ligustrum sinense</i>	Chinese privet	non-native/invasive
<i>Liquidambar styraciflua</i>	sweetgum	
<i>Liriodendron tulipifera</i>	tulip tree	
<i>Lonicera japonica</i>	Japanese honeysuckle	non-native/invasive
<i>Magnolia grandiflora</i>	southern magnolia	
<i>Magnolia virginiana</i>	sweetbay	
<i>Muscadina rotundifolia</i>	muscadine	
<i>Myrica cerifera</i>	wax-myrtle	
<i>Nyssa sylvatica</i>	black gum	
<i>Parthenocissus quinquefolia</i>	Virginia creeper	
<i>Passiflora incarnata</i>	passion flower	
<i>Persea borbonia</i>	redbay	
<i>Pinus palustris</i>	longleaf pine	
<i>Pinus taeda</i>	loblolly pine	
<i>Polygonum hydropiperoides</i>	swamp smartweed	
<i>Prunus serotina</i>	Black cherry	
<i>Pteridium aquilinum</i>	western bracken fern	
<i>Pueria lobata</i>	kudzu	non-native/invasive
<i>Quercus hemispherica</i>	darlington oak	
<i>Quercus michauxii</i>	swamp chestnut oak	
<i>Quercus nigra</i>	water oak	
<i>Quercus phellos</i>	willow oak	
<i>Rhexia alifanus</i>	savannah meadowbeauty	
<i>Rhus coppalinum</i>	winged sumac	
<i>Rubus</i> sp.	a blackberry	
<i>Salix nigra</i>	black willow	
<i>Smilax glauca</i>	cat greenbriar	
<i>Sabal minor</i>	dwarf palmetto	
<i>Sassafras albidum</i>	sassafras	
<i>Sida rhombifolia</i>	Cuban jute	
<i>Smilax rotundifolia</i>	roundleafd greenbriar	
<i>Solidago arguta</i> var. <i>caroliniana</i>	Atlantic goldenrod	

<i>Solidago fistulosa</i>	pine barren goldenrod	
<i>Symphyotrichum patens</i>	late purple aster	
<i>Symphyotrichum undulatum</i>	wavy leaf aster	
<i>Tillandsia usneoides</i>	Spanish moss	
<i>Toxicodendron radicans</i>	poison ivy	
<i>Ulmus americana</i>	American elm	
<i>Verbena brasiliensis</i>	Brazilian vervain	non-native
<i>Vitis cinera</i>	graybark grape	
<i>Woodwardia areolata</i>	netted chainfern	

Description of observed plants can be found at: <http://plants.usda.gov/>

ANIMAL SPECIES OBSERVED

Common Name	Scientific Name	Notes
Mammal		
Eastern Gray Squirrel	<i>Sciurus carolinensis</i>	
Marsh Rabbit	<i>Sylvilagus palustris</i>	
Opossum	<i>Didelphis marsupialis</i>	tracks
Raccoon	<i>Procyon lotor</i>	tracks
Whitetail Deer	<i>Odocoileus virginianus</i>	tracks
Bird		
American Crow	<i>Corvus brachyrhynchos</i>	
American Goldfinch	<i>Carduelis tristis</i>	
American Redstart	<i>Setophaga ruticilla</i>	
Blue Jay	<i>Cyanocitta cristata</i>	
Brown Thrasher	<i>Toxostoma rufum</i>	
Carolina Chickadee	<i>Parus carolinensis</i>	
Carolina Wren	<i>Thryothorus ludovicianus</i>	
Chipping Sparrow	<i>Spizella passerina</i>	
Common Grackle	<i>Quiscalus quiscula</i>	
Eastern Wood Pewee	<i>Contopus virens</i>	
Field Sparrow	<i>Spizella pusilla</i>	
Fish Crow	<i>Corvus ossifragus</i>	
Gray Catbird	<i>Dumetella carolinensis</i>	
Northern Cardinal	<i>Cardinalis cardinalis</i>	
Pileated Woodpecker	<i>Dryocopus pileatus</i>	
Pine Warbler	<i>Dendroica pinus</i>	
Red-headed Woodpecker	<i>Melanerpes erythrocephalus</i>	
Ruby-throated Hummingbird	<i>Archilochus colubris</i>	

Tufted Titmouse
Yellow-rumped Warbler
Yellow-throated Vireo
Yellow-throated Warbler

Herpetiles

Eastern Garter Snake
Green Anole
Green Tree Frog

Butterflies

Eastern Tiger Swallowtail
Gulf Fritillary
Monarch
Orange Sulphur
Red Admiral
Zabulon Skipper
Zebra Swallowtail

Baeolophus bicolor
Dendroica coronata
Vireo flavifrons
Dendroica dominica

Thamnophis sirtalis
Anolis carolinensis
Hyla cinerea

Papilio glaucus
Agraulis vanillae
Danaus plexippus
Colias eurytheme
Vanessa atalanta
Poanes zabulon
Eurytides marcellus

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Schafale, M.P. and A.S. Weakley. 2012. Classification of the Natural Communities of North Carolina: 4th Approximation. NC Department of Environment and Natural Resources, Raleigh NC.

Weakley, A.S. 2012. Guide to the Flora of the Carolinas, Virginia, and Georgia (working draft). University of North Carolina, Chapel Hill, NC.



~Carolina Bays Resort
Conservation Area~

Horry County,
South Carolina

~U.S. Army Corps of Engineers
Wetland Assessment~



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
1949 Industrial Park Road, Room 140
CONWAY, SOUTH CAROLINA 29526

JUL - 1 2014

Regulatory Division

SLF IV/SBI Sandridge, LLC
c/o Mr. Charles Oates
S&ME, Inc.
1330 Highway 501 Business
Conway, South Carolina 29526

Re: SAC 2014-00462-3H
Horry County

Dear Mr. Oates:

This is in response to your letter of May 13, 2014, requesting a wetland determination, on behalf of SLF IV/SBI Sandridge, LLC, for a 1,362.05 acre tract extending from S.C. Highway 90 to the Atlantic Intracoastal Waterway, located in the Little River Township, in Horry County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by DDC Engineers, dated June 10, 2014, and entitled "Maps of Tracts "A", "B" & "C" Containing 1362.05 ± Acres/ Little River Township, Horry County, South Carolina/ Wetland Exhibit/ Prepared For: SLF IV / SBI Sandridge LLC".

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 309.28 acres of jurisdictional freshwater wetlands and 881.3 linear feet of tributaries subject to the jurisdiction of this office. In addition, the property contains 42.19 acres of federally defined freshwater wetlands or other waters that are not considered to be subject to the jurisdiction of this office due to a decision by the U.S. Supreme Court. The location and configuration of these areas, as well as their status relative to jurisdiction, are reflected on the plat referenced above.

It should be clearly noted that the decision of the U.S. Supreme Court to exclude certain waters and wetlands from federal jurisdiction under the Clean Water Act has no effect on any state or local government restrictions or requirements concerning aquatic resources, including wetlands. You are strongly cautioned to ascertain whether such restrictions or requirements exist for the area in question before undertaking any activity which might destroy or otherwise impact these wetland resources.

Based on an on-site inspection and 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.

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

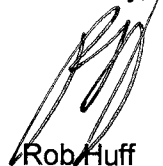
delineation must be conducted. This **approved** jurisdictional determination is an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331. The administrative appeal options, process and appeals request form is attached for your convenience and use.

This delineation/determination has been conducted to identify the limits of U. S. Army Corps of Engineers (COE) Clean Water Act jurisdiction for 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.

In future correspondence concerning this matter, please refer to SAC-2014-00462-3H. 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 me at 843-365-4316.

Sincerely,



Rob Huff
Watershed Manager

Enclosure:
Basis for Jurisdiction
Notification of Appeal Options

Copy Furnished:

South Carolina 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): 2014-05-23

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 1 of 5; SAC # 2014-00462-3H, Sandridge Tract

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **South Carolina** County/parish/borough: **Horry** City: **Myrtle Beach**
Center coordinates of site (lat/long in degree decimal format): Lat. **33.84169° N**, Long. **-78.70804° W**.
Universal Transverse Mercator:

Name of nearest waterbody: **Atlantic Intracoastal Waterway (AIWW)**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Wetlands (40 total) documented on this basis form were determined to be isolated and do not flow directly or indirectly into any TNW. Jurisdictional aquatic resources identified within the project area are documented on basis forms 2, 3, 4 & 5 of 5.**

Name of watershed or Hydrologic Unit Code (HUC): **Waccamaw, HUC03040206-07**

☒ 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:

☒ Field Determination. Date(s): **May 23, 2014**

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 no** "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: linear feet: width (ft) and/or acres.

Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: Pick List, Pick List, Pick List

Elevation of established OHWM (if known):

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

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.

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: 40 separate freshwater wetlands were determined to be isolated, non-jurisdictional within the total project area of 1,362.05 acres. These wetlands were determined to be surrounded by upland soils with no hydrologic connection of any kind to any OHWM/MHW of any waters of the U.S. The 40 isolated, non-jurisdictional wetlands located within the project area meet the parameters that define a wetland outlined in the 1987 Wetland Delineation Manual; however, these wetlands were determined not to be adjacent to any waters of the United States. In addition, the project area contains numerous upland excavated non-jurisdictional ditches that were determined to drain only uplands. None of these non-jurisdictional ditches are in close proximity to the 40 wetlands (Wetlands A- NN on the associated plat) documented as isolated, non-jurisdictional on this basis form. In addition, the project area contains one upland excavated borrow pit. Finally, the project area contained potential wetland areas. These areas were determined not to meet the three parameters that define a wetland outlined in the 1987 Wetland Delineation Manual. All of these potential wetland areas lacked the hydrology parameter. The site visit was conducted under normal climatic conditions where rainfall has been documented as normal for the previous 3 months prior to the onsite visit.

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: Pick List ;

Drainage area: Pick List

Average annual rainfall: _____ inches

Average annual snowfall: _____ inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

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

- ☐ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
 Project waters are **Pick List** river miles from RPW.
 Project waters are **Pick List** aerial (straight) miles from TNW.
 Project waters are **Pick List** aerial (straight) miles from RPW.
 Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵:
 Tributary stream order, if known:

(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):

<input type="checkbox"/> Silts	<input type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover:	
<input type="checkbox"/> Other. Explain:		

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

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Pick List**.

Tributary gradient (approximate average slope): %

(c) **Flow:**

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:

☐ Dye (or other) test performed:

Tributary has (check all that apply):

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

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

<input checked="" type="checkbox"/> High Tide Line indicated by:	<input checked="" type="checkbox"/> Mean High Water Mark indicated by:
<input type="checkbox"/> oil or scum line along shore objects	<input type="checkbox"/> survey to available datum;
<input type="checkbox"/> fine shell or debris deposits (foreshore)	<input type="checkbox"/> physical markings;

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

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

⁷ Ibid.

- ☐ 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:

(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:

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: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. 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 **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

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:

Identify specific pollutants, if known:

(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:

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

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

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

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

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:

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-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:

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: acres.

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

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

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

7. Impoundments of jurisdictional waters.⁹

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

☐ Demonstrate that impoundment was created from “waters of the U.S.,” or

☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or

☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

Explain:

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

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.

☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

☐ which are or could be used for industrial purposes by industries in interstate commerce.

☐ Interstate isolated waters. Explain:

☐ Other factors. Explain:

⁸See Footnote # 3.

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

¹⁰Prior 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.

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): **Numerous upland excavated ditches located within the project area were determined to drain only uplands. All of these features were excavated from within uplands. None of these non-jurisdictional conveyances are in close proximity to the 40 isolated wetlands. In addition, the project area contains one borrow pit determined to have been excavated from within uplands (Echaw Sand).**

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: **42.19 acres Wetlands A – NN (40 total).**

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: **Report & maps provided by S&ME/Plat by DDC Engineers dated 06/10/2014.**
☒ 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: **Wampee Quad: Quad depicts the project area as both forested uplands and wetlands. Quad depicts the 37 isolated wetlands as forested uplands.**
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Horry County Soil Survey sheet 67 depicts the soil types of Bladen, Hobcaw, Leon, Echaw, Rimini, Lynn Haven, Centenary, Johnston, and Ogeechee. Of these soils, Hobcaw, Leon, Lynn Haven, Johnston and Ogeechee are listed on the National Hydric Soils List.**
☒ National wetlands inventory map(s). Cite name: **HorryNWI: NWI depicts the project area as Upland planted pines (U42P), Forested Wetlands (PFO1/4B, PFO4B, PSS1C, PSS1B, PFO1C, PSS1/3B) and partially drained/ditch forested wetlands (PFO4Bd,PFO4Ad, PFO1Cd, & PSS3/4Bd).**
☒ State/Local wetland inventory map(s):
☒ FEMA/FIRM maps:
☒ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): **2006 DNR, 94':2012 Google Earth.**
or ☒ Other (Name & Date): **Site photos provided by S&ME dated 9/30/13.**
☒ Previous determination(s). File no. and date of response letter: **A previous jurisdictional determination was made for a portion of the project area which was documented in SAC 2008-01856-3JH, letter dated March 9, 2009. In that determination, the 40**

Wetlands documented on this form were documented as isolated, non-jurisdictional. The previous determination was coordinated with EPA & USACE Headquarters on February 18, 2009. .

☐ Applicable/supporting case law:

☐ Applicable/supporting scientific literature:

☒ Other information (please specify): Horry County Drainage Study of 1976 depicts the onsite tributary as a Main Drainage canal. This tributary and adjacent wetlands are documented on form 4 of 5 of this determination.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The project area is comprised of 1,362.05 acres of which 351.47 acres have been identified as freshwater wetlands. Of the 351.47 acres of freshwater wetlands, 42.19 acres (comprised of 40 different isolated wetlands, Wetlands A-NN) have been determined to be isolated, non-jurisdictional. The remaining 309.28 acres are jurisdictional and documented as such on basis forms 2, 3, 4 & 5 of 5 of this determination. The 40 isolated, non jurisdictional forested freshwater wetlands located within the project area have been determined to be completely surrounded by non-hydric soils and no surface or shallow subsurface connection to any waters of the U.S. (WOUS) was evident during the site visit or could be found after review of aerial photography, soil survey information, NWI maps, and topographic maps. These wetlands exhibited hydric soils, hydrophytic vegetation, and sufficient indicators of hydrology to satisfy the criteria set forth in the 1987 Wetland Delineation Manual. However, all water located within these wetlands have no discernible or traceable outfall or connection to any WOUS. Chemically, the wetlands do not affect any WOUS in the absorption / treatment of nutrients, runoff, and pollutants. Physically, the topographic location of the wetland and its relation to other WOUS is such that water in these wetlands are retained and eventually percolates through the soil to groundwater only, to an unknown depth, providing little if any stormwater attenuation. Biologically, these wetlands are not essential in providing organic carbons in the form of their collective primary productivity to downstream waters, resulting in the nourishment of the downstream food web. Because of the lack of discernable outfall, topography grades, and lack of evidence of chemical, physical or biological connection, these wetland systems totalling 40 and being comprised of 42.19 acres total, have been determined to be isolated, non-jurisdictional.

A previous jurisdictional determination was made for a portion of the project area which was documented in SAC 2008-01856-3JH letter dated March 9, 2009. In that determination, the 40 wetlands documented on this form were documented as isolated, non-jurisdictional. The previous determination was coordinated with EPA & USACE Headquarters on February 18, 2009.

In addition, the project area contains numerous non-jurisdictional upland excavated ditches determined to drain only uplands and one upland excavated borrow pit.

The site visit was conducted under normal climatic conditions where rainfall was documented as normal for the previous 3 months prior to the onsite visit.

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): JUL - 1 2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 2 of 5; SAC # 2014-00462-3H, Sandridge Tract

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Wampee

State: **South Carolina** County/parish/borough: **Horry** City:
Center coordinates of site (lat/long in degree decimal format): Lat. **33.84169° N**, Long. **-78.70804° W**.
Universal Transverse Mercator:

Name of nearest waterbody: **Atlantic Intracoastal Waterway (AIWW)**

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

Name of watershed or Hydrologic Unit Code (HUC): **Waccamaw, HUC 03040206-07**

☒ 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:

☒ Field Determination. Date(s): **May 23, 2014**

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: linear feet: width (ft) and/or acres.

Wetlands: **52.52 acres total: Wetlands #18 (14.26Ac), #17 (6.9Ac), #16 (3.79Ac.), #15 (1.22Ac.), #14 (4.27 Ac.), #13 (2.11Ac.), #12 (3.54Ac.), #23 (13.70 Ac.), #22 (1.96 Ac.), #20 (0.33 Ac.), & #19 (0.44Ac.)**.

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

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: **Documented on basis form 1 of 5.**

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: **Atlantic Intracoastal Waterway (AIWW).**

Summarize rationale supporting determination: **Subject to ebb & flood of the tide..**

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": **Wetlands were determined to be adjacent to TNW via non-jurisdictional ditches located both onsite and off that discharge directly into the TNW.**

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: **Pick List ;**

Drainage area: **Pick List**

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵:

Tributary stream order, if known:

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: .

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):

<input type="checkbox"/> Silts	<input type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover:	
<input type="checkbox"/> Other. Explain: .		

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

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

Tributary geometry: **Pick List**.

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: **Pick List**. Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

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

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

<input checked="" type="checkbox"/> High Tide Line indicated by:	<input checked="" type="checkbox"/> Mean High Water Mark indicated by:
<input type="checkbox"/> oil or scum line along shore objects	<input type="checkbox"/> survey to available datum;
<input type="checkbox"/> fine shell or debris deposits (foreshore)	<input type="checkbox"/> physical markings;
<input type="checkbox"/> physical markings/characteristics	<input type="checkbox"/> vegetation lines/changes in vegetation types.
<input type="checkbox"/> tidal gauges	
<input type="checkbox"/> 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: .

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.

(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:

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: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. 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 **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

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:

Identify specific pollutants, if known:

(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:

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

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

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

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)



Summarize overall biological, chemical and physical functions being performed:

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:

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: **52.52** 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-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:

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: acres.

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

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

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

7. Impoundments of jurisdictional waters.⁹

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

☐ Demonstrate that impoundment was created from “waters of the U.S.,” or

☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or

☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

Explain:

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

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.

☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

☐ which are or could be used for industrial purposes by industries in interstate commerce.

☐ Interstate isolated waters. Explain:

☐ Other factors. Explain:

⁸See Footnote # 3.

⁹To 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.

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.

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: **Report by S&ME/Plat by DDC Engineers dated 06/10/2014.**
☒ 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: **Wampee Depicts forested areas with some wetlands; does not depict any symbols that typically represent a tributary.**
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Horry County Soil Survey sheet 64 depicts the following soil types: Lynn Haven (Hydric), Centenary, Leon (Hydric), Echaw, Yonges (hydric), and Rimini.**
☒ National wetlands inventory map(s). Cite name: **HorryNW1 depicts the project area as Forested wetlands (PFO4/1B, PSS1C, PFO4B) and uplands U42P..**
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): **2006 DNR, 99'1122681, 94':7440-045.**
or ☒ Other (Name & Date): **Site photos provided by S&ME dated 9/30/13.**
☒ Previous determination(s). File no. and date of response letter: **SAC 2008-1856-3JH Letter dated 3/10/09.**
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify): **Horry County Main Drainage Canal Study.**

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands #12-20, 22 & 23 were determined to be jurisdictional via non-jurisdictional conveyances both onsite and offsite that discharge directly into the TNW (AIWW). These conveyances consist of roadside ditches, upland excavated ditches and swales in some locations adjacent to S.C. Highway 31. All conveyances discharge directly into the AIWW. Site visit was performed.

Non-jurisdictional features documented on basis form 1 of 5..

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): 5/21 - 1 2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 3 of 5; SAC # 2014-00462-3H, Sandridge Tract

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Wampee

State: **South Carolina** County/parish/borough: **Horry** City:
Center coordinates of site (lat/long in degree decimal format): Lat. **33.84158° N**, Long. **-78.70814° W**.
Universal Transverse Mercator:

Name of nearest waterbody: **Atlantic Intracoastal Waterway (AIWW)**

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

Name of watershed or Hydrologic Unit Code (HUC): **Waccamaw, HUC 03040206-07**

☒ 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:

☒ Field Determination. Date(s): **May 23, 2014**

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: linear feet: width (ft) and/or acres.

Wetlands: **5.57 acres total: Wetland #8 (2.52Ac), #9 (2.74Ac), & #10 (0.31Ac).**

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

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: **Documented on form 1 of 5.**

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: **Atlantic Intracoastal Waterway (AIWW).**

Summarize rationale supporting determination: **Subject to ebb & flood of the tide..**

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": **Wetlands were determined to be adjacent to TNW via non-jurisdictional ditches located both onsite and off that discharge directly into the TNW.**

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: **Pick List** ;
Drainage area: **Pick List**
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- ☐ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵:
Tributary stream order, if known:

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: _____

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):

<input type="checkbox"/> Silts	<input type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover: _____	
<input type="checkbox"/> Other. Explain: _____		

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

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

Tributary geometry: **Pick List.**

Tributary gradient (approximate average slope): _____ %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: _____

Other information on duration and volume: _____

Surface flow is: **Pick List.** Characteristics: _____

Subsurface flow: **Pick List.** Explain findings: _____

☐ Dye (or other) test performed: _____

Tributary has (check all that apply):

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

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

<input checked="" type="checkbox"/> High Tide Line indicated by:	<input checked="" type="checkbox"/> Mean High Water Mark indicated by:
<input type="checkbox"/> oil or scum line along shore objects	<input type="checkbox"/> survey to available datum;
<input type="checkbox"/> fine shell or debris deposits (foreshore)	<input type="checkbox"/> physical markings;
<input type="checkbox"/> physical markings/characteristics	<input type="checkbox"/> vegetation lines/changes in vegetation types.
<input type="checkbox"/> tidal gauges	
<input type="checkbox"/> 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: _____

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.

(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:

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: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. 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 **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

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:

Identify specific pollutants, if known:

(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:

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

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

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

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)



Summarize overall biological, chemical and physical functions being performed:

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:

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: 5.57 acres (wetlands #8-#10).
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-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:

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: acres.

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

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

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

7. Impoundments of jurisdictional waters.⁹

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

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

Explain:

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

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

⁸See Footnote # 3.

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

¹⁰Prior 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.

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.

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: **Report by S&ME/Plat by DDC Engineers dated 06/10/2014.**
☒ 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: **Wampee Depicts forested areas with some wetlands; does not depict any symbols that typically represent a tributary.**
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Horry County Soil Survey sheet 64 depicts the following soil types: Lynn Haven (Hydric), Centenary, Leon (Hydric), Echaw, Yonges (hydric), and Rimini.**
☒ National wetlands inventory map(s). Cite name: **HorryNWI, depicts the project area as Forested wetlands (PFO4/1B, PSS1C, PFO4B) and uplands U42P.**
☐ State/Local wetland inventory map(s):
☐ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): **2006 DNR, 99'1122681, 94':7440-045.**
or ☒ Other (Name & Date): **Site photos provided by S&ME dated 9/30/13.**
☒ Previous determination(s). File no. and date of response letter: **SAC 2008-1856-3JH Letter dated 3/10/09.**
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☒ Other information (please specify): **Horry County Main Drainage Canal Study.**

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands #8-10 were determined to be jurisdictional via non-jurisdictional conveyances both onsite and offsite that discharge directly into the TNW (AIWW). These conveyances consist of roadside ditches, upland excavated ditches and swales in some locations adjacent to S.C. Highway 31. All conveyances discharge directly into the AIWW. Site visit was performed.

Non-jurisdictional features documented on basis form 1 of 5..

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): 05/21/2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 4 of 5; SAC # 2014-00462-3H Sandridge Tract

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Wampee

State: **South Carolina**

County/parish/borough: **Horry**

City:

Center coordinates of site (lat/long in degree decimal format): Lat. **33.84169° N**, Long. **-78.70804° W**.

Universal Transverse Mercator:

Name of nearest waterbody: **Un-named tributary of the Waccamaw River**

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

Name of watershed or Hydrologic Unit Code (HUC): **HUC 03040206-07, Waccamaw**

☒ 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:

☒ Field Determination. Date(s): **May 23, 2014**

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: linear feet: width (ft) and/or acres.

Wetlands: **43.45** acres.

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

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: **Documented on basis form 1 of 5.**

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: **Pick List** ;

Drainage area: **Pick List**

Average annual rainfall: inches

Average annual snowfall: inches

(ii) **Physical Characteristics:**

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵:

Tributary stream order, if known:

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: _____

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):

<input type="checkbox"/> Silts	<input type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover: _____	
<input type="checkbox"/> Other. Explain: _____		

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

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

Tributary geometry: **Pick List.**

Tributary gradient (approximate average slope): _____ %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: _____

Other information on duration and volume: _____

Surface flow is: **Pick List.** Characteristics: _____

Subsurface flow: **Pick List.** Explain findings: _____

☐ Dye (or other) test performed: _____

Tributary has (check all that apply):

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

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

<input checked="" type="checkbox"/> High Tide Line indicated by:	<input checked="" type="checkbox"/> Mean High Water Mark indicated by:
<input type="checkbox"/> oil or scum line along shore objects	<input type="checkbox"/> survey to available datum;
<input type="checkbox"/> fine shell or debris deposits (foreshore)	<input type="checkbox"/> physical markings;
<input type="checkbox"/> physical markings/characteristics	<input type="checkbox"/> vegetation lines/changes in vegetation types.
<input type="checkbox"/> tidal gauges	
<input type="checkbox"/> 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: _____

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.

(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:

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: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. 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 **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

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:

Identify specific pollutants, if known:

(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:

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

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

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

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)



Summarize overall biological, chemical and physical functions being performed:

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:

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: **Tributary was determined to be an RPW with perennial flow by review of aerial photos.**

Topographic maps, and Horry County Drainage Canal Study. Aerial photos depict a signature of a defined channel discharging into a tributary that discharges directly into the Waccamaw River, Topographic maps depict a symbol which represents a tributary with intermittent flow, and Horry County Drainage Canal Study depicts a lateral drainage canal (L-3) which represents a tributary with perennial flow.

- ☐ 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-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 were determined to directly abutting, contiguous to RPW located offsite by review of Horry County Soil Survey, and aerial photos. Horry County Soil Survey indicates a hydric soils (Ogeechee and Hobcaw) contiguous, directly abutting RPW, aerial photos depict a signature of hydric soils directly abutting 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:

Provide acreage estimates for jurisdictional wetlands in the review area: **43.45** 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.

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

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

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

7. Impoundments of jurisdictional waters.⁹

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

☐ Demonstrate that impoundment was created from “waters of the U.S.,” or

☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or

☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

Explain:

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

⁸See Footnote # 3.

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

- ☐ 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.

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: **Report by S&ME/Plat by DDC Engineers, dated 6/10/2014.**
- ☒ 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: **Wampee Quad depicts both wetlands and forested uplands in addition to the offsite tributary.**
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Horry County Soil Survey sheet 64 depicts the following soil types: Hocaw (hydric), Echaw, Yauhannah, Wahee, Leon (Hydric) & bladen.**
- ☒ National wetlands inventory map(s). Cite name: **HorryNWI depicts the project area as PS04B, PFO1/4B, PFO1C, PFO1/SS3Bd, PSS1C (forested wetlands) and uplands (U42).**
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .

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.

- ☒ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **2006 DNR, 94":7440-045, 99":11226:81.**
or ☒ Other (Name & Date): **Site photos provided by S&ME dated 9/30/13.**
- ☒ Previous determination(s). File no. and date of response letter: **SAC-2008-01856-3JH, Letter dated 3/10/2009.**
- ☒ Applicable/supporting case law:
- ☒ Applicable/supporting scientific literature:
- ☒ Other information (please specify): **Horry County Main Drainage Canal Study depicts offsite tributary as M-20.**

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands 4-7 were determined to be jurisdictional. Limits of jurisdiction of wetlands were established by 1987 Delineation Manual. Offsite tributary was determined to be an RPW with perennial flow, where flow was determined to be at least 90% of the year under normal climatic conditions. Wetlands were determined to be contiguous, directly abutting by review of aerial photos and Horry County Soil Survey which depicts a hydric soils, Ogeechee & Hobcaw Soils, directly abutting tributary. Tributary is considered to be man-altered feature providing drainage for adjacent freshwater wetlands. Tributary is depicted as L-3 on Horry County Main drainage Canal Study . L-3 depicted on study represents a Lateral Ditch which is defined in study as being a major ditch in a drainage system which serves as a link between the main ditch (M-20) and the collection system in a segment of the watershed.

Non-jurisdictional features documented on basis form 1 of 5.

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): JUL - 1 2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: JD Form 5 of 5; SAC # 2008-01856-3JH, Long Bay Sandridge Tract

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Wampee

State: South Carolina County/parish/borough: Horry City:
Center coordinates of site (lat/long in degree decimal format): Lat. 33.84169° N, Long. -78.70804° W.
Universal Transverse Mercator:

Name of nearest waterbody: Un-named tributary of the Waccamaw River

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

Name of watershed or Hydrologic Unit Code (HUC): Waccamaw, HUC 03040206-07

☒ 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:

☒ Field Determination. Date(s): May 23, 2014

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: 881.3 linear feet: 5.5 width (ft) and/or acres.

Wetlands: 207.73 acres.

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

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: Documented on basis form 1 of 5.

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: **175,584 acres** ;

Drainage area: **600 Pick List**

Average annual rainfall: **51 inches**

Average annual snowfall: **0 inches**

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☒ Tributary flows through **3** tributaries before entering TNW.

Project waters are **1-2** river miles from TNW.

Project waters are **1 (or less)** river miles from RPW.

Project waters are **1-2** 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 TNW⁵: **Tributary flows threw several un-named tributaries before discharging into the Waccamaw River (TNW).**

Tributary stream order, if known: **1.**

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: **Tributary has been straightened and deepened.**

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

Average width: **5.5** feet

Average depth: **4** feet

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

Primary tributary substrate composition (check all that apply):

<input checked="" type="checkbox"/> Silts	<input checked="" type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover:	
<input type="checkbox"/> Other. Explain:		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Banks of tributary stabilized by vegetation.

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Relatively straight.**

Tributary gradient (approximate average slope): **<1 %**

(c) Flow:

Tributary provides for: **Perennial flow**

Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: **Flow is 90% of the year under normal climatic conditions.**

Other information on duration and volume: **Horry County Drainage Study of 1975 indicates a Main Drainage Canal**

M-20.

Surface flow is: **Confined.** Characteristics: **Confined within bed and banks of tributary.**

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

☐ Dye (or other) test performed:

Tributary has (check all that apply):

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

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

<input checked="" type="checkbox"/> High Tide Line indicated by:	<input checked="" type="checkbox"/> Mean High Water Mark indicated by:
<input type="checkbox"/> oil or scum line along shore objects	<input type="checkbox"/> survey to available datum;
<input type="checkbox"/> fine shell or debris deposits (foreshore)	<input type="checkbox"/> physical markings;
<input type="checkbox"/> physical markings/characteristics	<input type="checkbox"/> vegetation lines/changes in vegetation types.
<input type="checkbox"/> tidal gauges	
<input type="checkbox"/> other (list):	

(iii) Chemical Characteristics:

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

Explain: **Water is discolored, tributary headwaters located within project area boundary. Run-off associated with ongoing silviculture practices and pollutants associated with a county dirt road (sediments, litter and debris).**

Identify specific pollutants, if known: **Sediments, stormwater runoff and litter and debris.**

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.

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

☒ Riparian corridor. Characteristics (type, average width): **Periodically flooded area outside of channel; important for shading and buffering; supports clean water.**

☐ 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: **Evidence of foraging, nesting, and travel corridors as well as minnows, tadpoles and small macrofauna.**

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: **3.59** acres

Wetland type. Explain: **Palustrine.**

Wetland quality. Explain: **Fully functional.**

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow.** Explain: **Flow is under wet conditions during the year.**

Surface flow is: **Discrete and confined**

Characteristics: **Flow is within a non-jurisdictional conveyance that discharges into the onsite tributary.**

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: **Upland excavated ditch that discharges into the onsite tributary.**

☐ Ecological connection. Explain:

☐ Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **1-2** river miles from TNW.

Project waters are **1-2** aerial (straight) miles from TNW.

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

Estimate approximate location of wetland as within the **100 - 500-year** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: **Water was not observed above the surface at time of site visit, soils were saturated to the surface. General watershed is undeveloped areas Timber management lands.**

Identify specific pollutants, if known: **Sediments and herbicides associated with forest management practices.**

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

☒ Riparian buffer. Characteristics (type, average width): **Loblolly pine.**

☒ Vegetation type/percent cover. Explain: **FAC or wetter species.**

☒ Habitat for:

☐ Federally Listed species. Explain findings:

☐ Fish/spawn areas. Explain findings:

☐ Other environmentally-sensitive species. Explain findings:

☒ Aquatic/wildlife diversity. Explain findings: **This wetland system enhances a variety of wildlife species by providing diversity through timber type changes and where an aquatic system adjoins an upland system..**

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

All wetland(s) being considered in the cumulative analysis: **5**

Approximately (**800**) 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 #1 (N)	2.25	Offsite Wetland (Y)	+/- 500
Wetlands #2 (N)	1.34		
Wetlands #3 (Y)	187.98		
Wetlands #21 (Y)	15.34		
Wetland # 11 (Y)	0.82		

Summarize overall biological, chemical and physical functions being performed: **The similarly situated wetlands contribute vital biological, chemical, and physical functions to the adjacent RPW. This wetland system enhances a variety of wildlife species by providing diversity through timber type changes and where an aquatic system adjoins an upland. Due to surrounding land uses, these wetlands act as a catch basin for adjacent uplands filtering sediment and other pollutants and/or reducing the amount of flood waters reaching the TNW. .**

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: **The forested wetlands which are similarly situated and adjacent to the RPW with perennial flow are collectively performing functions consistent with following: Biological- wetlands adjacent to this RPW include depressional wetlands. As such, a variety of biological functions are being performed which include providing breeding grounds and shelter for aquatic species, foraging areas for wetland dependent species. These wetlands are essential in providing organic carbons in the form of their collective primary productivity to downstream waters, resulting in the nourishment of the downstream food web. Chemical- wetlands and tributary within the review area are providing the important collective functions of removal of excess nutrients which are contributed by runoff from surrounded uplands, reducing nitrogen and phosphorus loading downstream, and effectively preventing oxygen depletion that can result from eutrophication. Physical- Wetlands and tributary in the review area are collectively performing flow maintenance functions, including retaining runoff inflow and storing rain water temporarily. Flow maintenance results in the reduction of downstream peak flows (discharge and volumes), helping 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 Waccamaw River, it has been determined that there is a significant nexus between the relevant reach of the tributary and adjacent wetlands to the downstream TNW. .

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

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: **Tributary was determined to be an RPW with perennial flow by review of aerial photos, Topographic maps, Horry County Soil Survey, and Horry County Drainage Canal Study. Aerial photos depict a signature of a defined channel discharging into Waccamaw River Swamp, Topographic maps depict a symbol which represents a tributary with perennial flow, Horry County Drainage Canal Study depicts a main drainage canal (M-20) which represents a tributary with perennial flow, and Horry County Soil Survey depicts a symbol that represents a tributary with intermittent flow.**

☐ 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: **881.3** linear feet **5.5** 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 were determined to directly abutting, contiguous to the onsite RPW; wetlands located within the headwaters of the 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:

Provide acreage estimates for jurisdictional wetlands in the review area: **Wetlands 3, 21, & 11 totaling- 204.14 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: **Wetlands 1 & 2 totaling 3.59 acres.**

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

⁸See Footnote # 3.

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

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

7. Impoundments of jurisdictional waters.⁹

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

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

Explain:

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

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

Identify water body and summarize rationale supporting determination:

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

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

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

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

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____ linear feet _____ width (ft).
☐ Lakes/ponds: _____ acres.
☐ Other non-wetland waters: _____ acres. List type of aquatic resource: _____
☐ Wetlands: _____ acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____ linear feet, _____ width (ft).
☐ Lakes/ponds: _____ acres.
☐ Other non-wetland waters: _____ acres. List type of aquatic resource: _____
☐ Wetlands: _____ acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

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*.

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Report by S&ME/Plat by DDC Engineers Dated 6/10/2014.**
- ☒ 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: **Wampee:Wampee Quad depicts both wetlands and forested uplands in addition to the onsite tributary.**
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Horry County Soil Survey sheet 64 depicts the following soil type:Hocaw (hydric), Echaw, Yauhannah, Wahee, Leon (Hydric) & bladen.**
- ☒ National wetlands inventory map(s). Cite name: **HorryNWI depicts the project area as both forested wetlands and uplands .**
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **2006 DNR, 99'1122681, 94':7440-045.**
- or ☒ Other (Name & Date): **Site photos provided by S&ME dated 09/30/2013.**
- ☒ Previous determination(s). File no. and date of response letter: **SAC-2008-1856-3JH --3/10/2009.**
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): **Horry County Main Drainage Canal Study M-20.**

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands 1-3, 21, &11 were determined to be jurisdictional. Wetlands 1 & 2 were detemined to non-abutting RPW. It was determined and documented in Section III C of this form that both the tributary and it's adjacent wetlands to have a significant nexus with the downstream TNW. Limits of jurisdiction of wetlands were established by 1987 Delineation Manual. Offsite tributary was determined to be an RPW with perennial flow, where flow was determined to be at least 90% of the year under normal climatic conditions. Wetlands were determined to be both abutting and non-abutting. Tributary is considered to be man-altered feature providing drainage for adjacent freshwater wetlands. Tributary is depicted as M-20 on Horry County Main drainage Canal Study Sheet 18. M-20 represents a Main Drainage Canal defined in the Drainage Study as a ditch or channel that is the principal channel which conducts the drainage water from the watershed to the outlet. Outlet in this case is the Waccamaw River (TNW)

Non-jurisdictional features documented on form 1 of 5.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: SLF IV/SBI Sandridge, LLC	File Number: SAC 2014-00462-3H	Date: JUN - 1 2014
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer, South Atlantic Division, 60 Forsyth St, SW, Atlanta, GA 30308-8801. This form must be received by the Division Engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is **not appealable**. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact the Corps biologist who signed the letter to which this notification is attached. The name and telephone number of this person is given at the end of the letter.

If you only have questions regarding the appeal process you may also contact the Coordinator for Appeals in our South Atlantic Division Office in Atlanta, Georgia at (404) 562-5136.
Mike Bell
60 Forsyth St, SW Atlanta, GA 30308-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

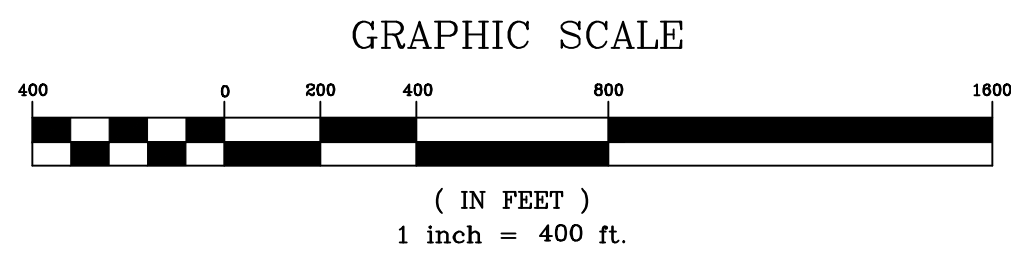
Signature of appellant or agent.

Date:

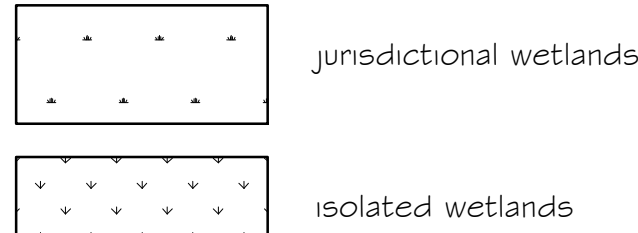
Telephone number:



Ownership Table			
	Owner	Tax Map #	Deed Book
(a)	Tracy Thompson Mishoe	143-00-01-082	3431 - 1385
(b)	A. W. Thompson	143-00-01-083	1451 - 48
(c)	A. W. Thompson	143-00-01-047	1451 - 48

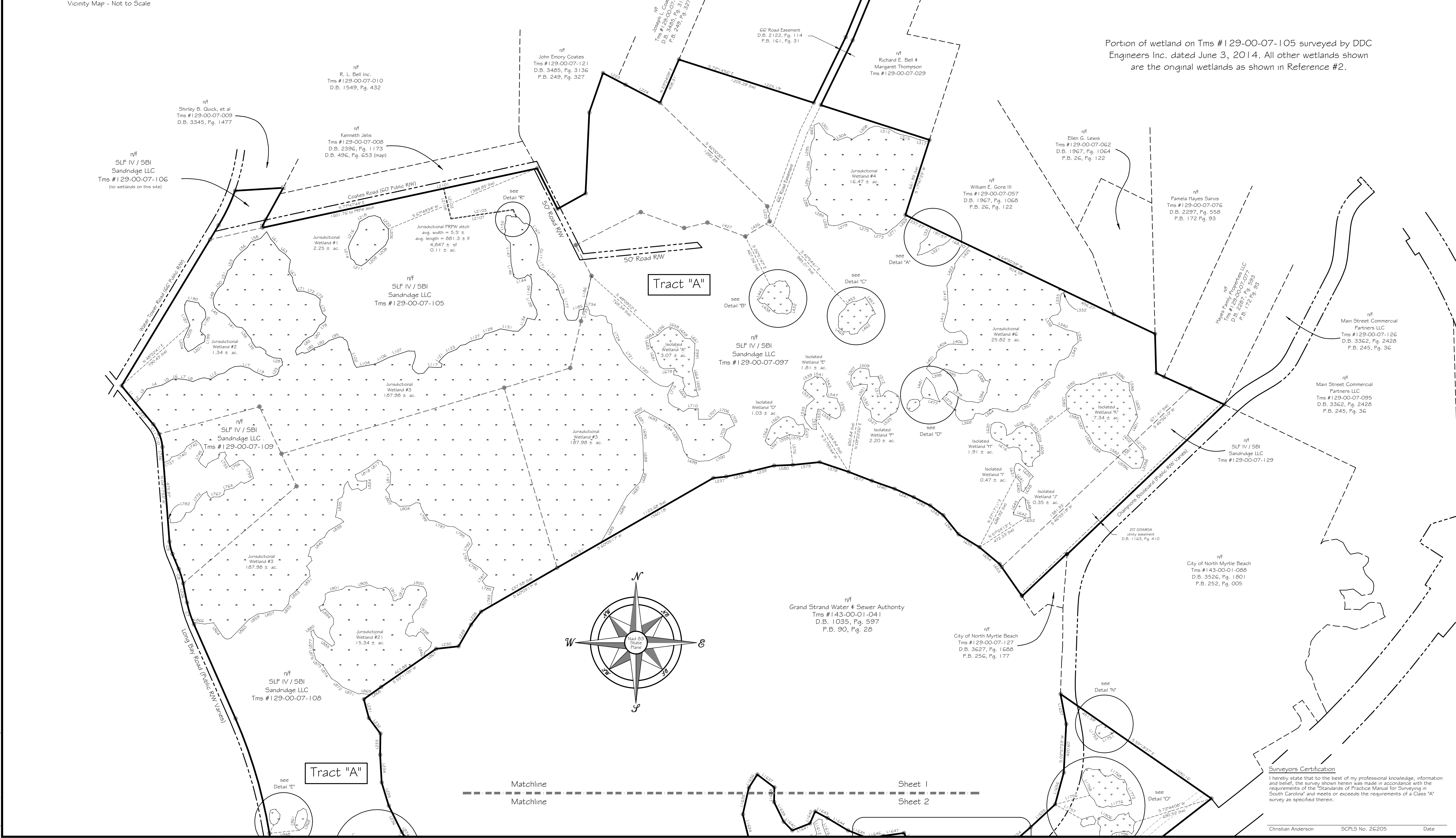


- References
- Boundary Survey & Recombination Plat of McDuffy Tract, Canal Holdings LLC Tract, Gibson-Wall Tract, H. F. Bell Tract & R. E. Bell Tract prepared for Long Bay Associates, Canal Development Corporation & Gibson-Wall Company by Thomas & Hutton Engineering Co. dated 3/25/05 and recorded in Plat Book 205, Page 156 - 156D, Horry County ROD.
 - Wetland Delineation Survey of Tracts "A", "B", "G" & "H", Long Bay Tract prepared for Sandridge Land LLC by Thomas & Hutton Engineering Co. dated 9/26/08. ACOE Permit No. SAC 81-2003-0681 (1).



Area Table	
Jurisdictional PRPW Ditch	= 0.11 ± Ac.
Jurisdictional Wetland Area	= 309.28 ± Ac.
Isolated Wetland Area	= 42.19 ± Ac.
Upland Area	= 1,010.47 ± Ac.
Total Area	= 1,362.05 ± Ac.

Portion of wetland on Tms #129-00-07-105 surveyed by DDC Engineers Inc. dated June 3, 2014. All other wetlands shown are the original wetlands as shown in Reference #2.



DDC

ENGINEERS

Consulting Engineers, Surveyors, Planners,
Landscape Architects & Environmentalists
1298 Professional Dr., Myrtle Beach, SC 29577
Phone: (843) 692-3200 Fax: (843) 692-3210

DDC

ENGINEERS, INC.

No. 000056

CERTIFICATE OF ADOPTION

No.	Date	Revision	Description	Scale	1" = 400'
148205	6/10/14				
Proj. No.	Date	Drawn	Checked	CA	
148205	6/10/14				

Map of Tracts "A", "B" & "C" Containing 1362.05 ± Acres
Little River Township, Horry County, South Carolina

Wetland Exhibit

Prepared For: SLF IV / SBI Sandridge LLC

Drawing Number: 1 of 5

148205

Christian Anderson

SCPLS No. 26205

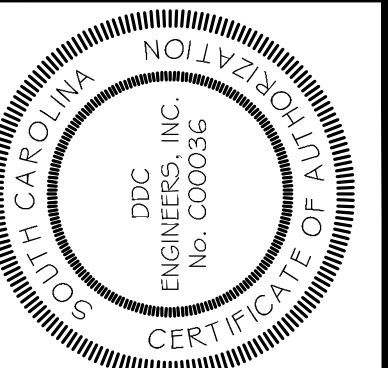
Date

Surveyors Certification

I hereby state that to the best of my professional knowledge, information and belief, the survey shown herein was made in accordance with the requirements of the "Standards of Practice Manual for Surveying in South Carolina" and meets or exceeds the requirements of a Class "A" survey as specified therein.



E N G I N E E R S
Consulting Engineers, Surveyors, Planners,
Landscape Architects & Environmentalists
8 Professional Dr., Myrtle Beach, SC 29577
Phone: (843) 692-3200 Fax: (843) 692-3210



No.	Date	Revision	Description	By
Proj. No.	10.14826.5	Date:	6/01/14	Scale: 1" = 500'
Design:		Draft:	Candy	CA
Field Book:		Page:		

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Map of Tracts "A", "B" & "C" Containing 1362.05 ± Acres
Little River Township, Horry County, South Carolina

Wetland Exhibit

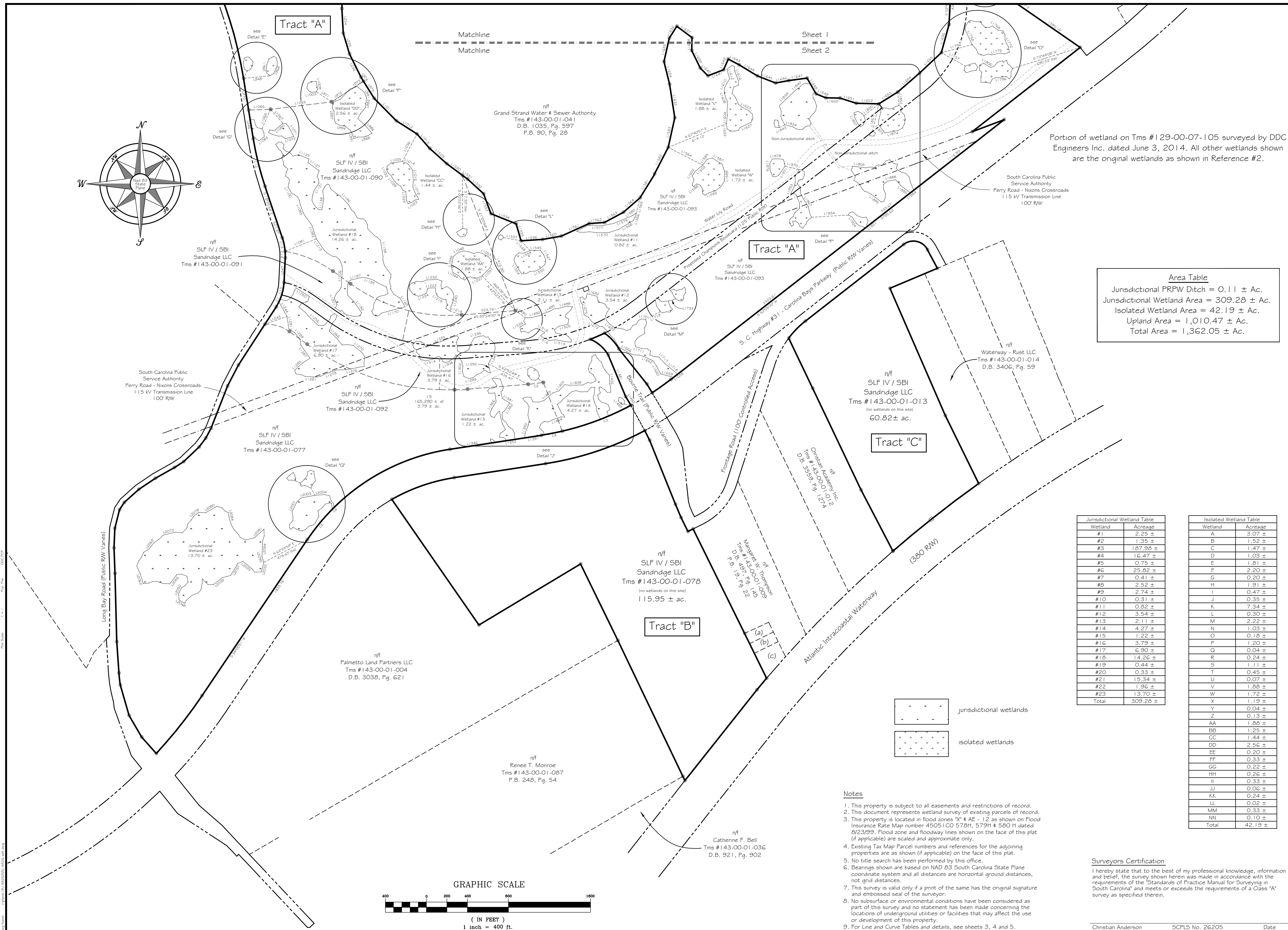
Prepared For: SLF IV / SBI Sandridge LLC

Prepared For:

Drawing
Number

2 of 5

48265



Line Table		
Line	Bearing	Distance
L1762	S 74°58'10"E	51.11'
L1763	N 85°46'17"E	49.84'
L1764	S 15°26'11"E	23.34'
L1765	S 42°46'51"E	43.71'
L1766	S 82°41'50"E	39.42'
L1767	N 65°53'38"E	31.77'
L1768	S 1°58'12"E	66.07'
L1769	S 81°18'00"E	50.05'
L1770	S 26°49'41"E	44.78'
L1771	S 00°24'13"W	47.22'
L1772	S 26°03'24"E	35.70'
L1773	S 08°56'04"E	51.97'
L1774	S 71°16'37"W	48.59'
L1775	N 77°59'44"W	41.57'
L1776	S 77°09'28"W	88.01'
L1777	N 72°41'04"W	31.89'
L1778	S 73°10'39"W	45.62'
L1779	N 80°50'40"W	33.83'
L1780	N 57°32'31"W	27.20'
L1781	N 25°05'27"W	47.47'
L1782	N 43°22'20"W	56.49'
L1783	N 70°54'23"E	62.28'
L1784	N 77°59'29"E	38.62'
L1785	S 33°01'25"E	45.34'
L1786	S 22°50'04"W	34.59'
L1787	S 82°39'43"W	26.70'
L1788	S 80°33'39"W	24.77'
L1789	S 71°21'20"W	49.89'
L1790	N 42°39'16"W	31.99'
L1791	N 16°05'32"E	43.05'
L1792	S 25°07'56"W	38.40'
L1793	S 02°15'45"E	43.91'
L1794	S 37°24'08"W	29.16'
L1795	N 51°08'16"W	37.48'
L1796	S 83°06'03"W	105.74'
L1797	S 69°03'55"W	34.87'
L1798	S 25°10'11"W	43.82'
L1799	N 79°42'15"W	53.76'
L1800	S 89°07'53"W	38.49'
L1801	N 00°13'42"W	49.05'
L1802	N 11°13'20"E	47.49'
L1803	N 44°36'06"W	33.63'
L1804	N 01°40'38"E	49.06'
L1805	N 69°03'36"E	44.12'
L1806	S 59°00'39"E	77.17'
L1807	N 70°57'57"E	37.28'
L1808	N 41°07'38"E	53.07'
L1809	N 76°17'28"E	47.20'
L1810	S 33°46'24"E	17.13'
L1811	N 54°40'19"E	38.36'
L1812	S 12°48'09"E	34.45'
L1813	S 48°20'05"E	45.96'
L1814	S 51°18'51"E	23.73'
L1815	N 30°06'33"W	63.69'
L1816	S 30°06'33"E	83.64'
L1817	S 39°31'17"W	27.51'
L1818	S 03°14'38"E	51.68'
L1819	S 55°48'48"E	14.15'
L1820	S 19°10'09"E	65.72'
L1821	S 10°58'32"W	48.78'
L1822	S 41°46'15"W	69.15'
L1823	S 28°49'24"W	21.87'
L1824	S 83°18'13"W	21.48'
L1825	S 51°11'00"E	47.80'
L1826	S 22°56'43"E	32.91'
L1827	S 24°58'25"W	27.91'
L1828	S 87°11'38"W	23.53'
L1829	S 67°25'39"W	19.80'
L1830	S 48°59'14"W	36.96'
L1831	S 82°08'10"W	32.39'
L1832	N 77°05'29"W	33.93'
L1833	N 54°43'29"W	31.37'
L1834	N 75°18'03"W	88.49'
L1835	N 30°21'28"W	56.27'
L1836	N 19°46'20"W	36.28'
L1837	N 06°11'21"E	49.07'
L1838	N 20°09'12"W	57.32'
L1839	N 46°03'06"E	191.80'
L1840	N 50°30'39"E	134.62'
L1841	S 80°16'54"E	30.74'
L1842	S 89°22'56"E	31.23'
L1843	N 63°25'46"E	63.11'
L1844	N 81°28'10"W	41.49'
L1845	N 11°19'09"W	37.84'
L1846	N 08°37'32"W	31.88'
L1847	S 86°26'06"E	32.10'
L1848	S 13°42'55"E	33.79'
L1849	S 05°13'13"E	40.05'
L1850	S 50°52'44"W	187.31'
L1851	N 130°13'48"E	269.19'
L1852	S 03°41'20"E	131.41'
L1853	S 19°07'51"E	44.59'
L1854	S 26°21'09"W	53.24'
L1855	S 56°03'11"W	28.43'
L1856	N 42°50'19"W	43.23'
L1857	N 25°38'22"W	77.74'
L1858	N 02°37'59"W	36.17'
L1859	N 72°17'49"E	40.69'
L1860	S 62°42'54"E	40.37'
L1861	S 40°59'39"E	34.54'
L1862	S 50°56'21"E	35.77'
L1863	S 29°11'40"W	34.79'
L1864	N 86°08'21"W	38.91'
L1865	N 06°08'04"E	28.73'
L1866	N 48°56'38"E	33.08'
L1867	S 51°02'01"E	22.36'
L1868	S 45°58'48"W	31.17'
L1869	S 43°09'16"E	56.68'
L1870	S 08°48'10"E	42.54'
L1871	S 09°56'28"W	40.37'
L1872	S 25°30'41"W	46.57'
L1873	S 60°15'12"W	46.79'
L1874	S 79°00'08"W	134.37'
L1875	N 37°05'43"W	102.71'
L1876	N 03°55'56"E	49.08'
L1877	N 15°36'47"E	71.64'
L1878	N 02°44'58"W	44.15'
L1879	N 89°45'45"E	52.11'
L1880	S 71°04'31"E	32.97'
L1881	N 84°16'21"E	31.08'
L1882	N 58°46'55"E	44.24'
L1883	N 70°16'30"E	26.84'
L1884	S 52°05'00"W	43.30'
L1885	N 52°29'27"W	114.23'
L1886	N 37°43'37"W	44.52'
L1887	N 46°50'13"W	33.78'
L1888	S 80°34'38"W	77.91'
L1889	S 52°04'19"W	50.39'
L1890	S 04°22'35"W	47.56'
L1891	S 27°30'19"E	46.14'
L1892	S 04°38'48"W	45.54'
L1893	S 21°59'15"W	34.63'
L1894	S 70°48'12"W	24.36'
L1895	N 52°08'06"W	125.87'
L1896	N 62°12'35"W	51.06'
L1897	N 75°57'20"W	20.46'
L1898	N 48°34'20"W	31.91'
L1899	N 27°02'43"W	47.01'
L1900	N 46°50'31"W	39.13'
L1901	N 63°07'33"W	34.94'
L1902	N 23°01'01"E	39.30'
L1903	N 31°23'43"W	71.87'
L1904	N 14°15'09"E	42.31'
L1905	S 82°41'45"E	125.01'
L1906	N 79°02'56"E	38.47'

Line Table		
Line	Bearing	Distance
L1907	S 86°51'54"E	45.81'
L1908	N 54°25'58"E	42.31'
L1909	S 84°52'47"E	45.63'
L1910	N 39°09'35"E	56.25'
L1911	N 73°12'45"E	38.19'
L1912	S 47°54'51"E	32.98'
L1913	S 75°03'40"E	37.78'
L1914	S 19°18'15"W	42.15'
L1915	S 48°47'33"E	31.03'
L1916	S 60°32'13"E	34.74'
L1917	S 76°05'42"E	35.68'
L1918	S 46°18'50"E	53.91'
L1919	S 13°50'35"E	54.39'
L1920	S 22°28'32"E	82.98'
L1921	S 52°09'00"W	16.87'
L1922	N 74°58'18"W	59.27'
L1923	N 52°06'36"W	42.31'
L1924	N 33°35'08"W	75.12'
L1925	N 64°04'32"W	40.78'
L1926	N 21°57'25"E	23.21'
L1927	N 73°46'07"E	36.19'
L1928	S 49°03'46"E	60.94'
L1929	S 72°04'14"E	46.74'
L1930	N 84°07'19"E	37.60'
L1931	S 26°36'28"E	41.81'
L1932	S 20°34'19"W	36.50'
L1933	S 80°00'43"E	20.98'
L1934	S 86°42'16"W	36.148'
L1935	S 45°58'16"W	59.57'
L1936	S 21°08'22"W	27.90'
L1937	S 40°11'39"W	49.88'
L1938	N 61°24'59"W	30.11'
L1939	N 22°03'57"W	32.52'
L1940	N 50°14'29"W	37.79'
L1941	S 84°29'58"W	30.29'
L1942	S 16°54'24"E	35.87'
L1943	S 54°06'15"W	23.46'
L1944	N 33°03'23"W	39.57'
L1945	N 06°54'11"E	36.68'
L1946	N 52°57'16"E	38.03'
L1947	N 26°06'02"E	47.34'
L1948	N 49°17'32"E	53.71'
L1949	N 02°39'32"E	47.20'
L1950	N 21°00'43"W	86.00'
L1951	N 44°58'28"W	22.32'
L1952	N 86°23'03"W	39.84'
L1953	N 25°33'46"E	75.74'
L1954	N 13°32'28"E	47.88'
L1955	N 01°32'56"W	55.51'
L1956	N 32°24'47"E	77.03'
L1957	S 83°46'10"E	20.43'
L1958	S 62°14'59"E	30.96'
L1959	S 02°57'16"E	35.90'
L1960	S 23°10'53"W	43.69'
L1961	S 75°37'32"W	38.29'
L1962	S 25°09'20"W	38.00'
L1963	S 41°11'35"E	32.50'
L1964	S 25°13'24"E	25.96'
L1965	S 02°01'18"E	46.63'
L1966	S 25°22'03"E	65.93'
L1967	S 34°57'15"E	83.50'
L1968	S 10°07'07"E	59.76'
L1969	S 21°16'32"E	48.84'
L1970	N 76°11'02"W	143.80'
L1971	S 34°32'58"W	105.40'
L1972	S 61°30'54"W	36.65'
L1973	N 79°11'46"W	28.01'
L1974	N 24°57'42"W	39.62'
L1975	N 15°38'52"W	37.51'
L1976	N 00°51'03"W	56.86'
L1977	N 32°46'26"E	47.03'
L1978	N 87°38'54"E	58.52'
L1979	S 82°42'13"E	39.62'
L1980	S 23°30'59"E	38.70'
L1981	S 02°58'12"E	36.28'
L1982	N 09°55'20"W	54.36'
L1983	N 72°13'22"W	19.60'
L1984	S 75°11'36"W	43.23'
L1985	S 39°14'03"W	46.99'
L1986	S 55°46'32"W	51.85'
L1987	S 11°01'18"E	53.85'
L1988	S 27°51'29"W	65.12'
L1989	S 37°49'43"W	35.61'
L1990	S 76°59'35"W	42.78'
L1991	S 08°37'32"W	48.54'
L1992	S 66°29'34"W	38.63'
L1993	N 75°45'21"W	31.60'
L1994	N 63°58'17"W	65.62'
L1995	S 46°30'08"W	29.08'
L1996	N 40°48'10"W	20.92'
L1997	N 07°52'50"E	30.51'
L1998	N 43°18'02"E	44.76'
L1999	N 00°41'20"E	35.42'
L2000	N 11°11'42"W	53.07'
L2001	N 26°46'24"E	107.62'
L2002	N 49°36'19"E	53.99'
L2003	N 79°06'34"E	139.70'
L2004	N 85°34'24"E	92.49'
L2005	S 78°38'49"E	50.08'
L2006	S 18°44'41"E	60.07'
L2007	S 49°42'25"E	22.01'
L2008	S 12°33'22"E	44.45'
L2009	S 28°50'40"E	81.47'
L2010	N 66°41'43"W	62.15'
L2011	S 80°27'13"W	39.06'
L2012	N 19°42'19"W	32.87'
L2013	N 56°40'13"E	26.56'
L2014	N 45°18'48"E	25.59'
L2015	N 38°43'16"E	49.58'
L2016	N 06°14'42"E	38.75'
L2017	N 60°46'19"E	32.10'
L2018	N 50°41'42"E	49.08'
L2019	S 06°37'15"E	33.35'
L2020	S 11°12'21"E	60.60'
L2021	S 40°09'45"W	36.58'
L2022	S 26°43'58"W	45.32'
L2023	S 64°57'28"E	46.37'
L2024	N 78°05'55"W	40.47'
L2025	S 88°27'26"W	29.23'
L2026	N 43°50'40"W	27.24'
L2027	N 45°24'47"E	35.74'
L2028	N 50°41'42"E	49.08'
L2029	S 29°13'25"E	30.10'
L2030	S 17°18'47"E	32.59'
L2031	S 00°16'37"W	26.01'
L2032	S 14°11'09"W	95.40'
L2033	S 87°51'01"W	66.48'
L2034	N 37°14'11"W	45.09'
L2035	N 51°38'54"W	111.06'
L2036	S 68°13'11"W	53.29'
L2037	S 30°37'23"W	135.79'
L2038	S 75°05'04"W	85.72'
L2039	S 52°12'48"W	110.35'
L2040	N 88°11'18"W	52.42'
L2041	N 44°37'38"W	77.22'
L2042	S 00°37'48"W	41.96'
L2043	S 11°19'13"W	67.50'
L2044	S 43°53'17"W	40.81'
L2045	S 67°17'22"W	65.70'
L2046	S 48°18'42"W	67.85'
L2047	S 29°59'40"W	35.28'
L2048	N 60°13'13"W	62.52'
L2049	N 05°01'38"W	63.39'
L2050	N 26°49'46"E	67.16'
L2051	N 61°05'11"E	36.48'

Line Table		
Line	Bearing	Distance
L2052	N 41°07'19"E	45.18'
L2053	N 10°00'48"W	58.45'
L2054	N 69°21'13"W	60.38'
L2055	S 81°51'30"W	46.46'
L2056	S 36°09'38"W	108.55'
L2057	N 86°44'30"W	70.92'
L2058	N 69°57'03"W	48.96'
L2059	N 88°12'53"W	50.69'
L2060	S 67°03'32"W	39.27'
L2061	S 84°08'49"W	55.67'
L2062	N 17°17'37"W	96.54'
L2063	N 24°02'49"W	86.41'
L2064	N 20°38'19"E	31.90'
L2065	N 19°31'51"E	22.24'
L2066	N 36°37'33"E	43.10'
L2067	N 84°27'19"E	52.94'
L2068	N 59°19'17"E	60.84'
L2069	N 37°07'25"E	78.95'
L2070	N 56°41'45"E	55.56'
L2071	N 45°38'31"E	61.38'
L2072	N 76°21'45"E	125.87'
L2073	S 83°00'11"E	65.98'
L2074	N 40°56'11"E	69.85'
L2075	N 07°32'26"E	35.46'
L2076	N 43°49'39"E	51.69'
L2077	N 33°16'11"E	49.02'
L2078	N 52°08'42"E	57.57'
L2079	S 85°52'58"E	67.80'
L2080	N 12°07'31"E	121.33'
L2081	S 73°12'56"E	51.31'
L2082	S 40°34'59"E	44.23'
L2083	S 56°74'48"E	34.51'
L2084	S 11°35'34"E	71.42'
L2085	N 30°33'46"E	66.67'
L2086	S 30°39'36"E	44.15'
L2087	S 44°09'55"E	56.18'
L2088	S 30°03'29"E	34.02'
L2089	S 62°25'32"E	99.30'
L2090	N 47°07'31"E	51.95'
L2091	N 47°59'07"E	123.70'
L2092	S 1°01'36"E	54.76'
L2093	S 1°06'06"E	61.17'
L2094	S 02°06'15"E	148.90'
L2095	S 65°52'56"E	58.95'
L2096	S 58°12'31"E	55.93'
L2097	S 68°28'49"E	72.03'
L2098	N 2°21'16"E	80.31'
L2099	N 14°33'34"W	77.28'
L2100	N 42°35'07"W	101.84'
L2101	N 42°35'07"W	101.84'
L2102	S 1°39'37"E	266.34'
L2103	N 61°34'30"E	542.76'
L2104	S 24°21'31"E	51.15'
L2105	S 77°06'55"E	5.61'
L2106	N 61°34'30"E	542.76'
L2107	N 61°34'30"E	542.76'
L2108	N 1°33'39"E	273.43'



G. Photographic Documentation

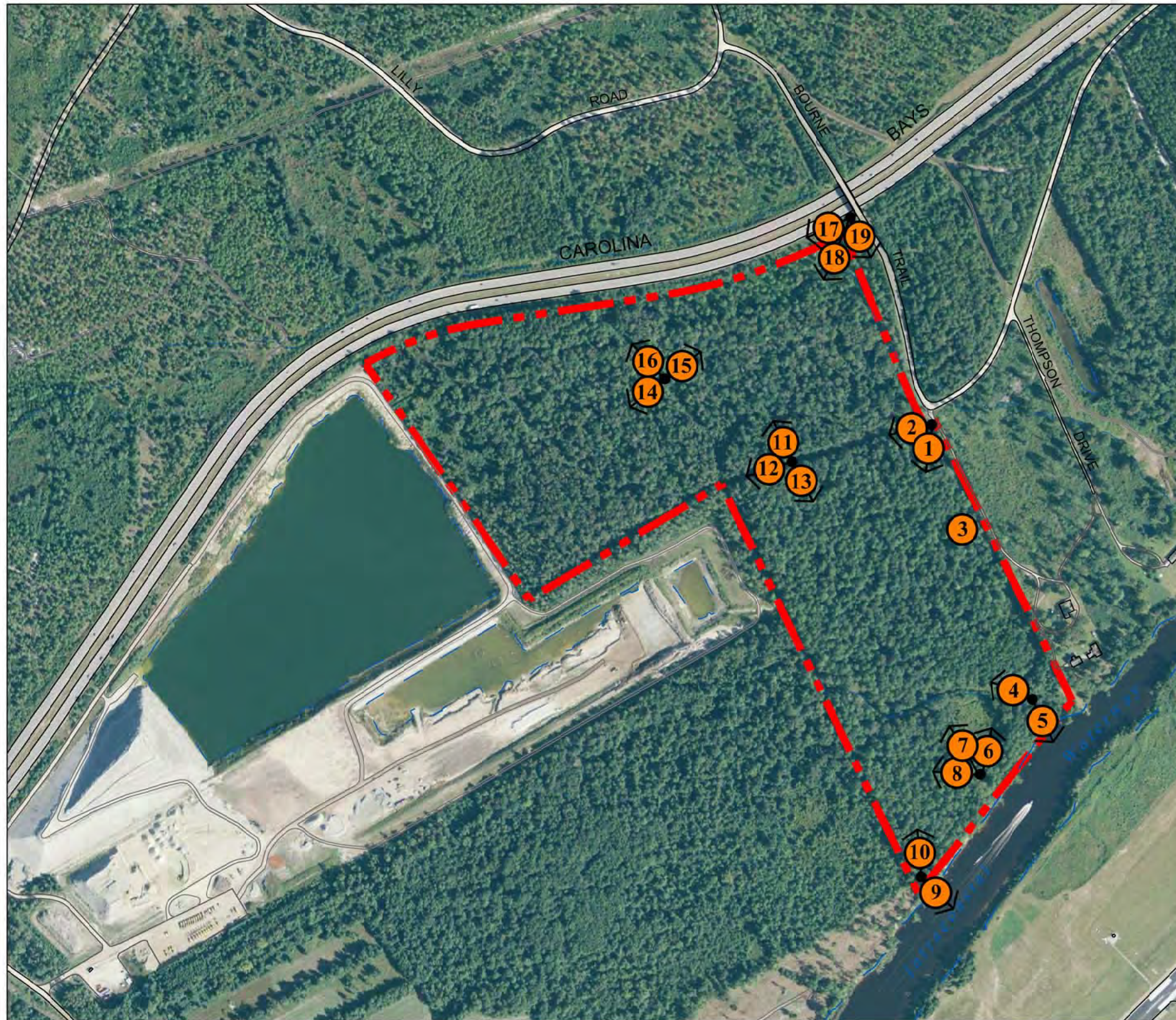


~Carolina Bays Resort
Conservation Area~


Horry County,
South Carolina


~Photographic Documentation~

*Peter Smith,
NALT Conservation Biologist
September 25, 2014*

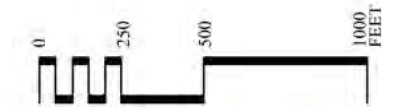
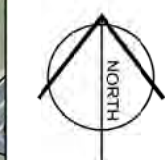


LEGEND:

 Subject Property ~116 acres

 Approximate Direction & Location of Photograph

Photographs taken September 25, 2014 by Peter Smith, NALT Conservation Biologist



CAROLINA BAYS RESORT

HORRY COUNTY, SOUTH CAROLINA

PHOTOGRAPHIC INDEX MAP



Carolina Bay's Resort

PHOTOGRAPHIC DOCUMENTATION

Photographs taken by Peter Smith, NALT Conservation Biologist
September 25, 2014



Photograph # 1



Photograph # 2



Photograph # 3



Photograph # 4



Photograph # 5



Photograph # 6



Photograph # 7



Photograph # 8



Photograph # 9



Photograph # 10



Photograph # 11



Photograph # 12



Photograph # 13



Photograph # 14



Photograph # 15



Photograph # 16



Photograph # 17



Photograph # 18



Photograph # 19



H. Supportive Mapping



~Carolina Bays Resort

Conservation Area~

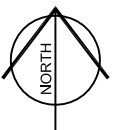
Horry County,
South Carolina

~Supportive Mapping~

1. *Location Map*
2. *Base Map*
3. *Soils Map*
4. *Aerial Photograph*
5. *Concept Plan*



LEGEND



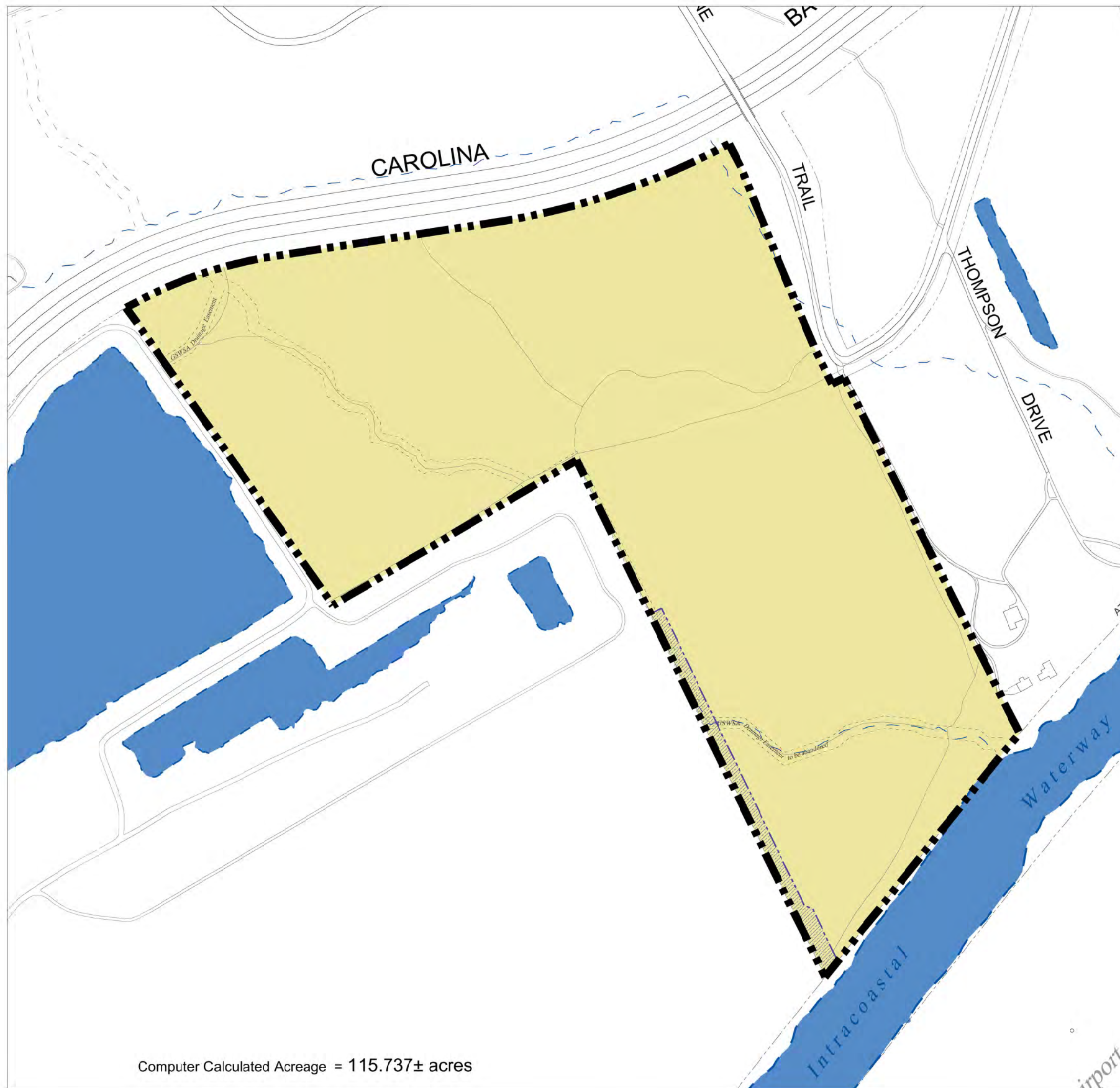
CAROLINA BAYS RESORT

Horry County,
South Carolina

LOCATION MAP



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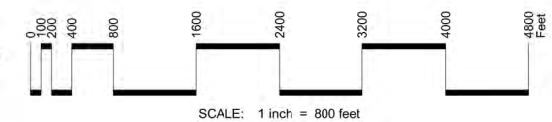
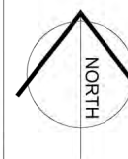


LEGEND:

-  Subject Property - 115.737± acres

NOTES:

1. Property boundaries from Thomas & Hutton; dated 2005.
2. Aerial Photography from Maptech; dated 2013.
3. Topography from Wampee, USGS Quadrangle sheet.
4. Soils information from WebSoil Survey, USDA - NRCS.
5. Floodplain data to be delineated by Surveyor. *



Computer Calculated Acreage = 115.737± acres

CAROLINA BAYS RESORT

HORRY COUNTY, SOUTH CAROLINA

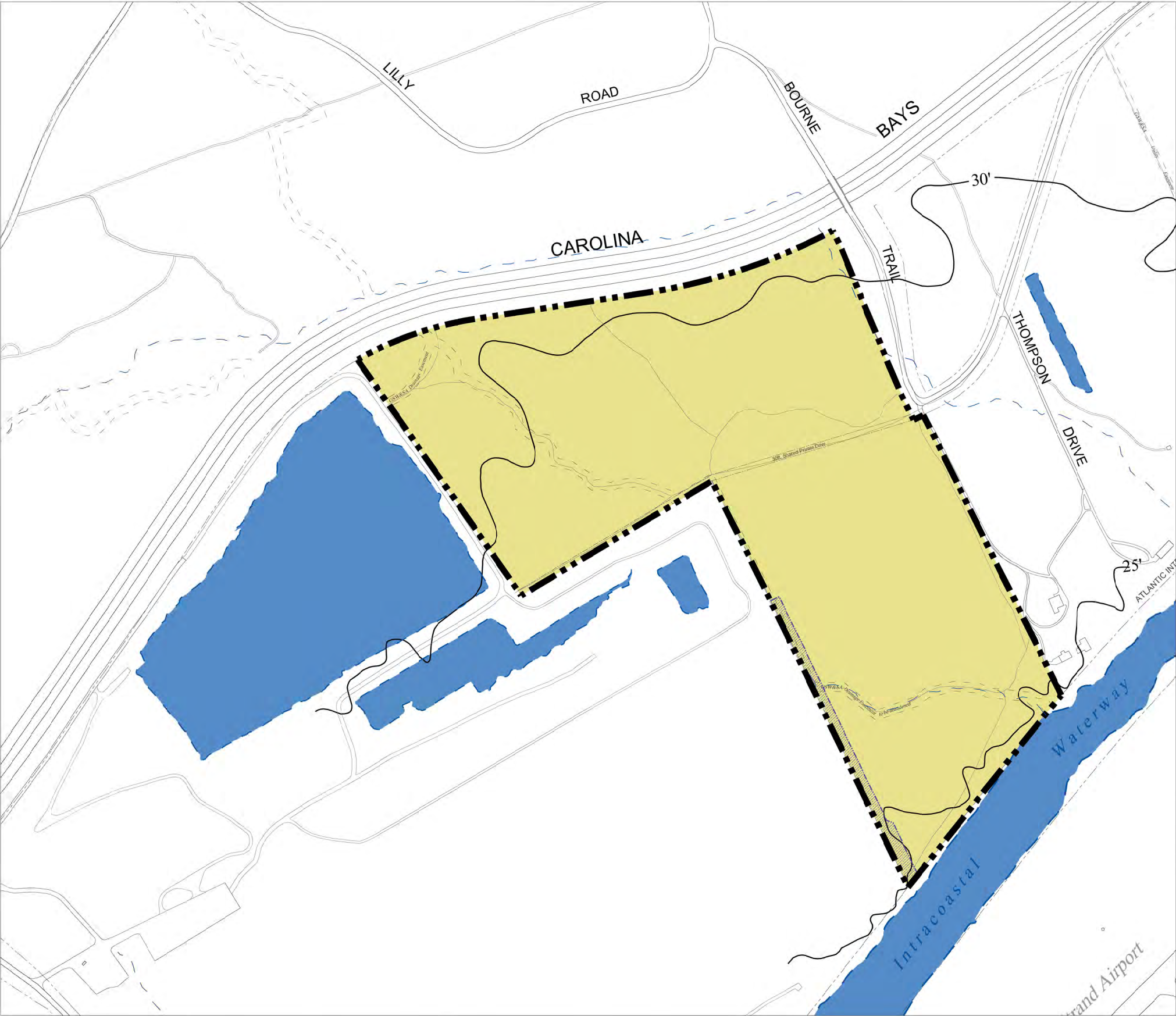
BASE MAP

BASE MAP: 05/2014 .JPG
C. PLAN: 10/15/2014 .JPG
C. P. 2014 .JPG




1500 Hickory Hill Road • P.O. Box 467 • Chadids Ford, Pennsylvania 15317 • phone (610) 388-3670 • fax (610) 388-3673 • www.natl.org

BASE MAP

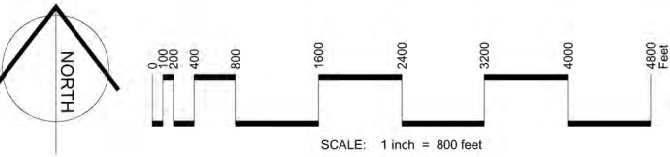


LEGEND:



Subject Property - 115.737± acres

- NOTES:
- 1. Property boundaries from Thomas & Hutton; dated 2005.
 - 2. Aerial Photography from Maptech; dated 2013.
 - 3. Topography from Wampee, USGS Quadrangle sheet.
 - 4. Soils information from WebSoil Survey, USDA - NRCS.
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CAROLINA BAYS RESORT

HORRY COUNTY, SOUTH CAROLINA

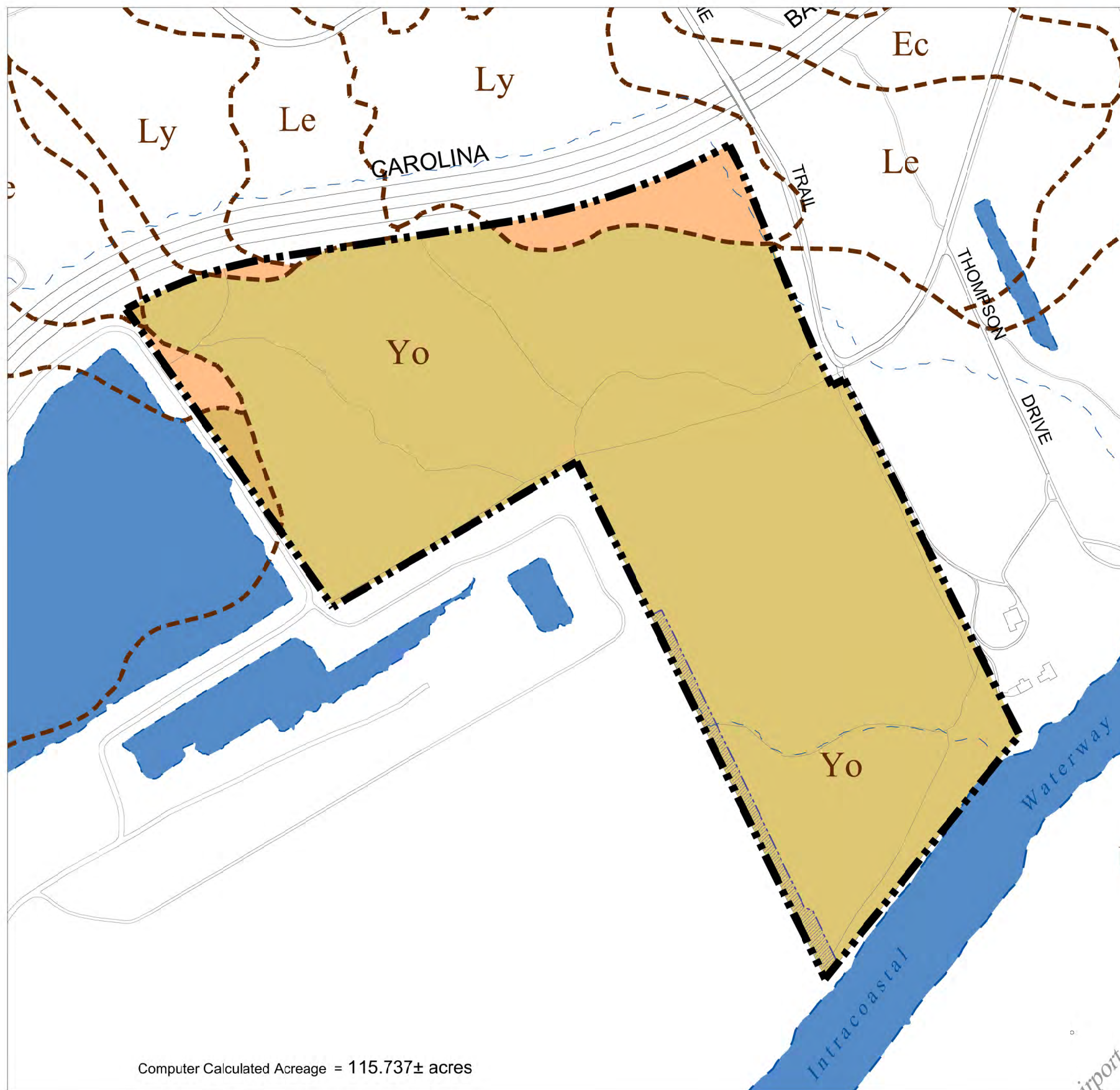
TOPOGRAPHY

BASE MAP: 5-22-20-4 (85)
CP REVISED: 10-21-20-4 (85)
CP REVISED: 11-7-20-4 (85)




North
American
LAND TRUST

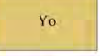
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LEGEND:

 Subject Property - 115.737± acres

SOIL LEGEND:

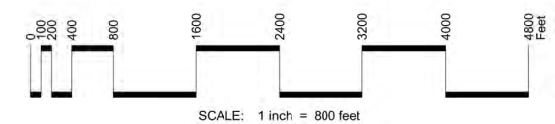
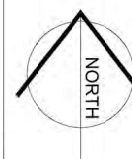
	Le	Leon Fine Sand	^
	Ly	Lynn Haven Sand	^
	Yo	Yonges Fine Sandy Loam	** ^

Soil Notes:

** denotes Farmland of Statewide Importance
^ denotes Hydric Soils

NOTES:

1. Property boundaries from Thomas & Hutton; dated 2005.
2. Aerial Photography from Maptech; dated 2013.
3. Topography from Wampee, USGS Quadrangle sheet.
4. Soils information from WebSoil Survey, USDA - NRCS.
5. Floodplain data to be delineated by Surveyor. *



SCALE: 1 inch = 800 feet

Computer Calculated Acreage = 115.737± acres

CAROLINA BAYS RESORT

HORRY COUNTY, SOUTH CAROLINA

SOILS MAP

BASE MAP: D52,2014 - 185
C. PLAN: 10, 15, 20, 14, 185
C. PLAN: 10, 15, 20, 14, 185



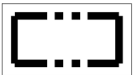
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SOILS MAP



Computer Calculated Acreage = 115.737± acres

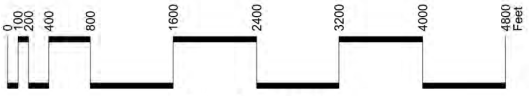
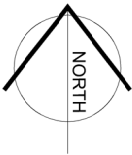
LEGEND:



Subject Property - 115.737± acres

NOTES:

1. Property boundaries from Thomas & Hutton; dated 2005.
2. Aerial Photography from Maptech; dated 2013.
3. Topography from Wampee, USGS Quadrangle sheet.
4. Soils information from WebSoil Survey, USDA - NRCS.
5. Floodplain data to be delineated by Surveyor. *



CAROLINA BAYS RESORT

HORRY COUNTY, SOUTH CAROLINA

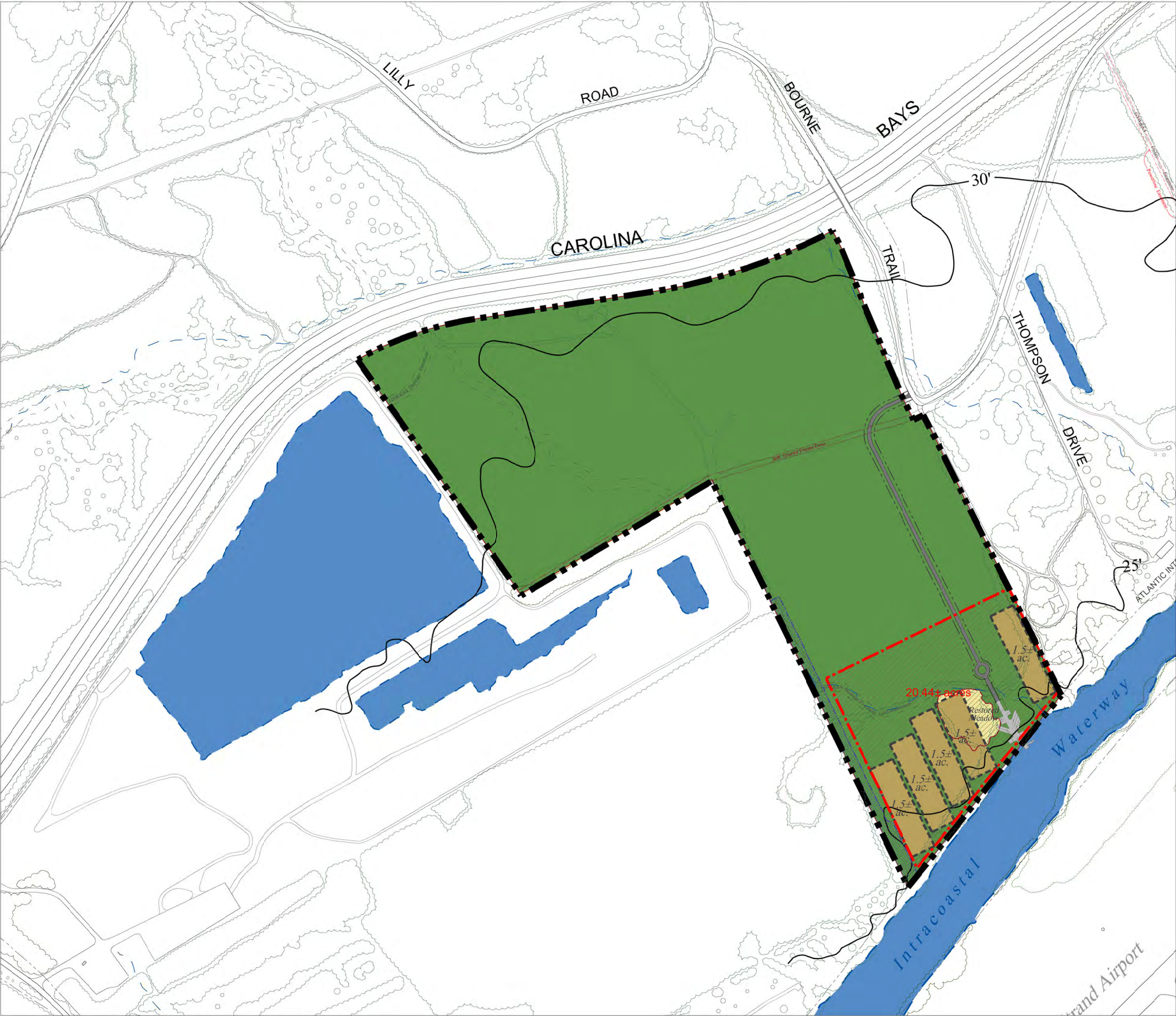
AERIAL PHOTOGRAPH

BASE MAP: 8.22.2014 JBS
C. PLAN: 10.15.2014 JBS
C. P. REV: 11.7.2014 JBS

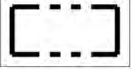


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AERIAL PHOTOGRAPH



LEGEND:

 Subject Property - 115.737± acres

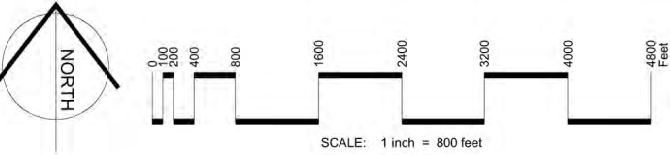
VEGETATION LEGEND:

 Mixed Mesic Hardwood

 Kudzu - invasive

NOTES:

1. Property boundaries from Thomas & Hutton; dated 2005.
2. Aerial Photography from Maptech; dated 2013.
3. Topography from Wampee, USGS Quadrangle sheet.
4. Soils information from WebSoil Survey, USDA - NRCS.
5. Floodplain data to be delineated by Surveyor. *



CAROLINA BAYS RESORT

HORRY COUNTY, SOUTH CAROLINA

CONCEPT PLAN

BASE MAP: 8-22-20-4-185
CP REVISED: 10-21-20-4-185
CP REVISED: 11-7-20-4-185



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