



REPLY TO  
ATTENTION OF:

**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT  
600 VESTAVIA PARKWAY, SUITE 203  
THE SHELBY BUILDING  
VESTAVIA HILLS, AL 35216

May 12, 2025

North Branch  
Regulatory Division

SUBJECT: Department of the Army Preliminary Jurisdictional Determination and Approved Jurisdictional Determination, File Number SAM-2023-00870-SNR, Golden Triangle Development Link - Cinco Mega Site (Parcel 1, Parcel 2, and Rail), Lowndes County, Mississippi

Golden Triangle Development Link  
Attention: Mr. Joe Max Higgins, Jr.  
1102 Main Street  
Columbus, Mississippi 39701

Transmitted electronically to [jhiggins@gtlink.org](mailto:jhiggins@gtlink.org)

Dear Mr. Higgins,

This is in response to your request, submitted on your behalf by your agent, Headwaters, Inc., for a Department of the Army (DA) Preliminary Jurisdictional Determination (PJD) and an Approved Jurisdictional Determination (AJD) concerning a 1,512.16-acre parcel of land in Columbus, Lowndes County, Mississippi. The project has been assigned number **SAM-2023-00870-SNR**, which should be referred to in all future correspondence with this office. Specifically, the project is within Sections 23, 24, 25, and 26, Township 19 North, Ranges 16 and 17 East; and is centered near Latitude 33.489529° North, Longitude 88.587232° as depicted on the attached figures.

Based on information obtained during our site visit on March 12, 2025, our review of the information and wetland determination data forms you furnished, and other desktop information available to our office, we have completed one (1) Approved JD (AJD) for this site. Attached is one (1) AJD Memorandum for Record (MFR) that describe the features identified on the site that are not subject to the jurisdiction of the U.S. Army Corps of Engineers (USACE). Please be advised that this determination reflects current policy and regulation.

The features identified as 'W-3, W-4, W-5, W-6, W-8, W-9, W-10, P-1, P-2, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, P-12, P-13, P-14, P-16, P-17, P-18, P-19, P-20, P-21, P-22, P-23, P-24, P-25, RP-1, RP-2, S-2, S-3, S-4, S-5, S-7, S-10, S-11, S-12, S-13, S-15, S-16, S-19, S-20, S-21, S-22, S-24, S-25, S-26, S-27, S-28, S-29, S-32, S-33, S-34, S-35, S-37, S-38, S-42, S-43, S-44, S-45, S-47, S-48, S-49, S-51, S-55, and S-59', as depicted on the attached exhibits, are not waters of the United States and therefore are not subject to DA jurisdiction. The attached MFR #1 further describes these areas.

Please be advised this AJD MFR is based on current policy and regulation and are valid for a period of five (5) years from the date of this letter. If after the 5-year period these jurisdictional determinations have not been specifically revalidated by the USACE, they shall automatically expire. If the information you have submitted, and on which the USACE has based its determinations is later found to be in error, these decisions may be revoked.

Also attached to this letter is a Preliminary Jurisdictional Determination (PJD) form for the other wetlands, ponds, and tributaries identified on the project site (W-1, W-2, W-7, W-11, W-12, P-3, S-1A, S-1, S-6, S-8, S-9, S-14, S-18, S-23, S-30, S-36, S-39, S-50, S-52, S-53, S-54, S-56, S-57, and S-58). The PJD treats the waters of the U.S. on the site as jurisdictional for the purposes of determining impacts and mitigation requirements. The PJD is a non-binding action and shall remain in effect unless new information or a request for an approved jurisdictional determination supporting a revision is provided to this office. Please note that since this jurisdictional determination is preliminary, it is subject to change and therefore is not an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331.

Your delineation site was reviewed pursuant to Section 404 of the Clean Water Act. Section 404 of the Clean Water Act requires that a DA permit be obtained for the placement or discharge of dredged and/or fill material into waters of the U.S., including streams and wetlands, prior to conducting the work (33 U.S.C. 1344). For regulatory purposes, the USACE defines wetlands as those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. If future work proposed at this site includes a discharge or placement of dredged and/or fill material into waters of the U.S., a DA permit is required prior to initiating work.

This letter contains an AJD MFR. If you object to these determinations, you may request an administrative appeal under USACE regulations at 33 CFR Part 331. Attached you will find a Notification of Administrative Appeal (NAP) Options and Process and Request for Appeal (RFA) form. If you request to appeal these determinations, you must submit a completed RFA to the USACE, South Atlantic Division Office at the following mailing address and e-mail address: Jonathan Swartz, Acting Regulatory Review Officer, 60 Forsyth Street Southwest, Floor M9, Atlanta, Georgia 30303; [jonathan.m.swartz@usace.army.mil](mailto:jonathan.m.swartz@usace.army.mil).

In order for an RFA to be accepted, the USACE must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

The statements contained herein do not convey any property rights, or any exclusive privileges and do not authorize any injury to property or obviate the requirements to obtain other local, State or Federal approvals required by law. Nothing in this letter shall be

construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations which may affect this work.

The delineation included herein has been conducted to identify the location and extent of the aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of an NRCS Certified Wetland Determination with the local USDA service center, prior to starting work.

If you intend to sell property that is part of a project that requires DA authorization, it may be subject to the Interstate Land Sales Full Disclosure Act. The Property Report, required by Housing and Urban Development Regulation, must state whether or not a permit for the development has been applied for, issued, or denied by the USACE (Part 320.3(h) of Title 33 of the Code of Federal Regulations).

An electronic copy of this letter is being provided to your agent, Cullen Dendy and Dillon Easley with Headwaters, Inc., at [cullen@headwaters-inc.com](mailto:cullen@headwaters-inc.com) and [dillon@headwaters-inc.com](mailto:dillon@headwaters-inc.com).

We appreciate your cooperation with the Corps of Engineers' Regulatory Program. Please refer to file number **SAM-2023-00870-SNR** in all future correspondence regarding this site or if you have any questions concerning this determination.

Please contact me by telephone at (205) 792-7480, or by e-mail at [samantha.n.rhoades@usace.army.mil](mailto:samantha.n.rhoades@usace.army.mil) should you have any questions. For additional information about our Regulatory Program, please visit our web site at [www.sam.usace.army.mil/Missions/Regulatory.aspx](http://www.sam.usace.army.mil/Missions/Regulatory.aspx). Also, please take a moment to complete our customer satisfaction survey located under the menu header on the right side of the webpage. Your responses will help us improve our services.

Sincerely,

Samantha Rhoades  
Project Manager  
North Branch  
Regulatory Division

Attachments

## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Golden Triangle Development Link		File Number: SAM-2023-00870-SNR	Date: May 12, 2025
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 WITHOUT PREJUDICE	C	
	PERMIT DENIAL WITH PREJUDICE	D	
X	APPROVED JURISDICTIONAL DETERMINATION	E	
X	PRELIMINARY JURISDICTIONAL DETERMINATION	F	

### SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> 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. 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 WITHOUT PREJUDICE: Not appealable**

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

**D: PERMIT DENIAL WITH PREJUDICE: You may appeal the 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.

**E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration**

- **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. This form must be received by the division engineer within 60 days of the date of this notice.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

**F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable**

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.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

<p>If you have questions regarding this decision you may contact:</p> <p>Samantha Rhoades  Project Manager, North Branch  600 Vestavia Parkway, Suite 203  The Shelby Building  Vestavia Hills, Alabama 35216  Samantha.n.rhoades@usace.army.mil</p>	<p>If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:</p> <p>Jonathan M. Swartz  Acting Regulatory Review Officer  South Atlantic Division  60 Forsyth St SW, Floor M9  Atlanta, Georgia 30303-8803  Jonathan.m.swartz@usace.army.mil  803-260-5536</p>
--	---

## **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. Use additional pages as necessary. 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.

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.

<div data-bbox="99 197 657 245" data-label="Text"> <p>_____ Signature of appellant or agent.</p> </div>	<div data-bbox="813 92 906 130" data-label="Text"> <p>Date:</p> </div>
<div data-bbox="99 262 685 306" data-label="Text"> <p>Email address of appellant and/or agent:</p> </div>	<div data-bbox="813 262 1105 306" data-label="Text"> <p>Telephone number:</p> </div>



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT  
600 VESTAVIA PARKWAY, SUITE 203  
VESTAVIA HILLS, ALABAMA 35216

CESAM-RD-N

12 May 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime  
Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322  
(2023),<sup>1</sup> SAM-2023-00870-SNR; MFR #1 of #1<sup>2</sup>

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.<sup>3</sup> AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.<sup>4</sup> For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>5</sup> the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court’s decision in *Sackett*. This AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as

---

<sup>1</sup> While the Supreme Court’s decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

<sup>2</sup> When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, interstate water, or territorial seas that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

<sup>3</sup> 33 CFR 331.2.

<sup>4</sup> Regulatory Guidance Letter 05-02.

<sup>5</sup> USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

CESAM-RD-N

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), SAM-2023-00870-SNR

amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in Mississippi due to litigation.

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

Aquatic Resource	Cowardin Class	Latitude	Longitude	LF	Ac	Geographic Authority	Type
W-3	PFO	33.493624	-88.580313	n/a	0.156	Non-Jurisdictional	Non-WOTUS Wetland
W-4	PFO	33.484885	-88.578771	n/a	2.48	Non-Jurisdictional	Non-WOTUS Wetland
W-5	PFO	33.482904	-88.585441	n/a	0.35	Non-Jurisdictional	Non-WOTUS Wetland
W-6	PEM	33.501464	-88.580422	n/a	0.16	Non-Jurisdictional	Non-WOTUS Wetland
W-8	PFO	33.492548	-88.620010	n/a	0.06	Non-Jurisdictional	Non-WOTUS Wetland
W-9	PFO	33.492827	-88.620830	n/a	0.30	Non-Jurisdictional	Non-WOTUS Wetland
W-10	PFO	33.493017	-88.621233	n/a	0.14	Non-Jurisdictional	Non-WOTUS Wetland
P-1	PUBHh	33.489443	-88.595647	n/a	4.73	Non-Jurisdictional	Isolated Water
P-2	PUBHh	33.490689	-88.597881	n/a	0.20	Non-Jurisdictional	Preamble
P-4	PUBHh	33.490569	-88.591912	n/a	0.07	Non-Jurisdictional	Isolated Water
P-5	PUBHh	33.492126	-88.584352	n/a	1.02	Non-Jurisdictional	Isolated Water
P-6	PUBHh	33.493195	-88.584252	n/a	0.24	Non-Jurisdictional	Preamble
P-7	PUBHh	33.491954	-88.582831	n/a	6.70	Non-Jurisdictional	Isolated Water
P-8	PUBHh	33.495166	-88.582248	n/a	37.20	Non-Jurisdictional	Isolated Water
P-9	PUBHh	33.491942	-88.577831	n/a	1.36	Non-Jurisdictional	Isolated Water
P-10	PUBHh	33.495223	-88.57823	n/a	0.41	Non-Jurisdictional	Preamble
P-11	PUBHh	33.495641	-88.57386	n/a	0.90	Non-Jurisdictional	Preamble
P-12	PUBHh	33.493469	-88.570457	n/a	0.09	Non-Jurisdictional	Preamble
P-13	PUBHh	33.485491	-88.578414	n/a	1.11	Non-Jurisdictional	Isolated Water
P-14	PUBHh	33.485698	-88.584309	n/a	0.94	Non-Jurisdictional	Isolated Water
P-16	PUBHh	33.499089	-88.57774	n/a	0.76	Non-Jurisdictional	Preamble
P-17	PUBHh	33.501753	-88.579007	n/a	0.69	Non-Jurisdictional	Preamble
P-18	PUBHh	33.503836	-88.580254	n/a	1.13	Non-Jurisdictional	Preamble
P-19	PUBHh	33.502635	-88.575764	n/a	0.39	Non-Jurisdictional	Preamble
P-20	PUBHh	33.503663	-88.572674	n/a	0.25	Non-Jurisdictional	Preamble
P-21	PUBHh	33.500856	-88.5702	n/a	0.23	Non-Jurisdictional	Preamble

CESAM-RD-N

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), SAM-2023-00870-SNR

P-22	PUBHh	33.49654	-88.572017	n/a	0.24	Non-Jurisdictional	Isolated Water
P-23	PUBHh	33.492667	-88.611504	n/a	2.44	Non-Jurisdictional	Preamble
P-24	PUBHh	33.493001	-88.614247	n/a	2.35	Non-Jurisdictional	Preamble
P-25	PUBHh	33.493062	-88.627369	n/a	0.18	Non-Jurisdictional	Isolated Water
RP-1	PUBHh	33.491786	-88.581031	n/a	0.20	Non-Jurisdictional	Preamble
RP-2	PUBHh	33.487862	-88.582662	n/a	0.26	Non-Jurisdictional	Isolated Water
S-2	R6	33.482987	-88.600435	1207.32	0.08	Non-Jurisdictional	Non-WOTUS Trib
S-3	R6	33.484426	-88.598395	1019.33	0.05	Non-Jurisdictional	Non-WOTUS Trib
S-4	R6	33.482419	-88.597922	699.02	0.05	Non-Jurisdictional	Non-WOTUS Trib
S-5	R6	33.482441	-88.594846	370.75	0.02	Non-Jurisdictional	Non-WOTUS Trib
S-7	R6	33.491906	-88.59492	2329.00	0.11	Non-Jurisdictional	Non-WOTUS Trib
S-10	R6	33.490412	-88.586751	392.01	0.02	Non-Jurisdictional	Non-WOTUS Trib
S-11	R6	33.490321	-88.587278	414.45	0.02	Non-Jurisdictional	Non-WOTUS Trib
S-12	R6	33.49074	-88.58846	668.80	0.05	Non-Jurisdictional	Non-WOTUS Trib
S-13	R6	33.491549	-88.589085	237.34	0.01	Non-Jurisdictional	Non-WOTUS Trib
S-15	R6	33.493039	-88.589704	177.84	0.004	Non-Jurisdictional	Non-WOTUS Trib
S-16	R6	33.494708	-88.59104	656.63	0.03	Non-Jurisdictional	Non-WOTUS Trib
S-19	R6	33.495334	-88.583854	694.26	0.03	Non-Jurisdictional	Non-WOTUS Trib
S-20	R6	33.492603	-88.57801	210.35	0.005	Non-Jurisdictional	Non-WOTUS Trib
S-21	R6	33.492937	-88.579006	594.44	0.04	Non-Jurisdictional	Non-WOTUS Trib
S-22	R6	33.496034	-88.573287	497.00	0.03	Non-Jurisdictional	Non-WOTUS Non-Trib
S-24	R6	33.493607	-88.568493	1075.97	0.05	Non-Jurisdictional	Non-WOTUS Trib
S-25	R6	33.486904	-88.57789	986.95	0.02	Non-Jurisdictional	Non-WOTUS Trib
S-26	R6	33.485346	-88.579013	247.24	0.01	Non-Jurisdictional	Non-WOTUS Trib
S-27	R6	33.485109	-88.578547	70.21	0.003	Non-Jurisdictional	Non-WOTUS Trib
S-28	R6	33.483047	-88.579521	1221.55	0.08	Non-Jurisdictional	Non-WOTUS Trib
S-29	R6	33.485303	-88.585684	1787.11	0.08	Non-Jurisdictional	Non-WOTUS Non-Trib
S-32	R6	33.497669	-88.579432	235.07	0.01	Non-Jurisdictional	Non-WOTUS Trib
S-33	R6	33.498745	-88.579296	334.23	0.01	Non-Jurisdictional	Non-WOTUS Trib
S-34	R6	33.502065	-88.582354	1172.59	0.08	Non-Jurisdictional	Non-WOTUS Trib
S-35	R6	33.505786	-88.581892	978.97	0.07	Non-Jurisdictional	Non-WOTUS Trib
S-37	R6	33.506918	-88.581472	691.95	0.08	Non-Jurisdictional	Non-WOTUS Trib
S-38	R6	33.504864	-88.574892	447.19	0.02	Non-Jurisdictional	Non-WOTUS Trib
S-42	R6	33.496826	-88.570412	481.34	0.03	Non-Jurisdictional	Non-WOTUS Trib
S-43	R6	33.497208	-88.571057	166.46	0.003	Non-Jurisdictional	Non-WOTUS Trib
S-44	R6	33.497065	-88.570607	347.40	0.02	Non-Jurisdictional	Non-WOTUS Trib
S-45	R6	33.497522	-88.570178	693.32	0.05	Non-Jurisdictional	Non-WOTUS Trib
S-47	R6	33.501018	-88.57956	551.03	0.01	Non-Jurisdictional	Non-WOTUS Non-Trib
S-48	R6	33.502797	-88.58367	158.80	0.01	Non-Jurisdictional	Non-WOTUS Trib
S-49	R6	33.491482	-88.602684	75.79	0.003	Non-Jurisdictional	Non-WOTUS Non-Trib

CESAM-RD-N

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), SAM-2023-00870-SNR

S-51	R6	33.492749	-88.618744	175.11	0.01	Non-Jurisdictional	Non-WOTUS Non-Trib
S-55	R6	33.493205	-88.621006	32.38	0.001	Non-Jurisdictional	Non-WOTUS Trib
S-59	R6	33.493128	-88.631552	92.20	0.002	Non-Jurisdictional	Non-WOTUS Trib

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- e. 2003 SWANCC guidance

3. REVIEW AREA. The review are is limited to features 'W-3, W-4, W-5, W-6, W-8, W-9, W-10, P-1, P-2, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, P-12, P-13, P-14, P-16, P-17, P-18, P-19, P-20, P-21, P-22, P-23, P-24, P-25, RP-1, RP-2, S-2, S-3, S-4, S-5, S-7, S-10, S-11, S-12, S-13, S-15, S-16, S-19, S-20, S-21, S-22, S-24, S-25, S-26, S-27, S-28, S-29, S-32, S-33, S-34, S-35, S-37, S-38, S-42, S-43, S-44, S-45, S-47, S-48, S-49, S-51, S-55, and S-59', which are part of a 1,512.16-acre parcel located in Lowndes County, Mississippi. The center of each review area can be found within the table located above in Section 1(a) of this document. The attached figures depict the 1,512.16-acre parcel and the review areas within that parcel. A preliminary determination (PJD) will be prepared for other aquatic resources (W-1, W-2, W-7, W-11, W-12, P-3, S-1A, S-1, S-6, S-8, S-9, S-14, S-18, S-23, S-30, S-36, S-39, S-50, S-52, S-53, S-54, S-56, S-57, and S-58) on the 1,512.16-acre parcel and these resources will not be evaluated as part of this AJD.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest TNW is Tibbee Creek. Tibbee Creek is on the Mobile District's State of Mississippi Section 10 waterway list.<sup>6</sup>

<sup>6</sup> This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) is completed independently of a request for an AJD. A stand-alone TNW determination is

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS

**W-3** is a non-jurisdictional wetland that abuts the southeastern side of pond, P-8; P-8 then flows into S-19, a non-relatively permanent water (non-RPW); S-19 flows in a northern direction within the property boundaries for approximately 694.26 linear feet before converging with a tributary that flows northwest for approximately 1.36 miles before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**W-4** is a non-jurisdictional wetland that flows south through S-28, a non-RPW, for approximately 1,221.55 linear of feet within the property boundary before exiting the property boundary and continuing south, within culverts beneath Highway 82, for approximately 1.1 miles before converging with Motley Slough; Motley Slough then flows in a southeastern direction for approximately 9.48 miles before converging with Gilmer Creek; Gilmer Creek then flows in a southeastern direction for approximately 5.71 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**W-5** is a non-jurisdictional wetland that does not have a flow path to a TNW, interstate water or territorial seas. W-5 is a depressional wetland that would only flow to downstream waters via overland flow during extreme precipitation events.

**W-6** is a non-jurisdictional wetland that flows northwest through a culvert and through S-34, a non-RPW, for approximately 1,172.59 linear feet within the property boundary before exiting the property and converging with another tributary that continues flowing northwest for approximately 0.62 mile before converging with another tributary; that tributary then flows for approximately 0.67 mile before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**W-8** is a non-jurisdictional wetland that does not have a flow path to a TNW, interstate water or territorial seas. W-8 is a depressional wetland that is surrounded by uplands and would only flow to downstream waters via overland flow during extreme precipitation events.

**W-9** is a non-jurisdictional wetland that does not have a flow path to a TNW, interstate water or territorial seas. W-9 is a depressional wetland that is surrounded

---

conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established.



by uplands and would only flow to downstream waters via overland flow during extreme precipitation events.

**W-10** is a non-jurisdictional wetland that flows into S-55, a non-RPW, for approximately 32.38 linear feet before exiting the property boundary and continuing northeast for approximately 0.02 mile before converging with another tributary that flows in a northern direction for approximately 0.15 mile and converges with Catalpa Creek; Catalpa Creek then flows northeast for approximately 6.06 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**P-1** is a non-jurisdictional pond located in the west-central section of the property boundary. P-1 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-2** is a non-jurisdictional pond located in the west-central section of the property boundary. P-2 was dug in uplands for stock watering and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-4** is a non-jurisdictional pond located in the west-central section of the property boundary and flows northwest through S-7, a non-RPW, for approximately 2,329 linear feet before converging with S-8; S-8 flows northeast for approximately 0.24 miles before meeting with W-2; W-2 then flows into S-9; S-9 continues flowing northwest for approximately 0.05 miles into P-3; P-3 flows northwest for approximately 0.98 miles into Catalpa Creek; Catalpa Creek then flows for approximately 4.2 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**P-5** is a non-jurisdictional pond located in the central section of the property boundary. P-5 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-6** is a non-jurisdictional pond located in the central section of the property boundary. P-6 was dug in uplands for stock watering and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-7** is a non-jurisdictional pond located in the central section of the property boundary. P-7 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-8** is a non-jurisdictional pond located in the central section of the property boundary and flows into S-19, a non-RPW, that flows from the southwest corner of the pond and then in a northern direction within the property boundaries for

approximately 694.26 linear feet before converging with a tributary that flows northwest for approximately 1.36 miles before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**P-9** is a non-jurisdictional pond located in the east-central section of the property boundary; P-9 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-10** is a non-jurisdictional pond located in the east-central section of the property boundary. P-10 was dug in uplands for stock watering and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-11** is a non-jurisdictional pond located in the east-central section of the property boundary and flows northeast into S-22, a non-RPW, for approximately 497 linear feet before converging with P-22, a non-jurisdictional pond; P-22 does not have any outlet; therefore, P-11 does not have a flow path to a TNW, interstate water or territorial seas.

**P-12** is a non-jurisdictional pond located in the eastern section of the property boundary. P-12 was dug in uplands for stock watering and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-13** is a non-jurisdictional pond located in the southeastern section of the property boundaries and flows southwest into S-27, a non-RPW, that flows for approximately 70.21 linear feet into W-4; W-4 then flows into S-28, a non-RPW, that flows approximately 1,221.55 linear feet within the property boundary before exiting the property and continuing south, within culverts beneath Highway 82, for approximately 1.1 miles before converging with Motley Slough; Motley Slough then flows in a southeastern direction for approximately 9.48 miles before converging with Gilmer Creek; Gilmer Creek then flows in a southeastern direction for approximately 5.71 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**P-14** is a non-jurisdictional pond that is located in the southern section of the property boundary. P-14 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-16** is a non-jurisdictional pond that is located in the central section of the property boundary. P-16 was dug in uplands for stock watering and does not have any

outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-17** is a non-jurisdictional pond that is located in the central section of the property boundary. P-17 was dug in uplands for stock watering and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-18** is a non-jurisdictional pond that is located in the northern section of the property boundary. P-18 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-19** is a non-jurisdictional pond that is located in the northern section of the property boundary. P-19 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-20** is a non-jurisdictional pond that is located in the northern section of the property boundary. P-20 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-21** is a non-jurisdictional pond that is located in the northeastern section of the property boundary. P-21 was dug in uplands for stock watering and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-22** is a non-jurisdictional pond that is located in the east-central section of the property boundary. P-22 receives flow from S-22, a non-RPW, and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-23** is a non-jurisdictional pond that is located in the west-central section of the property boundary. P-23 was dug in uplands for catfish farming and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-24** is a non-jurisdictional pond that is located in the west-central section of the property boundary. P-24 was dug in uplands for catfish farming and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**P-25** is a non-jurisdictional pond that is located in the western section of the property boundary. P-25 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**RP-1** is a non-jurisdictional pond that is located in the east-central section of the property boundary. RP-1 was dug in uplands for stock watering and does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**RP-2** is a non-jurisdictional pond that is located in the southeastern section of the property boundary. RP-2 does not have any outflow; therefore, does not have a flow path to a TNW, interstate water or territorial seas.

**S-2** is a non-RPW that flows north within the property boundary for approximately 1,207.32 linear feet before converging with S-1A; S-1A flows northwest within the property boundary for approximately 0.12 mile before exiting the property boundary; the tributary continues flowing northwest for approximately 1.62 miles before converging with Catalpa Creek; Catalpa Creek then flows northeast for approximately 4.65 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-3** is a non-RPW that flows southwest within the property boundary for approximately 1,019.33 linear feet before converging with S-1A; S-1A flows northwest within the property boundary for approximately 0.12 mile before exiting the property boundary; the tributary continues flowing northwest for approximately 1.62 miles before converging with Catalpa Creek; Catalpa Creek then flows northeast for approximately 4.65 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-4** is a non-RPW that flows north within the property boundary for approximately 699.02 linear feet before converging with S-1A; S-1A flows northwest within the property boundary for approximately 0.34 mile before exiting the property boundary; the tributary continues flowing northwest for approximately 1.62 miles before converging with Catalpa Creek; Catalpa Creek then flows northeast for approximately 4.65 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-5** is a non-RPW that flows southwest within the property boundary for approximately 370.75 linear feet before converging with S-1A; S-1A flows northwest within the property boundary for approximately 0.56 mile before exiting the property boundary; the tributary continues flowing northwest for approximately 1.62 miles before converging with Catalpa Creek; Catalpa Creek then flows northeast for

approximately 4.65 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-7** is a non-RPW that flows northwest within the property boundary for approximately 2,329 linear feet before converging with S-8; S-8 flows northeast for approximately 0.24 mile before meeting with W-2; W-2 then flows into S-9; S-9 flows northwest for approximately 0.05 mile into P-3; P-3 flows northeast into a tributary and that tributary continues flowing for approximately 0.98 mile into Catalpa Creek; Catalpa Creek then flows for approximately 4.2 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-10** is a non-RPW that flows northwest within the property boundary for approximately 392.01 linear feet before converging with S-14; S-14 continues flowing northwest for approximately 0.42 mile before exiting the property boundary, then continues flowing approximately 1.87 miles before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-11** is a non-RPW that flows northwest within the property boundary for approximately 414.45 linear feet before converging with S-14; S-14 continues flowing northwest for approximately 0.42 mile before exiting the property boundary, then continues flowing approximately 1.87 miles before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-12** is a non-RPW that flows north within the property boundary for approximately 668.80 linear feet before converging with S-14; S-14 continues flowing northwest for approximately 0.34 mile before exiting the property boundary, then continues flowing approximately 1.87 miles before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-13** is a non-RPW that flows northeast within the property boundary for approximately 237.34 linear feet before converging with S-14; S-14 continues flowing northwest for approximately 0.3 mile before exiting the property boundary, then continues flowing approximately 1.87 miles before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-15** is a non-RPW that flows northeast within the property boundary for approximately 177.84 linear feet before converging with S-14; S-14 continues flowing northwest for approximately 0.19 mile before exiting the property boundary,

then continues flowing approximately 1.87 miles before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-16** is a non-RPW that flows northeast within the property boundary for approximately 656.63 linear feet before converging with S-14; S-14 continues flowing northwest for approximately 0.06 mile before exiting the property boundary, then continues flowing approximately 1.87 miles before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-19** is a non-RPW that flows north from the southwest corner of P-8, within the property boundary, for approximately 694.26 linear feet before exiting the property and converging with a tributary that flows northwest for approximately 0.64 mile before converging with another tributary that flows northwest for approximately 0.8 miles to Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-20** is a non-RPW that flows west within the property boundary for approximately 210.35 linear feet before converging with S-21, a non-RPW; S-21 flows northwest for approximately 594.44 linear feet into W-3; W-3 abuts P-8; P-8 flows through S-19 for approximately 694.26 linear feet before exiting the property and converging with a tributary that flows northwest for approximately 0.64 mile before converging with another tributary that flows northwest for approximately 0.8 mile to Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-21** is a non-RPW that flows northwest within the property boundary for approximately 594.44 linear feet into W-3; W-3 abuts P-8; P-8 flows through S-19 for approximately 694.26 linear feet before exiting the property and converging with a tributary that flows northwest for approximately 0.64 mile before converging with another tributary that flows northwest for approximately 0.8 mile to Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-22** is a non-RPW that flows northeast within the property boundary for approximately 497 linear feet; S-22 flows from P-11 and into P-22; P-22 does not have any outflow; therefore, S-22 does not have a flowpath to a TNW, interstate water or territorial seas.

**S-24** is a non-RPW that flows northeast within the property boundary for approximately 1,075.96 linear feet before exiting the property boundary and

converging with S-23; S-23 then flows southeast for approximately 2.57 miles before converging with Mayo Slough; Mayo Slough continues flowing southeast for approximately 5.38 miles before converging with Gilmer Creek; Gilmer Creek flows southeast for approximately 8.07 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-25** is a non-RPW that flows southwest within the property boundary for approximately 986.95 linear feet before flowing into P-13; P-13 then flows into S-27, a non-RPW, that flows for approximately 70.21 linear feet into W-4; W-4 then flows into S-28, a non-RPW, that flows approximately 1,221.55 linear feet within the property boundary before exiting the property and continuing south, within culverts beneath Highway 82, for approximately 1.1 miles before converging with Motley Slough; Motley Slough then flows in a southeastern direction for approximately 9.48 miles before converging with Gilmer Creek; Gilmer Creek then flows in a southeastern direction for approximately 5.71 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-26** is a non-RPW that flows southeast within the property boundary for approximately 247.24 linear feet before flowing into W-4; W-4 then flows into S-28, a non-RPW, that flows approximately 1,221.55 linear feet within the property boundary before exiting the property and continuing south, within culverts beneath Highway 82, for approximately 1.1 miles before converging with Motley Slough; Motley Slough then flows in a southeastern direction for approximately 9.48 miles before converging with Gilmer Creek; Gilmer Creek then flows in a southeastern direction for approximately 5.71 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-27** is a non-RPW that flows southwest within the property boundary for approximately 70.21 linear feet before flowing into W-4; W-4 then flows into S-28, a non-RPW, that flows approximately 1,221.55 linear feet within the property boundary before exiting the property and continuing south, within culverts beneath Highway 82, for approximately 1.1 miles before converging with Motley Slough; Motley Slough then flows in a southeastern direction for approximately 9.48 miles before converging with Gilmer Creek; Gilmer Creek then flows in a southeastern direction for approximately 5.71 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-28** is a non-RPW that flows southwest within the property boundary for approximately 1,221.55 linear feet before exiting the property and continuing south, within culverts beneath Highway 82, for approximately 1.1 miles before converging with Motley Slough; Motley Slough then flows in a southeastern direction for approximately 9.48 miles before converging with Gilmer Creek; Gilmer Creek then

flows in a southeastern direction for approximately 5.71 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-29** is a non-RPW that flows south within the property boundary for approximately 1,787.11 linear feet before flowing into W-5; W-5 is a non-jurisdictional, depressional wetland that would only flow to downstream waters via overland flow during extreme precipitation events; therefore, S-29 does not have a flowpath to a TNW, interstate water or territorial seas.

**S-32** is a non-RPW that flows west within the property boundary for approximately 235.07 linear feet before flowing into P-8; P-8 flows into S-19, a non-RPW, that flows from the southwest corner of the pond and then in a northern direction within the property boundaries for approximately 694.26 linear feet before converging with a tributary that flows northwest for approximately 0.64 mile before converging with another tributary that flows northwest for approximately 0.8 mile to Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-33** is a non-RPW that flows west within the property boundary for approximately 334.23 linear feet before flowing into P-8; P-8 flows into S-19, a non-RPW, that flows from the southwest corner of the pond and then in a northern direction within the property boundaries for approximately 694.26 linear feet before converging with a tributary that flows northwest for approximately 0.64 mile before converging with another tributary that flows northwest for approximately 0.8 mile to Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-34** is a non-RPW that flows northwest within the property boundary for approximately 1,172.59 linear feet before exiting the property and converging with another tributary that continues flowing northwest for approximately 0.62 mile before converging with another tributary; that tributary then flows for approximately 0.67 mile before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-35** is a non-RPW that flows northwest within the property boundary for approximately 978.97 linear feet before converging with S-36; S-36 continues flowing west for approximately 505.73 linear feet within the property before exiting the property boundary and continuing to flow northwest for approximately 0.75 mile into Catalpa Creek; Catalpa Creek then flows northeast for approximately 2.83 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.



**S-37** is a non-RPW that flows west within the property boundary for approximately 691.95 linear feet before converging with S-36; S-36 continues flowing west for approximately 505.73 linear feet within the property before exiting the property boundary and continuing to flow northwest for approximately 0.75 mile into Catalpa Creek; Catalpa Creek then flows northeast for approximately 2.83 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-38** is a non-RPW that flows north within the property boundary for approximately 447.19 linear feet before converging with S-39; S-39 flows north within the property boundary for approximately 0.12 mile before exiting the property and continuing to flow north for approximately 1 mile before converging with Catalpa Creek; Catalpa Creek then flows northeast for approximately 1.08 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-42** is a non-RPW that flows east within the property boundary for approximately 481.34 linear feet before converging with S-23; S-23 then flows southeast within the property boundary for approximately 1,357.66 linear feet before exiting the property; the tributary then continues flowing southeast for approximately 2.62 miles before converging with Mayo Slough; Mayo Slough continues flowing southeast for approximately 5.38 miles before converging with Gilmer Creek; Gilmer Creek flows southeast for approximately 8.07 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-43** is a non-RPW that flows east within the property boundary for approximately 166.46 linear feet before converging with S-44, a non-RPW; S-44 flows east for approximately 0.07 miles before flowing into S-23; S-23 then flows southeast within the property boundary for approximately 1,357.66 linear feet before exiting the property; the tributary then continues flowing southeast for approximately 2.62 miles before converging with Mayo Slough; Mayo Slough continues flowing southeast for approximately 5.38 miles before converging with Gilmer Creek; Gilmer Creek flows southeast for approximately 8.07 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-44** is a non-RPW the flows east within the property boundary for approximately 347.40 linear feet before converging with S-23; S-23 then flows southeast within the property boundary for approximately 1,357.66 linear feet before exiting the property; the tributary then continues flowing southeast for approximately 2.62 miles before converging with Mayo Slough; Mayo Slough continues flowing southeast for approximately 5.38 miles before converging with Gilmer Creek; Gilmer Creek flows southeast for approximately 8.07 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-45** is a non-RPW that flows southeast within the property boundary for approximately 693.32 linear feet before converging with S-23; S-23 flows southeast within the property boundary for approximately 1,166.86 linear feet before exiting the property; the tributary then continues flowing southeast for approximately 2.62 miles before converging with Mayo Slough; Mayo Slough continues flowing southeast for approximately 5.38 miles before converging with Gilmer Creek; Gilmer Creek flows southeast for approximately 8.07 miles into the Tombigbee River, a designated Section 10 waterway in Mississippi.

**S-47** is a non-RPW that flows northwest within the property boundary for approximately 551.03 linear feet before flowing into W-6; W-6 is a non-jurisdictional, depressional wetland that would only flow to downstream waters via overland flow during extreme precipitation events; therefore, S-47 does not have a flowpath to a TNW, interstate water or territorial seas.

**S-48** is a non-RPW that flows west within the property boundary for approximately 158.80 linear feet before converging with S-34; S-34 continues flowing for approximately 77.7 linear feet before exiting the property boundary and converging with another tributary that continues flowing northwest for approximately 0.62 mile before converging with another tributary; this tributary then flows for approximately 0.67 mile before converging with Catalpa Creek; Catalpa Creek then flows for approximately 3.59 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-49** is a non-RPW that flows northeast within the property boundary for approximately 75.80 linear feet before terminating into a field; S-49 does not have a flowpath to a TNW, interstate water or territorial seas.

**S-51** is a non-RPW that flows northeast within the property boundary for approximately 175.11 linear feet before terminating into uplands; S-51 does not have a flowpath to a TNW, interstate water or territorial seas.

**S-55** is a non-RPW that flows northeast within the property boundary for approximately 32.38 linear feet before exiting the property and continuing to flow northeast for approximately 0.02 mile before converging with another tributary that flows in a northern direction for approximately 0.15 mile before converging with Catalpa Creek; Catalpa Creek then flows northeast for approximately 6.06 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

**S-59** is a non-RPW that flows southwest within the property boundary for approximately 92.20 linear feet before converging with S-58; S-58 flows southeast for approximately 0.04 mile within the property boundary before exiting the property

and continuing to flow southeast for approximately 0.73 mile before converging with Catalpa Creek; Catalpa Creek then flows northeast for approximately 6.40 miles into Tibbee Creek, a designated Section 10 waterway in Mississippi.

6. SECTION 10 JURISDICTIONAL WATERS<sup>7</sup>: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.<sup>8</sup> N/A
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
  - a. TNWs (a)(1): N/A
  - b. Interstate Waters (a)(2): N/A
  - c. Other Waters (a)(3): N/A
  - d. Impoundments (a)(4): N/A
  - e. Tributaries (a)(5): N/A
  - f. The territorial seas (a)(6): N/A

---

<sup>7</sup> 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

<sup>8</sup> This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

- g. Adjacent wetlands (a)(7): N/A

## 8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as “generally non-jurisdictional” in the preamble to the 1986 regulations (referred to as “preamble waters”).<sup>9</sup> Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water.

In accordance with the preamble to the 1986 regulations, the agencies generally do not consider the following waters to be waters of the U.S.: Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.

**P-2** is a 0.20-acre pond located near the western boundary of the larger 1,512.16-acre parcel of land and was created in uplands for the purpose of a stock pond and is surrounded by uplands. Therefore, P-2 is a preamble water.

**P-6** is a 0.24-acre pond located near the central portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, P-6 is a preamble water.

**P-10** is a 0.41-acre pond located near the central portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, P-10 is a preamble water.

**P-12** is a 0.09-acre pond located near the eastern boundary of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, P-12 is a preamble water.

**P-16** is a 0.76-acre pond located in the northern portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, P-16 is a preamble water.

**P-17** is a 0.69-acre pond located in the northern portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, P-17 is a preamble water.

---

<sup>9</sup> 51 FR 41217, November 13, 1986.

**P-18** is a 1.13-acre pond located in the northern portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purpose of a stock pond and is surrounded by uplands. Therefore, P-18 is a preamble water.

**P-19** is a 0.39-acre pond located in the northern portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purpose of a stock pond and is surrounded by uplands. Therefore, P-19 is a preamble water.

**P-20** is a 0.25-acre pond located in the northern portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purpose of a stock pond and is surrounded by uplands. Therefore, P-20 is a preamble water.

**P-21** is a 0.23-acre pond located near the eastern boundary of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, P-21 is a preamble water.

**P-23** is a 2.44-acre pond located in the far western portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, P-23 is a preamble water.

**P-24** is a 2.35-acre pond located in the far western portion of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, P-24 is a preamble water.

**RP-1** is a 0.20-acre pond located near the eastern boundary of the larger 1,512.16-acre parcel of land and was created in uplands for the purposes of a stock pond and is surrounded by uplands. Therefore, RP-1 is a preamble water.

- b. Describe aquatic resources and features within the review area identified as “generally not jurisdictional” in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance. N/A
- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. N/A
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference

2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. N/A

- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “*SWANCC*,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with *SWANCC*.

**P-1** is a 4.73-acre man-made pond that appears to have been created at the headwaters of a tributary; however, on-site observations found that there is no evidence of a standpipe, culvert, or other form of outflow that would allow the pond to flow downstream, there is also no flow into the pond from another water. The pond was created in soils that are historically rated as “occasionally flooded” and “partially hydric” by the NRCS; therefore, the Corps cannot assume the pond was created in uplands; therefore, it does not meet a potential preamble water. P-1 appears to be primarily precipitation fed and historically acted as a stock watering pond for agricultural land use. P-1 does not support a link to interstate or foreign commerce. P-1 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other purposes. Additionally, P-1 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by industries in interstate commerce. For all of these reasons, P-1 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

**P-4** is a 0.07-acre man-made pond that was dug in a natural depressional area. It was created in soils that are historically rated as “occasionally flooded” and “partially hydric” by the NRCS; therefore, the Corps cannot assume the pond created in uplands; therefore, it does not meet a potential preamble water. There is no evidence of discharge from P-4, nor evidence of flow to or from P-4. P-4 appears to be primarily precipitation fed and historically acted as a stock watering pond for agricultural land use. P-4 does not support a link to interstate or foreign commerce. P-4 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other purposes. Additionally, P-4 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by industries in interstate commerce. For all of these reasons, P-4 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

**P-5** is a 1.02-acre man-made pond that was dug in a natural depressional area. It was created in soils that are historically rated as “occasionally flooded” and “partially hydric” by the NRCS; therefore, the Corps cannot assume the pond was created in uplands; therefore, it does not meet a potential preamble water. There is no evidence of discharge from P-5, nor evidence of flow to or from P-5. P-5 appears to be primarily precipitation fed and historically acted as a stock watering pond for agricultural land use. P-5 does not support a link to interstate or foreign commerce. P-5 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other purposes. Additionally, P-5 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by industries in interstate commerce. For all of these reasons, P-5 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

**P-7** is a 6.70-acre man-made pond that appears to have been created at the headwaters of a tributary; however, on-site observations found that there is no evidence of a standpipe, culvert, or other form of outflow that would allow the pond to flow downstream, there is also no flow into the pond from another water. The pond was created in soils that are historically rated as “occasionally flooded” and “partially hydric” by the NRCS; therefore, the Corps cannot assume the pond was created in uplands; therefore, it does not meet a potential preamble water. P-7 appears to be primarily precipitation fed and historically acted as a stock watering pond for agricultural land use. P-7 does not support a link to interstate or foreign commerce. P-7 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other purposes. Additionally, P-7 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by industries in interstate commerce. For all of these reasons, P-7 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

**P-9** is a 1.36-acre man-made pond that appears to have been created at the headwaters of a tributary; however, on-site observations found that there is no evidence of a standpipe, culvert, or other form of outflow that would allow the pond to flow downstream, there is also no flow into the pond from another water. P-9 appears to be primarily precipitation fed and historically acted as a stock watering pond for agricultural land use. P-9 does not support a link to interstate or foreign commerce. P-9 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other purposes. Additionally, P-9 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by

industries in interstate commerce. For all of these reasons, P-9 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

**P-14** is a 0.94-acre man-made pond dug in a natural depressional area. It was created in soils that are identified as “somewhat poorly drained” and “occasionally flooded” by the NRCS; therefore, the Corps cannot assume the pond was created in uplands; therefore, it does not meet a potential preamble water. There is no evidence of outflow or flow into the pond. P-14 appears to be primarily precipitation fed and acts as a stormwater feature for the immediate surrounding area due to geomorphic positioning. P-14 does not support a link to interstate or foreign commerce. P-14 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other purposes. Additionally, P-14 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by industries in interstate commerce. For all of these reasons, P-14 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

**P-22** is a 0.24-acre man-made pond that appears to have been created by constructing a dam in a tributary; however, on-site observations found that there is no evidence of a standpipe, culvert, or other form of outflow that would allow the pond to flow downstream. The pond receives water flow from S-22, a non-RPW, which flows from P-11. P-22 appears to be primarily precipitation fed and historically acted as a stock watering pond for agricultural land use. P-22 does not support a link to interstate or foreign commerce. P-22 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other purposes. Additionally, P-22 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by industries in interstate commerce. For all of these reasons, P-22 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

**P-25** is a 0.18-acre man-made pond hat was dug in a natural depressional area. It was created in soils that are historically rated as “occasionally flooded” and “partially hydric” by the NRCS; therefore, the Corps cannot assume the pond was created in uplands; therefore, it does not meet a potential preamble water. There is no evidence of discharge from P-25, nor evidence of flow to or from P-25. P-25 appears to be primarily precipitation fed and historically acted as a stock watering pond for agricultural land use. P-25 does not support a link to interstate or foreign commerce. P-25 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other



purposes. Additionally, P-25 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by industries in interstate commerce. For all of these reasons, P-25 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

**RP-2** is a 0.26-acre man-made pond that appears to have been created at the headwaters of a tributary; however, on-site observations found that there is no evidence of a standpipe, culvert, or other form of outflow that would allow the pond to flow downstream, there is also no flow into the pond from another water. RP-2 appears to be primarily precipitation fed and historically acted as a stock watering pond for agricultural land use. RP-2 does not support a link to interstate or foreign commerce. RP-2 is not known to support interstate or foreign commerce or known to be used by interstate or foreign travelers for recreation or other purposes. Additionally, RP-2 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce or used for industrial purposes by industries in interstate commerce. For all of these reasons, RP-2 does not meet the definition of waters of the U.S. as defined by 33 CFR Part 328.3(a) and is not jurisdictional under the Clean Water Act.

- f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court's decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

**W-3** is a 0.27-acre forested wetland located in the central portion of the larger 1,512.16-acre parcel of land. W-3 receives flow from S-21, a non-relatively permanent water, and abuts the southeastern side of P-8, a non-jurisdictional pond. The wetland does not abut a TNW, territorial seas, interstate water, relatively permanent tributary, or jurisdictional impoundment; therefore, W-3 does not have a continuous surface connection to a requisite water and is not jurisdictional.

**W-4** is a 0.33-acre forested wetland located in the southeastern corner of the larger 1,512.16-acre parcel of land. W-4 abuts S-28, a non-relatively permanent tributary. The wetland does not abut a TNW, territorial seas, interstate water, relatively permanent tributary, or jurisdictional impoundment; therefore, W-4 does not have a continuous surface connection to a requisite water and is not jurisdictional.


**W-5** is a 0.35-acre forested wetland located along the southern boundary of the larger 1,512.16-acre parcel of land. W-5 abuts S-29, a non-relatively permanent water; during high rain events, sheet flow from the wetland will flow south into a non-RPW roadside ditch. The wetland does not abut a TNW, territorial seas, interstate water, relatively permanent tributary, or jurisdictional impoundment; therefore, W-5 does not have a continuous surface connection to a requisite water and is not jurisdictional.

**W-6** is a 0.16-acre emergent wetland located in the northern portion of the larger 1,512.16-acre parcel of land. W-6 abuts S-47, a non-relatively permanent water, and has an outflow culvert located on its northwest side; this culvert is located very high on the bank and allows water to flow northwest through S-34, a non-relatively permanent water, during high precipitation events. The wetland does not abut a TNW, territorial seas, interstate water, relatively permanent tributary, or jurisdictional impoundment; therefore, W-6 does not have a continuous surface connection to a requisite water and is not jurisdictional.

**W-8** is a 0.06-acre forested wetland located in the western portion of the larger 1,512.16-acre parcel of land. W-8 is a depressional area surrounded by uplands and does not abut a TNW, territorial seas, interstate water, relatively permanent tributary, or jurisdictional impoundment; therefore, W-8 does not have a continuous surface connection to a requisite water and is not jurisdictional.

**W-9** is a 0.30-acre forested wetland located in the western portion of the larger 1,512.16-acre parcel of land. W-9 is a depressional area surrounded by uplands and does not abut a TNW, territorial seas, interstate water, relatively permanent tributary, or jurisdictional impoundment; therefore, W-9 does not have a continuous surface connection to a requisite water and is not jurisdictional.

**W-10** is a 0.14-acre forested wetland located in the western portion of the larger 1,512.16-acre parcel of land. W-10 abuts S-55, a non-RPW. The wetland does not abut a TNW, territorial seas, interstate water, relatively permanent tributary, or jurisdictional impoundment; therefore, W-10 does not have a continuous surface connection to a requisite water and is not jurisdictional.

**P-8** is a 37.19-acre man-made pond that appears to have been created in a non-relatively permanent stream, S-19, which exits on the southwest corner of the pond and then flows north before exiting the review area and converging with a relatively permanent water. P-8 is an impoundment of a non-relatively permanent tributary and is therefore not a jurisdictional impoundment. 

**P-11** is a 0.90-acre man-made pond that appears to have been created at the headwaters of a non-relatively permanent tributary, S-22. P-11 was created in a non-jurisdictional tributary and is therefore not jurisdictional.

**P-13** is a 1.11-acre man-made pond that appears to have been created by damming a non-relatively permanent tributary. S-25 (non-RPW) flows into P-13, and a non-relatively permanent tributary (S-27) was identified downstream of the dam. Based on the observation that a non-RPW is present upstream and downstream of the pond indicates it was created in a non-relatively permanent tributary and is therefore not jurisdictional.

**S-2** is located in the southwestern corner of the larger 1,512.16-acre parcel of land and flows northwest for 1,207.32 linear feet before converging with S-1A. S-2 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-3** is located in the southwestern corner of the larger 1,512.16-acre parcel of land and flows southwest for approximately 1,019.33 linear feet before converging with S-1A. S-3 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-4** is located in the southwestern corner of the larger 1,512.16-acre parcel of land and flows northeast for approximately 699.02 linear feet before converging with S-1A. S-4 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-5** is located in the southwestern corner of the larger 1,512.16-acre parcel of land and flows southwest for approximately 370.75 linear feet before converging with S-1A. S-5 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-7** is located in western central portion of the larger 1,512.16-acre parcel of land and flows northwest for approximately 2,329.00 linear feet before converging with S-8. S-7 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-10** is located central portion of the larger 1,512.16-acre parcel of land and flows northwest for approximately 392.01 linear feet before converging with S-11 to form S-14. S-10 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-11** is located in the central portion of the larger 1,512.16-acre parcel of land and flows northwest for approximately 414.45 linear feet before converging with S-10 to form S-14. S-11 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-12** is located in the central portion of the larger 1,512.16-acre parcel of land and flows north for approximately 668.80 linear feet before converging with S-14.

S-12 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-13** is located in the central portion of the larger 1,512.16-acre parcel of land and flows northeast for approximately 237.34 linear feet before converging with S-14. S-13 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-15** is located in the central portion of the larger 1,512.16-acre parcel of land and flows northeast for approximately 177.84 linear feet before converging with S-14. S-15 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-16** is located in the central portion of the larger 1,512.16-acre parcel of land and flows northeast for approximately 656.63 linear feet before converging with S-14. S-16 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-19** is located in the central portion of the larger 1,512.16-acre parcel of land and flows north for approximately 694.26 linear feet before exiting the property boundary and converging with another tributary outside the review area. S-19 was determined to be non-jurisdictional based on review of on-site photographs,

descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-20** is located in the central portion of the larger 1,512.16-acre parcel of land and flows northwest for approximately 210.35 linear feet before converging with S-21. S-20 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-21** is located in the east central portion of the larger 1,512.16-acre parcel of land and flows northwest from its convergence with S-20 for approximately 594.44 linear feet before continuing into W-3. S-21 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-22** is located in the east central portion of the larger 1,512.16-acre parcel of land and flows northeast for approximately 497.00 linear feet before flowing into P-22. S-22 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-24** is located in the eastern portion of the larger 1,512.16-acre parcel of land and flows northeast for approximately 497 linear feet within the property boundary before exiting the parcel and converging with another tributary. S-24 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent

water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-25** is located in the southeastern portion of the larger 1,512.16-acre parcel of land and flows south for approximately 986.95 linear feet before flowing into P-13. S-25 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-26** is located in the southeastern portion of the larger 1,512.16-acre parcel of land and flows south for approximately 247.24 linear feet before flowing into W-4. S-26 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-27** is located in the southeastern portion of the larger 1,512.16-acre parcel of land and flows south for approximately 70.21 linear feet before flowing into W-4. S-27 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-28** is located in the southeastern portion of the larger 1,512.16-acre parcel of land and flows south for approximately 1,221.55 linear feet to the property boundary. S-28 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of

the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-29** is located in the southeastern portion of the larger 1,512.16-acre parcel of land and flows south for approximately 1,787.11 linear feet into W-5. S-29 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-32** is located in the west-central portion of the larger 1,512.16-acre parcel of land and flows west for approximately 235.07 linear feet into P-8. S-32 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-33** is located in the west-central portion of the larger 1,512.16-acre parcel of land and flows west for approximately 334.23 linear feet into P-8. S-33 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-34** is located in the northern portion of the larger 1,512.16-acre parcel of land and flows northwest for approximately 1,172.59 linear feet to the property boundary and receives flow from W-6 during times of high precipitation. S-34 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-35** is located in the northwestern corner of the larger 1,512.16-acre parcel of land and flows northwest for approximately 978.97 linear feet before converging



with S-37. S-35 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-37** is located in the northwestern corner of the larger 1,512.160-acre of land and flows west for approximately 691.95 linear feet before converging with S-35. S-37 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-38** is located in the northern portion of the larger 1,512.16-acre of land and flows north for approximately 447.19 linear feet before converging with S-39. S-38 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-42** is located in the east-central portion of the larger 1,512.16-acre of land and flows east for approximately 481.34 linear feet before converging with S-44. S-42 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-43** is located in the east-central portion of the larger 1,512.16-acre of land and flows east for approximately 166.46 linear feet before converging with S-44. S-43 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent

water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-44** is located in the east-central portion of the larger 1,512.16-acre parcel of land and flows east for approximately 347.40 linear feet before converging with S-42. S-44 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-45** is located in the east-central portion of the larger 1,512.16-acre parcel of land and flows southeast for approximately 693.32 linear feet before converging with S-23. S-45 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-47** is located in the northwestern corner of the larger 1,512.16-acre parcel of land and flows northwest for approximately 551.03 linear feet before flowing into W-6. S-47 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-48** is located in the northwestern portion of the larger 1,512.16-acre parcel of land and flows southwest for approximately 158.80 linear feet before converging with S-34. S-48 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of

the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-49** is located in the western portion of the larger 1,512.16-acre parcel of land and flows northwest for approximately 75.80 linear feet and terminates into a field. S-49 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-51** is located in the western portion of the larger 1,512.16-acre parcel of land and flows north for approximately 175.11 linear feet and terminates into uplands. S-51 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-55** is located in the western portion of the larger 1,512.16-acre parcel of land and flows northeast for approximately 32.38 linear feet before exiting the property boundary and continuing until converging with another tributary. S-55 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

**S-59** is located in the western portion of the larger 1,512.16-acre parcel of land and flows southwest for approximately 92.20 linear feet before converging with S-58. S-59 was determined to be non-jurisdictional based on review of on-site photographs, descriptions by the Agent, and observations during a site visit on March 12, 2025, that provided evidence that the tributary is a non-relatively permanent water, lacking year-round flow or seasonal flow, and only flowing during and immediately after rain events; no hydric soils were found in the bed of the stream, bank features are lacking, and the aquatic bed is always above the water table.

CESAM-RD-N

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), SAM-2023-00870-SNR

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
  - a. Site visit conducted on March 12, 2025, with USACE PM Samantha Rhoades and Dillon Easley of Headwaters, Inc.
  - b. Delineation report provided by the Agent, Headwaters, Inc., performed on June 27, 28, 29, 2023 and September 18, 2024.
  - c. National Regulatory Viewer – USGS Topo map, Digital Elevation Model, Hillshade, National Hydrology Dataset, USFWS Wetlands Map, NRCS Soil Web Map, and aerial imagery, accessed March, April, and May 2025.
  - d. EPA Waters GeoViewer 2.0 Mapper,  
[epa.maps.arcgis.com/apps/webappviewer/index.html](https://epa.maps.arcgis.com/apps/webappviewer/index.html)

10. OTHER SUPPORTING INFORMATION.

*Memorandum to the Field Between the U.S. Department of the Army, U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency Concerning the Proper Implementation of 'Continuous Surface Connection' Under the Definition of 'Waters of the United States' Under the Clean Water Act", March 12, 2025.*

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



no connection  
between P-1 and  
S-30 or W-1

no connection  
between P-5 and  
S-18

**Green polygons  
represent AJD  
MFR review areas**

Project Area (± 998.45 ac)

Streams

Ditch (± 1,787.11 lf / 0.08 ac)

Erosional Feature (± 3,345.07 lf / 0.12 ac)

Ephemeral Feature (± 9,990.23 lf / 0.56 ac)

Intermittent Tributary (± 10,958.97 lf / 1.12 ac)

Wetlands

Emergent Wetland (± 2.64 ac)

Forested Wetland (± 0.95 ac)

Relic Pond (± 0.46 ac)

Pond (± 29.66 ac)

**SAM-2023-00870-SNR**

**AJD MFR Aquatic Resource  
Location Maps**

S23, 24, 25, & 26, T19N, R16E and S19, T19N, R17E  
Lowndes County, Mississippi

05001,000

Feet

1:13,000

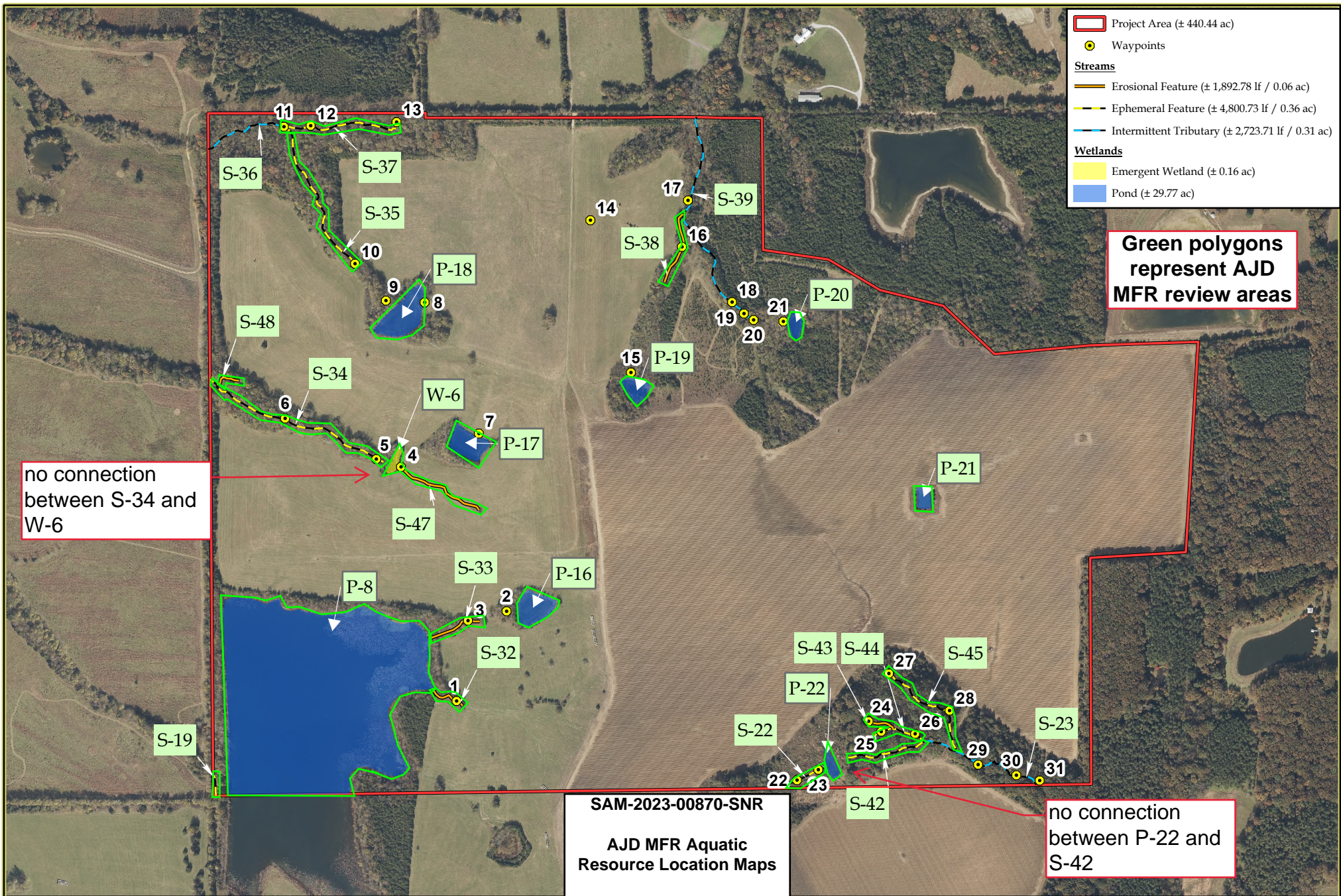
N

NAD 1983 2011 StatePlane Mississippi East FIPS 2301 Ft US

2021 USDA NAIP Imagery Basemap





Date Created: 4/22/2025



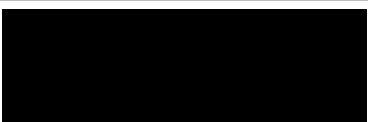




# Legend

-  Revised Rail Alignment ( $\pm 73.22$  ac)
-  Cinco Rail Final Waypoints1
-  Ephemeral Tributary
-  Intermittent Tributary

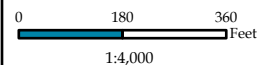
Green polygons  
represent AJD MFR  
review areas



Date Created: 1/17/2025

[Redacted]

Sections 21, 22, 27 & 28, Township 19 North, Range 16 East  
Lowndes County, Mississippi







NAD 1983 2011 StatePlane Mississippi East FIPS 2301 Ft US

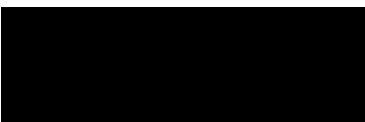
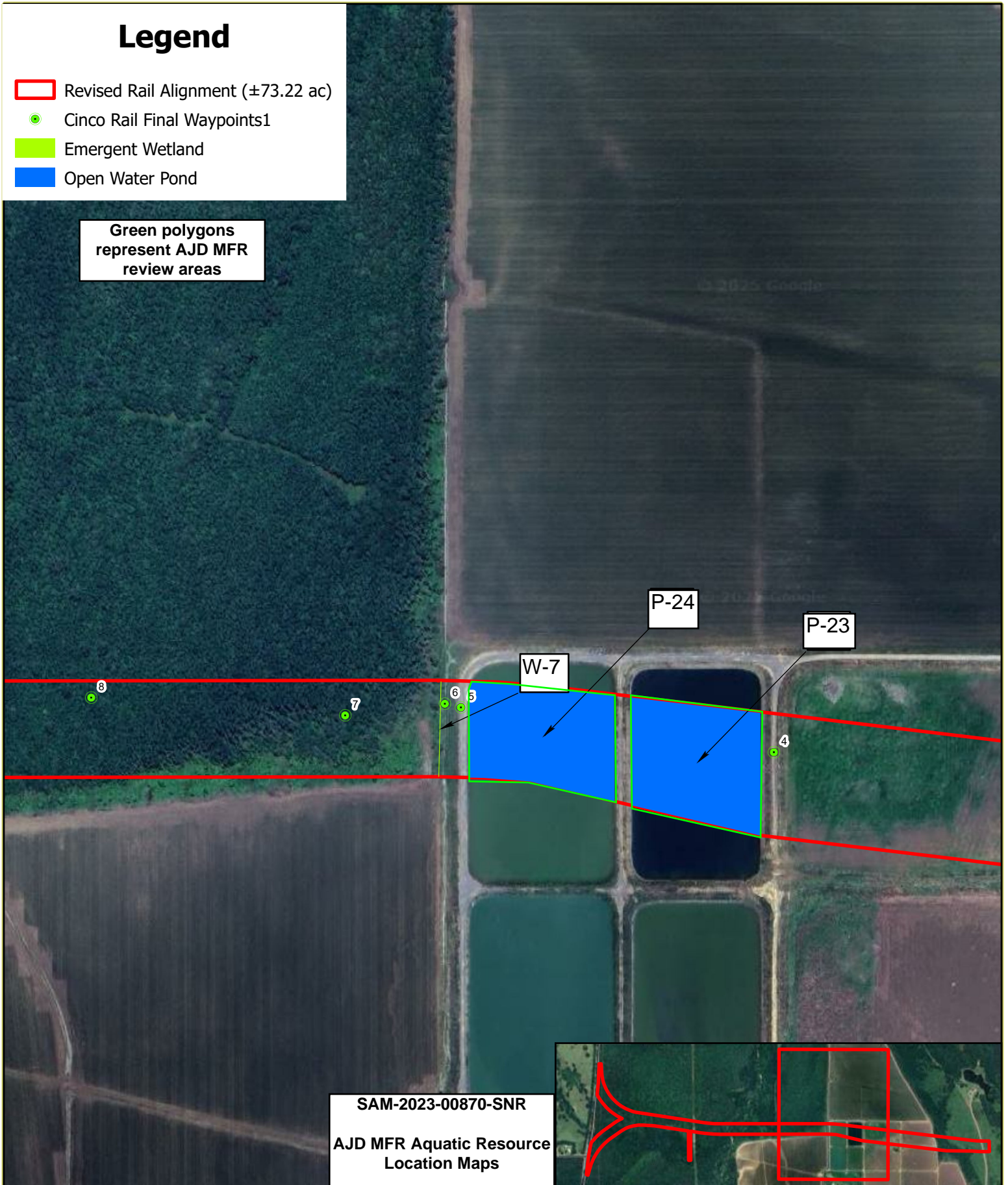
Google Hybrid Imagery Basemap



# Legend

-  Revised Rail Alignment ( $\pm 73.22$  ac)
-  Cinco Rail Final Waypoints1
-  Emergent Wetland
-  Open Water Pond

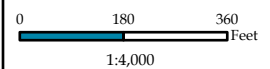
Green polygons  
represent AJD MFR  
review areas



Date Created: 1/17/2025

[Redacted]

Sections 21, 22, 27 & 28, Township 19 North, Range 16 East  
Lowndes County, Mississippi










NAD 1983 2011 StatePlane Mississippi East FIPS 2301 Ft US

Google Hybrid Imagery Basemap

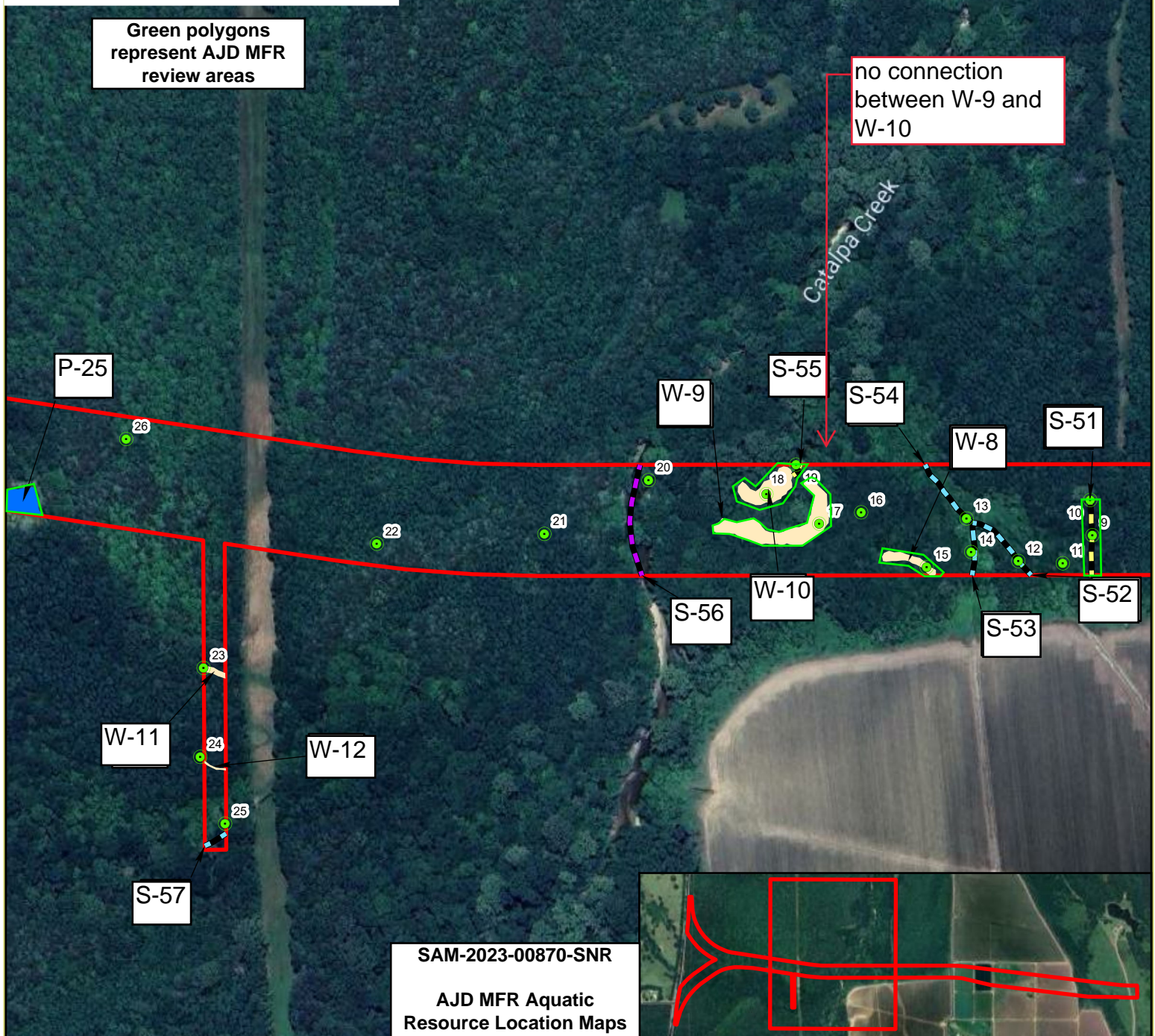


## Legend

-  Revised Rail Alignment ( $\pm 73.22$  ac)
-  Cinco Rail Final Waypoints1
-  Ephemeral Tributary
-  Intermittent Tributary
-  Perennial Tributary
-  Forested Wetland
-  Open Water Pond

**Green polygons  
represent AJD MFR  
review areas**

no connection  
between W-9 and  
W-10



**SAM-2023-00870-SNR**

## AJD MFR Aquatic Resource Location Maps

Sections 21, 22, 27 & 28, Township 19 North, Range 16 East  
Lowndes County, Mississippi

0 180 360 Feet

1,400






NAD 1983 2011 StatePlane Mississippi East FIPS 2301 Ft US

Google Hybrid Imagery Basemap

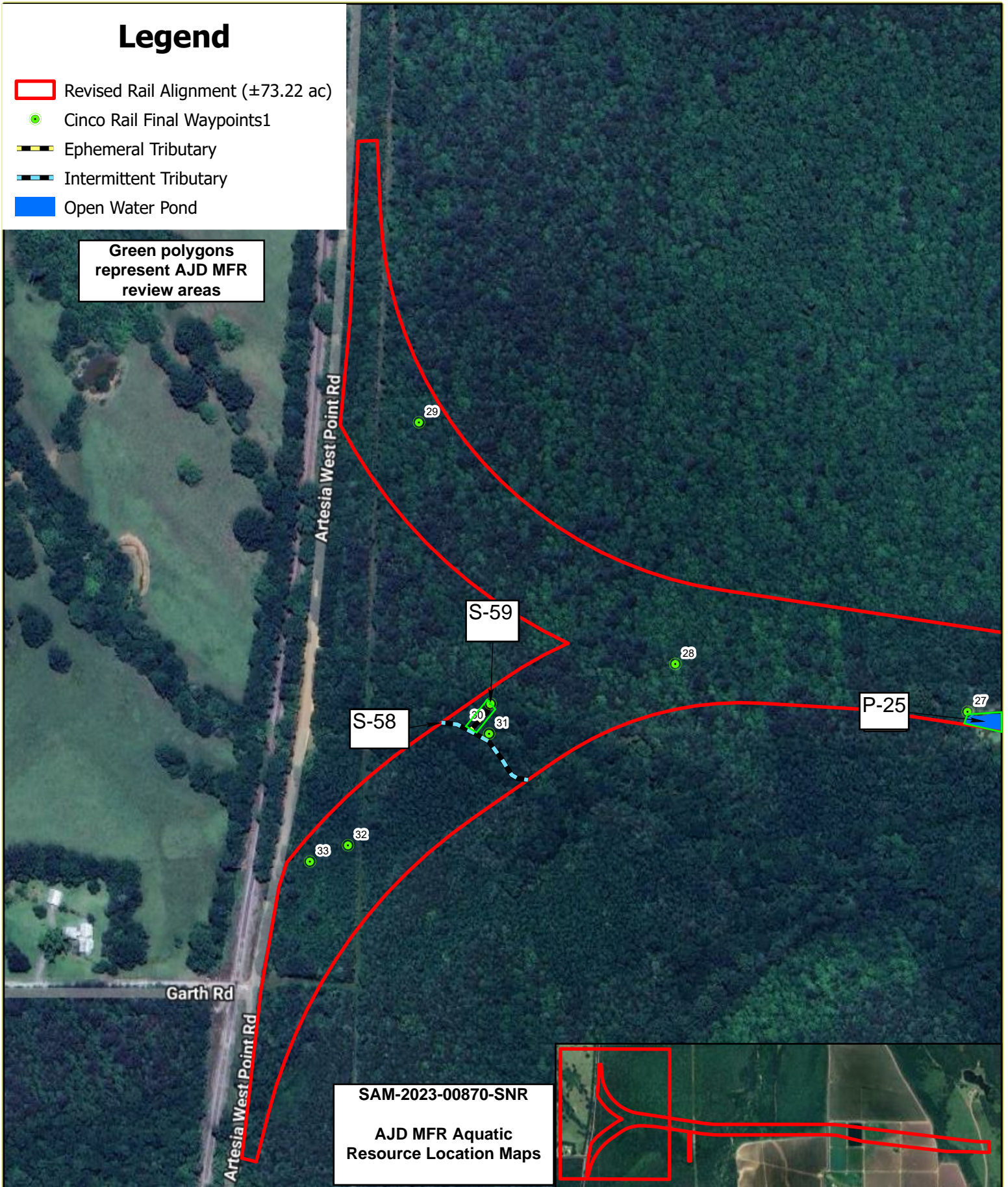
Date Created: 1/17/2025



# Legend

-  Revised Rail Alignment ( $\pm 73.22$  ac)
-  Cinco Rail Final Waypoints1
-  Ephemeral Tributary
-  Intermittent Tributary
-  Open Water Pond

Green polygons represent AJD MFR review areas



[Redacted], Range 16 East  
Lowndes County, Mississippi  
[Redacted]

