



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

CESAM-RD-N

October 8, 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),¹ SAM-2024-00158-CMS, MFR #1 of #1²

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.³ 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.⁴ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁵ 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

¹ 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.

² 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.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ 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.

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

Waters_Name	Latitude	Longitude	Waters Size	Type Of Aquatic Resource	Geographic Authority
Ditch 1	33.72132	-87.40639	266 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
Ditch 2	33.71182	-87.41359	176 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
Ditch 3	33.70608	-87.41435	154 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
Ditch 4	33.74413	-87.42702	204 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-1	33.73393	-87.46639	369 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-10	33.73238	-87.45539	373 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-100	33.75689	-87.4315	929 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-101	33.75313	-87.42806	117 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-102	33.752	-87.42734	146 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-103	33.75253	-87.42799	606 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-105	33.74914	-87.42515	188 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-106	33.74796	-87.42419	788 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-107	33.74748	-87.42486	206 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-108	33.74408	-87.43402	87 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-11	33.73168	-87.45526	237 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-110	33.74036	-87.434	554 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-111	33.74124	-87.43095	556 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-112	33.74151	-87.43146	101 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-113	33.7419	-87.43109	254 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-114	33.74112	-87.43042	128 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-115	33.73991	-87.42848	395 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-116	33.7445	-87.42945	262 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-117	33.74458	-87.42997	172 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-118	33.74487	-87.43027	615 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-119	33.74766	-87.41802	49 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-12	33.73104	-87.45482	1066 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-120	33.74779	-87.41722	62 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-121	33.75099	-87.41769	264 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-122	33.74913	-87.41742	39 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-123	33.74784	-87.4172	49 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-124	33.74404	-87.4172	64 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-125	33.73916	-87.42344	65 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-126	33.7395	-87.42237	200 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-127	33.7395	-87.42166	193 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-128	33.73873	-87.42021	220 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-129	33.73588	-87.42444	1772 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-13	33.73166	-87.45416	334 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-130	33.73771	-87.4204	939 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-131	33.73689	-87.41987	354 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-132	33.73868	-87.41927	100 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-133	33.73902	-87.41643	666 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-134	33.73854	-87.4166	101 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-135	33.73796	-87.41451	195 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-136	33.73769	-87.41339	575 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-137	33.73529	-87.4191	13 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-138	33.7353	-87.41917	1914 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-139	33.73391	-87.41967	195 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-14	33.73185	-87.45415	539 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-140	33.73384	-87.42071	89 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-141	33.73367	-87.42007	628 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-142	33.73255	-87.42406	170 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-143	33.73154	-87.4228	1141 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-144	33.73259	-87.41842	85 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-145	33.73619	-87.41749	78 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-146	33.73538	-87.41708	1235 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-147	33.73364	-87.41558	195 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-148	33.73363	-87.4151	55 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-149	33.73319	-87.41333	76 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-15	33.73361	-87.45434	470 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-150	33.73317	-87.41285	70 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-151	33.72973	-87.424	255 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-152	33.72976	-87.42417	95 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-153	33.7293	-87.42387	270 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-154	33.72919	-87.42363	2687 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-155	33.7303	-87.42052	247 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-156	33.72709	-87.41998	420 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-158	33.72993	-87.41454	183 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-16	33.73415	-87.45223	642 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-160	33.72853	-87.41086	916 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-161	33.73151	-87.40772	627 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-162	33.73358	-87.41209	79 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-163	33.73834	-87.41034	505 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-164	33.73916	-87.40723	124 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-165	33.73906	-87.40696	137 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-166	33.73863	-87.40522	133 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-167	33.7424	-87.40217	715 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-168	33.73679	-87.40193	301 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-169	33.7345	-87.40033	995 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-17	33.73445	-87.45194	240 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-170	33.74347	-87.40691	232 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-171	33.74543	-87.40886	327 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-172	33.74584	-87.4098	217 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-173	33.74686	-87.40927	539 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-175	33.75054	-87.41047	626 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-176	33.75105	-87.41041	127 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-177	33.74172	-87.39408	249 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-18	33.73356	-87.45206	391 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-180	33.74794	-87.39769	43 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-181	33.74782	-87.39085	156 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-182	33.74807	-87.3909	313 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-183	33.75177	-87.39346	739 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-184	33.75127	-87.39631	202 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-185	33.75137	-87.39637	40 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-186	33.7544	-87.39564	207 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-187	33.75783	-87.39461	147 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-188	33.75798	-87.39494	575 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-189	33.75786	-87.39443	36 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-190	33.76106	-87.39881	191 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-191	33.76373	-87.39816	152 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-192	33.76404	-87.39845	325 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-193	33.77037	-87.40194	37 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-194	33.76981	-87.40263	258 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-195	33.76982	-87.40028	521 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-197	33.7244	-87.41458	741 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-198	33.72434	-87.41477	33 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-199	33.72308	-87.41197	20 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-2	33.73384	-87.46599	124 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-20	33.7316	-87.45004	1015 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-200	33.72271	-87.41143	182 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-201	33.72148	-87.41423	897 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-202	33.72016	-87.41523	93 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-203	33.71997	-87.41379	628 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-204	33.71918	-87.41113	1534 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-205	33.71874	-87.41119	82 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-206	33.71788	-87.41533	489 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-207	33.71756	-87.41633	997 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-208	33.71402	-87.42335	672 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-209	33.71151	-87.4233	155 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-21	33.73639	-87.44916	773 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-210	33.71137	-87.42305	952 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-211	33.71225	-87.41977	447 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-212	33.71244	-87.41909	1314 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-213	33.71466	-87.41708	109 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-214	33.70874	-87.42305	1166 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-215	33.70952	-87.41914	493 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-216	33.70886	-87.41928	487 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-217	33.71037	-87.41731	524 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-218	33.70717	-87.41639	595 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-219	33.70526	-87.41856	726 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-22	33.73563	-87.44701	575 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-220	33.70323	-87.42019	132 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-222	33.69981	-87.414	79 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-223	33.70186	-87.41336	42 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-224	33.704	-87.41196	89 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-225	33.70045	-87.41018	1226 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-226	33.69935	-87.40965	1383 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-227	33.70379	-87.40751	1104 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-228	33.7067	-87.40787	1115 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-229	33.70707	-87.40646	1090 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-23	33.73466	-87.44749	724 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-230	33.70893	-87.40413	179 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-231	33.71089	-87.40359	696 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-232	33.71065	-87.40254	236 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-233	33.71013	-87.40077	721 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-234	33.70831	-87.39861	1330 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-235	33.70867	-87.39702	929 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-236	33.70749	-87.39658	1098 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-237	33.70517	-87.3979	160 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-238	33.70617	-87.39452	75 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-239	33.70632	-87.39425	576 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-24	33.73395	-87.45027	345 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-240	33.73909	-87.39767	848 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-241	33.70048	-87.42156	100 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-242	33.70184	-87.42389	65 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-243	33.72118	-87.40176	473 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-244	33.71327	-87.40713	102 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-245	33.75555	-87.42933	286 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-246	33.74744	-87.43955	32 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-25	33.73134	-87.44881	470 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-26	33.7337	-87.44588	67 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-27	33.72805	-87.46291	103 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-28	33.72796	-87.46262	129 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-29	33.72918	-87.4611	533 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-3	33.73192	-87.4665	94 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-30	33.72986	-87.4599	423 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-31	33.73023	-87.46044	93 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-32	33.72956	-87.45771	130 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-33	33.72978	-87.45656	190 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-34	33.72911	-87.45604	510 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-35	33.72825	-87.458	459 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-36	33.72705	-87.45623	661 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-37	33.7261	-87.45164	387 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-38	33.72439	-87.44904	840 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-39	33.72673	-87.44612	284 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-4	33.73126	-87.46553	175 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-40	33.7267	-87.44593	215 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-41	33.72475	-87.44646	484 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-42	33.75925	-87.44544	344 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-43	33.75932	-87.44457	86 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-44	33.75877	-87.44463	131 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-45	33.75771	-87.44548	111 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-46	33.75663	-87.44475	258 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-47	33.75438	-87.4456	163 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-48	33.75007	-87.45035	116 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-49	33.74751	-87.44788	3401 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-5	33.73954	-87.45624	1337 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-50	33.7487	-87.4479	251 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-51	33.74842	-87.44712	320 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-52	33.74752	-87.44364	265 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-53	33.74692	-87.44459	202 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-54	33.74722	-87.44346	172 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-55	33.74498	-87.44572	187 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-56	33.74351	-87.44446	241 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-57	33.74307	-87.44527	887 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-58	33.7433	-87.44468	104 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-59	33.74084	-87.44574	20 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-6	33.7388	-87.45652	366 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-60	33.73796	-87.44323	271 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-61	33.73911	-87.44198	586 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-62	33.7405	-87.44267	81 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-63	33.74208	-87.44212	519 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-64	33.74248	-87.44258	145 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-65	33.74309	-87.443	1868 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-66	33.74405	-87.4398	250 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-67	33.74438	-87.43938	632 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-68	33.74512	-87.43892	110 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-69	33.74637	-87.43902	66 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-7	33.73524	-87.45673	483 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-70	33.74795	-87.43948	182 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-71	33.74732	-87.43869	433 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-72	33.74673	-87.4371	106 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-73	33.74641	-87.43371	380 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-74	33.74773	-87.4365	515 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-75	33.74736	-87.4342	348 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-76	33.74726	-87.43317	94 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-77	33.74695	-87.43344	515 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-78	33.74654	-87.43344	183 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-79	33.74679	-87.43576	310 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-8	33.73408	-87.45808	815 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-80	33.74865	-87.4318	194 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-81	33.74887	-87.43209	626 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-82	33.75126	-87.43293	284 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-83	33.75179	-87.43305	916 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-84	33.75221	-87.43429	276 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-85	33.75252	-87.43314	479 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-86	33.7518	-87.43276	99 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-87	33.75298	-87.43161	1229 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-88	33.75259	-87.4311	291 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-89	33.7538	-87.43168	96 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-9	33.73431	-87.45755	371 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-90	33.75494	-87.4338	231 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-91	33.75506	-87.43432	146 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-92	33.75701	-87.43344	141 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-93	33.75558	-87.43347	911 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-94	33.75534	-87.43156	313 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-95	33.75723	-87.43534	168 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None

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ES-96	33.75597	-87.4322	1547 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-97	33.75732	-87.43381	162 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-98	33.75731	-87.43158	75 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
ES-99	33.75659	-87.43183	64 FEET	NON-WOTUS-TRIB.NEGATIVE-A5	None
P-14	33.76478	-87.39687	.199 ACRES	PREAMBLE WATER	None
P-15	33.70133	-87.41956	1.977 ACRES	PREAMBLE WATER	None
Swale 1	33.72765	-87.45468	235 FEET	NON-JD - RAPANOS.GUIDE - SWALE.EROSION	None
Swale 2	33.7416	-87.41516	123 FEET	NON-JD - RAPANOS.GUIDE - SWALE.EROSION	None
W-10 (a)	33.747311	-87.439697	0.0144 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-101	33.7635	-87.399	.158 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-102	33.76515	-87.39589	.06 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-113	33.70809	-87.41352	1.944 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-114	33.70568	-87.41409	.584 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-116	33.70433	-87.41188	.072 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-117	33.72355	-87.41308	.003 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-118	33.72333	-87.41265	.013 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-119	33.72303	-87.41239	.176 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-12	33.74669	-87.43925	.033 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-123 (a)	33.721284	-87.407792	5.2 ACRE	NON-WOTUS-WETL.NEGATIVE-A7	None
W-129	33.71425	-87.4096	.677 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-130	33.70809	-87.40907	.111 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-135	33.76206	-87.39928	.027 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-2	33.72757	-87.45406	.086 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-21	33.73968	-87.43642	.303 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-3	33.72593	-87.45341	.235 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-37 (a)	33.73888	-87.419469	0.016 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-40	33.74759	-87.41689	.034 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None

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W-42 (a)	33.744102	-87.417367	0.031 acre	NON-WOTUS-WETL.NEGATIVE-A7	Npne
W-43 (a)	33.743759	-87.417163	0.1 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-44 (a)	33.740669	-87.417900	0.019 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-45 (a)	33.740242	-87.417844	0.01 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-46 (a)	33.740100	-87.417689	0.014 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-47 (a)	33.739724	-87.417476	0.21 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-48 (a)	33.738916	-87.416661	0.075 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-50 (a)	33.739332	-87.415344	0.042 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-53 (a)	33.736376	-87.413648	0.29 acre	NON-WOTUS-WETL.NEGATIVE-A7	None
W-54	33.73322	-87.4131	.317 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-55	33.73109	-87.41543	.012 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-59	33.73135	-87.40804	.066 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-61	33.73054	-87.40935	.023 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-77	33.74735	-87.40752	1.62 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-78	33.74153	-87.40245	.118 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-8	33.74788	-87.43991	.017 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-87	33.74822	-87.39705	.039 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None
W-9	33.7476	-87.43945	.001 ACRES	NON-WOTUS-WETL.NEGATIVE-A7	None

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)

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3. REVIEW AREA. The review area for this AJD is comprised of only the aquatic resources included in the table in Section 1 above, which are situated on approximately 5,499 acres of undeveloped property that has historically been utilized for silviculture, recreational (hunting), and surface coal mining. The remaining aquatic resources in the 5,499-acre project boundary will be included in a Preliminary Jurisdictional Determination (PJD).
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest TNW is Cane Creek, which is designated as a Section 10 water from its confluence with Lost Creek upstream for 1.3 miles. Section 10 waters are a subset of TNWs.⁶
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS

P-14, P-15, W-2, W-3, W-8, W-9, W-10 (a), W-12, W-21, W-37 (a), W-40, W-42 (a), W-43 (a), W-43 (a), W-44 (a), W-45 (a), W-46 (a), W-47 (a), W-48 (a), W-50 (a), W-53 (a), W-54, W-55, W-59, W-61, W-77, W-78, W-87, W-101, W-102, W-113, W-114, W-116, W-117, W-118, W-119, W-123 (a), W-129, W-130, and W-135 do not flow to a TNW, interstate water or territorial seas because they are surrounded by uplands.

The ephemeral streams depicted on the “Goodsprings A” delineation map drain to Black Branch in the review area, which flows into Cane Creek in the review area. Cane Creek becomes a TNW approximately 12 miles downstream of the Black Branch confluence.

The ephemeral streams in the “Oakman” delineation map either drain to Black Branch which drains to Cane Creek or they drain into unnamed tributaries to Cane Creek, which becomes a TNW approximately 12 miles downstream.

The ephemeral streams depicted on the “Tap A” and “Goodsprings B” delineation maps drain to Wolf Creek just outside of the review area, which flows approximately 12 miles until it becomes a TNW at mile 6 or they drain to Cane Creek.

⁶ 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 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.

Swale 1 does not drain to a TNW, territorial seas or interstate water. Swale 2 drains directly to Cane Creek.

Ditch 1 drains to IS-44 which drains directly to Cane Creek, which becomes a TNW approximately 11 miles downstream. Ditch 2 drains to W-112, which drains to PS-21, which drains to PS-23, which drains to Wolf Creek just outside the review area which becomes a TNW approximately 12 miles downstream. Ditch 3 drains directly to Cane Creek. Ditch 4 drains to W-33 which drains to PS-6 which drains to Black Branch which drains to Cane Creek which becomes a TNW approximately 12 miles downstream.

6. SECTION 10 JURISDICTIONAL WATERS⁷: 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 10.⁸ 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

⁷ 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.

⁸ 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.

- 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
- 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”).⁹ 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.

Pond 14 and Pond 15 are waterfilled pits that were excavated in uplands during previous surface mining at the site and are now abandoned. The preamble to the 1986 regulations states the agencies generally do not consider the following resources to be waters of the U.S.: Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States (see 33 CFR 328.3(a)). Pond 14 and 15 are both depressional features that hold water. They are not connected to or part of a tributary network. Therefore Pond 14 and Pond 15 are not waters of the U.S.

- 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.

Swale 1 and Swale 2 are upland drainages without an ordinary high water mark and have very infrequent water flow. In accordance with the 2008 *Rapanos* Guidance, the agencies generally will not assert jurisdiction over swales or erosional features because they are characterized by low volume, infrequent, or short duration flow; therefore, Swale 1 and Swale 2 are not jurisdictional.

⁹ 51 FR 41217, November 13, 1986.

Ditch 2 was constructed in uplands, drains only uplands and has less than a relatively permanent flow of water (lacks OHWM, lacks evidence of high water table) and is therefore non-jurisdictional in accordance with the *Rapanos* guidance.

- 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*. N/A
- 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).

ES-1, ES-10, ES-100, ES-101, ES-102, ES-103, ES-105, ES-106, ES-107, ES-108, ES-11, ES-110, ES-111, ES-112, ES-113, ES-114, ES-115, ES-116, ES-117, ES-118, ES-119, ES-12, ES-120, ES-121, ES-122, ES-123, ES-124, ES-125, ES-126, ES-127, ES-128, ES-129, ES-13, ES-130, ES-131, ES-132, ES-133, ES-134, ES-135, ES-136, ES-137, ES-138, ES-139, ES-14, ES-140, ES-141, ES-142, ES-143, ES-144, ES-145, ES-146, ES-147, ES-148, ES-149, ES-15, ES-150, ES-151, ES-152, ES-153, ES-154, ES-155, ES-156, ES-158, ES-16, ES-160, ES-161, ES-162, ES-163, ES-164, ES-165, ES-166, ES-167, ES-168, ES-169, ES-17, ES-170, ES-171, ES-172, ES-173, ES-175, ES-176, ES-177, ES-18, ES-180, ES-181, ES-182, ES-183, ES-184, ES-185, ES-186, ES-187, ES-188, ES-189, ES-190, ES-191, ES-192, ES-193, ES-194, ES-195, ES-197, ES-198, ES-199, ES-2, ES-20, ES-200, ES-201, ES-202, ES-203, ES-204, ES-

205, ES-206, ES-207, ES-208, ES-209, ES-21, ES-210, ES-211, ES-212, ES-213, ES-214, ES-215, ES-216, ES-217, ES-218, ES-219, ES-22, ES-220, ES-222, ES-223, ES-224, ES-225, ES-226, ES-227, ES-228, ES-229, ES-23, ES-230, ES-231, ES-232, ES-233, ES-234, ES-235, ES-236, ES-237, ES-238, ES-239, ES-24, ES-240, ES-241, ES-242, ES-243, ES-244, ES-245, ES-246, ES-25, ES-26, ES-27, ES-28, ES-29, ES-3, ES-30, ES-31, ES-32, ES-33, ES-34, ES-35, ES-36, ES-37, ES-38, ES-39, ES-4, ES-40, ES-41, ES-42, ES-43, ES-44, ES-45, ES-46, ES-47, ES-48, ES-49, ES-5, ES-50, ES-51, ES-52, ES-53, ES-54, ES-55, ES-56, ES-57, ES-58, ES-59, ES-6, ES-60, ES-61, ES-62, ES-63, ES-64, ES-65, ES-66, ES-67, ES-68, ES-69, ES-7, ES-70, ES-71, ES-72, ES-73, ES-74, ES-75, ES-76, ES-77, ES-78, ES-79, ES-8, ES-80, ES-81, ES-82, ES-83, ES-84, ES-85, ES-86, ES-87, ES-88, ES-89, ES-9, ES-90, ES-91, ES-92, ES-93, ES-94, ES-95, ES-96, ES-97, ES-98, and ES-99 are all non-relatively permanent tributaries that flow only in response to rainfall events and do not have any groundwater influence. These streams lacked evidence of a high water table, had discontinuous ordinary high water marks, and no sediment sorting. Because the streams are non-relatively permanent they are not jurisdictional waters of the U.S.

W-2 abuts a non-jurisdictional swale (Swale 1) and is non-jurisdictional because it does not abut a requisite water, in other words, W-2 does not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment.

W-3, W-8, W-9, W-10(a), W-12, W-21, W-37(a), W-42(a), W-43(a), W-44(a), W-45(a), W-46(a), W-47(a), W-48(a), W-40, W-50(a), W-53(a), W-55, W-59, W-61, W-77, W-87, W-101, W-102, W-117, W-118, W-123(a), W-129, and W-135 are depressional wetlands surrounded by uplands and do not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment, and are therefore non-jurisdictional.

W-54 abuts a non-relatively permanent stream (ES-150) and is non-jurisdictional because it does not abut a requisite water, in other words, W-54 does not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment.

W-78 abuts a non-relatively permanent stream (ES-167) and is non-jurisdictional because it does not abut a requisite water, in other words, W-78 does not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment.

W-113 abuts a non-jurisdictional ditch (Ditch 3) and is non-jurisdictional because it does not abut a requisite water, in other words, W-113 does not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment.

W-114 is separated from IS-64 (relatively permanent tributary) by an existing road, which is uplands. There is no culvert in the road. W-114 is non-jurisdictional because it does not abut a requisite water, in other words, W-114 does not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment.

W-116 abuts a non-relatively permanent stream (ES-224) and is non-jurisdictional because it does not abut a requisite water, in other words, W-116 does not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment.

W-119 abuts a non-relatively permanent stream (ES-200) and is non-jurisdictional because it does not abut a requisite water, in other words, W-119 does not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment.

W-130 abuts a non-relatively permanent stream (ES-228) and is non-jurisdictional because it does not abut a requisite water, in other words, W-130 does not have a continuous surface connection to a TNW, territorial seas, interstate water, relatively permanent tributary or jurisdictional impoundment.

Ditch 1, Ditch 3, and Ditch 4 drain wetlands, but are non-relatively permanent and flow only in response to rainfall events and do not have any groundwater influence. These ditches lacked evidence of a high water table, had discontinuous ordinary high water marks, and no sediment sorting. Because they are non-relatively permanent they are not jurisdictional.

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. Corps PM site visit January 13, 2025.
 - b. Goodwyn Mills Cawood Request for Jurisdictional Determination, February 14, 2024.
 - c. Goodwyn Mills Cawood revised figures January 31, 2025

CESAM-RD-N

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), SAM-2024-00158-CMS

- d. Goodwyn Mills Cawood revised JD request, July 7, 2025, with revised figures (6/18/2025).

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.

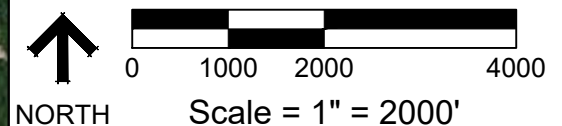
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR’s structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional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

The water resources identified with name labels (ES-#, IS-#, W-#, Swale-#, or Ditch-#) on this figure are being submitted as part of the approved jurisdictional determination (AJD). The unlabeled waters are being submitted as part of the preliminary jurisdictional determination (PJD). Figures 3a and 3c depict the PJD waters for Goodsprings A.

Goodsprings A

LEGEND:

- SITE BOUNDARY
- PONDS
- WETLANDS
- PERENNIAL STREAMS
- INTERMITTENT STREAMS
- EPHEMERAL STREAMS
- DITCH/SWALE
- DATA SHEET LOCATIONS



REF. SHEET: ESRI WORLD IMAGERY
DESCRIPTION: WATERS OF THE U.S. DELINEATION

► **Ingka Oakman Solar Project**
Goodsprings A Property - AJD Waters
Walker County, Alabama

FIGURE 3b

AERIAL PHOTOGRAPH
GMC # EBHM230046
DATE: 06/18/25
DRAWN BY: AYH

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The water resources identified with name labels (ES-#, IS-#, W-#, Swale-#, or Ditch-#) on this figure are being submitted as part of the approved jurisdictional determination (AJD). The unlabeled waters are being submitted as part of the preliminary jurisdictional determination (PJD). Figures 3a and 3c depict the PJD waters for Goodsprings A.

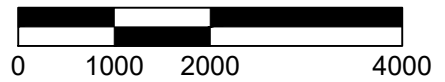
Goodsprings A

LEGEND:

- SITE BOUNDARY
- PONDS
- WETLANDS
- PERENNIAL STREAMS
- INTERMITTENT STREAMS
- EPHEMERAL STREAMS
- DITCH/SWALE



NORTH



Scale = 1" = 2000'

REF. SHEET: OAKMAN & TOWNLEY, ALABAMA USGS QUADRANGLE MAP
DESCRIPTION: WATERS OF THE U.S. DELINEATION

► **Ingka Oakman Solar Project**
Goodsprings A Property - AJD Waters
Walker County, Alabama

FIGURE 3d

USGS TOPOGRAPHIC MAP
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DRAWN BY: AYH

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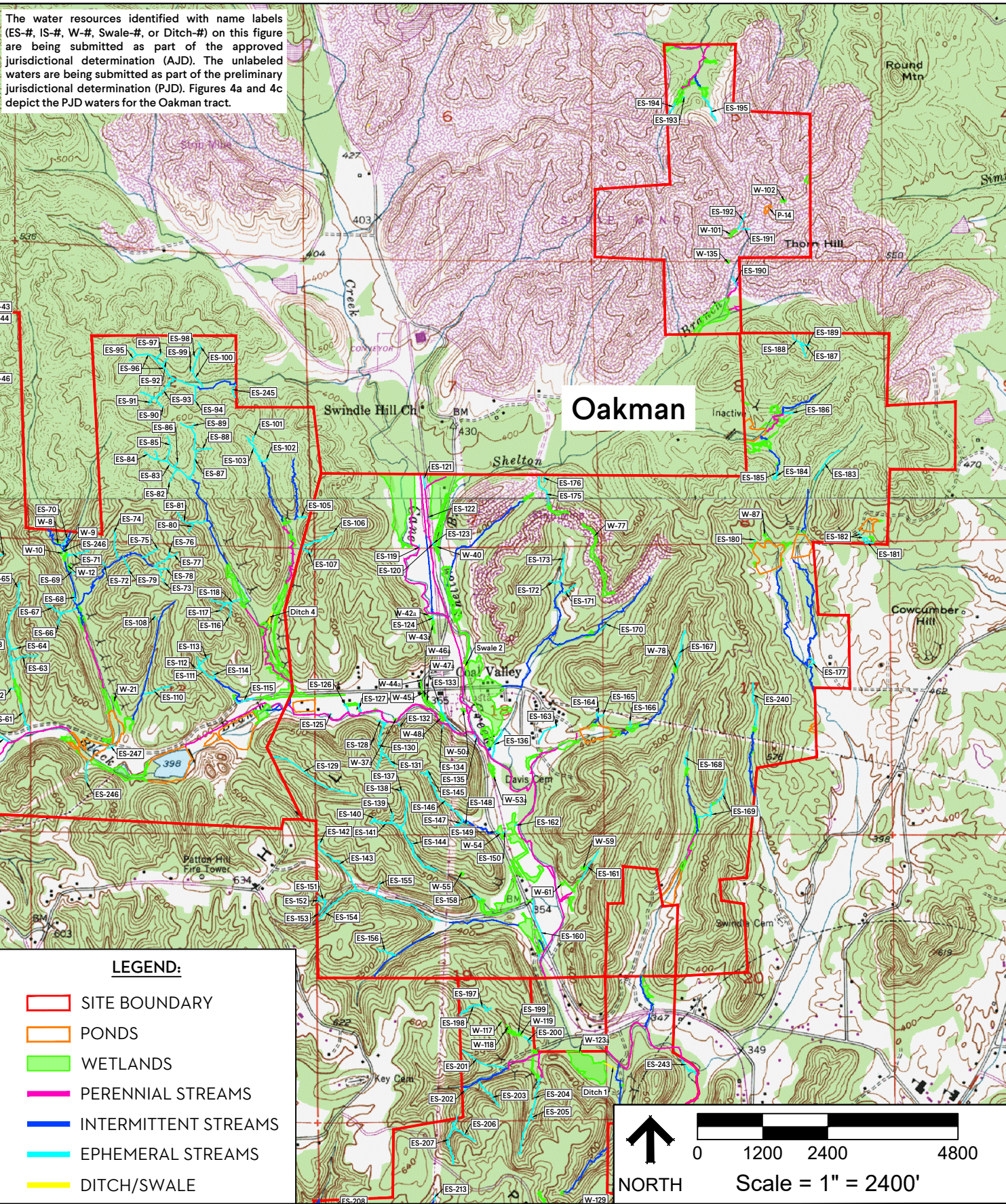
The water resources identified with name labels (ES-#, IS-#, W-#, Swale-#, or Ditch-#) on this figure are being submitted as part of the approved jurisdictional determination (AJD). The unlabeled waters are being submitted as part of the preliminary jurisdictional determination (PJD). Figures 4a and 4c depict the PJD waters for the Oakman tract.

► **Ingka Oakman Solar Project**
Oakman Property - AJD Waters
Walker County, Alabama

AERIAL PHOTOGRAPH
GMC # EBHM230046
DATE: 06/18/25
DRAWN BY: AYH

GMC

The water resources identified with name labels (ES-#, IS-#, W-#, Swale-#, or Ditch-#) on this figure are being submitted as part of the approved jurisdictional determination (AJD). The unlabeled waters are being submitted as part of the preliminary jurisdictional determination (PJD). Figures 4a and 4c depict the PJD waters for the Oakman tract.



REF. SHEET: OAKMAN & TOWNLEY, ALABAMA USGS QUADRANGLE MAPS
DESCRIPTION: WATERS OF THE U.S. DELINEATION

► **Ingka Oakman Solar Project**
Oakman Property - AJD Waters
Walker County, Alabama

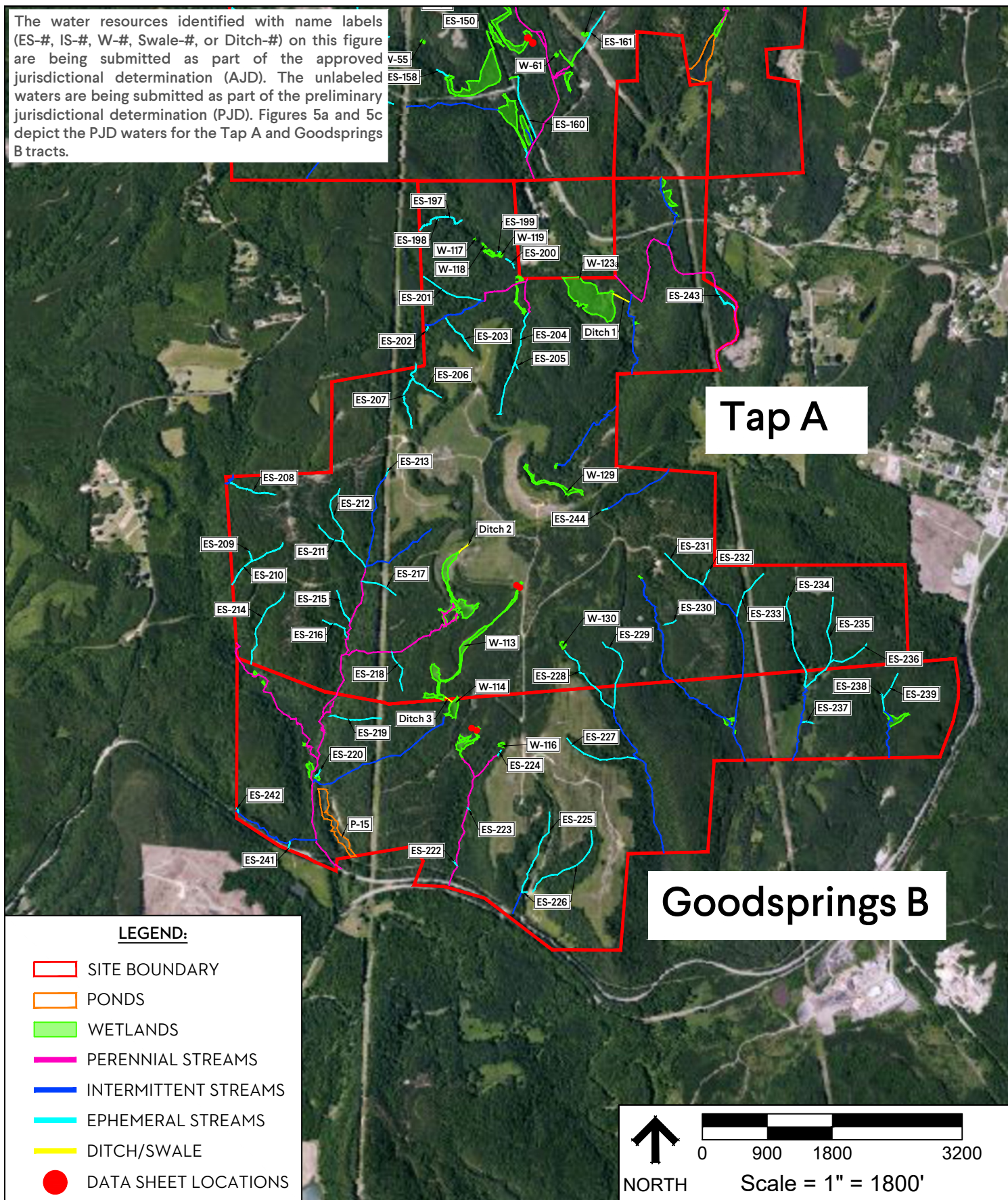
FIGURE 4d

USGS TOPOGRAPHIC MAP
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The water resources identified with name labels (ES-#, IS-#, W-#, Swale-#, or Ditch-#) on this figure are being submitted as part of the approved jurisdictional determination (AJD). The unlabeled waters are being submitted as part of the preliminary jurisdictional determination (PJD). Figures 5a and 5c depict the PJD waters for the Tap A and Goodsprings B tracts.



REF. SHEET: ESRI WORLD IMAGERY
DESCRIPTION: WATERS OF THE U.S. DELINEATION

► **Ingka Oakman Solar Project**
Tap A & Goodspring B - AJD Waters
Walker County, Alabama

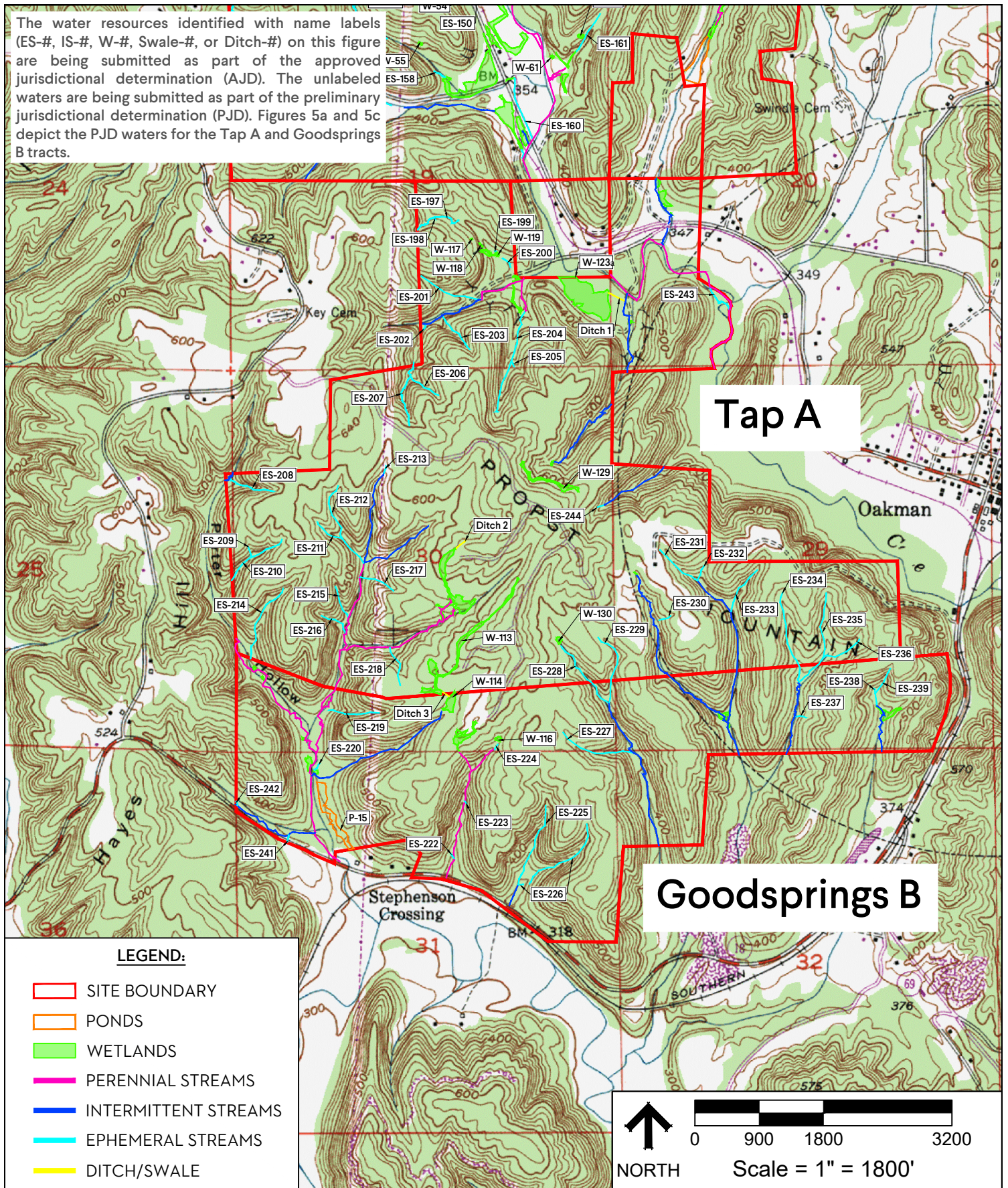
FIGURE 5b

AERIAL PHOTOGRAPH
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The water resources identified with name labels (ES-#, IS-#, W-#, Swale-#, or Ditch-#) on this figure are being submitted as part of the approved jurisdictional determination (AJD). The unlabeled waters are being submitted as part of the preliminary jurisdictional determination (PJD). Figures 5a and 5c depict the PJD waters for the Tap A and Goodsprings B tracts.



REF. SHEET: ESRI WORLD IMAGERY
DESCRIPTION: WATERS OF THE U.S. DELINEATION

► **Ingka Oakman Solar Project**
Tap A & Goodspring B - AJD Waters
Walker County, Alabama

FIGURE 5d

USGS TOPOGRAPHIC MAP
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