



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, CHARLESTON DISTRICT  
750 EXECUTIVE CENTER DRIVE, SUITE 103  
GREENVILLE, SC 29615-4581

CESAC-RD

6 NOVEMBER 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> SAC-2025-00886, MFR 1 of 1

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>2</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>3</sup> For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>4</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 amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in this state due to litigation.

1. SUMMARY OF CONCLUSIONS.

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<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> 33 CFR 331.2.

<sup>3</sup> Regulatory Guidance Letter 05-02.

<sup>4</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.

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- 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).

Name of Aquatic Resource	Acres (AC.)/Linear Feet (L.F.)	Waters of the U.S. (JD or Non-JD)	Section 404/Section 10
Non-Jurisdictional Feature 7	Approximately 0.486 AC.	Non-JD	N/A

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. Regional Supplement to the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual: Eastern Mountains and Piedmont (April 2012)
- f. EPA Memorandum dated March 12, 2025, titled "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

3. REVIEW AREA.

- a. Project Area Size: +/-0.965-acre
- b. Center Coordinates Review Area: 34.7464° N, -82.0354° W
- c. Nearest City: Woodruff
- d. County: Spartanburg
- e. State: South Carolina

The area of review is comprised of forested uplands, a portion of an abandoned industrial mill complex, and one non-jurisdictional feature. The project area is identified as a portion of Tax Map Sequence (TMS) # 4-25-15-

123.02, at 310 Woodruff Street, in the City of Woodruff, Spartanburg County, South Carolina. The USDA NRCS soils map depicts two soil types within the project area: Urban Land-Cecil complex, 2 to 10 percent slopes, and Water. Within the project area, the NWI map indicates three features, R4SBC (riverine, intermittent, streambed, seasonally flooded), R5UBH (riverine, unknown perennial, unconsolidated bottom, permanently flooded), and PUBHh (palustrine, unconsolidated bottom, permanently flooded, dike/impoundment). The R5UBH feature is located in the south portion of the project area and flows north into the PUBHh. The PUBHh feature is located in the center of the project area and drains east into the R4SBC. The R4SBC feature is located in the southeast portion of the project area and flows east and off-property. The USGS topographic map indicates two RPWs and one impoundment. One of the RPWs flows into the impoundment, while the other RPW flows out of the impoundment. The 3DEP Hillshade and 3DEP 2-ft. Contour maps clearly indicate a large berm built around the aquatic feature. Blueline Environmental Consultants, LLC visited the project area on April 28, 2025, to perform the delineation. The wetland delineation was performed in accordance with the Regional Supplement to the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual: Eastern Mountains and Piedmont (April 2012).

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A.<sup>5</sup>
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. N/A.
6. SECTION 10 JURISDICTIONAL WATERS<sup>6</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

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<sup>5</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 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.

<sup>6</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.

resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.<sup>7</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.
- 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>8</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. N/A.

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<sup>7</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.

<sup>8</sup> 51 FR 41217, November 13, 1986.

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- 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*. 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).
  - a. The 0.486-acre non-jurisdictional feature-pond (non-jurisdictional feature 7) is located in the center of the project area. The pond’s water depth is unknown, and the waters were cloudy as seen in the “Site Photographs” submitted by the agent and photographs taken on-site by the Corps. The non-jurisdictional feature-pond receives water from overland stormflow from the surrounding uplands. The non-jurisdictional feature-pond does not flow into any aquatic resources. An inflow/outflow pipe was observed within the pond’s embankment; however, the intake/outlet pipe was at least two feet above the surface water of the pond. Likewise, within the

project area the agent nor the Corps was able to locate the inflow/outflow pipe on the other side of the pond or constructed berm. The pond is not part of the riparian corridor and is non-adjacent to other aquatic resources. The pond does not have a linear conveyance to another aquatic resources. In addition, a stream located outside the project area was observed, however the stream was extremely incised with a distinct drop in elevation from the location of the pond to the ordinary high water mark (OHWM) of the stream. Similarly, a wetland located at the toe of the berm, opposite the pond, was also drastically lower in elevation. During the site visit, conducted by the Corps on September 5, 2025, the perimeter of the non-jurisdictional feature-pond (non-jurisdictional feature 7) and downslope of the non-jurisdictional feature-pond were examined. Based on field observations the pond is non-adjacent to a RPW, not in line with a RPW, nor did it have an accessible inflow/outflow pipe leading from or to a RPW. Therefore, the aquatic feature is non-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. Review performed for site evaluation: Site visit conducted on September 5, 2025. Office (desk) determination date: November 3, 2025. The site visit indicated that the non-jurisdictional feature (pond) was non-adjacent to a RPW, not in line with a RPW, nor did it have an accessible inlet/outlet pipe leading from or to a RPW.
  - b. Aquatic resources delineation submitted by, or on behalf of, the requestor: Wetland delineation package including data sheets and map of onsite waters provided by Blueline Environmental Consultants, LLC. and received on August 15, 2025. Delineation report supported decision in determining non-jurisdictional feature (pond).
  - c. Aerial imagery provided by agent titled "Data Point and Photo Point Locations – Chamblin Street AJD" and "Site Photographs 1 – 69" dated August 11, 2025. Observed overview of the review area and location of photographs taken by the agent.
  - d. USGS 7.5' Topographic Series for Woodruff, SC provided by the agent title "USGS Topo – Chamblin Street AJD" and dated August 11, 2025. The USGS topographic map indicated a RPW draining into and out of a larger impoundment within the review area.

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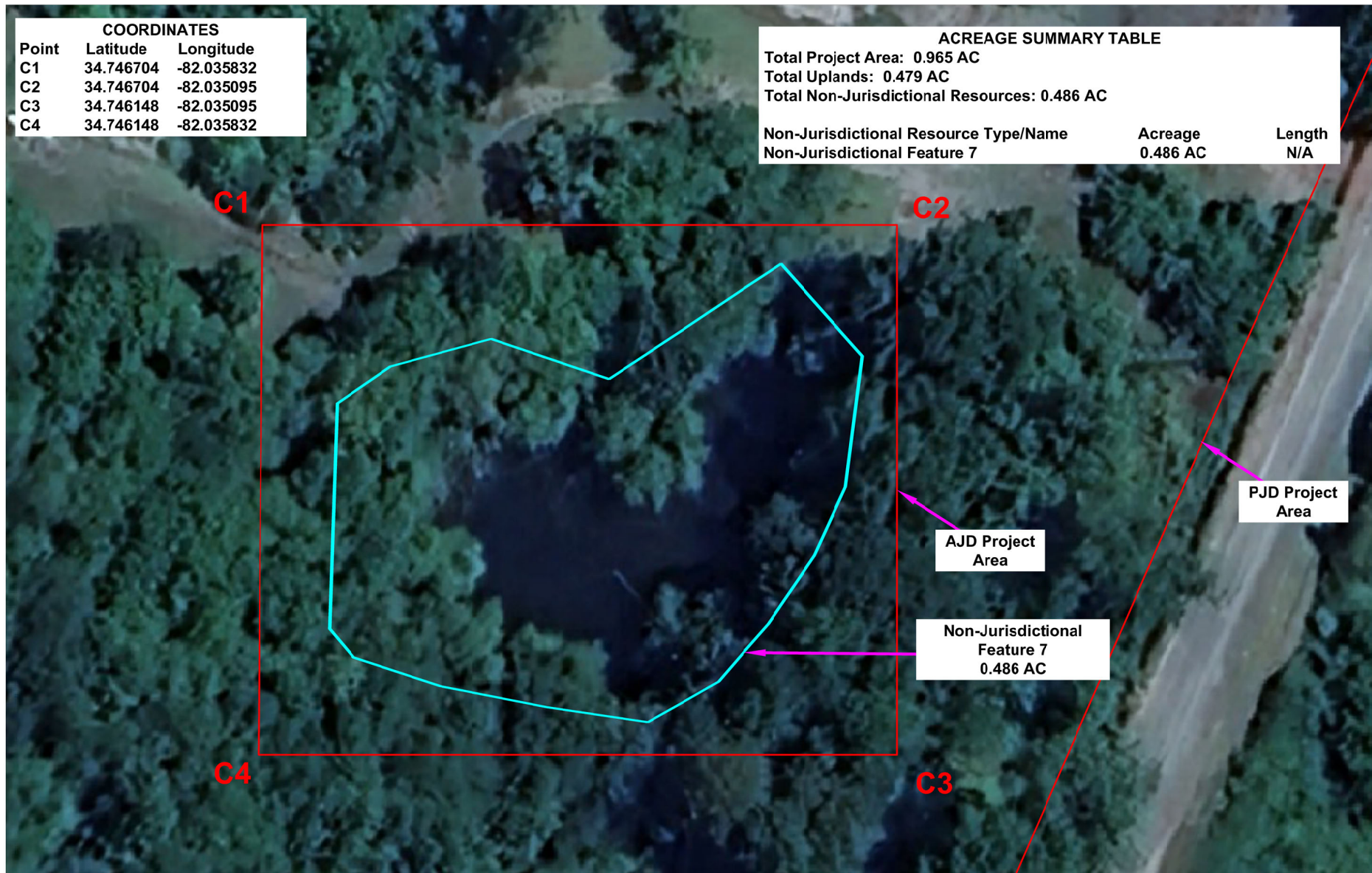
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- e. LIDAR 2-foot contour map provided by the agent titled “Lidar 2ft Contour – Chamblin Street AJD” and dated August 11, 2025. The LIDAR 2-foot contours showed the change in topography, indicating the location of the pond, but clearly shows a large distinct berm encompassing the east and south portion of the pond.
  - f. USDA NRCS soils survey and USFWS NWI map provided by agent titled “Soil/NWI – Chamblin Street AJD” and dated August 11, 2025. The NWI data shows a RPW flowing into an impoundment and then flowing back into a RPW. However, during the site visit, there were no indications of a stream draining into the pond nor out of the pond.
  - g. Antecedent Precipitation Tool Version 2.0, provided by the agent titled “Antecedent Precipitation vs. Normal Range based on NOAA’s Daily Global Historical Climatology Network” and dated April 28, 2025. Output from the APT indicated “Normal Conditions – 14”, at the time of data collection by the agent. The APT tabulates data from weather stations in the vicinity and calculates field conditions using a combination of historical and recent observations. The data indicates the photographs and site visit were conducted during normal conditions. Indicating the information provided by the agent to be an accurate account of the review area.
  - h. USGS 3D Elevation Program (3DEP) Bare Earth DEM Dynamic Map Service (Hillshade), created by the Corps and dated November 3, 2025. The map showed the change in topography, indicating the location of the pond, but clearly shows a large distinct berm encompassing the east and south portion of the pond.
10. OTHER SUPPORTING INFORMATION. Site visit conducted by U.S. Army Corps of Engineer personnel on September 5, 2025. The Corps observed the non-jurisdictional feature (pond) did not connect to a RPW.
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.



COORDINATES		
Point	Latitude	Longitude
C1	34.746704	-82.035832
C2	34.746704	-82.035095
C3	34.746148	-82.035095
C4	34.746148	-82.035832

ACREAGE SUMMARY TABLE		
Total Project Area: 0.965 AC		
Total Uplands: 0.479 AC		
Total Non-Jurisdictional Resources: 0.486 AC		
Non-Jurisdictional Resource Type/Name	Acreage	Length
Non-Jurisdictional Feature 7	0.486 AC	N/A



Aerial Orthophoto: Google Earth 2024 Data  
 Project Boundary Provided By: Arbor Land Design

GRAPHIC SCALE

1 inch = 50 feet

710 Lowndes Hill Rd.  
 Greenville, SC 29607  
 R.P. Hansen Smith  
 hansen.smith@bluelineenviro.com  
 (561) 212-9218

DRAWN BY:	HS
DATE:	20250908
PROJECT NO.:	2417

**AJD Waters Drawing**  
 Chamblin Street AJD  
 B&B Real Estate Company  
 Spartanburg County, South Carolina

SHEET NO.

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