



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
4751 BEST ROAD, SUITE 140
COLLEGE PARK, GEORGIA 30337

SAS-2023-00887

December 18, 2024

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), SAS-2023-00887 (MFR 1 of 3)

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.¹ 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.² For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),³ 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 Georgia due to litigation.

1. SUMMARY OF CONCLUSIONS.

¹ 33 CFR 331.2.

² Regulatory Guidance Letter 05-02.

³ 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	JD or Non-JD	Section 404/Section 10
Wetland MA	JD	Section 404
Tributary MF	JD	Section 404
Wetland FC	JD	Section 404
Wetland FD	JD	Section 404
Tributary STA	JD	Section 404
Tributary SFF	JD	Section 404
Tributary SMB	JD	Section 404
Tributary SFC	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. ___, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. (“NW Review Area”)

- A. ~405 acres
- B. Latitude: 32.8308, Longitude: -83.3127
- C. South of Gordon
- D. Wilkinson County
- E. Georgia
- G. Onsite waters are associated with Dry Fork. Historic aerial imagery indicates that land disturbance/earth work occurred within the review area, circa 1955. Imagery from 1973 indicates that the area was allowed to naturalize. However, imagery from 1981 indicates that mining activities began. The property associated with the review area continues to be used for mining and contains 3 currently mined areas.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED.

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- A. The Oconee River, located approximately 115,000 linear feet (35 linear kilometers) southeast of the subject review, is the nearest TNW.
- B. Determination based on: This determination was made based on a review of desktop data resources listed in Section 9 of this memorandum and a review of the SAS Section 10 list (for a water body that is navigable-in-fact under federal law for any purpose (such as Section 10, RHA)), that water body categorically qualifies as a Section 404 "traditional navigable water" subject to CWA jurisdiction under 33 CFR 328.3(a)(1)), and documented occurrences of boating traffic on the identified water.

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

SFC drains northward into MF. MF drains southwestward into SMB. STA drains southward into SMB and SFF drains southwestward into SMB, both through MF. SMB flows southeastward and exits the property into FC. FD flows eastward, leaving the property and into FC. FC flows southward through and existing unpaved mining road and into MA. MA drains southwest and exits the review area. It is understood that water from MA flows via Dry Fork, Clear Creek, and Big Sandy Creek for approximately 150,000 feet (~45 kilometers) and enters the Oconee River (the nearest TNW).

6. SECTION 10 JURISDICTIONAL WATERS⁴: 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. 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

⁴ 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.

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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):

Name of Aquatic Resource	Size (in linear feet)	Flow Regime and additional description of the tributary	Method for determining flow regime
STA	1,690	Intermittent; See additional description below.	observed flow during site visit during normal precipitation conditions; NC DWQ stream identification form
SFF	936	Intermittent; See additional description below.	observed flow during site visit during normal precipitation conditions; NC DWQ stream identification form
SMB	941	Perennial; See additional description below.	observed flow during site visit during normal precipitation conditions; NC DWQ stream identification form

Tributary STA: Tributary STA is a tributary of Tributary SMB that flows through Wetland MF, located in the northern portion of the review area. During the Agent’s onsite delineation (conducted during Normal Conditions based on the APT), Tributary STA was observed to contain two segments with varying flow regimes (identified as STA and SMB). The scoring system of the NC DWQ Stream Identification Form Version 4.11 was used to determine flow regimes. The first segment (STA), 1,511 linear feet in length, received a score of 29, concluding an intermittent flow regime. The second segment (SMB), 179 linear feet in length, received a score 41.5, concluding an perennial flow regime. Comprising a majority of the tributary (89%), segment STA’s intermittent flow regime best characterizes Tributary STA. Tributary STA is a relatively permanent tributary of Dry Fork, an RPW and tributary of the Oconee River. Therefore, it meets the definition of an (a)(5) water.

Tributary SFF: Tributary SFF is a tributary of Tributary SMB that flows through Wetland MF, located in the northern portion of the review area. During the Agent’s onsite delineation (conducted during Normal Conditions based on the APT), Tributary SFF was

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observed to contain a single flow regime. The stream received a score of 24 on the NC DWQ Stream Identification Form Version 4.11, concluding an intermittent flow regime. Tributary SFF is a relatively permanent tributary of Dry Fork, an RPW and tributary of the Oconee River. Therefore, it meets the definition of an (a)(5) water.

Tributary SMB: Tributary SMB is an upper reach of Dry Fork, located in the northern portion of the review area. During the Agent’s onsite delineation (conducted during Normal Conditions based on the APT), Tributary SMB was observed to contain a single flow regime. The stream received a score of 41.5 on the NC DWQ Stream Identification Form Version 4.11, concluding a perennial flow regime. Tributary SMB is a relatively permanent tributary of Clear Creek, a tributary of the Oconee River. Therefore, it meets the definition of an (a)(5) water.

f. The territorial seas (a)(6): N/A

g. Adjacent wetlands (a)(7):

Name of Aquatic Resource	Size (in acres)	Contiguous with or abutting? If so, list water	Describe continuous surface connection
MA	4.81	No	The wetland is understood to abut Dry Fork (an RPW) offsite
MF	15.02	Yes	The wetland boundary is connecting and contiguous with streams STA, SFF, and SMB, all of which are RPWs
FC	29.70	No	FC is connected via a previously culverted roadway crossing. A hydrologic connection was observed via the crossing to MA (and adjacent wetland) during normal precipitation conditions.
FD	0.14	No	FD and FC are contiguous offsite. FC has a continuous surface connection via a roadway crossing.

Wetland MA: Wetland MA is located in the southwestern portion of the review area. It is hydrologically fed by pipes associated with mining activities, that discharge into MA’s northern limits. The wetland drains southward offsite and is understood to be contiguous with Dry Fork, an RPW and tributary of the Oconee River. Therefore, it meets the definition of an (a)(7) water.

Wetland MF: Wetland is located in the northern portion of the review area. The wetland boundary is connecting and contiguous with streams STA, SFF, and SMB, all of which are RPWs. Flows from Wetland MF are understood flow through offsite waters and into Dry Fork, an RPW and tributary of the Oconee River. Therefore, it meets the definition of an (a)(7) water.

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Wetland FC: Wetland FC is located in the southeastern portion of the review area. Flows from Tributary SMB (Dry Fork) are understood to enter Wetland MA offsite. However, within the portion of Wetland FC present onsite, no continuous channel was observed. This is attributed to the heavy beaver presence within the wetland. FC drains through a mining road crossing and out of the review area. Historically, there was a culvert in that location; however, it was removed during a flood event. FC retains hydrology through the mining road crossing, conveying flows into Wetland MA, an (a)(7) water. Wetland MA is understood to serve as a continuous surface connection between Wetland FC and Dry Creek, an RPW and tributary of the Oconee River. Therefore, it meets the definition of an (a)(7) water.

Wetland FD: Wetland FD is located in the southeastern portion of the review area. It is understood to be connecting and contiguous with Tributary SMB's and Wetland FC offsite. Wetland FD is also understood to have a continuous surface connection via Wetland FC, the mining road crossing, and Wetland MA to Dry Creek, an RPW and tributary of the Oconee River. Therefore, it meets the definition of an (a)(7) water.

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”).⁵ 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
- 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

⁵ 51 FR 41217, November 13, 1986.

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- 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).

Name of excluded feature	Size (in linear feet)	Type of resource generally not jurisdictional
SFC	1,047	Tributary that is a non-relatively permanent water.

SFC: SFC is a tributary of STA, located in the northwestern portion of the review area. During the Agent’s onsite delineation (conducted during Normal Conditions based on the APT), tributary SFC was observed to contain two segments with varying flow regimes (identified as SFC and SFD). The scoring system of the NC DWQ Stream Identification Form Version 4.11 was used to determine flow regimes. The first segment (SFC), 596 linear feet in length, received a score of 12.5, concluding an ephemeral flow regime. The second segment (SFD), 451 linear feet in length, received a score 23, concluding an intermittent flow regime. Comprising a majority of tributary (57%), segment SFC’s ephemeral flow regime best characterizes tributary SFC. The tributary does not have a relatively permanent presence of water, being understood to predominantly flow only in response to precipitation events. Therefore, it does not meet the definition of an (a)(5) water.

- 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. Office (desktop) determination: April-November 2024 (CESAS-RDP)
 - b. Field determination(s): April 19-20, 2023 (Agent); July 19, 2023 (Agent); June 13, 2024 (Agent)
 - c. Data sources used to support this determination (included in the administrative record).

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- Aquatic Resources delineation submitted by, or on behalf of, the requestor: Figures 6: *Delineation Map*, as prepared by the Agent, and dated 6/13/2024; and Figures 6A-6C: *Delineation Map Detail*, as prepared by the Agent, and dated 6/13/2024.
- Aquatic Resources delineation prepared by the USACE: Title and Date
- Wetland field data sheets: Sampling points: *MF11 Wet* and *MF11 Up*, as prepared by the Agent, and dated 04/20/2023.
- OHWM data sheets prepared by the USACE: Title and Date
- Previous JDs (AJD or PJD) addressing the same (or portions of the same) review area: ORM Numbers and Dates
- Photographs: Site photographs (Page 1 of 24 through Page 24 of 24), collectively prepared by the Agent, and dated 04-07/2023.
- Aerial Imagery: Aerial imagery retrieved from the National Regulatory Viewer (NRV) by CESAS-RDP in 11/24.
- LIDAR: LIDAR imagery (3DEP DEM and 3DEP Hillshade), retrieved from the National Regulatory Viewer (NRV) by CESAS-RDP in 04/24.
- USDA NRCS Soil Survey: Figure 3: *Soils Map*, as prepared by the Agent, and dated 10/24/2023; and USDA hydric soil rating data, retrieved by CESAS-RDP in 04/24.
- USFWS NWI maps: Figure 4: *NWI Map*, as prepared by the Agent, and dated 10/24/2023.
- USGS topographic maps: Figure 2: *USGS Topographic Map*, as prepared by the Agent, and dated 10/24/2023.
- USGS NHD data/maps: NHD data, retrieved from the NRV by CESAS-RDP in August 2024.
- Section 10 resources used: Title and Dates
- NC DWQ stream identification forms
- Antecedent Precipitation Tool Analysis (List Date(s)): APT Data from 4/19/23, 4/20/23, and 07/19/23 (all "Normal Conditions").
- Other sources of Information: USDM - Georgia (04/25/23 and 07/18/23), received from the Agent on 11/07/23; Figure 5: *FEMA Map*, as prepared by the Agent, and dated 10/24/2023; StreamStats data retrieved by CESAS-RDP in 08/24; and 2-foot contour imagery retrieved from the NRV by CESAS-RDP in 09/24.

10. OTHER SUPPORTING INFORMATION. N/A

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

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additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



DEPARTMENT OF THE ARMY
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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), SAS-2023-00887 (MFR 2 of 3)

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.¹ 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.² For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),³ 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 Georgia due to litigation.

1. SUMMARY OF CONCLUSIONS.

¹ 33 CFR 331.2.

² Regulatory Guidance Letter 05-02.

³ 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	JD or Non-JD	Section 404/Section 10
Wetland FA	JD	Section 404
Surface Water SWA	JD	Section 404
Tributary SFA	JD	Section 404

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. __, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. (“NE Review Area”)

- A. ~55 acres
- B. Latitude: 32.8380, Longitude: -83.3008
- C. South of Gordon
- D. Wilkinson County
- E. Georgia
- G. Onsite waters are associated with Dry Fork. Historic aerial imagery indicates that aside from the construction of field roads, the review area remained undisturbed until mining began in the southwestern portion (between 1993 and 2007). The remaining portions of the review area remained undisturbed until circa 2015, when tree clearing occurred around the footprint of the current delineated waters. The trees have remained undisturbed along the delineated waters and the review area has been allowed to revegetate.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED.

- A. The Oconee River, located approximately 115,000 linear feet (35 linear kilometers) southeast of the subject review, is the nearest TNW.

- B. Determination based on: This determination was made based on a review of desktop data resources listed in Section 9 of this memorandum and a review of the SAS Section 10 list (for a water body that is navigable-in-fact under federal law for any purpose (such as Section 10, RHA)), that water body categorically qualifies as a Section 404 "traditional navigable water" subject to CWA jurisdiction under 33 CFR 328.3(a)(1)), and documented occurrences of boating traffic on the identified water.

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

Water from Wetland FA drains southward into Tributary SFA. Tributary SFA flows southward, enters and exits Surface Water SWA, and continues to flow southward, exiting the review area. Based on available information, it is understood that Tributary SFA continues to flow for approximately 350 feet to the southeast until it enters a tributary of Dry Fork, located within the Bragg Fountain Mine property. The unnamed tributary flows generally southwest for approximately 4,000 feet and enters Wetland FC (within the "Northwest Review Area"). Wetland FC flows southward through and existing unpaved mining road and into Wetland MA. Wetland MA drains southwest and exits the review area. It is understood that water from Wetland MA flows via Dry Fork, Clear Creek, and Big Sandy Creek for approximately 150,000 feet (~45 kilometers) and enters the Oconee River (the nearest TNW).

6. SECTION 10 JURISDICTIONAL WATERS⁴: 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. 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

⁴ 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.

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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):

Name of Aquatic Resource	Size (in acres)	Rationale, including written Description of Lateral Limits or reference to an attached map showing the lateral limits	Method for determining lateral limits
Surface Water SWA	0.20	See attached delineation map	OHWM indicators (Vegetation matted down, bent, or absent; and water staining)

Surface Water SWA: Surface Water SWA is located in the southeastern portion of the property. It impounds flows of Tributary SFA, an RPW. Therefore, it meets the definition of an (a)(4) water.

- e. Tributaries (a)(5):

Name of Aquatic Resource	Size (in linear feet)	Flow Regime and additional description of the tributary	Method for determining flow regime
Wetland SFA	959	Intermittent; See additional description below.	observed flow during site visit during normal precipitation conditions; NC DWQ stream identification form

Tributary SFA: Tributary SFA is the only tributary in the review area. During the Agent’s onsite delineation (conducted during Normal Conditions based on the APT), Tributary SFA’s two segments, located upstream and downstream of Surface Water SWA, were assessed to determine their individual flow regimes (identified as SFA and SFB). The scoring system of the NC DWQ Stream Identification Form Version 4.11 was used to determine flow regimes. The first segment (SFA), 308 linear feet in length, received a score of 21, concluding an intermittent flow regime. The second segment (SFB), 651 linear feet in length, received a score 22.5, concluding an intermittent flow regime. The tributary is best characterized as having intermittent flow regime. Tributary SFA is a relatively permanent tributary of Dry Fork, an RPW and tributary of the Oconee River. Therefore, it meets the definition of an (a)(5) water.

f. The territorial seas (a)(6): N/A

g. Adjacent wetlands (a)(7):

Name of Aquatic Resource	Size (in acres)	Contiguous with or abutting? If so, list water	Describe continuous surface connection
FA	0.57	Yes	The wetland boundary is connecting and contiguous with Tributary SFA, an RPW.

Wetland FA: Wetland FA is in the northeastern portion of the review area. The wetland abuts and drains southward into Tributary SFA, an RPW and tributary of the Oconee River. Therefore, it meets the definition of an (a)(7) water.

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”).⁵ 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
- 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

⁵ 51 FR 41217, November 13, 1986.

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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). N/A

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. Office (desktop) determination: April-November 2024 (CESAS-RDP)
- b. Field determination(s): April 19-20, 2023 (Agent); July 19, 2023 (Agent); June 13, 2024 (Agent)
- c. Data sources used to support this determination (included in the administrative record).
- Aquatic Resources delineation submitted by, or on behalf of, the requestor: Figures 6: *Delineation Map*, as prepared by the Agent, and dated 6/13/2024; and Figures 6A-6C: *Delineation Map Detail*, as prepared by the Agent, and dated 6/13/2024.
 - Aquatic Resources delineation prepared by the USACE: Title and Date
 - Wetland field data sheets
 - OHWM data sheets prepared by the USACE: Title and Date
 - Previous JDs (AJD or PJD) addressing the same (or portions of the same) review area: ORM Numbers and Dates
 - Photographs: Site photographs (Page 1 of 24 through Page 24 of 24), collectively prepared by the Agent, and dated 04-07/2023.
 - Aerial Imagery: Aerial imagery retrieved from the National Regulatory Viewer (NRV) by CESAS-RDP in 11/24.
 - LIDAR: LIDAR imagery (3DEP DEM and 3DEP Hillshade), retrieved from the National Regulatory Viewer (NRV) by CESAS-RDP in 04/24.
 - USDA NRCS Soil Survey: Figure 3: *Soils Map*, as prepared by the Agent, and dated 10/24/2023; and USDA hydric soil rating data, retrieved by CESAS-RDP in 04/24.
 - USFWS NWI maps: Figure 4: *NWI Map*, as prepared by the Agent, and dated 10/24/2023.

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- USGS topographic maps: Figure 2: *USGS Topographic Map*, as prepared by the Agent, and dated 10/24/2023.
- USGS NHD data/maps: NHD data, retrieved from the NRV by CESAS-RDP in 07/24.
- Section 10 resources used: Title and Dates
- NC DWQ stream identification forms
- Antecedent Precipitation Tool Analysis (List Date(s)): APT Data from 4/19/23, 4/20/23, and 07/19/23 (all "Normal Conditions").
- Other sources of Information: USDM - Georgia (04/25/23 and 07/18/23), received from the Agent on 11/07/23; Figure 5: *FEMA Map*, as prepared by the Agent, and dated 10/24/2023; StreamStats data retrieved by CESAS-RDP in 08/24; and 2-foot contour imagery retrieved from the NRV by CESAS-RDP in 09/24.

10. OTHER SUPPORTING INFORMATION. N/A

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.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
4751 BEST ROAD, SUITE 140
COLLEGE PARK, GEORGIA 30337

SAS-2023-00887

December 18, 2024

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), SAS-2023-00887 (MFR 3 of 3)

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.¹ 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.² For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),³ 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 Georgia due to litigation.

1. SUMMARY OF CONCLUSIONS.

¹ 33 CFR 331.2.

² Regulatory Guidance Letter 05-02.

³ 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	JD or Non-JD	Section 404/Section 10
Wetland MM	Non-JD	N/A
Wetland ML	Non-JD	N/A
Wetland TB	JD	Section 404
Tributary SMD	Non-JD	N/A
Tributary SMC	Non-JD	N/A
Surface Water SWB	Non-JD	N/A
Surface Water SWC	Non-JD	N/A
Wetland MI	Non-JD	N/A
Wetland TA	Non-JD	N/A
Wetland MH	Non-JD	N/A
Wetland MK	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. ___, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. (“SE Review Area”)

- A. ~555 acres
- B. Latitude: 32.8211, Longitude: -83.2926
- C. South of Gordon
- D. Wilkinson County
- E. Georgia
- G. Historic aerial imagery indicates that mining began in the review area circa 1981. The review area contains three (3) current mining areas. The mining area located along the southern boundary of the review area was established in between 1981 and 1982. The mining area located in the southwestern portion of the review area was established circa 2007. The mining area located along the northern boundary of the review area was established circa 2017. Waters within the review area flow southward and were historically connected to Clear Creek. The waters currently exit the review area via a constructed flowpath (established circa 1982), that terminates

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in a currently mined area (referred to as SW1) located within a separate property to the south. Based on available information, including a supplemental site visit conducted by the Agent on June 13, 2024, it was observed that SW1 has no outlet to downstream waters, thus severing the historic connection between the upstream waters in eastern portion of the review area and Clear Creek.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED.

A. The Oconee River, located approximately 108,000 linear feet (33 linear kilometers) southeast of the subject review, is the nearest TNW.

B. Determination based on: This determination was made based on a review of desktop data resources listed in Section 9 of this memorandum and a review of the SAS Section 10 list (for a water body that is navigable-in-fact under federal law for any purpose (such as Section 10, RHA)), that water body categorically qualifies as a Section 404 "traditional navigable water" subject to CWA jurisdiction under 33 CFR 328.3(a)(1)), and documented occurrences of boating traffic on the identified water.

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

Surface Water SWC does not have an outlet.

Water from Wetland TB drains southward out of the review area. It is understood that the wetland continues towards and drains into Clear Creek, located approximately 900 feet south of the review area.

Water from Wetland MI drains southward into the southern current mining area. This mining area has no known outlet to convey flows.

Water from Wetlands MM and ML flow eastward, exiting the review area. Based on available information, it is understood that waters from the wetlands are then conveyed southward via an unnamed tributary (or narrow wetland area) until reentering the review area via Wetland MI. Water from Wetland MI drains southwestward into Wetland MH via Stream SMC and Stream SMD. Due to the constructed flowpath, Wetland MH currently flows eastward into Surface Water SMB. Waters exit the property westward via Surface Water SMB. Outside the review area, water from Surface Water SMB flows generally southward via the constructed flowpath for approximately 4,500 feet and terminates into an offsite

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mining area (SW1). SW1 was observed to have no outlet to allow flows to continue further downstream.

6. SECTION 10 JURISDICTIONAL WATERS⁴: 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. 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. Adjacent wetlands (a)(7):

Name of Aquatic Resource	Size (in acres)	Contiguous with or abutting? If so, list water	Describe continuous surface connection
Wetland TB	0.14	Yes	The wetland boundary is connecting and contiguous with Clear Creek.

⁴ 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.

Wetland TB: The subject water is a narrow, upland-fed wetland located in the southwestern portion of the review area. Based on available information, the limits of Wetland TB are understood to continue southward, beyond the boundary of the review area, until it abuts Clear Creek. Therefore, it meets the definition of an (a)(7) water.

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”).⁵ 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.

Name of excluded feature	Size (in acres)	Specific exclusion a-e
Surface Water SWC	1.27	(e) Water filled 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.

Surface Water SWC: The subject water is located within the southwestern portion of the review area. Based on available historic aerial imagery, the footprint of the current open water feature was forested until 1981, when it was established to support mining operations. Available information does not indicate that the footprint was located within aquatic resources. The mined area was allowed to naturalize in between 1993 and 2007, substantially minimizing its circumference in the process. LiDAR indicates that the feature is surrounded by higher ground (uplands) to the east and a constructed berms in other directions. The feature is not an impoundment of a WOTUS. Further, the Agent assessed the perimeter of the feature; no outfalls or other discrete connecting surface features were observed. Although the associated operation is abandoned, the subject water does not meet the definition of a WOTUS. Therefore, the feature meets the definition of an (e) 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

⁵ 51 FR 41217, November 13, 1986.

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- 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).

Name of excluded feature	Size	Type of resource generally not jurisdictional
Wetland MM	0.27-acre	Wetland lacks a continuous surface connection to water of the US
Wetland ML	1.90 acres	Wetland lacks a continuous surface connection to water of the US
Stream SMD	167 feet	Stream that does not flow directly or indirectly into TNW.
Stream SMC	241 feet	Stream that does not flow directly or indirectly into TNW.
Surface Water SWB	0.21-acre	The surface water is not an impoundment of WOTUS
Wetland MI	2.37 acres	Wetland lacks a continuous surface connection to water of the US
Wetland TA	0.11-acre	Wetland lacks a continuous surface connection to water of the US
Wetland MH	5.36 acres	Wetland lacks a continuous surface connection to water of the US
Wetland MK	2.39 acres	Wetland lacks a continuous surface connection to water of the US

Wetland MM: The subject water is located in the northeastern portion of the review area. Historic aerial imagery indicates that it has remained undisturbed overtime. Although it is understood to connect to downstream waters, it does not have a continuous surface connection (CSC) to a TNW due to the termination of flows at the offsite mining area, SW1. Therefore, Wetland MM does not meet the definition of an (a)(7) water.

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Wetland ML: The subject water is located in the northeastern portion of the review area. Historic aerial imagery indicates that it has remained undisturbed overtime. Although it is understood to connect to downstream waters, it does not have a CSC to a TNW due to the termination of flows at the offsite mining area, SW1. Therefore, Wetland ML does not meet the definition of an (a)(7) water.

Stream SMD: The subject water is located in the southeastern portion of the review area. Historic aeriels indicate that it has remained undisturbed overtime. The stream received a score of 13.5 on the NC DWQ Stream Identification Form Version 4.11. It does not have a relatively permanent presence of water, being understood to only flow in response to precipitation events. Further, although it is understood to connect to downstream waters, it does not flow directly or indirectly into TNW, due to the termination of flows at the offsite mining area, SW1. Therefore, Stream SMD does not meet the definition of an (a)(5) water.

Stream SMC: The subject water is located in the southeastern portion of the review area. Historic aeriels indicate that it has remained undisturbed overtime. The stream received a score of 22.5 on the NC DWQ Stream Identification Form Version 4.11. The stream is understood to flow seasonally (relatively permanently). However, although it is understood to connect to downstream waters, it does not flow directly or indirectly into TNW, due to the termination of flows at the offsite mining area, SW1. Therefore, Stream SMC does not meet the definition of an (a)(5) water.

Surface Water SWB: The subject water is located in the southeastern portion of the review area. It was created (circa 1982) in conjunction with the constructed flowpath, within Wetland MH. It currently impounds flows from Wetland MH. However, Wetland MH is not a WOTUS. Therefore, Surface Water SWB does not meet the definition of an (a)(4) water.

Wetland MI: The subject water is located in the southeastern portion of the review area. Aside from an apparent field road that that was established across its limits in between 1993 and 2007, historic aerial imagery indicates that the wetland has remained undisturbed. Although it connects to downstream waters, it does not have a CSC to a TNW due to the termination of flows at the offsite mining area, SW1. Therefore, Wetland MI does not meet the definition of an (a)(7) water.

Wetland TA: Wetland TA is located in the southeastern portion of the review area. Data and historic mapping indicate that Wetland TA historically connected to Wetland MH via a tributary. Historic aerial imagery indicates land disturbances activities began east of the wetland, circa 1981. Currently (as observed by the Agent), there is a riser immediately east of Wetland TA that stands approximately 15 feet and runs through a berm, similar to a riser used in pond construction. East of the berm is upland consisting

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of a planted pine. During the delineation, there was no indication of surface flow or wetland vegetation between Wetland TA and Wetland MH. Wetland TA does not have a CSC to a WOTUS. Therefore, it does not meet the definition of an (a)(7) water.

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. Office (desktop) determination: April-November 2024 (CESAS-RDP)
- b. Field determination(s): April 19-20, 2023 (Agent); July 19, 2023 (Agent); June 13, 2024 (Agent)
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 - Section 10 resources used: Title and Dates
 - NC DWQ stream identification forms

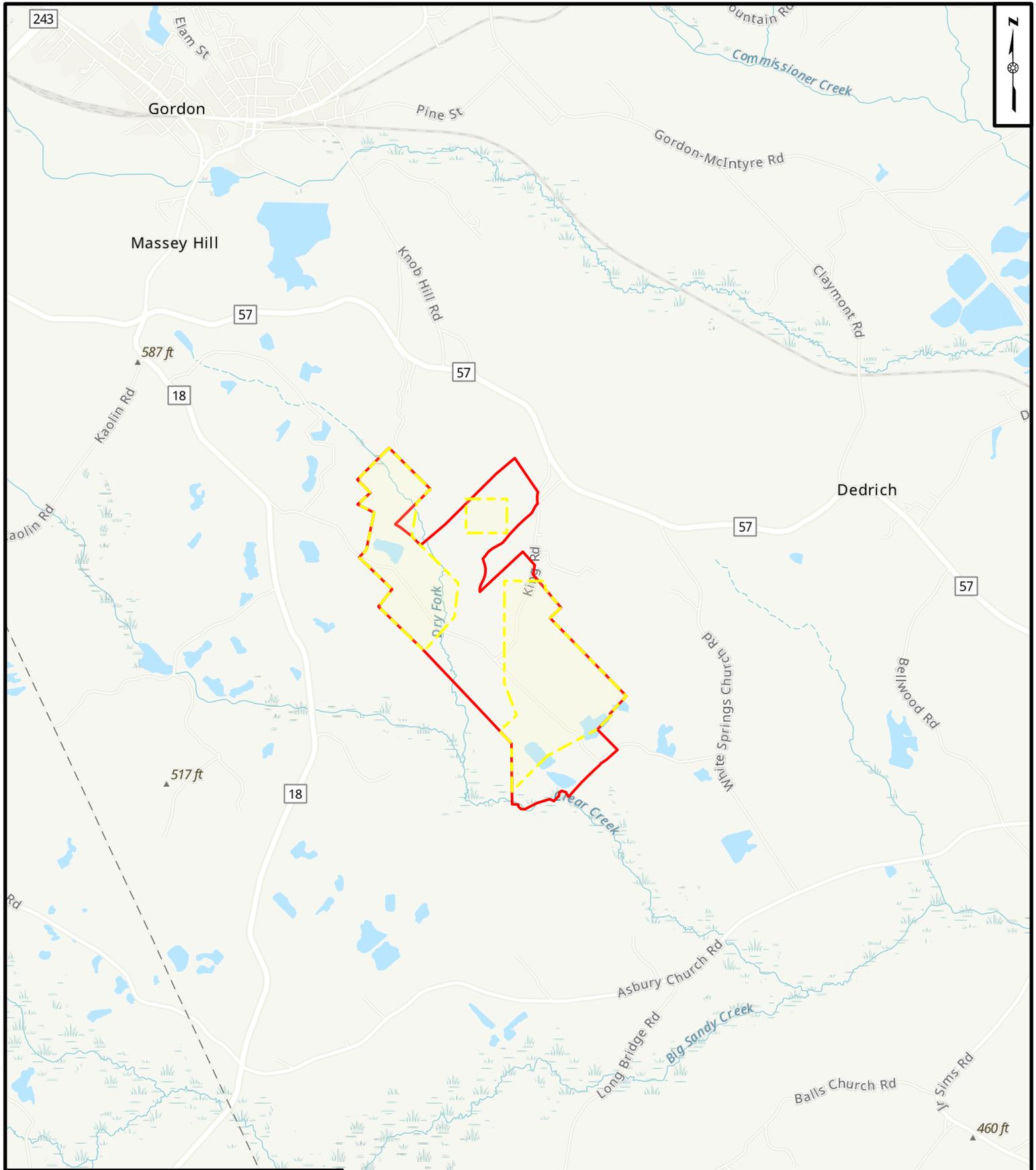
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- Antecedent Precipitation Tool Analysis (List Date(s)): APT Data from 4/19/23, 4/20/23, and 07/19/23 (all "Normal Conditions").
- Other sources of Information: USDM - Georgia (04/25/23 and 07/18/23), received from the Agent on 11/07/23; Figure 5: *FEMA Map*, as prepared by the Agent, and dated 10/24/2023; StreamStats data retrieved by CESAS-RDP in 08/24; and 2-foot contour imagery retrieved from the NRV by CESAS-RDP in 09/24.

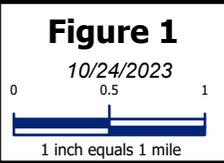
10. OTHER SUPPORTING INFORMATION. N/A

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.



- Legend**
- Aquatic Resource Delineation Area (~ 1,005.33 Acres)
 - Mine Permit Boundary (~ 1,662.81 Acres)

DISCLAIMER:
 This drawing and the information contained herein is for general presentation purposes only and is a compilation of shapefile(s) provided by various source(s). The source and accuracy of the file(s) has not been verified by HHNT and therefore the drawing is not intended for use as an engineering drawing or for design purposes.

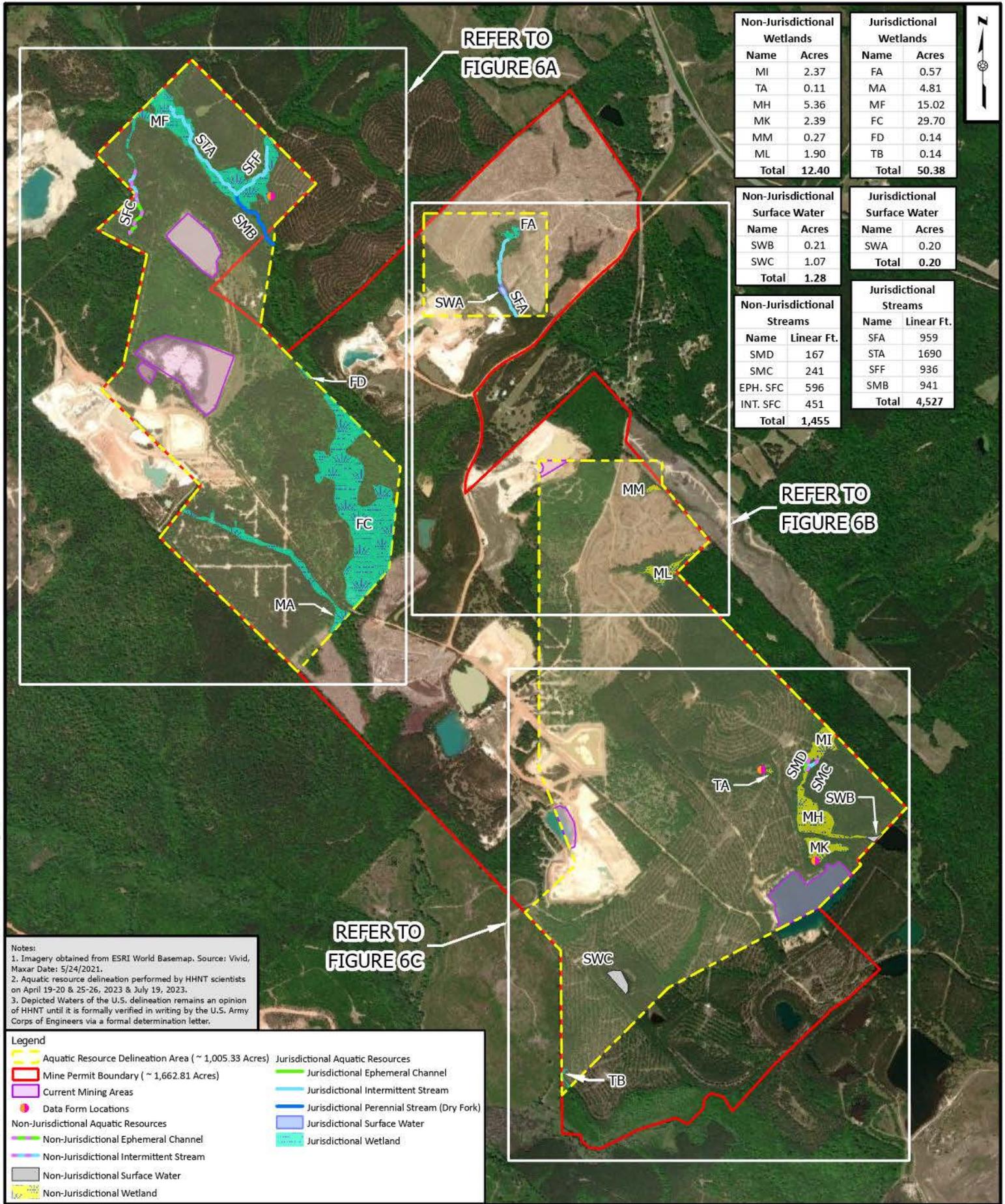


Location Map
 Bragg Fountain Mine
 Thiele Kaolin Company
 Wilkinson County, GA



**HODGES, HARBIN,
 NEWBERRY & TRIBBLE, INC.**
 Consulting Engineers

Path: S:\ArcGIS\Thiele\Fountain Area\FountainAreaAquaticResourceReview.aprx User: tguilliams



Non-Jurisdictional Wetlands		Jurisdictional Wetlands	
Name	Acres	Name	Acres
MI	2.37	FA	0.57
TA	0.11	MA	4.81
MH	5.36	MF	15.02
MK	2.39	FC	29.70
MM	0.27	FD	0.14
ML	1.90	TB	0.14
Total	12.40	Total	50.38

Non-Jurisdictional Surface Water		Jurisdictional Surface Water	
Name	Acres	Name	Acres
SWB	0.21	SWA	0.20
SWC	1.07		
Total	1.28	Total	0.20

Non-Jurisdictional Streams		Jurisdictional Streams	
Name	Linear Ft.	Name	Linear Ft.
SMD	167	SFA	959
SMC	241	STA	1690
EPH. SFC	596	SFF	936
INT. SFC	451	SMB	941
Total	1,455	Total	4,527

Notes:
 1. Imagery obtained from ESRI World Basemap. Source: Vivid, Maxar Date: 5/24/2021.
 2. Aquatic resource delineation performed by HHNT scientists on April 19-20 & 25-26, 2023 & July 19, 2023.
 3. Depicted Waters of the U.S. delineation remains an opinion of HHNT until it is formally verified in writing by the U.S. Army Corps of Engineers via a formal determination letter.

Legend	
Aquatic Resource Delineation Area (~ 1,005.33 Acres)	Jurisdictional Aquatic Resources
Mine Permit Boundary (~ 1,662.81 Acres)	Jurisdictional Ephemeral Channel
Current Mining Areas	Jurisdictional Intermittent Stream
Data Form Locations	Jurisdictional Perennial Stream (Dry Fork)
Non-Jurisdictional Aquatic Resources	Jurisdictional Surface Water
Non-Jurisdictional Ephemeral Channel	Jurisdictional Wetland
Non-Jurisdictional Intermittent Stream	
Non-Jurisdictional Surface Water	
Non-Jurisdictional Wetland	

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Figure 6
 11/14/2024

1 inch equals 1,700 feet

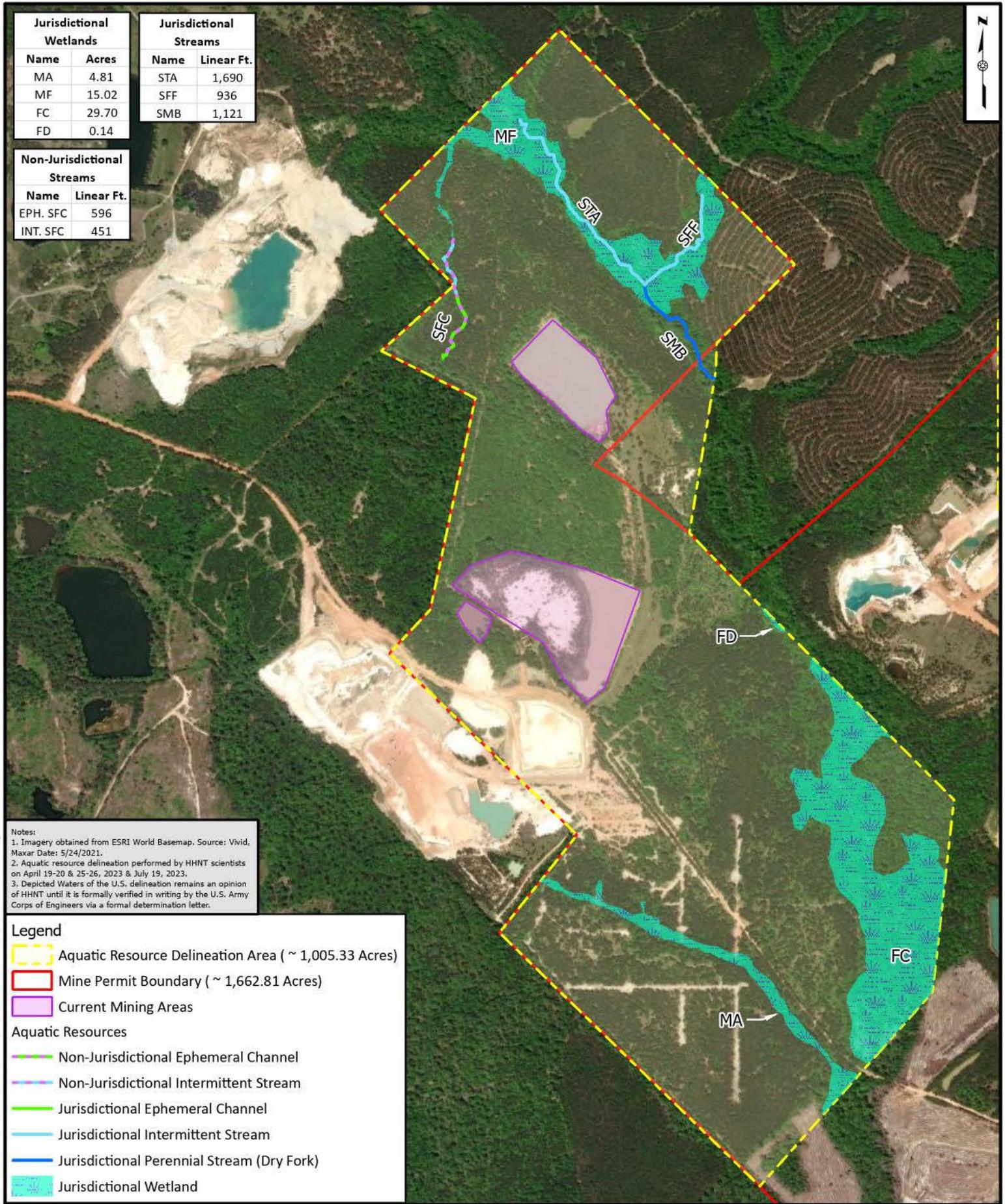
Delineation Map
 Bragg Fountain Mine
 Thiele Kaolin Company
 Wilkinson County, GA

**HODGES, HARBIN,
 NEWBERRY & TRIBBLE, INC.**
 Consulting Engineers

Path: S:\ArcGIS\Thiele\Bragg Fountain Area\Map\Bragg Fountain Area\AquaticResourceReview\mapx User: mrmcdknight

Jurisdictional Wetlands		Jurisdictional Streams	
Name	Acres	Name	Linear Ft.
MA	4.81	STA	1,690
MF	15.02	SFF	936
FC	29.70	SMB	1,121
FD	0.14		

Non-Jurisdictional Streams	
Name	Linear Ft.
EPH. SFC	596
INT. SFC	451



Notes:
 1. Imagery obtained from ESRI World Basemap. Source: Vivid, Maxar Date: 5/24/2021.
 2. Aquatic resource delineation performed by HHNT scientists on April 19-20 & 25-26, 2023 & July 19, 2023.
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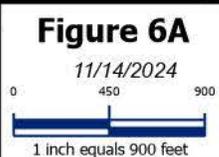
Legend

- Aquatic Resource Delineation Area (~ 1,005.33 Acres)
- Mine Permit Boundary (~ 1,662.81 Acres)
- Current Mining Areas

Aquatic Resources

- Non-Jurisdictional Ephemeral Channel
- Non-Jurisdictional Intermittent Stream
- Jurisdictional Ephemeral Channel
- Jurisdictional Intermittent Stream
- Jurisdictional Perennial Stream (Dry Fork)
- Jurisdictional Wetland

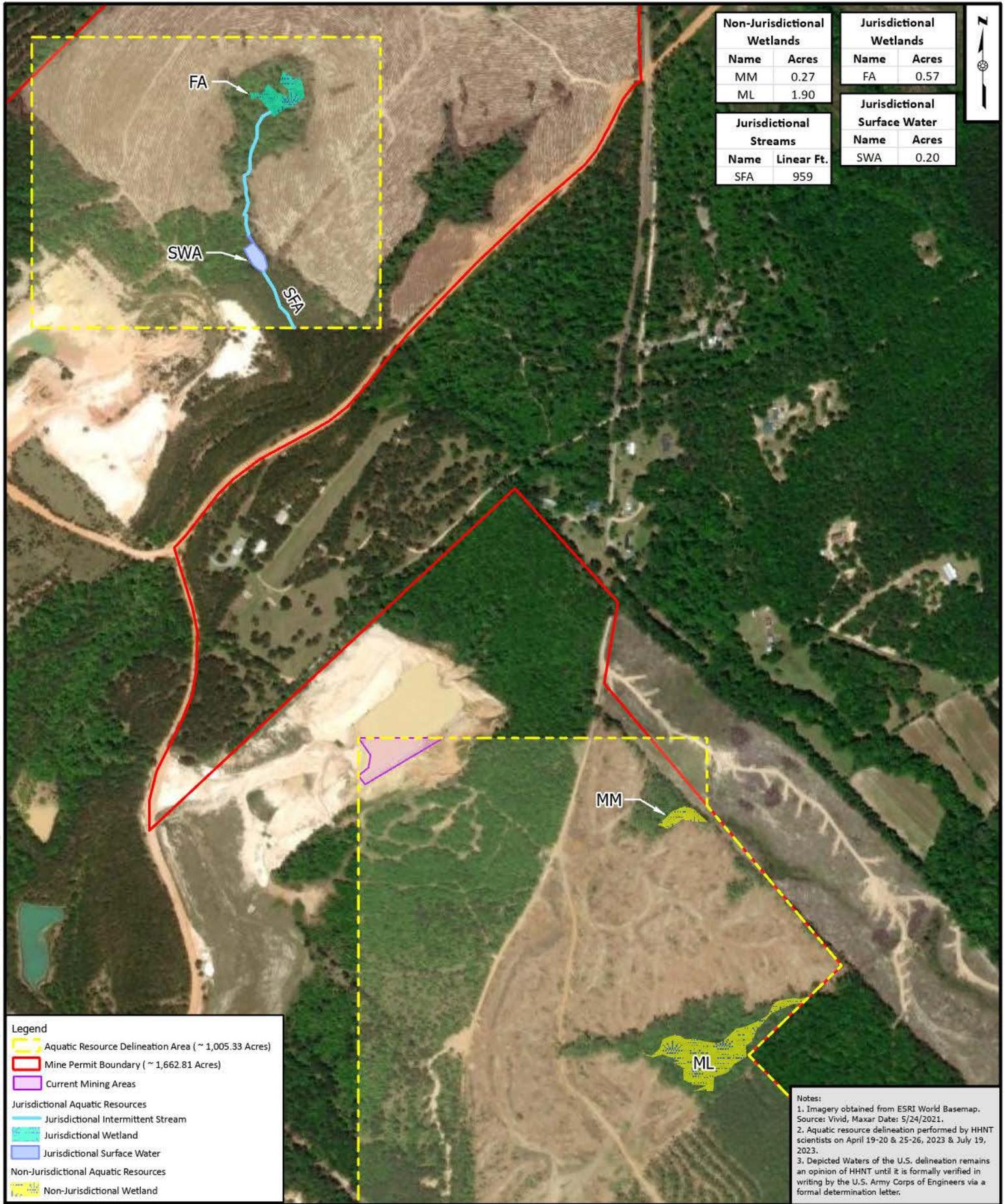
DISCLAIMER:
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Delineation Map Detail
 Bragg Fountain Mine
 Thiele Kaolin Company
 Wilkinson County, GA



Path: S:\ArcGIS\Thiele\Bragg Fountain Area\Map\Bragg Fountain Area\AquaticResourceReview.aprx User: rmmcdnight



Non-Jurisdictional Wetlands	
Name	Acres
MM	0.27
ML	1.90

Jurisdictional Streams	
Name	Linear Ft.
SFA	959

Jurisdictional Wetlands	
Name	Acres
FA	0.57

Jurisdictional Surface Water	
Name	Acres
SWA	0.20

Legend

- Aquatic Resource Delineation Area (~ 1,005.33 Acres)
- Mine Permit Boundary (~ 1,662.81 Acres)
- Current Mining Areas

Jurisdictional Aquatic Resources

- Jurisdictional Intermittent Stream
- Jurisdictional Wetland
- Jurisdictional Surface Water

Non-Jurisdictional Aquatic Resources

- Non-Jurisdictional Wetland

Notes:

1. Imagery obtained from ESRI World Basemap. Source: Vivid, Maxar Date: 5/24/2021.
2. Aquatic resource delineation performed by HHNT scientists on April 19-20 & 25-26, 2023 & July 19, 2023.
3. Depicted Waters of the U.S. delineation remains an opinion of HHNT until it is formally verified in writing by the U.S. Army Corps of Engineers via a formal determination letter.

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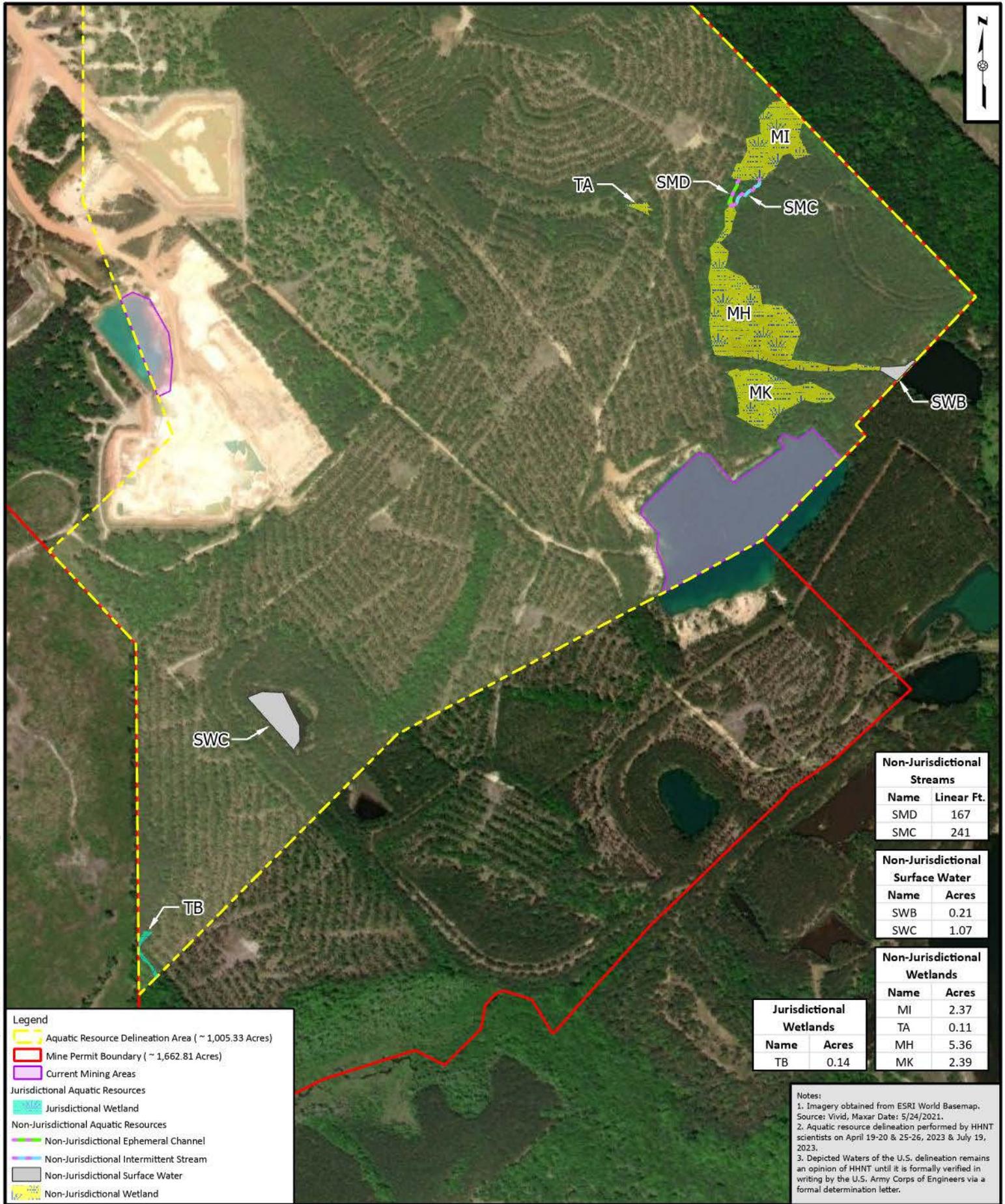
Figure 6B
 11/14/2024

1 inch equals 600 feet

Delineation Map Detail
 Bragg Fountain Mine
 Thiele Kaolin Company
 Wilkinson County, GA

HHNT
 HODGES, HARBIN,
 NEWBERRY & TRIBBLE, INC.
 Consulting Engineers

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Legend

- Aquatic Resource Delineation Area (~ 1,005.33 Acres)
- Mine Permit Boundary (~ 1,662.81 Acres)
- Current Mining Areas

Jurisdictional Aquatic Resources

- Jurisdictional Wetland

Non-Jurisdictional Aquatic Resources

- Non-Jurisdictional Ephemeral Channel
- Non-Jurisdictional Intermittent Stream
- Non-Jurisdictional Surface Water
- Non-Jurisdictional Wetland

Non-Jurisdictional Streams

Name	Linear Ft.
SMD	167
SMC	241

Non-Jurisdictional Surface Water

Name	Acres
SWB	0.21
SWC	1.07

Non-Jurisdictional Wetlands

Name	Acres
MI	2.37
TA	0.11
MH	5.36
MK	2.39

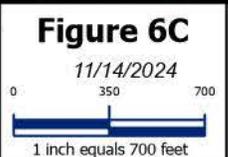
Jurisdictional Wetlands

Name	Acres
TB	0.14

Notes:

1. Imagery obtained from ESRI World Basemap. Source: Vivid, Maxar Date: 5/24/2021.
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Delineation Map Detail
 Bragg Fountain Mine
 Thiele Kaolin Company
 Wilkinson County, GA

