



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT  
100 W. OGLETHORPE AVENUE  
SAVANNAH, GEORGIA 31401-3604

SAS-RD-C

4 April 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> SAS-2025-00090.

**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.

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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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## 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).

Name of Aquatic Resource	JD or Non-JD	Section 404/Section 10
Wetland B	Non-JD	N/A
Wetland C	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)

## 3. REVIEW AREA:

- A. Project Are Size (in acres): 21.37
- B. Center Coordinates of the Project Site (in decimal degrees)  
Latitude: 30.807347 Longitude: -81.679909
- C. Nearest City or Town: Kingsland
- D. County: Camden
- E. State: Georgia
- F. Other associated Jurisdictional Determinations (including outcomes): N/A
- G. Any additional, relevant site-specific information: All other aquatic features located within the project area are being evaluated separately within an Aquatic Resources Delineation Review (ARDR).

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- 4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED:** N/A. All aquatic resources under review in this MFR are non-jurisdictional.
- 5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS:** N/A. All aquatic resources under review in this MFR are non-jurisdictional.
- 6. SECTION 10 JURISDICTIONAL WATERS<sup>5</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

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<sup>5</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.

## 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>6</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
- 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).

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<sup>6</sup> 51 FR 41217, November 13, 1986.



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Name of excluded feature	Size (in acres)	Type of resource generally not jurisdictional
Wetland B	(+/-) 0.06	Wetland lacks a continuous surface connection to waters of the US. Wetland B is surrounded by uplands on all sides. There is a berm running East to West due north of Wetland B that acts as a separation from all other aquatic features located within the project boundary.
Wetland C	(+/-) 0.17	Wetland lacks a continuous surface connection to waters of the US. Wetland C is surrounded by uplands on all sides. There is a berm running East to West due north of Wetland C that acts as a separation from all other aquatic features located within the project boundary.

**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. 1. Date of Office (desktop review): March 25, 2025
- b. Data sources used to support this determination (included in the administrative record).
  - ☒ Aquatic Resources delineation submitted by, or on behalf of, the requestor: "Aquatic Resource Delineation Exhibit" January 2025.
  - ☒ Wetland field data sheets: December 23, 2024
  - ☒ Photographs: December 23, 2024 (provided by applicant)
  - ☒ Aerial Imagery: Google Earth PRO March 25, 2025
  - ☒ LIDAR/DEM: March 25, 2025
  - ☒ USDA NRCS Soil Survey: March 25, 2025
  - ☒ USFWS NWI maps: March 25, 2025
  - ☒ USGS vicinity & topographic map: December 2024 (provided by applicant)
  - ☒ USGS NHD data/maps: March 25, 2025

**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.



G:\2024\ES247348 - Edmund Ave Parcel\STANDARD FOLDER STRUCTURE\Maps\ES247348 - Edmund Ave Parcel\ES247348\_EdmondAveParcel.aprx

**Project Boundary (+/- 21.37 acres)**

- GPS Data
- Upland Data Form AJD; Upland Data Form
- Wetland Data Form AJD; Wetland Data Form

### Aquatic Features

- (a)(4) Adjacent Wetland (+/- 5.87 acres)
- (b)(7) Certain Waterfilled Depressions (+/- 0.23 acres)
- OHWM Ditch (+/- 0.53 acres)

Feet  
0 100 200 400

DATA SOURCES:  
ESRI - Aerial Imagery

Project No.:  
ES247348  
Date:  
Jan 2025  
Drawn By:  
CP  
Reviewed By:  
KHD



2201 Rowland Avenue Savannah, GA  
terracon.com

### Aquatic Resource Delineation Exhibit

Edmund Avenue Parcel  
Land Equity Partners Inc

### Exhibit

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**Edmund Avenue Parcel  
Sub-Meter GPS Data**

January 2025

Flag #	Lat.	Long.
Ka1	30.807257	-81.681635
Ka10	30.807261	-81.681157
Ka10	30.80733	-81.681126
Ka11	30.807245	-81.681057
Ka12	30.807123	-81.680904
Ka13	30.807025	-81.680815
Ka14	30.806981	-81.680692
Ka15	30.806991	-81.680563
Ka16	30.807013	-81.680429
Ka17	30.80701	-81.680342
Ka18	30.806975	-81.680316
Ka19	30.807006	-81.680187
Ka2	30.807273	-81.681555
Ka20	30.807101	-81.680178
Ka21	30.807067	-81.680263
Ka22	30.807056	-81.680338
Ka23	30.807022	-81.680374
Ka24	30.807038	-81.680483
Ka25	30.807085	-81.680517
Ka26	30.807169	-81.680544
Ka27	30.807221	-81.680597
Ka28	30.807332	-81.680484
Ka29	30.807373	-81.680409
Ka3	30.80721	-81.681516
Ka30	30.807466	-81.680397
Ka31	30.807534	-81.68026
Ka32	30.80757	-81.680083
Ka33	30.807557	-81.680062
Ka34	30.807497	-81.680068
Ka35	30.807425	-81.679967
Ka36	30.807454	-81.679907
Ka37	30.807399	-81.679788
Ka38	30.807348	-81.679676
Ka39	30.80727	-81.679511
Ka4	30.807243	-81.681378
Ka40	30.80723	-81.679315
Ka41	30.807235	-81.679211
Ka42	30.807243	-81.679104
Ka43	30.807233	-81.67896
Ka44	30.807255	-81.678846
Ka45	30.807231	-81.678744

Ka46	30.807251	-81.678591
Ka47	30.807333	-81.678563
Ka48	30.807415	-81.678528
Ka49	30.807529	-81.678515
Ka5	30.807245	-81.68127
Ka50	30.807604	-81.678593
Ka51	30.807669	-81.678698
Ka52	30.807779	-81.678683
Ka53=ohwm ditch	30.807925	-81.678545
Ka6	30.807283	-81.681287
Ka7	30.807298	-81.681362
Ka8	30.807344	-81.681241
Kd1=canal	30.807969	-81.678584
Kd10	30.8077	-81.679265
Kd11	30.807679	-81.679389
Kd12	30.807633	-81.679507
Kd13	30.807703	-81.679623
Kd14	30.807754	-81.679612
Kd15	30.807958	-81.679334
Kd16	30.808071	-81.679179
Kd17	30.808198	-81.679
Kd18=canal	30.80825	-81.678924
Kd2	30.807917	-81.678635
Kd3	30.80795	-81.678718
Kd3	30.808366	-81.679615
Kd4	30.807844	-81.678786
Kd4	30.808418	-81.67974
Kd5	30.807889	-81.678892
Kd6	30.807779	-81.678968
Kd7	30.807686	-81.678929
Kd8	30.807611	-81.679082
Kd9	30.807651	-81.679155
Ke1=kf1	30.808285	-81.67935
KE2	30.808364	-81.679502
Ke5	30.808499	-81.679813
Ke6	30.808648	-81.67995
Ke7	30.808626	-81.680108
Ke8 end	30.80861	-81.680259
Kf2	30.808397	-81.679288
Kf3=canal	30.808468	-81.679136

**Edmund Avenue Parcel  
Sub-Meter GPS Data**

January 2025

Kb1	30.806942	-81.680436
Kb2	30.80689	-81.680716
Kb3	30.806866	-81.680696
kb4	30.806804	-81.6806
Kb5	30.806838	-81.680461

Kc1	30.806999	-81.679636
Kc10	30.806834	-81.680308
Kc11	30.806888	-81.680305
Kc12	30.806917	-81.680154
Kc13	30.80693	-81.680023
kc14	30.806942	-81.679818
Kc2	30.80698	-81.67949
Kc3	30.806923	-81.679488
Kc4	30.806914	-81.679566
Kc5	30.806913	-81.679652
Kc6	30.806881	-81.679792
Kc7	30.806853	-81.679862
Kc8	30.806813	-81.680037
Kc9	30.806862	-81.680194