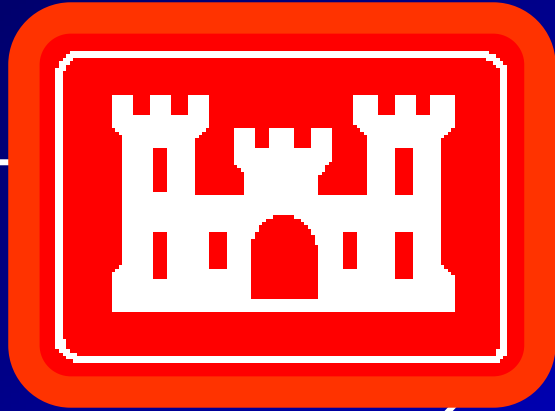


US Army Corps of Engineers
Savannah District Regulatory Division
Coastal Branch



Rapanos Overview



What is Rapanos?

Savannah District

- **USACE JD Form Instructional Guidebook**
- **USACE Approved JD Form**
- **USACE/EPA JD Coordination Memo**
- **Regulatory Guidance Letters (RGL)
07-01, 06-01 and 05-02**
- **Subsequent Court Decisions**



New Terms and Acronyms

Savannah District

WOUS
Tributary
Ditch
Non-Abutting
Significant Nexus
Abutting
Adjacent
Similarly Situated
Swale
RPW
Continuous Surface
Connection
Review Area
TNW
Relevant Reach
Non-RPW
Isolated
Stream Order



New Terms

Savannah District

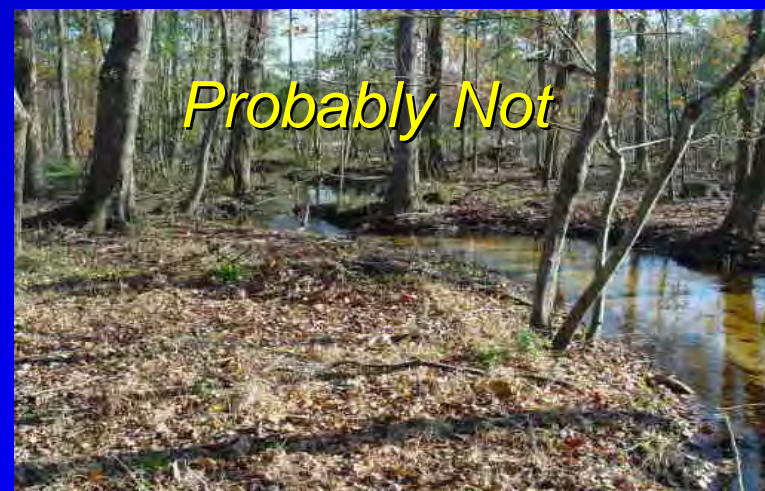
Traditional Navigable Waters (TNW)

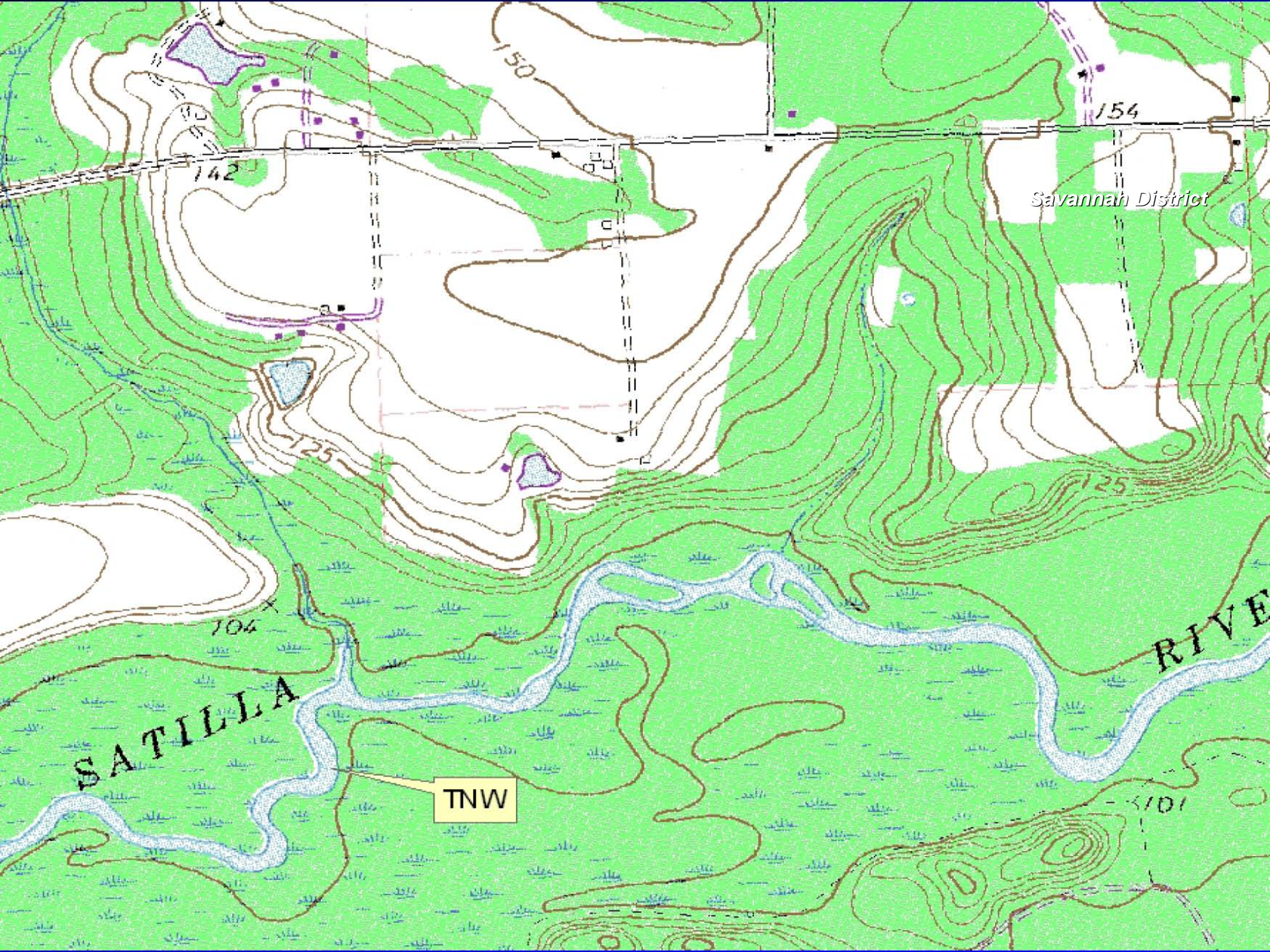
- **Subset of Waters of the US**
- **Includes all navigable waters of the US (33 CFR, Part 329) and all waters that are navigable-in-fact**
- **Savannah interim policy includes all named rivers on USGS Quad Sheets and can include named streams**
- **TNW is jurisdictional by definition**



TNW?

Savannah District





Savannah District

SATILLA

RIVER

TNW



New Terms

Savannah District

Tributary

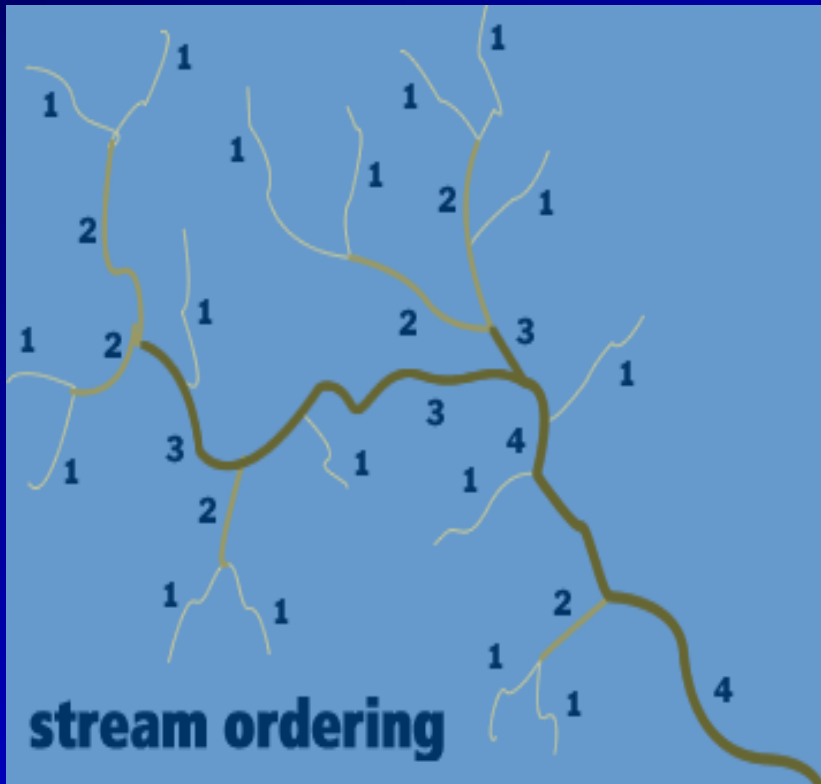
- Natural, man-altered or man-made waterbody that carries flow directly or indirectly into a TNW
- River, stream, ditch or other surface feature
- For the purposes of completing JD Forms, a tributary is the entire reach of a stream of the same order



New Terms

Savannah District

Stream Order (Strahler)



- **1st Order:** uppermost un-branched stream segment
- **2nd Order:** confluence of two 1st order streams
- **3rd Order:** confluence of two 2nd order streams

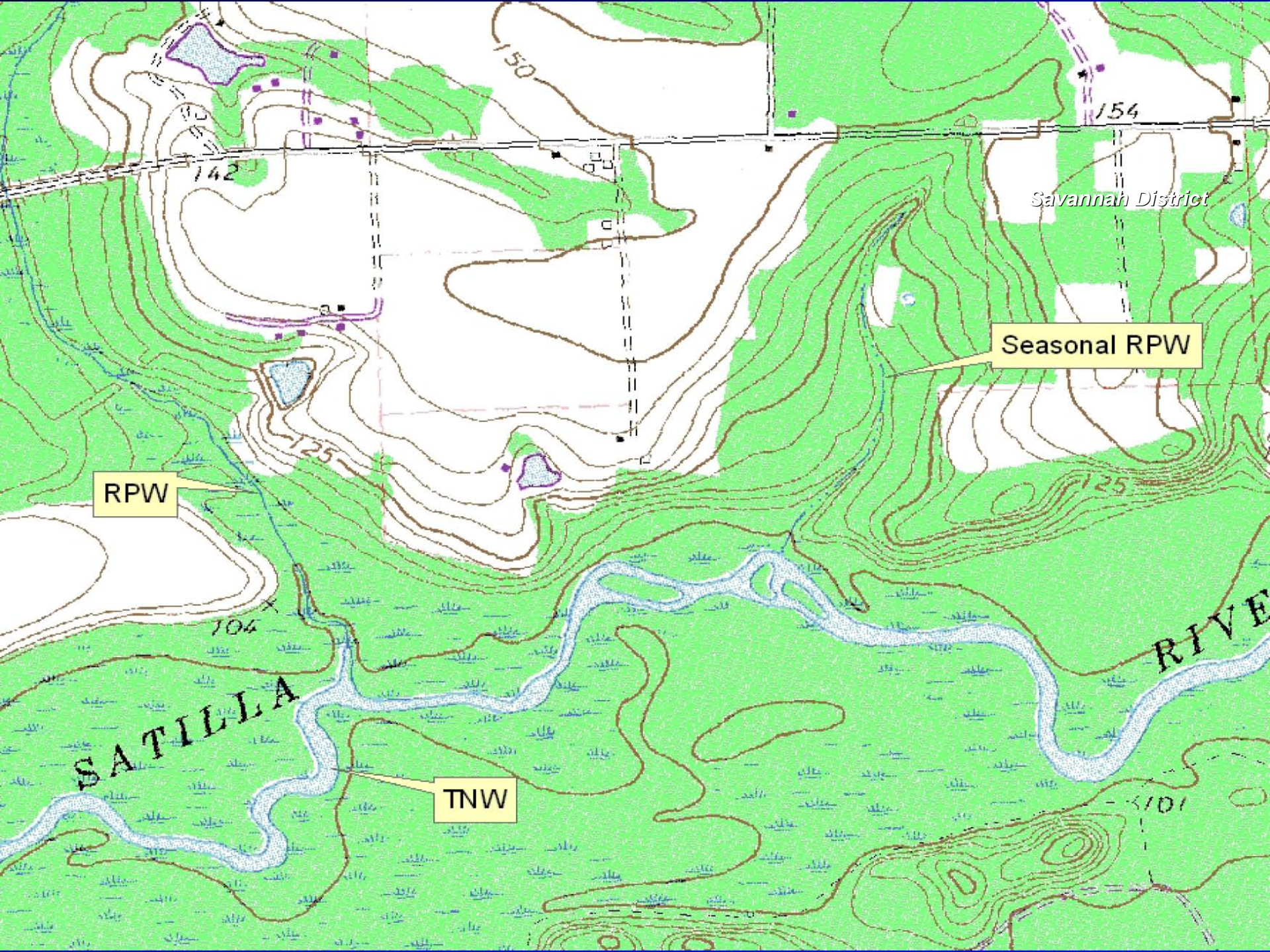


New Terms

Savannah District

Relatively Permanent Waters (RPW)

- RPW is a tributary that is not a TNW and that typically flows year-round
- Perennial stream is a RPW
- Seasonal RPW has flow continuously for at least 3 months of the year
- Intermittent stream is a seasonal RPW
- All RPWs are jurisdictional by definition



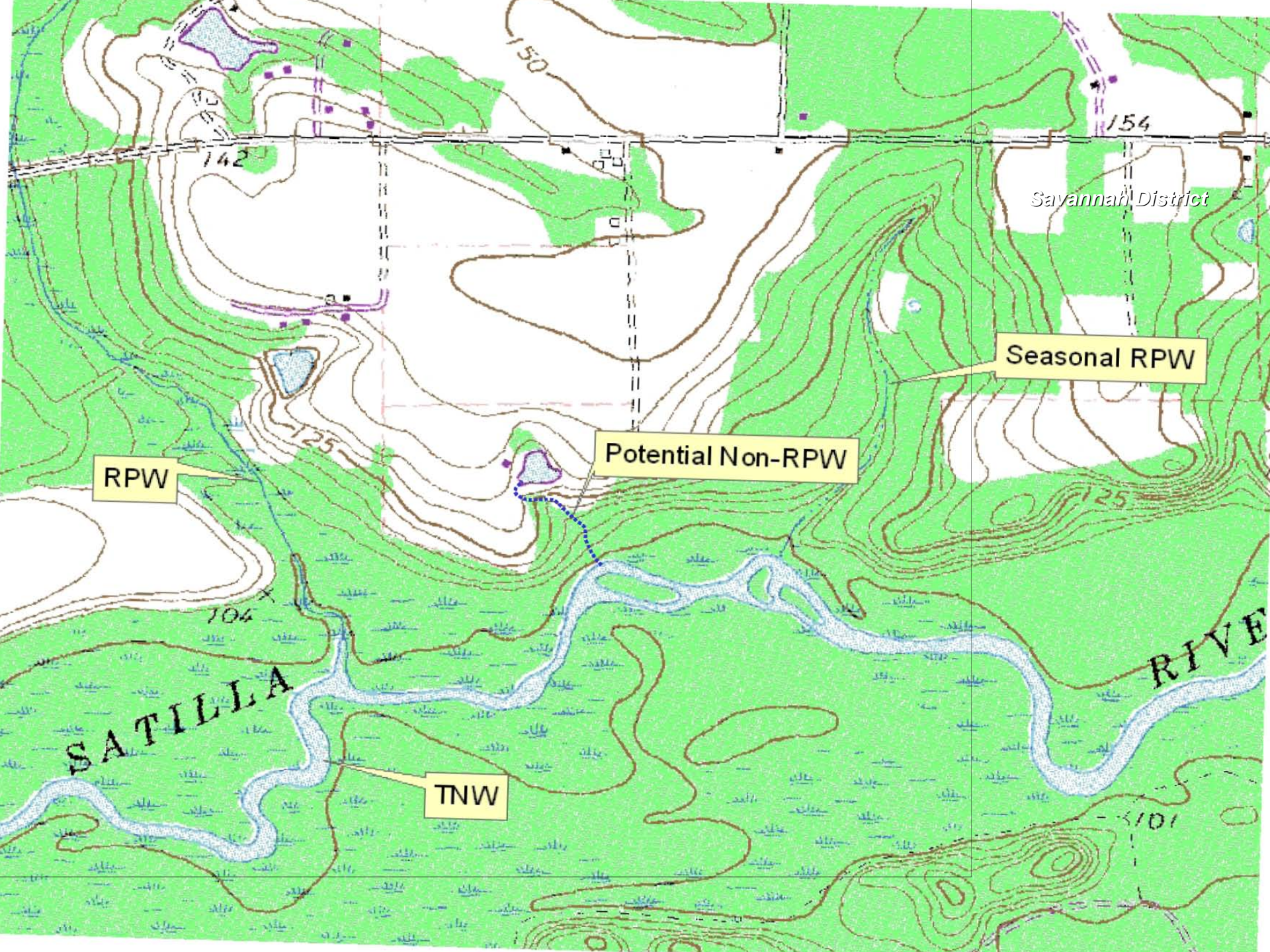


New Terms

Savannah District

Non-Relatively Permanent Waters (Non-RPW)

- Non-RPWs are tributaries that do not flow continuously for 3 months of the year
- Ephemeral streams are non-RPWs
- Non-RPWs are only jurisdictional if there is a Significant Nexus to a TNW



Savannah District

Seasonal RPW

Potential Non-RPW

RPW

TNW

SATILLA

RIVER



New Terms

Savannah District

Continuous Surface Connection

- Surface feature that is not a RPW or Non-RPW, but serves as a hydrologic connection between a wetland and a tributary
- Indicators of flow may not always be present
- Swales, gullies and ditches
- Swales and gullies are non-jurisdictional by definition



New Terms

Savannah District

Swale (non-jurisdictional)

- Shallow surface feature in area with little slope and only flows during and after storm events
- Bottom is typically grassed





New Terms

Savannah District

Jurisdictional Ditch

- Excavated in wetland
- Excavated in upland but drains wetland
- Has relatively permanent flow (seasonal)





New Terms

Savannah District

Non-jurisdictional Ditch

- Excavated wholly in upland and drains upland
- Does not have relatively permanent flow
- Most roadside ditches





New Terms

Savannah District

Adjacent vs. Abutting vs. Isolated

- Old Adjacent = wetlands that are bordering, contiguous or neighboring waters of the US
- New Adjacent = jurisdictional wetlands that are not contiguous to waters of the US
- Abutting = adjacent wetlands that are contiguous to jurisdictional waters of the US
- Non-abutting (same as new adjacent) = jurisdictional wetlands that are not contiguous to waters of the US
- Isolated = non-jurisdictional wetlands that are not adjacent to jurisdictional waters of the US

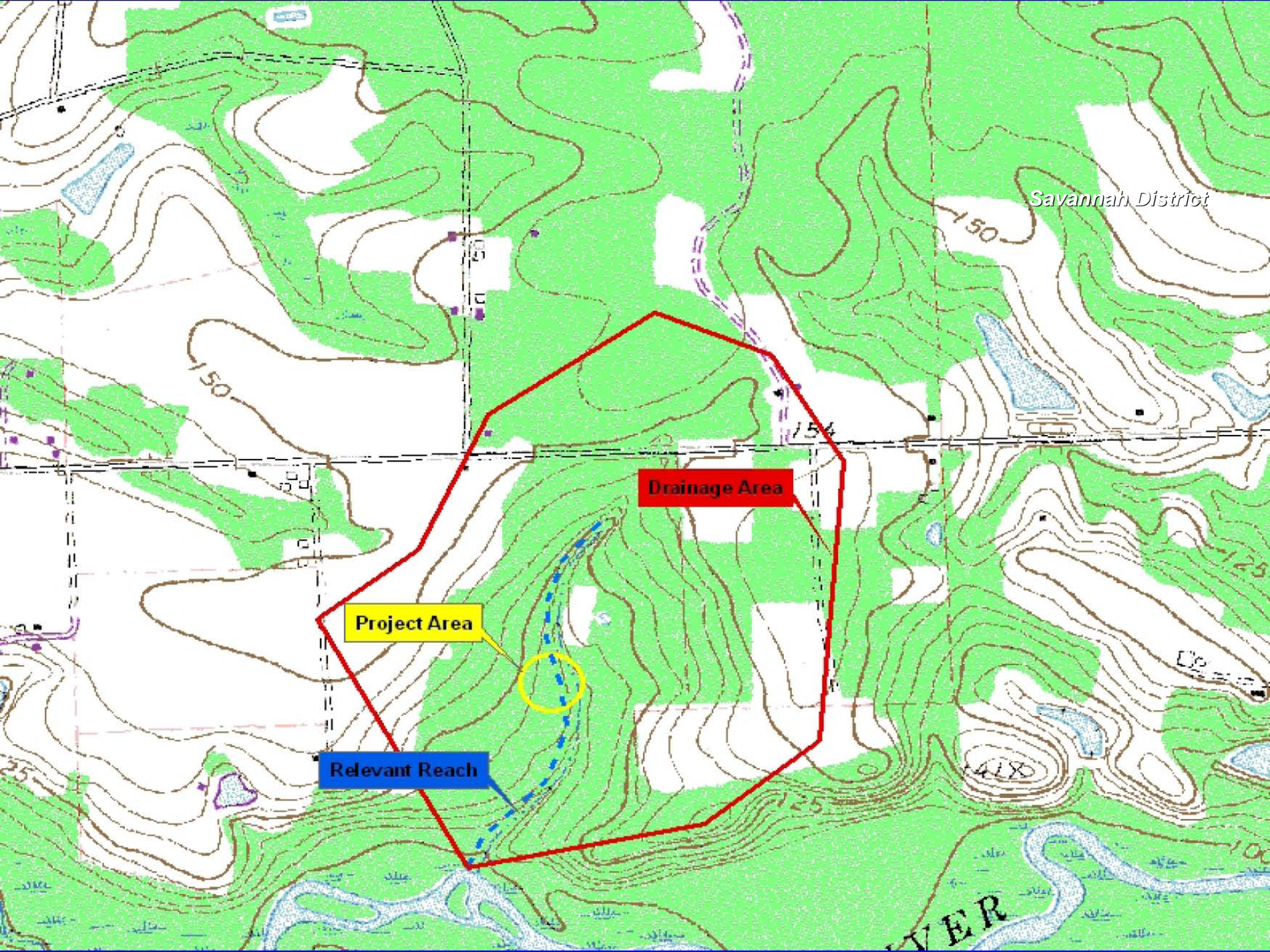


New Terms

Savannah District

Relevant Reach

- The reach of a tributary to be evaluated in making a significant nexus determination
- Entire reach from headwaters or upstream point where two lower order streams join to from tributary; downstream to the point of confluence with a higher order stream
- Flow characteristics of the tributary (reach) are evaluated at it's furthest downstream limit



Savannah District

Drainage Area

Project Area

Relevant Reach

VER



New Terms

Savannah District

Review Area

- The relevant reach of a tributary and all adjacent wetlands (and other waters) to be evaluated for a significant nexus determination
- Do not confuse the project area with the review area
 - A small project area would likely have a corresponding larger review area
 - A large project area may have several smaller internal review areas



New Terms

Savannah District

Similarly Situated

- Wetlands in the review area that are located in similar landscape positions with regard to their adjacency to the relevant reach
- This term is for descriptive purposes only and does not increase or decrease jurisdiction for wetlands found to be similarly situated within a review area



New Terms

Savannah District

Significant Nexus Determination

- Analysis of the flow characteristics and functions of relevant reach; including volume, duration, frequency and proximity to TNW
- Flow characteristics of the relevant reach are analyzed in combination with functions collectively performed by all adjacent wetlands
- Analysis must conclude the relevant reach has more than an insubstantial or speculative effect on the chemical, physical and/or biological integrity of downstream TNW for there to be a significant nexus



What Does It Mean?

Savannah District

Corps Asserts Jurisdiction

- Oceans to the continental shelf, tidal waters and inland Section 10 navigable waters
- TNWs and all adjacent wetlands
- RPWs, including seasonal flow RPWs
- Wetlands abutting all RPWs
- Wetlands adjacent to all RPWs, with signex
- Non-RPWs and adjacent wetlands, with signex



What Does It Mean?

Savannah District

Corps Does Not Assert Jurisdiction

- Swales and upland ditches that drain upland
- Isolated waters and wetlands (Rapanos did not change SWANCC)
- Non-RPWs and adjacent wetlands, if significant nexus to TNW does not exist



Coordination

Savannah District

Isolated Non-Jurisdictional Wetland Determinations

- 15-day coordination period with EPA and HQ
- EPA elevated one isolated wetland determination

Significant Nexus Determinations

- 15-day coordination period with EPA
- EPA has not elevated any significant nexus determinations



QUESTIONS?

Savannah District

2007 Coastal Branch Workshop



http://www.usace.army.mil/cw/cecwo/reg/cwa_guide/cwa_guide.htm