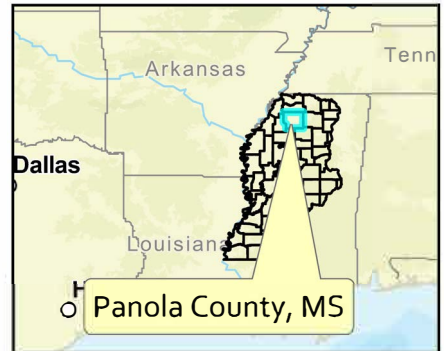


34.303773

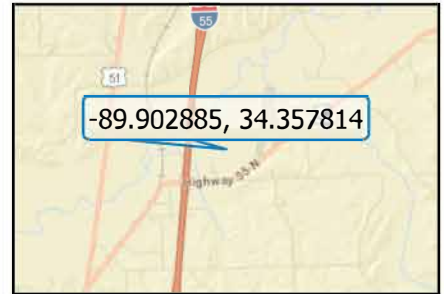


17 NOVEMBER 2025
MVK-2019-953

Panola Partnership.
 Panola County Industrial Park Panola
 County, Mississippi

**Approved Jurisdictional
 Determination**

W I L L B A H A M



Legend

Non-jurisdictional Emergent Wetlands (0.02)	Project Area
Jurisdictional Forested Wetlands (2.22 acres)	Type
Non-Jurisdictional (5.48 acres)	Ag Drain- Non-Jurisdictional NRPW Features (AJD) (2394.86)
Non-jurisdictional Pond (0.31)	Ephemeral Non-Jurisdictional NRPW Features (AJD) (6027.36)
	Jurisdictional Intermittent RPW (AJD) (5404.17)

**US Army Corps
of Engineers**

REGULATORY DIVISION
MISSISSIPPI BRANCH

0 500 1,000
 Feet

Scale: 1:14,423



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT
4155 EAST CLAY STREET
VICKSBURG, MISSISSIPPI 39183

CEMVK-RD

17 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),¹ MVK-2019-953

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.² 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.³ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ 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 Mississippi due to litigation.

1. SUMMARY OF CONCLUSIONS.

¹ While the Supreme Court’s decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ 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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SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVK-2019-953

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

Waters_Name	State	Cowardin_Code	Meas_Type	Amount	Units	Waters_Type	Latitude	Longitude
MVK-2019-953 Other Waters 1- Intermittent	MISSISSIPPI	R4	Linear	4513.21228	FOOT	A5.TRIB-404	34.35819312	-89.90070515
MVK-2019-953 Other Waters 2- Intermittent	MISSISSIPPI	R4	Linear	890.96669	FOOT	A5.TRIB-404	34.35395858	-89.90979854
MVK-2019-953 Other Waters 3- Ephem	MISSISSIPPI	R6	Linear	520.400237	FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.35633553	-89.91231139
MVK-2019-953 Other Waters 4- Ephem	MISSISSIPPI	R6	Linear	177.198032	FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.36329491	-89.90194412
MVK-2019-953 Other Waters 5- Ephem	MISSISSIPPI	R6	Linear	210.959009	FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.35947542	-89.90583414
MVK-2019-953 Other Waters 6- Ephem	MISSISSIPPI	R6	Linear	99.277717	FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.35565430	-89.89951347
MVK-2019-953 Other Waters 7- Ephem	MISSISSIPPI	R6	Linear	3198.90408	FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.35537404	-89.90434280
MVK-2019-953 Other Waters 8- Ephem	MISSISSIPPI	R6	Linear	1302.25367	FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.35296715	-89.90431712
MVK-2019-953 Other Waters 9- Ephem	MISSISSIPPI	R6	Linear	149.580196	FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.35916239	-89.90577842
MVK-2019-953 Other Waters 10- Ephem	MISSISSIPPI	R6	Linear	368.786625	FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.36341347	-89.89743198
MVK-2019-953 Other Waters 11- Ag	MISSISSIPPI	R6	Linear	1589.2191	FOOT	NON-JD - RAPANOS.GUIDE - DITCH	34.35711076	-89.89722459
MVK-2019-953 Other Waters 12- Ag	MISSISSIPPI	R6	Linear	805.656247	FOOT	NON-JD - RAPANOS.GUIDE - DITCH	34.35203306	-89.90278166
W-1	MISSISSIPPI	PFO	Area	0.357746	ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36467182	-89.89450357
W-2	MISSISSIPPI	PFO	Area	3.706458	ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36257717	-89.89800147
W-3	MISSISSIPPI	PFO	Area	0.173359	ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36326555	-89.90153888
W-4	MISSISSIPPI	PFO	Area	2.22418	ACRE	A7-AJD.WETL-404	34.36275345	-89.90302615
W-5	MISSISSIPPI	PFO	Area	0.194266	ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36110762	-89.90260505
W-6	MISSISSIPPI	PFO	Area	0.07427	ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36437536	-89.89768329
W-7	MISSISSIPPI	PFO	Area	0.319395	ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.35732490	-89.90174938
W-8	MISSISSIPPI	PFO	Area	0.6539	ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.35494838	-89.89963862
Pond	MISSISSIPPI	L1	Area	0.311009	ACRE	NON-JD - PREAMBLE - ART.LAKE.POND	34.35534103	-89.89944666

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. Review area is 427.32 acres located in Panola County, Mississippi (34.357814, -89.902885).

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

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. The site flows south via intermittent stream for 0.3 KM reaching the upper limit of the Section 10 authority of the with the Tallahatchie River.

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SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVK-2019-953

6. SECTION 10 JURISDICTIONAL WATERS⁵: 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):

d. Impoundments (a)(4): N/A

e. Tributaries (a)(5): The following AR's do satisfy the Relatively Permanent Standard and are jurisdictional

Waters_Name	State	Cowardin_Code	Meas_Type	Amount	Units	Waters_Type	Latitude	Longitude
MVK-2019-953 Other Waters 1- Intermittent	MISSISSIPPI	R4	Linear	4513.21228	FOOT	A5.TRIB-404	34.35819312	-89.90070515
MVK-2019-953 Other Waters 2- Intermittent	MISSISSIPPI	R4	Linear	890.96669	FOOT	A5.TRIB-404	34.35395858	-89.90979854

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

g. Adjacent wetlands (a)(7): The following AR does directly abuts and is adjacent to a requisite water and is therefore considered jurisdictional.

W-4	MISSISSIPPI	PFO	Area	2.22418	ACRE	A7-AJD.WETL-404	34.36275345	-89.90302615
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⁵ 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”).⁶ 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.
- 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). The following resources were determined non-jurisdictional by aerial photos, Google Earth Pro, and discussions with the applicant.

⁶ 51 FR 41217, November 13, 1986.

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The following AR's do not satisfy the Relatively Permanent Standard and are non-jurisdictional

MVK-2019-953 Other Waters 3- Ephem	MISSISSIPPI	R6	Linear	520.400237 FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.35633553	-89.91231139
MVK-2019-953 Other Waters 4- Ephem	MISSISSIPPI	R6	Linear	177.198032 FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.36329491	-89.90194412
MVK-2019-953 Other Waters 5- Ephem	MISSISSIPPI	R6	Linear	210.959009 FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.35947542	-89.90583414
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MVK-2019-953 Other Waters 10- Ephem	MISSISSIPPI	R6	Linear	368.786625 FOOT	NON-WOTUS-TRIB.NEGATIVE-A5	34.36341347	-89.89743198
MVK-2019-953 Other Waters 11- Ag	MISSISSIPPI	R6	Linear	1589.2191 FOOT	NON-JD - RAPANOS.GUIDE - DITCH	34.35711076	-89.89722459
MVK-2019-953 Other Waters 12- Ag	MISSISSIPPI	R6	Linear	805.656247 FOOT	NON-JD - RAPANOS.GUIDE - DITCH	34.35203306	-89.90278166

The following AR's do not directly abut a requisite water and as such are non-jurisdictional

W-1	MISSISSIPPI	PFO	Area	0.357746 ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36467182	-89.89450357
W-2	MISSISSIPPI	PFO	Area	3.706458 ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36257717	-89.89800147
W-3	MISSISSIPPI	PFO	Area	0.173359 ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36326555	-89.90153888
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W-6	MISSISSIPPI	PFO	Area	0.07427 ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.36437536	-89.89768329
W-7	MISSISSIPPI	PFO	Area	0.319395 ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.35732490	-89.90174938
W-8	MISSISSIPPI	PFO	Area	0.6539 ACRE	NON-WOTUS-WETL.NEGATIVE-A7	34.35494838	-89.89963982
Pond	MISSISSIPPI	L1	Area	0.311009 ACRE	NON-JD - PREAMBLE - ART.LAKE.POND	34.35534103	-89.89944666

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. GIS,
- b. Aerial Photos,
- c. NHD, LiDAR,
- d. National Regulatory Viewer,
- e. Google Earth Pro etc.
- f. Consultant Delineation (Headwaters Inc)

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.