



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

May 25, 2022

Regulatory Division
SAS-2022-00313

The Estate of Carroll Byers
Attention: Mr. John Smith
241 Lake Forrest Lane,
Cartersville, Georgia 30342

Dear Mr. Smith:

I refer to a letter submitted on your behalf by S&ME, Inc., requesting a Preliminary Jurisdictional Determination of aquatic features on an approximately 35-acre project site located east of Charlotte Drive, west of Harvest Lane, south of Marka Lane, and north of the northern terminus of Laurelwood Farm Drive, Alpharetta, Fulton County, Georgia (latitude: 34.0791, longitude: -84.3280). This project has been assigned number SAS-2022-00313, and it is important that you reference this number in all communication concerning this matter.

We have completed a preliminary jurisdictional determination (JD) for the site. The wetlands/other waters on the subject property may be waters of the United States within the jurisdiction of Section 404 of the Clean Water Act (33 United States Code (U.S.C.) § 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403). The placement of dredged or fill material into any waterways and/or their adjacent wetlands or mechanized land clearing of those aquatic resources may require prior Department of the Army authorization pursuant to Section 404.

Preliminary JDs are advisory in nature and may not be appealed (see Title 33 Code of Federal Regulations (C.F.R.) § Part 331.2). If you are not in agreement with this preliminary JD, then you may request an approved JD for your project site or review area.

The enclosed exhibit entitled, "Aerial Imagery, Alpharetta Parcel at Charlotte Drive PJD Request, Estate of Carroll Byers, Alpharetta, Fulton County, Georgia", dated January 21, 2022, as prepared by S&ME, Inc., identifies the delineation limits of all aquatic resources within the review area. The wetlands were delineated in accordance with criteria contained in the 1987 "Corps of Engineers Wetland Delineation Manual," as amended by the most recent regional supplements to the manual.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this

request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

This communication does not convey any property rights, either in real estate or material, or any exclusive privileges. It does not authorize any injury to property or invasion of rights, or any infringement of federal, state, local laws, or regulations. It does not obviate the requirement to obtain state or local assent required by law for the activity described herein. It does not affect your liability for damages that may be caused by the work, nor does it authorize any interference with any existing or proposed federal project. If this information you have submitted, and on which the USACE has based its determination is later found to be in error, this decision may be revoked.

A copy of this letter is being provided to the following party: S&ME, Inc, Attention: Mr. Ronald Walker, via email at: (rwalker@smeinc.com)

Thank you in advance for completing our on-line Customer Survey Form located at <https://regulatory.ops.usace.army.mil/customer-service-survey/>. We value your comments and appreciate you taking the time to complete a survey each time you interact with our office.

If you have any questions, please contact me by telephone at (678) 422-2728 or by email at Oya.M.Money-Worthy@usace.army.mil

Sincerely,



Oya Money-Worthy
Regulatory Specialist, Piedmont Branch

Enclosures

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS
AND REQUEST FOR APPEAL**

Applicant: Mr. John Smith	File Number: SAS-2022-00313	Date: May 25, 2022
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 C.F.R. § Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.

APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. The division engineer must receive this form within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
Oya Money-Worthy
Regulatory Specialist
US Army Corps of Engineers, Savannah District
Piedmont Branch
4751 Best Road, Suite 140
PHONE:(678) 422-2728
EMAIL: OYA.M.MONEY-WORTHY@USACE.ARMY.MIL

If you only have questions regarding the appeal process you may also contact:
Mr. Philip Shannin
Administrative Appeal Review Officer
CESAD-PDS-O
US Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 10M15
Atlanta, Georgia 30303-8801
PHONE: (404) 562-5136; FAX: (404) 562-5138
EMAIL: PHILIP.A.SHANNIN@USACE.ARMY.MIL

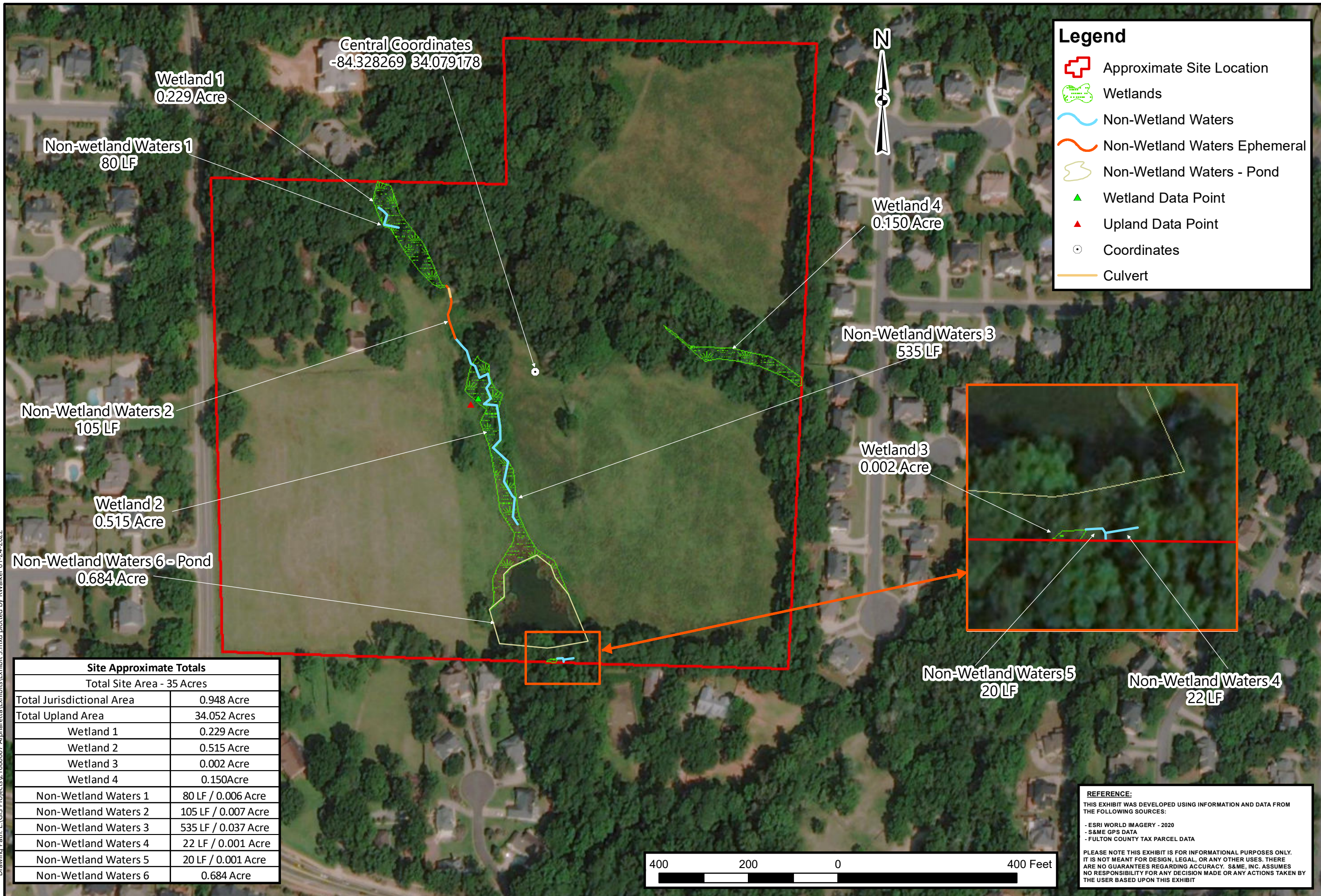
RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

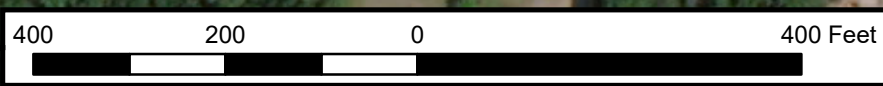
Drawing Path: E:\GIS Projects\21680007\Alpha\alpha\Exhibits\Exhibit 3.mxd plotted by RWalker 01-24-2022



Legend

- ⊞ Approximate Site Location
- ~ Wetlands
- ~ Non-Wetland Waters
- ~ Non-Wetland Waters Ephemeral
- ~ Non-Wetland Waters - Pond
- ▲ Wetland Data Point
- ▲ Upland Data Point
- Coordinates
- Culvert

Site Approximate Totals	
Total Site Area - 35 Acres	
Total Jurisdictional Area	0.948 Acre
Total Upland Area	34.052 Acres
Wetland 1	0.229 Acre
Wetland 2	0.515 Acre
Wetland 3	0.002 Acre
Wetland 4	0.150 Acre
Non-Wetland Waters 1	80 LF / 0.006 Acre
Non-Wetland Waters 2	105 LF / 0.007 Acre
Non-Wetland Waters 3	535 LF / 0.037 Acre
Non-Wetland Waters 4	22 LF / 0.001 Acre
Non-Wetland Waters 5	20 LF / 0.001 Acre
Non-Wetland Waters 6	0.684 Acre



REFERENCE:
 THIS EXHIBIT WAS DEVELOPED USING INFORMATION AND DATA FROM THE FOLLOWING SOURCES:
 - ESRI WORLD IMAGERY - 2020
 - S&ME GPS DATA
 - FULTON COUNTY TAX PARCEL DATA

PLEASE NOTE THIS EXHIBIT IS FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT MEANT FOR DESIGN, LEGAL, OR ANY OTHER USES. THERE ARE NO GUARANTEES REGARDING ACCURACY. S&ME, INC. ASSUMES NO RESPONSIBILITY FOR ANY DECISION MADE OR ANY ACTIONS TAKEN BY THE USER BASED UPON THIS EXHIBIT

Aerial Imagery

Alpharetta Parcel At Charlotte Drive PJD Request
 Estate of Carroll Byers
 Alpharetta, Fulton County, Georgia

SCALE:
1" = 200'

DATE:
1/21/2022

PROJECT NUMBER
21680007

EXHIBIT NO.
3

BACKGROUND INFORMATION

A. **REPORT COMPLETION DATE FOR PJD:** 03-MAY-2022

B. **NAME AND ADDRESS OF PERSON REQUESTING PJD:**

Smith, John
 The Estate Of Carol Byers- Smith Accounting Services, LLC
 241 Lake Forrest Lane
 Atlanta, GA 30342

C. **DISTRICT OFFICE, FILE NAME, AND NUMBER:**

CESAS-RDP, PJD Charlotte Drive Alpharetta Tract (Fulton County), SAS-2022-00313

D. **PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
 (USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)**

State: GA County/parish/borough: Fulton County City: Alpharetta
 Center coordinates of site (lat/long in degree decimal format):
 Lat.: 34.079138° Long.: -84.328305°
 Universal Transverse Mercator: 16
 Name of nearest waterbody: Foe Killer Creek

E. **REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- Office (Desk) Determination. Date: May 25, 2022
- Field Determination. Date(s): 1/03/2022

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site Number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Ephemeral Stream 2	34.079443	-84.32879	105 feet	Non-wetland waters	Section 404
Open Water 6	34.077751	-84.328249	0.684 acres	Non-wetland waters	Section 404
Perennial Stream 1	34.080109	-84.329321	80 feet	Non-wetland waters	Section 404
Perennial Stream 3	34.078853	-84.328614	535 feet	Non-wetland waters	Section 404
Perennial Stream 4	34.077375	-84.327972	22 feet	Non-wetland waters	Section 404
Perennial Stream 5	34.077373	-84.32822	20 feet	Non-wetland waters	Section 404
Wetland 1	34.080092	-84.329197	0.229 acres	Wetland	Section 404
Wetland 2	34.078425	-84.328459	0.515 acres	Wetland	Section 404
Wetland 3	34.077414	-84.328107	0.002 acres	Wetland	Section 404
Wetland 4	34.079347	-84.327055	0.15 acres	Wetland	Section 404

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.

- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- Maps, plans, plots, or plat submitted by or on behalf of the PJD requestor:
Map: PCN Submitted March 24 2022
- Data sheets prepared/submitted by or on behalf of the PJD requestor.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report. Rationale:
_____.
- Data sheets prepared by the Corps: _____.
- Corps navigable waters' study: _____.
- U.S. Geological Survey Hydrologic Atlas: _____.
- USGS NHD data.

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Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

- ___ USGS 8- and 12-digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: _____.
- Natural Resources Conservation Service Soil Survey. Citation: _____.
- National wetlands inventory map(s). Cite name: _____.
- ___ State/local wetland inventory map(s): _____.
- ___ FEMA/FIRM maps: _____.
- ___ 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____.
- ___ or Other (Name & Date): _____.
- ___ Previous determination(s). File no. and date of response letter: _____.
- ___ Other information (please specify): _____.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Oya Money-Worthy
Signature and date of Regulatory staff
member completing PJD

[Signature] 5/25/2022
Signature and date of person requesting
PJD (REQUIRED, unless obtaining the
signature is impracticable)¹

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.