DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867
www.swl.usace.army.mil

CESWL-RD 9 March 2026

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] **SWL 2025-00242** [][2]

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.[3] 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.[4] For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),[5] 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

[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] When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, interstate water, or territorial seas that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).
[3] 33 CFR 331.2.
[4] Regulatory Guidance Letter 05-02.
[5] 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.

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.

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).

      1. S-NR01-001a, Non-Jurisdictional (Non-RPW)
      2. S-NR01-001b, Non-Jurisdictional (Non-RPW)
      3. S-NR01-002, Jurisdictional (RPW), Section 404
      4. S-NR01-003, Non-Jurisdictional (Non-RPW)
      5. S-NR01-004, Jurisdictional (RPW), Section 404
      6. S-NR01-005, Jurisdictional (RPW), Section 404
      7. S-NR01-006, Non-Jurisdictional (Non-RPW)
      8. S-NR01-007, Non-Jurisdictional (Non-RPW)
      9. S-NR01-008, Non-Jurisdictional (Non-RPW)
      10. S-NR01-009a, Jurisdictional (RPW), Section 404
      11. S-NR01-009b, Jurisdictional (RPW), Section 404
      12. S-NR01-010a, Non-Jurisdictional (Non-RPW)
      13. S-NR01-010b, Non-Jurisdictional (Non-RPW)
      14. S-NR01-010c, Non-Jurisdictional (Non-RPW)
      15. S-NR01-011, Non-Jurisdictional (Non-RPW)
      16. S-NR01-012, Non-Jurisdictional (Non-RPW)
      17. S-NR01-013a, Jurisdictional (RPW), Section 404
      18. S-NR01-013b, Jurisdictional (RPW), Section 404
      19. S-NR01-014, Non-Jurisdictional (Non-RPW)
      20. S-NR01-015, Non-Jurisdictional (Non-RPW)
      21. S-NR01-016, Non-Jurisdictional (Non-RPW)
      22. S-NR01-017, Non-Jurisdictional (Non-RPW)
      23. S-NR01-018, Non-Jurisdictional (Non-RPW)
      24. S-NR01-019, Non-Jurisdictional (Non-RPW)
      25. S-NR01-020, Non-Jurisdictional (Non-RPW)
      26. S-NR01-021, Non-Jurisdictional (Non-RPW)
      27. S-NR01-022, Non-Jurisdictional (Non-RPW)

28. S-NR01-023, Non-Jurisdictional (Non-RPW)
29. S-NR01-024, Jurisdictional (RPW), Section 404
30. S-NR01-025, Non-Jurisdictional (Non-RPW)
31. S-NR01-026, Non-Jurisdictional (Non-RPW)
32. S-NR01-027, Non-Jurisdictional (Non-RPW)
33. S-NR01-028, Non-Jurisdictional (Non-RPW)
34. S-NR01-029, Non-Jurisdictional (Non-RPW)
35. S-NR01-030, Non-Jurisdictional (Non-RPW)
36. S-NR01-031a, Non-Jurisdictional (Non-RPW)
37. S-NR01-031b, Non-Jurisdictional (Non-RPW)
38. S-NR01-032, Non-Jurisdictional (Non-RPW)
39. S-NR01-033, Non-Jurisdictional (Non-RPW)
40. S-NR01-034, Non-Jurisdictional (Non-RPW)
41. S-NR01-035, Jurisdictional (RPW), Section 404
42. S-NR01-036, Non-Jurisdictional (Non-RPW)
43. S-NR01-037, Non-Jurisdictional (Non-RPW)
44. S-NR01-038, Non-Jurisdictional (Non-RPW)
45. S-NR01-039, Non-Jurisdictional (Non-RPW)
46. S-NR01-040, Non-Jurisdictional (Non-RPW)
47. S-NR01-041, Non-Jurisdictional (Non-RPW)
48. S-NR01-042, Non-Jurisdictional (Non-RPW)
49. S-NR01-043, Non-Jurisdictional (Non-RPW)
50. S-NR01-044, Jurisdictional (RPW), Section 404
51. S-NR01-045, Non-Jurisdictional (Non-RPW)
52. S-NR01-046, Non-Jurisdictional (Non-RPW)
53. S-NR01-047, Non-Jurisdictional (Non-RPW)
54. S-NR02-001, Non-Jurisdictional (Non-RPW)
55. S-NR02-002, Non-Jurisdictional (Non-RPW)
56. S-NR02-003, Non-Jurisdictional (Non-RPW)
57. S-NR02-004, Non-Jurisdictional (Non-RPW)
58. S-NR02-005, Non-Jurisdictional (Non-RPW)
59. S-NR02-006, Non-Jurisdictional (Non-RPW)
60. S-NR02-007, Non-Jurisdictional (Non-RPW)
61. S-NR02-008, Non-Jurisdictional (Non-RPW)

62. S-NR02-009, Non-Jurisdictional (Non-RPW)
63. S-NR02-010, Non-Jurisdictional (Non-RPW)
64. P-NR01-001, Non-Jurisdictional
65. P-NR01-002, Non-Jurisdictional
66. P-NR01-003, Non-Jurisdictional
67. P-NR01-004, Non-Jurisdictional
68. P-NR01-005, Non-Jurisdictional
69. P-NR01-006, Non-Jurisdictional
70. P-NR01-007, Non-Jurisdictional
71. P-NR01-008, Non-Jurisdictional
72. P-NR01-009, Non-Jurisdictional
73. P-NR01-010, Non-Jurisdictional
74. P-NR01-011, Non-Jurisdictional
75. P-NR01-012, Jurisdictional, Section 404
76. P-NR01-013, Non-Jurisdictional
77. P-NR01-014, Non-Jurisdictional
78. P-NR01-015, Jurisdictional, Section 404
79. P-NR01-016, Non-Jurisdictional
80. P-NR01-017, Non-Jurisdictional
81. P-NR01-018, Non-Jurisdictional
82. P-NR01-019, Non-Jurisdictional
83. P-NR01-020, Non-Jurisdictional
84. P-NR01-021, Non-Jurisdictional
85. P-NR01-022, Non-Jurisdictional
86. P-NR01-023, Non-Jurisdictional
87. P-NR01-024, Non-Jurisdictional
88. P-NR01-025, Non-Jurisdictional
89. P-NR01-026, Non-Jurisdictional
90. P-NR01-027, Non-Jurisdictional
91. P-NR01-028, Non-Jurisdictional
92. P-NR02-001, Non-Jurisdictional
93. P-NR02-002, Non-Jurisdictional
94. P-NR02-003, Non-Jurisdictional
95. P-NR02-004, Non-Jurisdictional

96. P-NR02-005, Non-Jurisdictional
97. P-NR02-006, Non-Jurisdictional
98. P-NR02-007, Non-Jurisdictional
99. P-NR02-008, Non-Jurisdictional
100. P-NR02-009, Non-Jurisdictional
101. P-NR02-010, Non-Jurisdictional
102. P-NR02-011, Non-Jurisdictional

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. The review area includes multiple parcels encompassing a total of approximately 1,578.6 acres of agricultural land primarily used as livestock pastures. The review area is located West of Morrilton in Conway County, Arkansas in Sections 27, 34, 35, 36 in Township 7 N., Range 16 W., and Sections 01, 02, 03, 04, 09, 10 in Township 6 N., Range 16 E.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. Arkansas River[6]

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. Both the upper and lower portions of the review area flow through Caney Creek (in two locations) in a generally southwestern direction where they empty into Lake Overcup and Point Remove Creek which empties into the Arkansas River.

[6] This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established.

6. SECTION 10 JURISDICTIONAL WATERS[7]: 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.[8] 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):

      P-NR01-012 is an approximately 8.34-acre impoundment of S-NR01-24 (UT to Caney Creek and wetland area) and S-NR01-013a (UT to Caney Creek and wetland area) which are Jurisdictional RPWs.

      P-NR01-015 is approximately 0.93-acre impounded of S-NR01-009a (Headwaters for Caney Creek) which is a jurisdictional RPW.

[7] 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] This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

e. Tributaries (a)(5):

S-NR01-002 (UT to Caney Creek) is an approximately 1,628.06 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-004 (UT to Caney Creek) is an approximately 4,347.41 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-005 (UT to Caney Creek) is an approximately 2,216.77 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-009a (Caney Creek) is an approximately 1,671.68 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-009b (Caney Creek) is an approximately 2,740.46 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-013a (UT to Caney Creek) is an approximately 1,192.01 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-013b (UT to Caney Creek) is an approximately 1,209.98 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-024 (UT to Caney Creek) is an approximately 3,973.39 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-035 (Caney Creek) is an approximately 6,344.45 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

S-NR01-044 (UT to Caney Creek) is an approximately 2,995.71 linear foot long RPW with defined bed and banks, OHWM indicators and more than seasonal flow.

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

g. Adjacent wetlands (a)(7): N/A

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").[9] 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*.

P-NR01-001 is an approximately 0.48 acre man-made impoundment of the non-RPW S-NR01-001a with no direct connection to a TNW.

P-NR01-002 is an approximately 0.43 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-003 is an approximately 0.25 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

[9] 51 FR 41217, November 13, 1986.

P-NR01-004 is an approximately 0.36 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-005 is an approximately 0.35 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-006 is an approximately 0.33 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-007 is an approximately 0.88 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-008 is an approximately 0.25 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-009 001 is an approximately 4.12 acre man-made impoundment of the non-RPW S-NR01-007 with no direct connection to a TNW.

P-NR01-01-010 is an approximately 0.06 acre man-made impoundment of the non-RPW S-NR01-010a with no direct connection to a TNW.

P-NR01-011 is an approximately 0.35 acre man-made impoundment of the non-RPW S-NR01-010b with no direct connection to a TNW.

P-NR01-013 is an approximately 0.14 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-014 is an approximately 1.18 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-016 is an approximately 0.5 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-017 is an approximately 0.26 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-018 is an approximately 0.23 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-019 is an approximately 0.21 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-020 is an approximately 0.2 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-021 is an approximately 0.34 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-022 is an approximately 0.43 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-023 is an approximately 0.06 acre man-made impoundment of the non-RPW S-NR01-031a with no direct connection to a TNW.

P-NR01-024 is an approximately 0.18 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-025 is an approximately 0.2 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-026 is an approximately 0.22 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-027 is an approximately 0.19 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR01-028 is an approximately 0.14 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-001 is an approximately 0.88 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-002 is an approximately 0.15 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-003 is an approximately 0.15 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-004 is an approximately 0.34 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-005 is an approximately 0.19 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-006 is an approximately 0.24 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-007 is an approximately 0.04 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-008 is an approximately 0.21 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-009 is an approximately 0.43 acre man-made impoundment of the non-RPW S-NR02-006 and non-RPW S-NR02-007 with no direct connection to a TNW

P-NR02-010 is an approximately 0.19 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

P-NR02-011 is an approximately 0.18 acre man-made stock pond dug in an upland where its main source of hydrology is from rainwater.

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).

S-NR01-001a is an approximately 393.87 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-001b is an approximately 1,554.67 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-003 is an approximately 408.56 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-006 is an approximately 1,113.51 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-007 is an approximately 416.86 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-008 is an approximately 329.11 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-010a is an approximately 212.38 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-010b is an approximately 688.87 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-010c is an approximately 125.33 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-011 is an approximately 853.94 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-012 is an approximately 2,591.62 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-014 is an approximately 1,063.80 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-015 is an approximately 369.26 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-016 is an approximately 74.66 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-017 is an approximately 404.38 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-018 is an approximately 1,719.15 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-019 is an approximately 344.78 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-020 is an approximately 346.61 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-021 is an approximately 1,202.81 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-022 is an approximately 151.91 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-023 is an approximately 241.62 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-025 is an approximately 476.41 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-026 is an approximately 398.28 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-027 is an approximately 153.99 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-028 is an approximately 532.62 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-029 is an approximately 642.21 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-030 is an approximately 592.41 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-031a is an approximately 683.55 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-031b is an approximately 191.82 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-032 is an approximately 1,286.06 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-033 is an approximately 172.47 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-034 is an approximately 465.26 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-036 is an approximately 571.74 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-037 is an approximately 456.67 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-038 is an approximately 560.49 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-039 is an approximately 3,419.69 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-040 is an approximately 1,410.23 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-041 is an approximately 89.46 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-042 is an approximately 1,141.29 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-043 is an approximately 269.49 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-045 is an approximately 1,121.88 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-046 is an approximately 1,695.79 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR01-047 is an approximately 880.41 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-001 is an approximately 492.27 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-002 is an approximately 922.99 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-003 is an approximately 3,623.98 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-004 is an approximately 416.07 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-005 is an approximately 618.03 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-006 is an approximately 1,698.06 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-007 is an approximately 2,632.44 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-008 is an approximately 781.39 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-009 is an approximately 603.09 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

S-NR02-010 is an approximately 48.75 linear foot long non-RPW with limited/inconsistent bed and banks lacking a clearly defined OHWM showing limited (ephemeral) flow characteristics.

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. Site Visit conducted on January 21, 2026

   b. U.S. Geological Survey map: 24K, Morrilton East, March 09, 2026

   c. U.S. Geological Survey Hydrologic Atlas: 11110203, Lake Conway-Point Remove, March 09, 2026

   d. USDA Natural Resources Conservation Service Soil Survey, Conway County Soil Survey, March 09, 2026

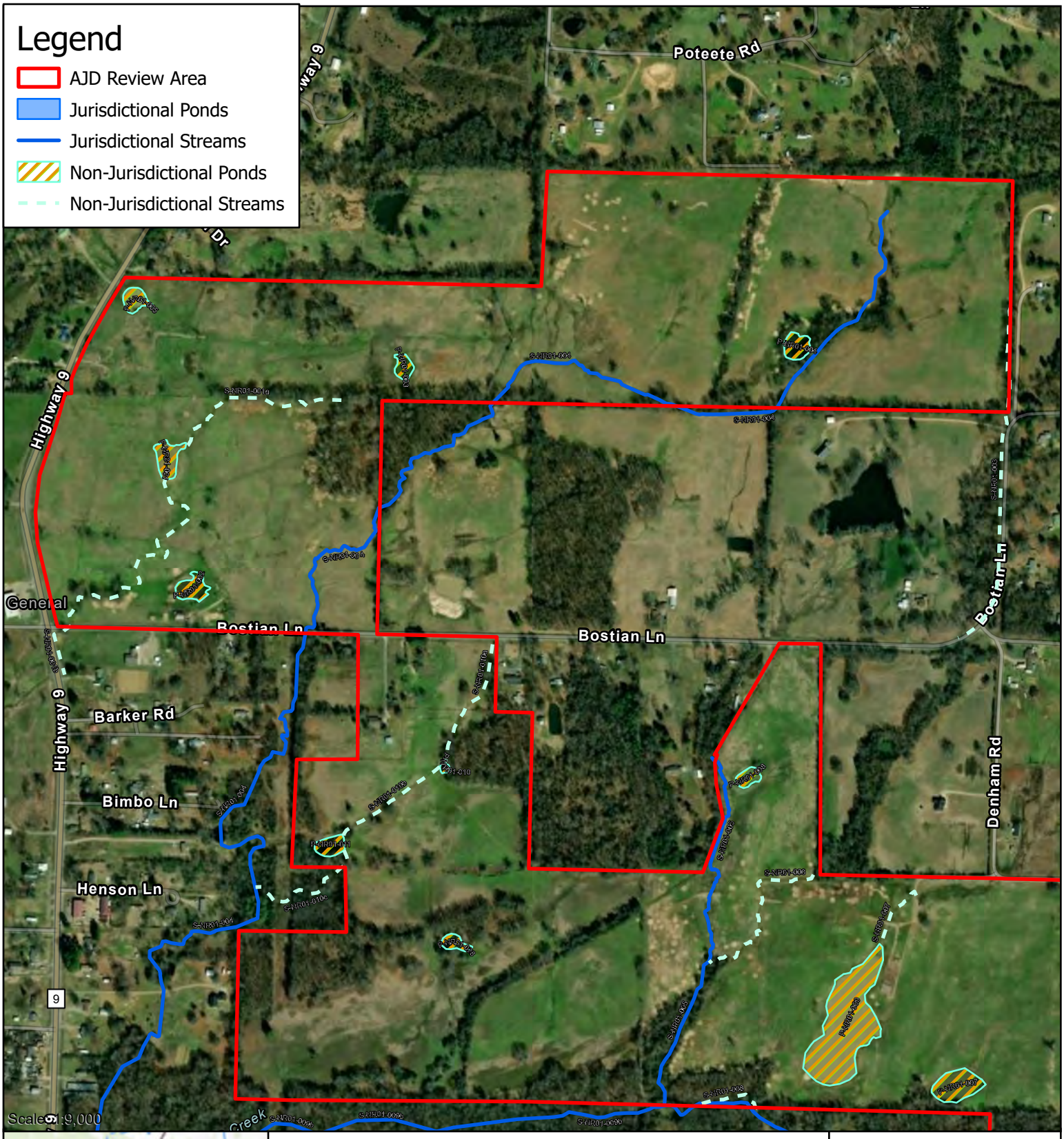
   e. Google Earth Pro & ArcGIS Pro accessed March 9, 2026

   f. WOTUS Delineation Report titled “Aquatic Resources Delineation Report for the Proposed Morrilton Solar Project, Conway County, Arkansas” dated March 2025 submitted by the consultant

10. OTHER SUPPORTING INFORMATION. The majority of the area under review is pastureland, consistently used for grazing livestock. A significant portion of the non--RPWs appears to originate from upland areas, serving as the primary water source for most of the livestock ponds within this region. It's important to note that this assessment does not cover several wetland complexes located within the review area. These specific wetlands are addressed in a separate Preliminary Jurisdictional

Determination (PJD) document, identified as SWL 2025-00242 PJD, which was issued on March 3, 2026.

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.



ACTION NO. SWL 2025-00242
Morrilton Solar Farm, LLC
Approved JD
Secs 27 & 34, T. 7 N., R. 16 W.
March 2026

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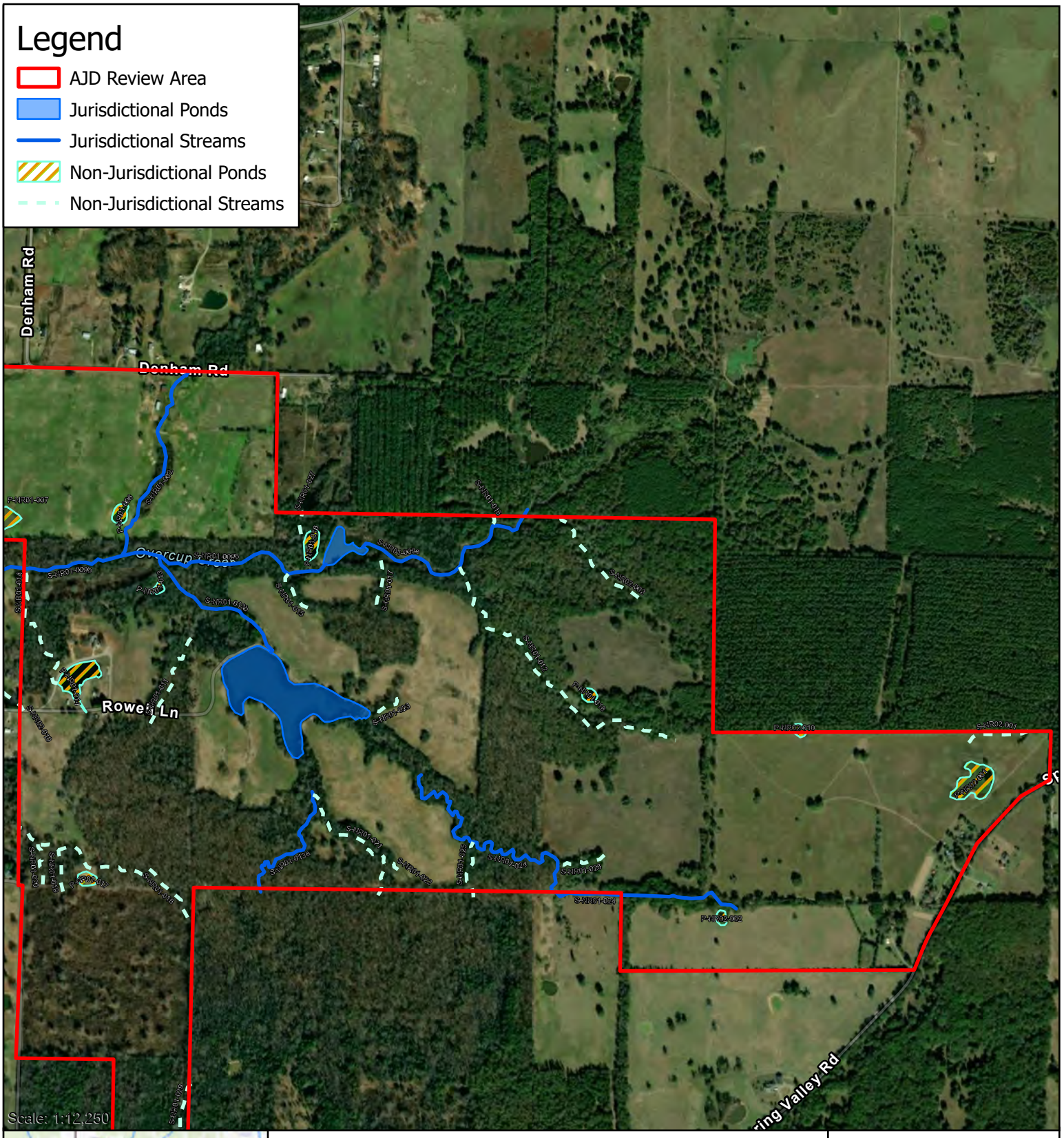
0 0.07 0.15 Mi

Coordinate System: NAD 1983 UTM Zone 15N



ACTION NO. SWL 2025-00242
Morrilton Solar Farm, LLC
Approved JD
Secs 35 & 36, T. 7 N., R. 16 W.
March 2026

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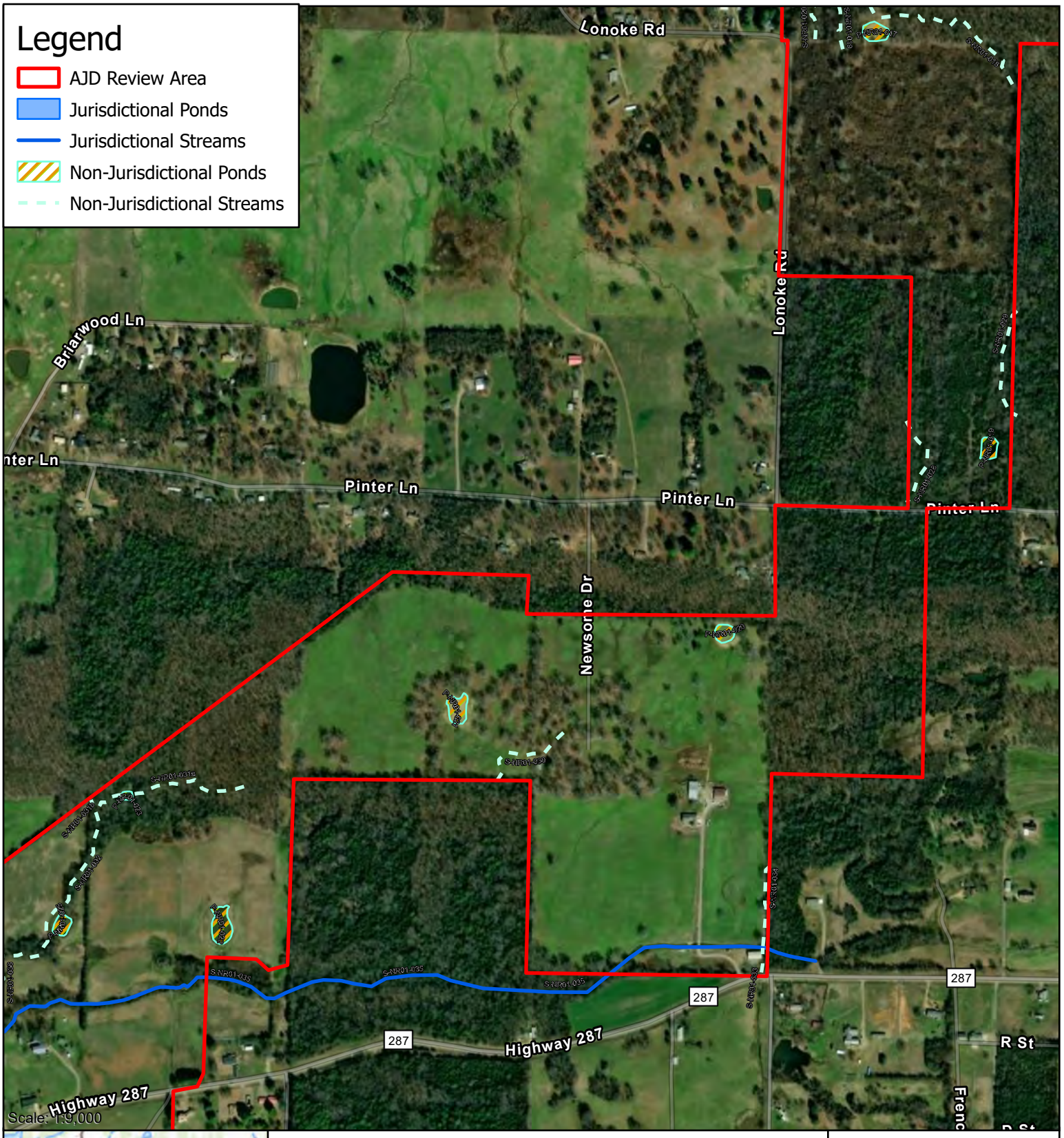
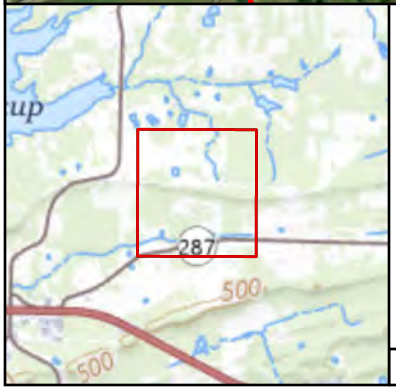
Coordinate System: NAD 1983 UTM Zone 15N





ACTION NO. SWL 2025-00242
Morrilton Solar Farm, LLC
Approved JD
Secs 2 & 3, T. 6 N., R. 16 W.
March 2026

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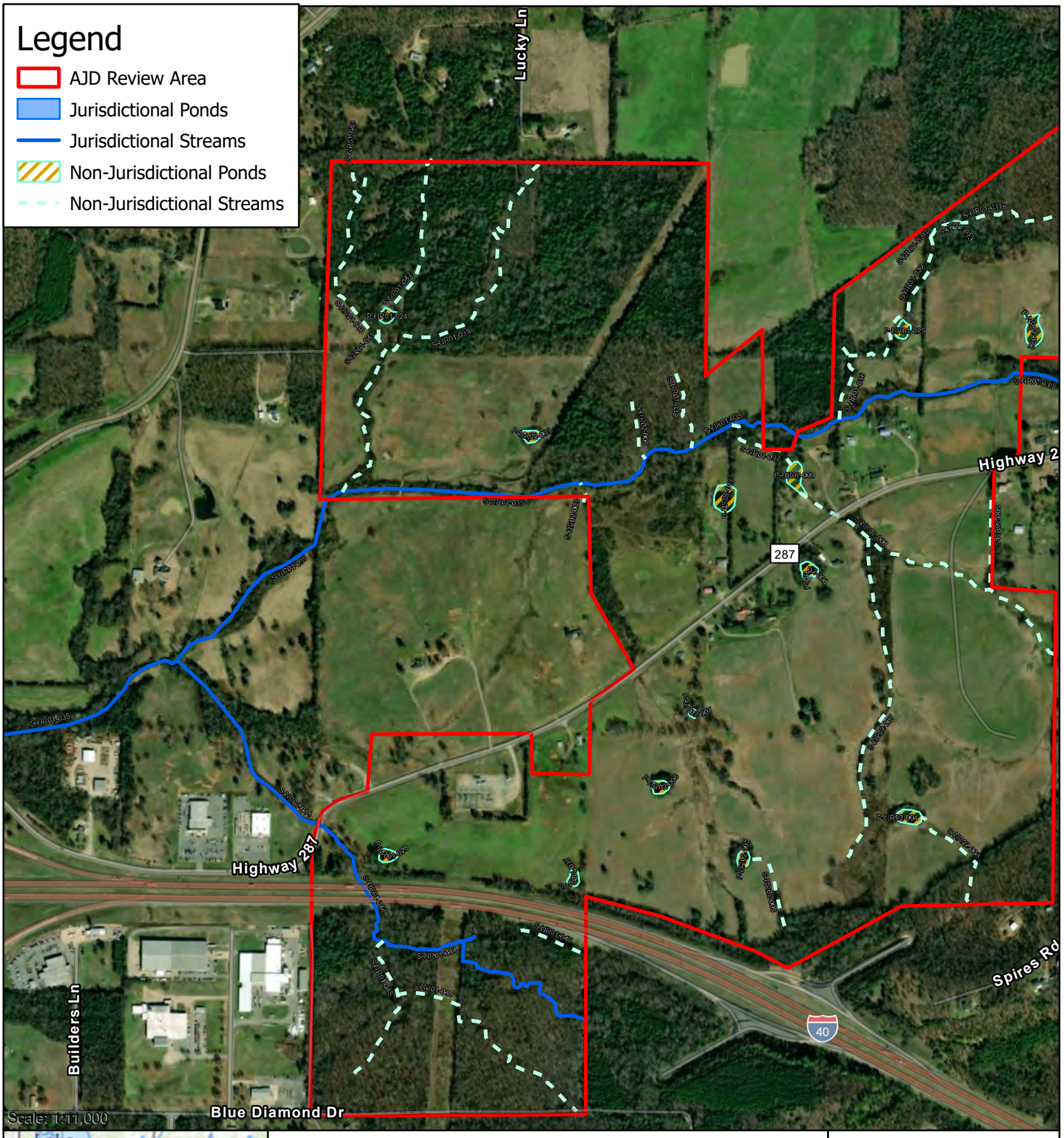
Coordinate System: NAD 1983 UTM Zone 15N



ACTION NO. SWL 2025-00242
Morrilton Solar Farm, LLC
Approved JD
Secs 3, 4, 9 & 10, T. 6 N., R. 16 W.
March 2026

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0 0.1 0.2 Mi

Coordinate System: NAD 1983 UTM Zone 15N