



DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
REGULATORY DIVISION
3701 BELL ROAD
NASHVILLE, TENNESSEE 37214

August 12, 2025

SUBJECT: File No. LRN-2025-00708, I-40 Rest Area Truck Parking and Caney Fork Bridge Replacement, Smith and Putnam Counties, Tennessee.; TDOT PIN 131552.01

Ms. Evelyn DiOrio
Tennessee Department of Transportation
Region 3 Environmental Section
Building A, 2nd Floor
6601 Centennial Boulevard,
Nashville, TN 37243

Dear Ms. DiOrio:

This letter is in regard to your report entitled "Smith/Putnam Counties, I-40 Truck Parking and Bridge Replacement over the Caney Fork River PIN: 131552.01" (JD Report) dated July 11, 2025, which documented potential waters of the United States on I-40. This project has been assigned File No. LRN-2025-00708, please refer to this number in any future correspondence.

The U.S. Army Corps of Engineers (USACE) has regulatory responsibilities pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). Under Section 10, the USACE regulates any work in, or affecting, navigable waters of the U.S. It appears the review area does not include navigable waters of the U.S. and would not be subject to the provisions of Section 10. Under Section 404, the USACE regulates the discharge of dredged and/or fill material into waters of the U.S., including wetlands.

a. Preliminary Jurisdictional Determination: Based on a desktop review of features on July 18 and July 21, 2025, two reaches of perennial stream totaling 2,082.6 LF were documented within the review area. This office has determined these features **may** be jurisdictional waters of the U.S. in accordance with 33 C.F.R. 331.2 and a PJD has been prepared. The PJD is non-binding, cannot be appealed and only provides a written indication that waters of the U.S, including wetlands, may be present on-site. For purposes of computation of impacts, compensatory mitigation requirements and other resource protection measures, a permit decision made on the basis of a PJD will treat all waters that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This determination is only valid for the PJD

Review Area shown on the attached map titled "LRN-2025-00708 JD Review Area, Map 1 of 1" enclosed with this letter.

Attached with this letter is a copy of the PJD. If you agree with the findings of this PJD and understand your options regarding the same, please sign and date the form and return it to this office within 30 days of receipt of this letter. You should submit the signed copy to the following address:

U.S. Army Corps of Engineers
Nashville District
3701 Bell Rd.
Nashville, TN 37214
Attn: Joe D. Collins

b. Approved Jurisdictional Determination: Also enclosed is an approved jurisdictional determination for the following aquatic resources: WWC-1, WWC-2, WWC-3, and WWC-4. The rationale for this determination is provided in the attached Approved Jurisdictional Determination Memorandum for Record. The approved jurisdictional determination expires five years from the date of this letter, unless new information warrants revision of the determination before the expiration date, or the District Engineer identifies specific geographic areas with rapidly changing environmental conditions that merit re-verification on a more frequent basis. This approved jurisdictional determination is only valid for areas delineated as AJD Review Area on the attached figures labeled "LRN-2025-00708 JD Review Area, Map 1 of 1"

If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeals Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this decision you must submit a completed RFA form to the Great Lakes and Ohio River Division, Division Office at the following address:

Regulatory Appeal Review Officer
ATTN: Ms. Suzanne Chubb
Army Engineer Division
550 Main Street, Room 10-780
Cincinnati, OH 45202-3222
TEL (513) 218-1243
EMAIL: Suzanne.L.Chubb@usace.army.mil

In order for an RFA to be accepted by the USACE, the USACE must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office by October 13, 2025 (within 60-days). **It is not**

necessary to submit an RFA form to the Division Office if you do not object to the decision in this letter.

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.

We appreciate your awareness of the USACE regulatory program. If you have any questions, you may contact me or Joe D. Collins at (615) 369-7519 or by e-mail at joe.d.collins@usace.army.mil.

Sincerely,

Brent Sewell

For

William E. Worrall, P.E.

Chief, Technical Services Branch

Regulatory Division

Enclosures:

1. LRN-2025-00708 AJD Memorandum for Record
2. LRN-2025-00708 JD Review Area Map 1 of 1

Attachments:

1. PJD Eng_Form_6249
2. Notice of Administrative Appeal Options and Process and Request for Appeal

Electronic Copies

Furnished:

1. Ross Rogers (TDEC)



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NASHVILLE DISTRICT
3701 BELL ROAD
NASHVILLE, TENNESSEE 37214

CELRN-RD

August 12, 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 LRN- 2025-00708, (MFR 1 of 1)²: I-40 Rest Area Truck Parking and Caney Fork Bridge Replacement, Smith and Putnam Counties. TDOT PIN 131552.01

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

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.

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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 Tennessee 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).
 - i. WWC-1 is not a water of the United States
 - ii. WWC-2 is not a water of the United States
 - iii. WWC-3 is not a water of the United States
 - iv. WWC-4 is not a water of the United States

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)
- e. Memorandum to the Field Between the U.S. Department of the Army, U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency Concerning the Proper Implementation of “Continuous Surface Connection” Under the Definition of “Waters of the United States” Under the Clean Water Act (March 12, 2025)

- 3. REVIEW AREA. The AJD review area is limited to the specified review area depicted on the attached figure and is located near Gordonsville, Smith and Putnam Counties, Tennessee (Center Coordinates: 36.140261°, -85.805690°). The site is on State of Tennessee property and is used as a traveler rest area along Interstate 40.

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No previous federal jurisdictional determination requests are associated with the site.

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

Caney Fork, Section 10 Water, TNW

Prior to the determination and listing of the Nashville District's navigable waters, detailed navigability studies were performed throughout the Nashville District to determine which waters meet the navigable waters definition found in 33 CFR Part 329. These studies are available for review in the Nashville District office. Upon completion of these navigability studies, the Nashville District issued Public Notice #86-23, dated 8 May, 1986, listing all navigable waters within the district. The complete list of navigable waters can be found on the district's website at <https://www.lrd.usace.army.mil/Submit-ArticleCS/Programs/Article/3647650/>.

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS

Resource Name	Flows Into	TNW
WWC-1	Caney Fork River	Caney Fork River
WWC-2	Caney Fork River	Caney Fork River
WWC-3	Indian Creek	Caney Fork River
WWC-4	Indian Creek	Caney Fork River

6. SECTION 10 JURISDICTIONAL WATERS⁶: 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 10.⁷ N/A

⁶ 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.

⁷ 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.

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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

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").⁸ 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

⁸ 51 FR 41217, November 13, 1986.

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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 feature or features listed in the below table are natural, man-altered, or manmade water body that flow directly or indirectly into a traditional navigable water (TNW). The tributary or tributaries have been determined to not meet the relatively permanent standard. The tributary or tributaries generally flow only in response to precipitation. The OHWM (Ordinary High Water Mark) represents the lateral limits of jurisdiction per 33CFR328.4. The OHWM was determined using field indicators in RGL 05-05. The upstream and downstream limits of the tributary or tributaries are identified on the attached figure.		
Resource Name	Size	Rationale

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WWC-1	492 Linear Feet (LF); 0.37 acres	The information in this section is based on information submitted by TDOT in a report entitled “Smith/Putnam Counties, I-40 Truck Parking and Bridge Replacement over the Caney Fork River PIN: 131552.01” (JD Report) dated July 11, 2025. TDOT visited the site on August 26, 2024 and did not observe flow in the channel. Prior to the site visit, the most recent rain event had been 0.25 inches of precipitation 7 days prior to site visit date (08/19/2024). The USACE Antecedent Precipitation Tool (APT) indicated the visit was in the dry season and bordering between normal and moderate drought conditions. Information in the JD report indicated an OHWM is present based on field documentation of: • Bed and banks • Changes in the character of soil • Vegetation matted down, bent, or absent • Scour • Abrupt change in plant community This first-order tributary begins in a ditch along the south side of I-40 and runs parallel with the interstate from east to west. The upper portion of the feature is located in a ditch and then is contained in a concrete-lined channel in the upper portion of the reach before descending a moderately steep slope to the Caney Fork River. TDOT assigned this reach a score of 17 on the Tennessee Hydrologic Determination (HD) assessment sheet. The tributary has been determined to be a non-relatively permanent water because 100% of its length does not flow at least seasonally. This feature is not relatively permanent based on field documentation of • No observed flow • Moderate to weak bed and bank/OHWM indicators • No evidence of base flow, subsurface flow, groundwater connection • Fibrous roots in the channel • Vegetation growing in the channel
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		100% of this tributary feature is within the review area. Based on the information above we have determined that the subject resource does not meet the definition of “waters of the United States.”
WWC-2	168 LF; 0.03 acres	TDOT visited the site on June 18, 2024 and did not observe flow in the channel. Prior to the site visit, the most recent rain event had been 0.42 inches of precipitation 1 day prior to site visit date (06/17/2024). The APT indicated the visit was in the dry season and bordering between normal and mild drought conditions. The OHWM is present based on field documentation of: • Bed and banks • Vegetation bent, matted, or absent • Change in plant community • Destruction of terrestrial vegetation This first-order tributary begins along the edge of a forested slope descending downward to the Caney Fork River. TDOT assigned this reach a score of 18 on the HD assessment sheet. The tributary has been determined to be a non-relatively permanent water because 100% of its length does not flow at least seasonally. This feature is not relatively permanent based on field documentation of: • Moderate to weak bed and bank/OHWM indicators • No observed flow • No evidence of base flow, subsurface flow, groundwater connection • Fibrous roots in the channel bed • Rooted plants in thalweg 100% of this tributary feature is within the review area. Based on the information above we have determined that the subject resource does not meet the definition of “waters of the United States.”

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WWC-3	145 LF; 0.01 acres	TDOT visited the site on August 26, 2024 and did not observe flow in the channel. Prior to the site visit, the most recent rain event had been 0.25 inches of precipitation 7 days prior to site visit date (08/19/2024). The APT indicated the visit was in the dry season and bordering between normal and moderate drought conditions. The OHWM is present based on field documentation of: • Bed and bank • Scour • Vegetation absent, bent, or matted • change in plant community • change in soil character This first-order tributary begins along the edge of a forested slope descending downward to Indian Creek. TDOT assigned this reach a score of 12.5 on the HD assessment sheet. The tributary has been determined to be a non-relatively permanent water because 100% its length does not flow at least seasonally. This feature is not relatively permanent based on field documentation of: • Weak inconsistent OHWM indicators • No observed flow • No evidence of base flow, subsurface flow, groundwater connection • Fibrous roots in channel bed • Rooted plants in thalweg 100% of this tributary feature is within the review area. Based on the information above we have determined that the subject resource does not meet the definition of “waters of the United States.”
WWC-4	658 LF; 0.12 acres	TDOT visited the site on August 26, 2024 and did not observe flow in the channel. Prior to the site visit, the most recent rain event had been 0.25 inches of precipitation 7 days prior to site visit date

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		(08/19/2024). The APT indicated the visit was in the dry season and bordering between normal and moderate drought conditions. The OHWM is present based on field documentation of: • Bed and bank • Presence of litter debris • Vegetation absent, bent, matted • Change in plant community • Change in soil character This first-order tributary begins along a forested slope north of I-40 and runs south for approximately 178 feet before entering a culvert under the interstate for approximately 250 linear feet. The lower portion of the reach runs for approximately 230 feet into Indian Creek. TDOT assigned this reach a score of 14.5 on the HD assessment sheet. The tributary has been determined to be a non-relatively permanent water because 100% of its length does not flow at least seasonally. This feature is not relatively permanent based on field documentation of: • Weak inconsistent OHWM indicators • No observed flow • No evidence of base flow, subsurface flow, groundwater connection • Fibrous roots in channel bed • Rooted plants in thalweg Approximately 80% of the lower portion of this tributary feature is within the review area. The remaining upper 20% of the feature is assumed to lack relatively permanent flow due to channel characteristics and lack of observed flow in lower portion during TDEC site visit. Based on the information above we have determined that the subject resource does not meet the definition of “waters of the United States.”
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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.

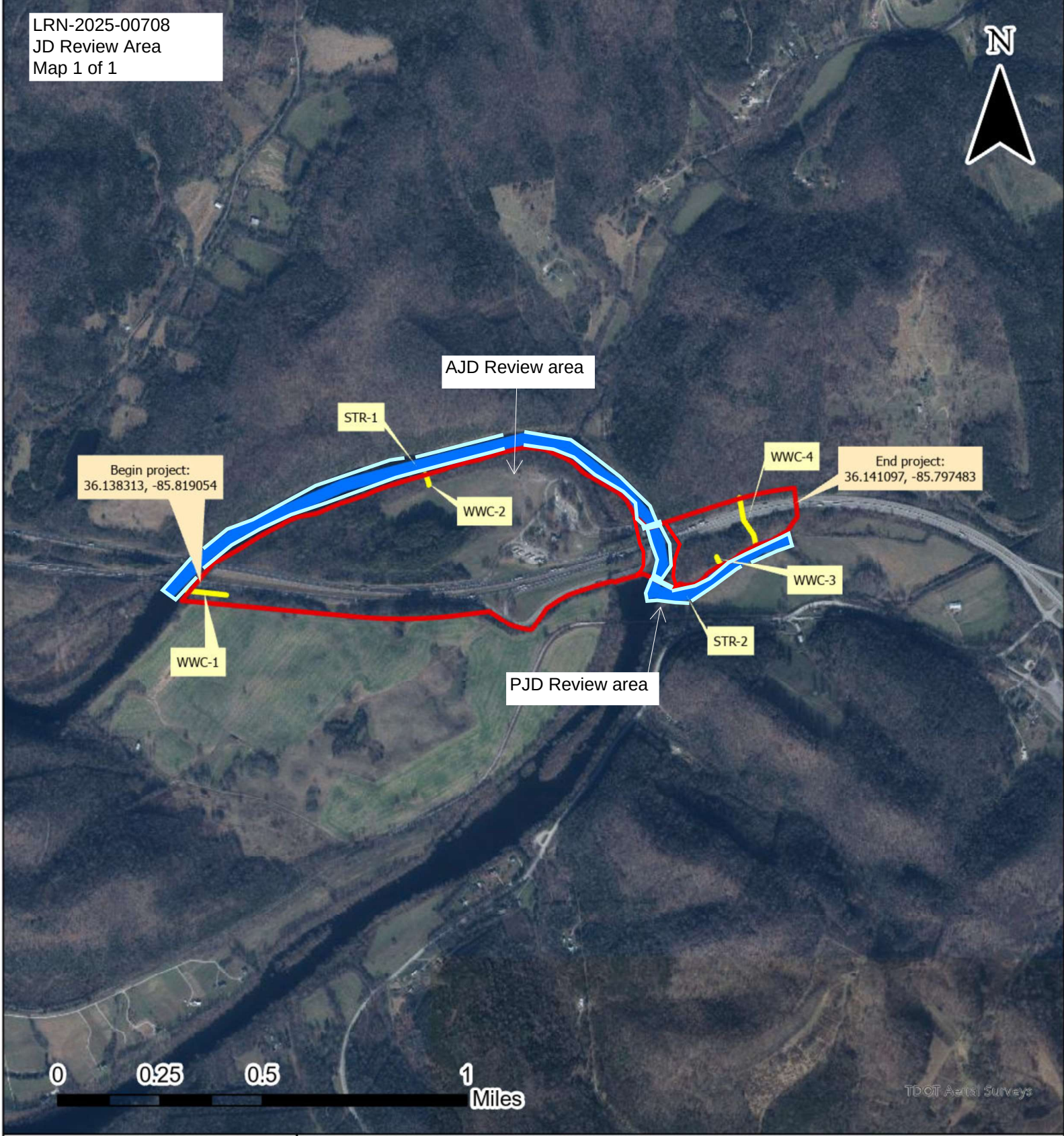
- a. Consultant report dated August 26, 2024
 - a. Field photos (consultant field visit conducted June 18, 2024, August 26-28, 2024)
 - b. Hydrologic Determination Field Data Sheets
 - c. Feature Description Narratives
 - d. USGS Topo Map
- b. National Regulatory Viewer Layers accessed July 18, 2025
 - a. National Wetland Inventory
 - b. National Hydrography Dataset
 - c. USA Soils Map Units
 - d. 3DEP Digital Elevation Model (DEM)
 - e. 3DEP Hill Shade
- c. Antecedent Precipitation Tool accessed July 18, 2025

10. OTHER SUPPORTING INFORMATION.

Headquarters Field Memos

- Memorandum on MVS-2023-00288 (*Relevant Reach Determination*)

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.



Smith/Putnam Co. I-40 Truck Parking and Bridge Replacement over the Caney Fork River

PIN: 131552.01