



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, CHARLESTON DISTRICT
69A HAGOOD AVENUE
CHARLESTON, SOUTH CAROLINA 29403-5107

July 17, 2023

Regulatory Division

Mr. Sean Connolly
South Carolina Department of Transportation
955 Park Street
Columbia, South Carolina 29201
ConnollyMS@scdot.org

Dear Mr. Connolly:

This is in response to your request for a preliminary jurisdictional determination (PJD) that is part of an overall project known as I-95 Lake Marion. Based on information submitted to the U.S. Army Corps of Engineers (Corps) we have determined there may be waters of the United States, including wetlands on your parcel located at the following:

Project Number:	SAC-2023-00857
County:	Orangeburg County
Project/Site Size:	332 Acres
Latitude:	33.5108°
Longitude:	-80.4454°
Project/Site Location:	Within the right-of-way of Interstate 95 roadway and bridge crossing over Lake Marion in Santee, SC.
Waters (Acreage/Linear Feet):	0.39 acre of Section 404 Wetlands, 210.13 linear feet (0.15 acre) of Section 404 Non-wetland Waters (Stream), 0.63 acre of Section 404 Non-wetland Waters (Pond), and 100.83 acres of Section 10/404 Non-wetland Water (Lake Marion).

A copy of the PJD form and Pages 1 – 8 dated May 2023, and titled “Figure 5 Aquatic Resources”, are enclosed. Please carefully read this form, then sign and return a copy to the project manager at the following Jeremy.M.Kinney@usace.army.mil within 30 days from the date of this notification.

Please be advised a Department of the Army permit will be required for regulated work in all areas which may be waters of the United States, as indicated in this PJD. 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 and wetlands, which would be affected in any way by the permitted activity on the site, as if they are jurisdictional waters of the United States. Should you desire an approved Corps determination, one will be issued upon request.

You are cautioned that work performed in areas which may be waters of the United States, as indicated in the PJD, without a Department of the Army permit could subject you to enforcement action.

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.

If you submit a permit application as a result of this PJD, include a copy of this letter and the depiction as part of the application. Not submitting the letter and depiction will cause a delay while we confirm a PJD was performed for the proposed permit project area. Note that some or all of these areas may be regulated by other state or local government entities, and you should contact the South Carolina Department of Health and Environmental Control, Bureau of Water to determine the limits of their jurisdiction.

In all future correspondence, please refer to file number SAC-2023-00857. A copy of this letter is forwarded to State and/or Federal agencies for their information. If you have any questions, please contact me at (843) 714-4649, or by email at Jeremy.M.Kinney@usace.army.mil.

Sincerely,

A handwritten signature in cursive script that reads "Jeremy Kinney".

Jeremy M. Kinney
Project Manager

Enclosures:
Preliminary Jurisdictional Determination Form
Notification of Appeal Options
Figure 5 Aquatic Resources

Copies Furnished:

Mr. William McGoldrick
SCDOT
PO Box 191
Columbia, South Carolina 29202
mcGoldriWR@scdot.org

Ms. Kally McCormick
Civil Engineering Consulting Services Inc
2000 Park Street
Columbia, South Carolina 29201
mccormickk@cecsinc.com

SC DHEC - Bureau of Water
2600 Bull Street
Columbia, South Carolina 29201
WQCWetlands@dhec.sc.gov

BACKGROUND INFORMATION

A. **REPORT COMPLETION DATE FOR PJD:** July 17, 2023

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

William McGoldrick
 SCDOT
 PO Box 191
 Columbia, SC 29202

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

SAC, I-95 Lake Marion, SAC-2023-00857

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

State: SC County/parish/borough: Orangeburg County City: Santee
 Center coordinates of site (lat/long in degree decimal format):
 Lat.: 33.510812° Long.: -80.44543°
 Universal Transverse Mercator: 17
 Name of nearest waterbody: Santee River

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

- Office (Desk) Determination. Date: July 14, 2023
- Field Determination. Date(s):

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)
Non-wetland waters 4 (Pond)	33.518928	-80.433419	0.09 acre	Non-wetland waters	Section 404
Non-wetlands waters 1a (Stream)	33.49488	-80.466706	82.17 feet	Non-wetland waters	Section 404
Non-wetlands waters 1b (Stream)	33.493672	-80.465973	127.96 feet	Non-wetland waters	Section 404
Non-wetlands waters 2 (Lake Marion)	33.508223	-80.448841	100.83 acres	Non-wetland waters	Section 10/404
Non-wetlands waters 3 (Pond)	33.51882	-80.433869	0.54 acre	Non-wetland waters	Section 404
Wetland A	33.493901	-80.465867	0.03 acre	Wetland	Section 404
Wetland B	33.528646	-80.423836	0.36 acre	Wetland	Section 404

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

- 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 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: Request for Corps Jurisdictional Determination (JD) / Delineation dated May 30, 2023.
Map: Page 1 – 8, Figure 5 Aquatic Resources dated May 2023 .
- 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: _____.

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Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

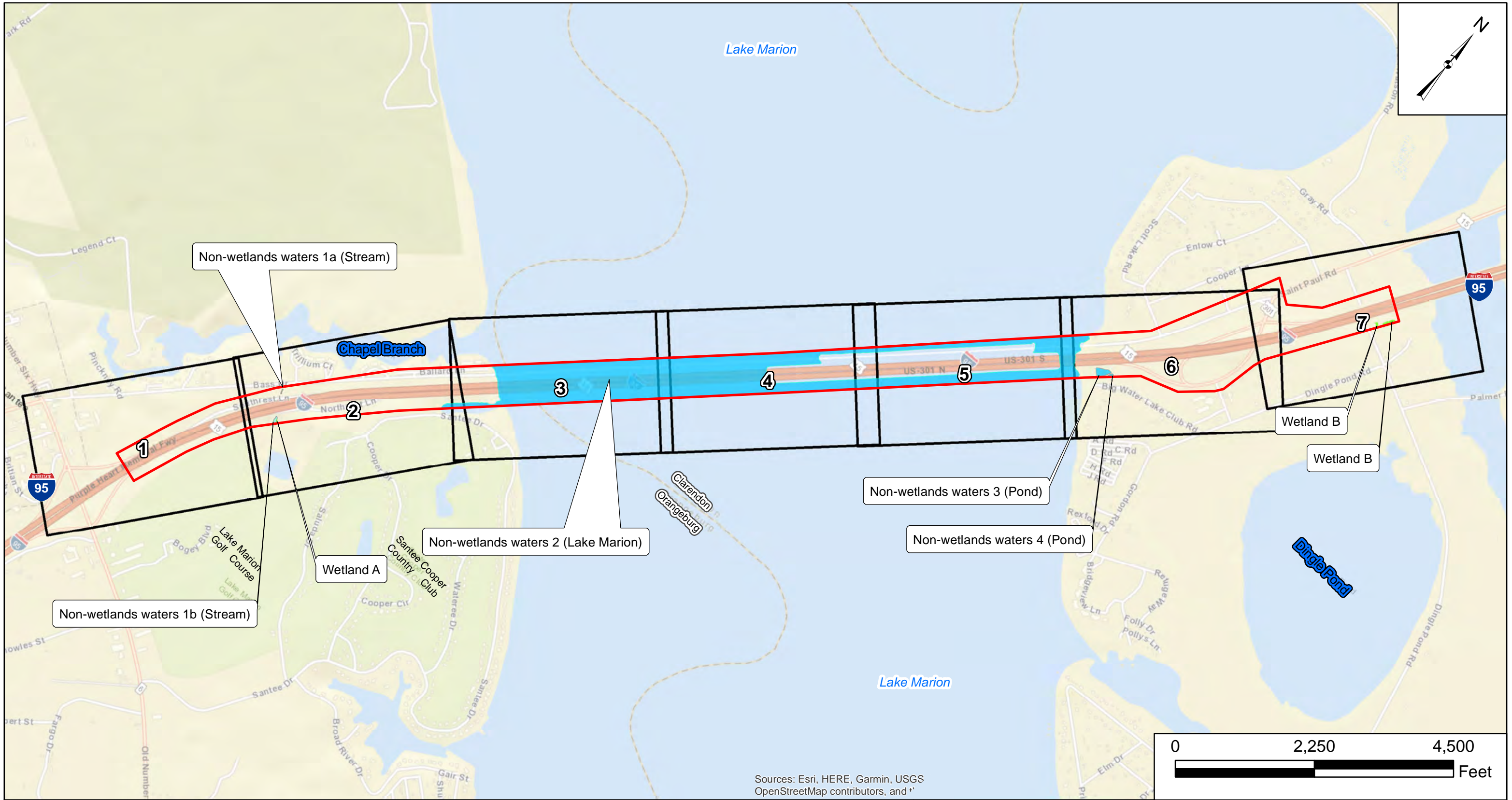
- U.S. Geological Survey Hydrologic Atlas: _____.
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Figure 2 Topographic Map, Sheet Key and Pages 1 – 7 dated May 2023.
- Natural Resources Conservation Service Soil Survey. Citation: Figure 3 NRCS Soils Mapping Pages 1 – 7 dated May 2023.
- National wetlands inventory map(s). Cite name: Figure 4 NWI Wetland Mapping Pages 1 – 7 dated May 2023.
- 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): Site Photographs dated May 2023.
- 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.

Jeremy Kinney
Signature and date of Regulatory staff member completing PJD

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.



Legend

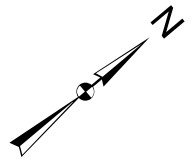
- Project Study Area (332 Acres)
- Non-wetlands waters (Lake Marion)
- Wetland
- Non-wetland waters (Stream)
- Non-wetlands waters (Pond)

**I-95 over Lake Marion Bridge Replacements Design Build Prep
Orangeburg and Clarendon Counties
SCDOT P041130**

Source: Aerial Imagery Vivid 2019	Drawn By: RHH QA/QC: KLM May 2023	Figure 5 Aquatic Resources Page 1 of 8
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No Aquatic Resources Identified Within Mapped Limits



0 300 600 Feet



Legend
 Project Study Area (332 Acres)

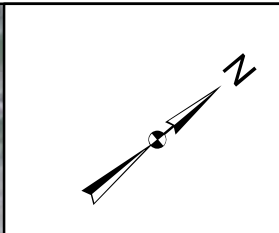


I-95 over Lake Marion Bridge Replacements Design Build Prep
 Orangeburg and Clarendon Counties
 SCDOT P041130

Source:
 USDA Aerial Imagery
 2021

Drawn By: RHH
 QA/QC: KLM
 May 2023

Figure 5
 Aquatic Resources
 Page 2 of 8



Non-wetlands waters 1a (82.17 LF, 0.02 Acres)
33.49488, -80.466706

UP1
UP1
PNWW1-2

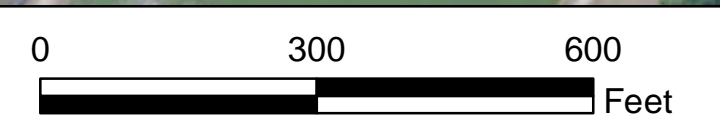

PNWW1-1
PWA-1
UPA
WPA

Wetland A (0.03 Acres)
33.493701, -80.465867

Non-wetlands waters 1b (127.96 LF, 0.13 Acres)
33.493672 -80.465973

Non-wetlands waters 2 (100.83 Acres)
33.508223, -80.448841

PNWW2-1

Legend

- Project Study Area (332 Acres)
- ▲ Upland Data Point
- ▲ Wetland Data Point
- ▼ Photo Point
- Wetland
- Non-wetlands waters (Lake Marion)
- Non-wetland waters (Stream)



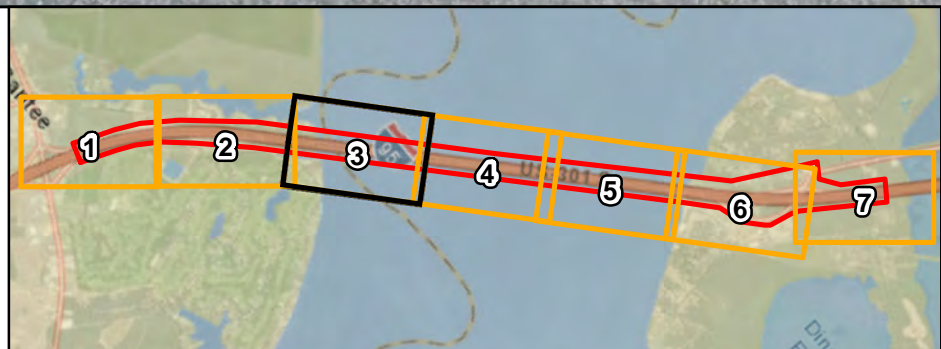
I-95 over Lake Marion Bridge Replacements Design Build Prep
Orangeburg and Clarendon Counties
SCDOT P041130

Source: USDA Aerial Imagery 2021	Drawn By: RHH QA/QC: KLM May 2023	Figure 5 Aquatic Resources Page 3 of 8
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Legend

- Project Study Area (332 Acres)
- Upland Data Point
- ▶ Photo Point
- Non-wetlands waters (Lake Marion)

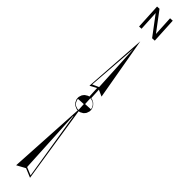


I-95 over Lake Marion Bridge Replacements Design Build Prep
Orangeburg and Clarendon Counties
SCDOT P041130

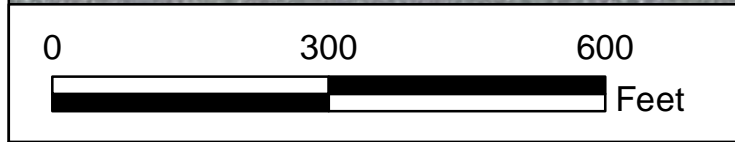
Source:
USDA Aerial Imagery
2021

Drawn By: RHH
QA/QC: KLM
May 2023

Figure 5
Aquatic Resources
Page 4 of 8

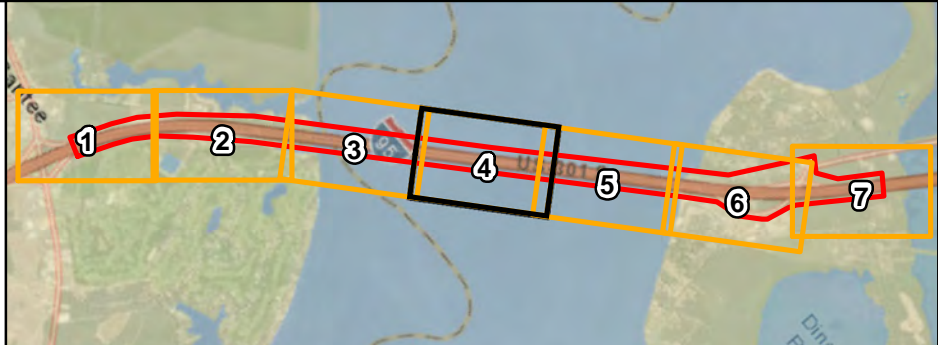


Non-wetlands waters 2 (100.83 Acres)
33.508223, -80.448841



Legend

- Project Study Area (332 Acres)
- Non-wetlands waters (Lake Marion)

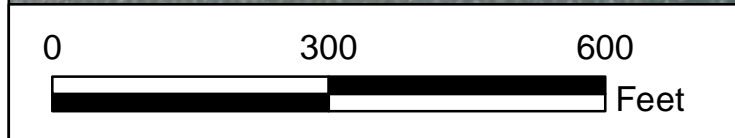
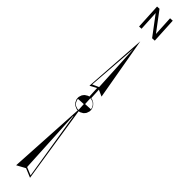


I-95 over Lake Marion Bridge Replacements Design Build Prep
Orangeburg and Clarendon Counties
SCDOT P041130

Source:
USDA Aerial Imagery
2021

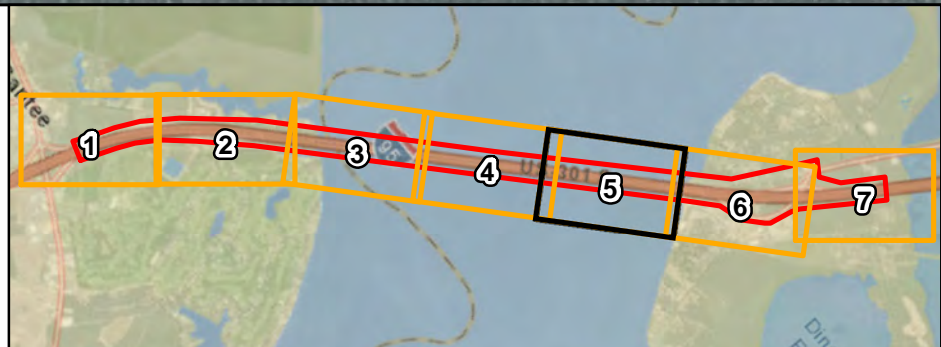
Drawn By: RHH
QA/QC: KLM
May 2023

Figure 5
Aquatic Resources
Page 5 of 8



Legend

	Project Study Area (332 Acres)
	Non-wetlands waters (Lake Marion)

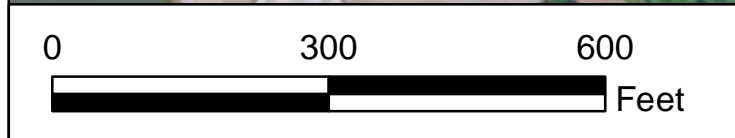
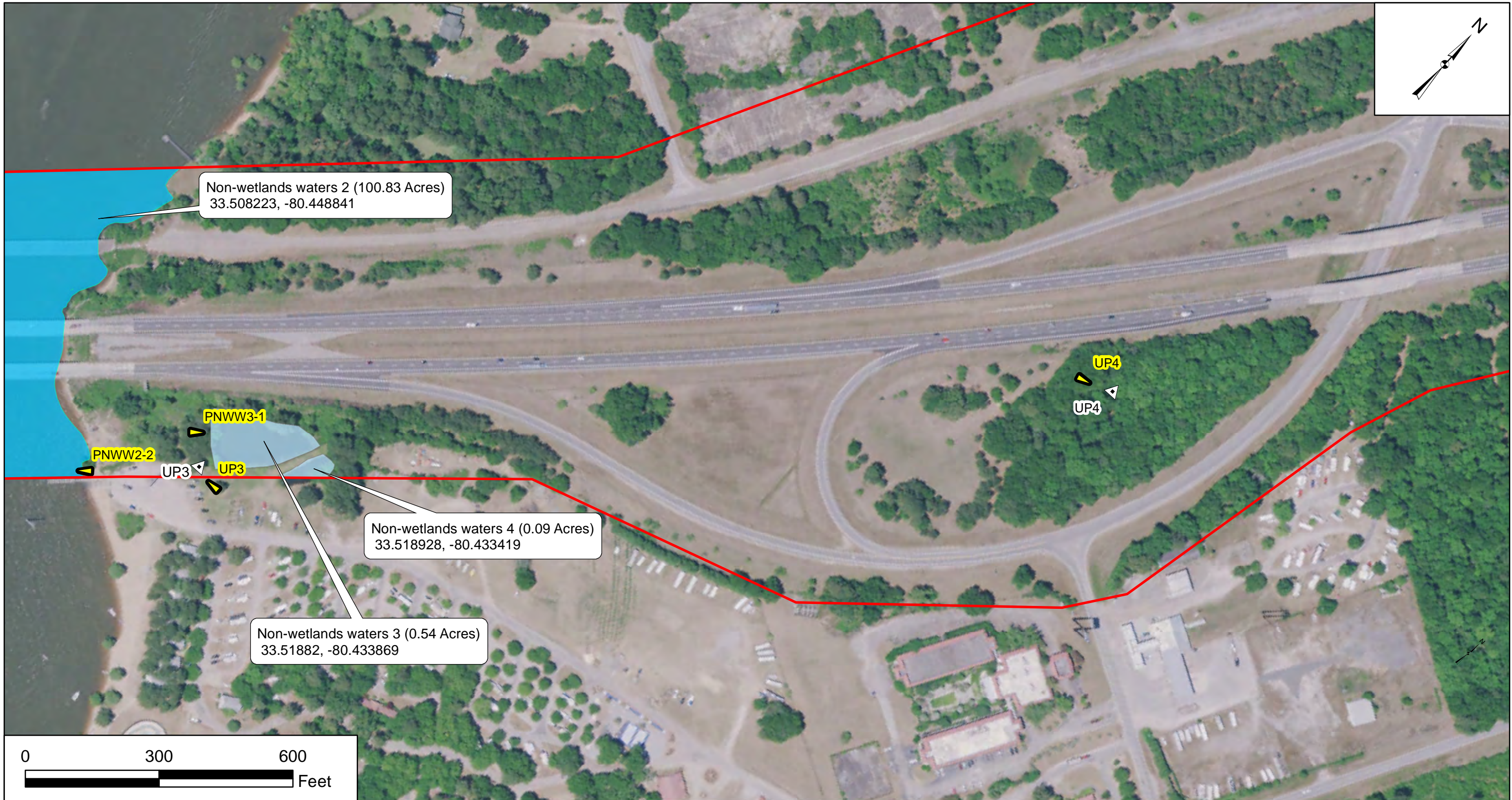


I-95 over Lake Marion Bridge Replacements Design Build Prep
 Orangeburg and Clarendon Counties
 SCDOT P041130

Source:
 USDA Aerial Imagery
 2021

Drawn By: RHH
 QA/QC: KLM
 May 2023

Figure 5
 Aquatic Resources
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Legend

- Project Study Area (332 Acres)
- Upland Data Point
- Photo Point
- Non-wetlands waters (Pond)
- Non-wetlands waters (Lake Marion)

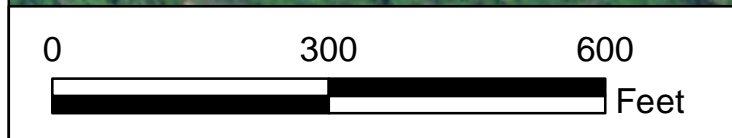
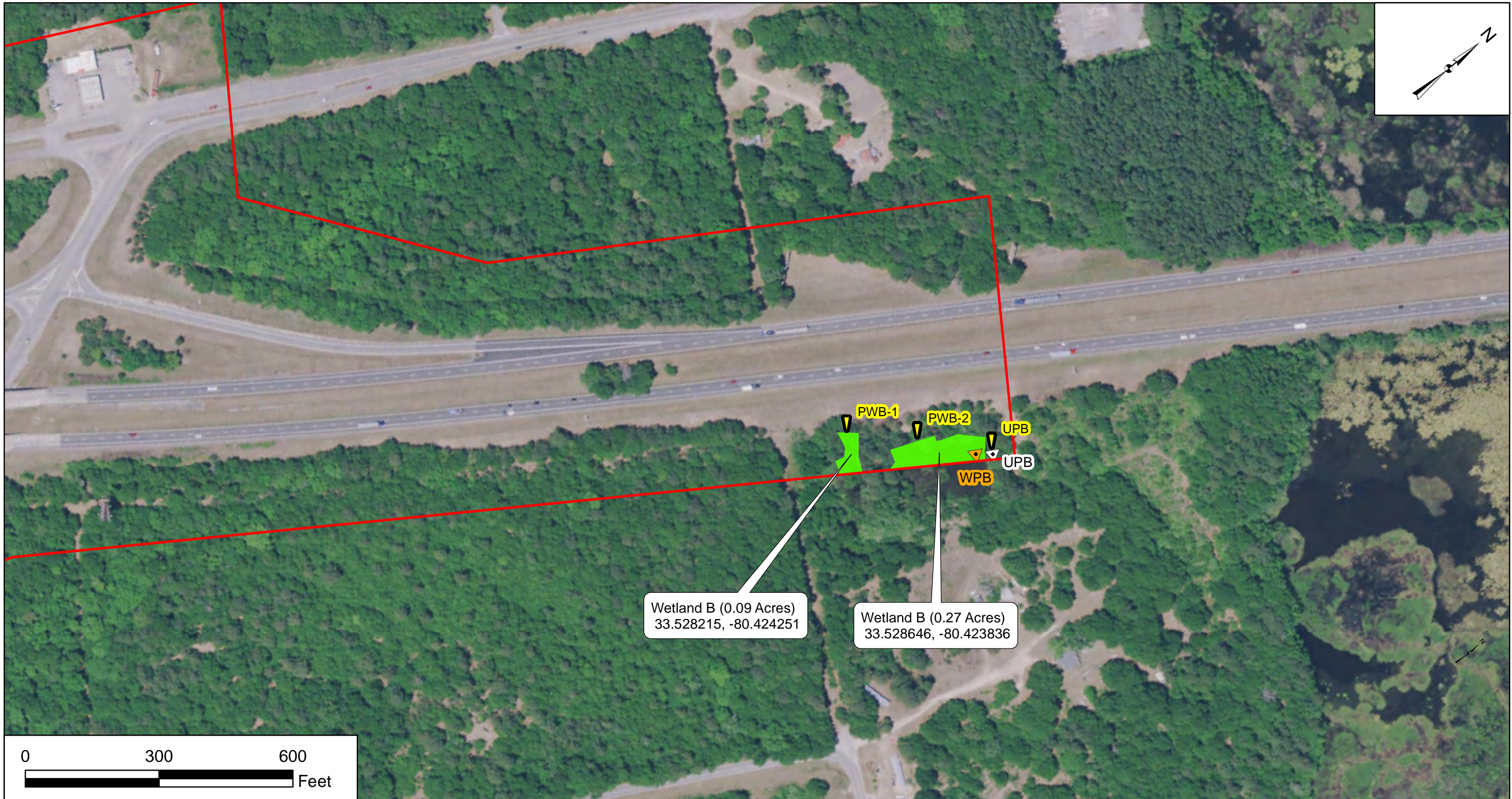


I-95 over Lake Marion Bridge Replacements Design Build Prep
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Source:
USDA Aerial Imagery
2021

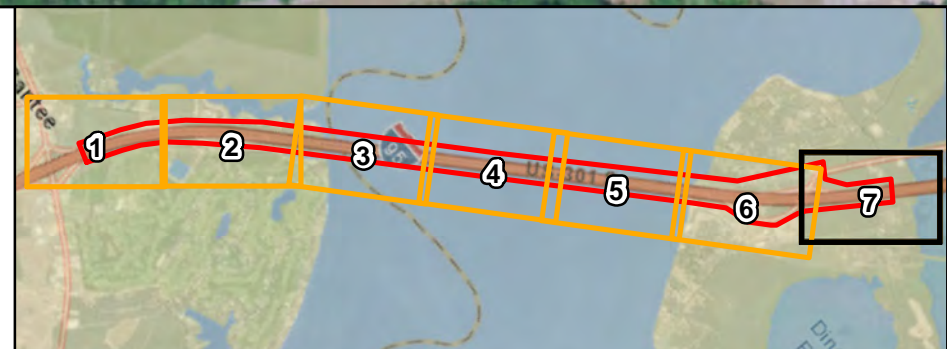
Drawn By: RHH
QA/QC: KLM
May 2023

Figure 5
Aquatic Resources
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Legend

- Project Study Area (332 Acres)
- ▲ Upland Data Point
- ▲ Wetland Data Point
- ▼ Photo Point
- Wetland



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Orangeburg and Clarendon Counties
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Source:
USDA Aerial Imagery
2021

Drawn By: RHH
QA/QC: KLM
May 2023

Figure 5
Aquatic Resources
Page 8 of 8

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant:	File Number:	Date:
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL WITHOUT PREJUDICE	C
	PERMIT DENIAL WITH PREJUDICE	D
	APPROVED JURISDICTIONAL DETERMINATION	E
	PRELIMINARY JURISDICTIONAL DETERMINATION	F

SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> or Corps regulations at 33 CFR 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. 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 WITHOUT PREJUDICE: Not appealable

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the 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.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- **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. This form must be received by the division engineer within 60 days of the date of this notice.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable

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.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact the Corps project manager who signed the letter to which this notification is attached. The name and telephone number of this person is given at the end of the letter.

If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:

Philip Shannin
Regulatory Appeals Review Officer
South Atlantic Division
60 Forsyth St SW, Floor M9
Atlanta, Georgia 30303-8803

Philip.A.Shannin2@usace.army.mil
404-562-5136

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. Use additional pages as necessary. 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.

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.

<hr/> <p>Signature of appellant or agent.</p>	Date:
Email address of appellant and/or agent:	Telephone number: