# APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

## <u>SECTION I – BACKGROUND INFORMATION:</u>

A.	REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 11 January 2017			
B.	DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville; SAJ-2016-02901; Jacksonville, City of – Cecil Field Parcel C			
C. PROJECT LOCATION AND BACKGROUND INFORMATION:				
	State: Florida County/parish/borough: Duval City: Jacksonville Center coordinates of site (lat/long in degree decimal format) – Latitude: 30.248672° Longitude: -81.864691° Name of nearest waterbody: Yellow Water Creek Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Black Creek Name of watershed or Hydrologic Unit Code (HUC): 030801031003 – Yellow Water Creek  Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.  Check if other sites (e.g., offsite mitigation sites, disposal sites, etc) are associated with this action and are recorded on a different JD form.			
D.	REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):			
	☐ Office (Desk) Determination Date: 10 January 2017 Field Determination Date(s):			
SEC	CTION II – SUMMARY OF FINDINGS:			
Α.	RHA SECTION 10 DETERMINATION OF JURISDICTION.			
The	waters subject to the ebb and flow of the tide  Waters are presently used, have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:			
В. (	CWA SECTION 404 DETERMINATION OF JURISDICTION			
The	re are and are not "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.			
	1. Waters of the U.S.  a. Indicate presence of waters of U.S. in review area (check all that apply): ¹  ☐ TNWs, including territorial seas  ☐ Wetlands adjacent to TNWs  ☐ Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs  ☐ Non-RPWs that flow directly or indirectly into TNWs  ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs  ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs  ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs  ☐ Impoundments of jurisdictional waters  ☐ Isolated (interstate or intrastate) waters, including isolated wetlands			
	b. Identify (estimate) size of waters of the U.S. in the review area: Non-wetland waters: 0.24 (upland-cut ditch) Wetlands: 5.07 acres			
	c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual Elevation of established OHWM (if known):			
	<ol> <li>Non-regulated waters/wetlands (check if applicable):<sup>3</sup></li> <li>Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Two wetland systems (1.56 acre and 3.51 acre in size) encompassed by the project site are best characterized as</li> </ol>			

<sup>&</sup>lt;sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>&</sup>lt;sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>&</sup>lt;sup>3</sup> Supporting documentation is presented in Section III.F.

shallow depression systems, receiving precipitation and limited runoff from contiguous uplands. The uplands surrounding these two small systems are sufficiently higher in elevation to preclude any flow from these systems to offsite areas (even during storm events). The project site (including these two wetlands) and the surrounding contiguous property have been managed for silviculture operations (pine forestry) for decades. The two onsite systems do not have any hydrologic connection to any conveyance-way, including an upland-cut drainage ditch contiguous to the eastern edge of the project site. An at-grade trail road traverses the smaller wetland system; and, is contiguous to the larger wetland system. However, that trail road does not incorporate any drainage features (i.e., roadside ditches) that would convey runoff from the wetlands to the afore-mentioned drainage feature at the eastern edge of the property. The wetland systems generally support a monoculture of slash pine (*Pinus elliottii*) and only potentially provide nominal habitat for reptilian, avian, and/or mammalian species.

## SECTION III - CWA ANALYSIS:

#### A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

- 1. Identify TNW:
- 2. Wetland adjacent to TNW

## B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs (RPWs and/or non-RPWs) that flow directly or indirectly into TNW

(i) General Area Conditions: Watershed size: 42,968.98 acres Drainage area: 150 acres

Average annual rainfall: 48-50 inches

Average annual snowfall: 0 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

Tributary flows through 10 (or more) tributaries before entering TNW.

Project waters are 10-15 river miles from TNW.

Project waters are 2-5 river miles from RPW.

Project waters are 10-15 aerial (straight) miles from

Project waters are 10-15 aerial (straight) miles from TNW. Project waters are 2-5 aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries: N/A

<sup>&</sup>lt;sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Identify flow route to TNW<sup>5</sup>: The conveyance (non-RPW) that traverses the site combines with a network of upland-cut ditches associated with the former Cecil Field Naval Air Station before entering the headwaters of Taylor Creek (RPW), which flows into Yellow Water Creek (RPW), which eventually flows into Black Creek (the downstream section of which is a TNW).

Tributary stream order, if known: unknown (b) General Tributary Characteristics (check all that apply): Tributary is: Natural Artificial (man-made). Explain: upland-cut ditch Manipulated (man-altered). Explain: Tributary properties with respect to top of bank (estimate): Average width: 4 feet Average depth: 2 feet Average side slopes: 2:1 Primary tributary substrate composition (check all that apply): Silts Sands Concrete Cobbles ☐ Gravel Muck Bedrock ✓ Vegetation Type/% cover: forested >80percent Other – Explain: Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: relatively stable Presence of run/riffle/pool complexes. Explain: None discovered Tributary geometry: Relatively straight Tributary gradient (approximate average slope): unknown (c) Flow: Tributary provides for: Seasonal flow Estimate average number of flow events in review area/year: 11-20 Describe flow regime: Conveyance of local precipitation (flow is limited to storm events). Other information on duration and volume: Surface flow is: Discrete and confined. Characteristics: flow is maintained with the ditch Subsurface flow: unknown Dye (or other) test performed: Tributary has (check all that apply): Bed and banks ☑ OHWM<sup>6</sup> (check all indicators that apply): clear, natural line impressed on the bank the presence of litter and debris changes in the character of soil destruction of terrestrial vegetation shelving the presence of wrack line vegetation matted down, bent, or absent sediment sorting leaf litter disturbed or washed away scour sediment deposition multiple observed or predicted flow events water staining abrupt change in plant community other (list): ☐ Discontinuous OHWM.<sup>7</sup> Explain: If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply): High Tide Line indicated by: Mean High Water Mark indicated by: oil or scum line along shore objects survey to available datum; fine shell or debris deposits (foreshore) physical markings; physical markings/characteristics vegetation lines/changes in vegetation types. tidal gauges

Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

other (list):

<sup>&</sup>lt;sup>6</sup>A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

Thid

			mical Characteristics: racterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: unknown	
			ogical Characteristics. Channel supports (check all that apply): Riparian corridor. Characteristics (type, average width): Wetland fringe: upstream section drains a large wetland; downstream sections are strictly upland-cut features Habitat for: Federally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain findings: Aquatic/wildlife diversity. Explain findings:	
2.	assoc adjac	Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW (An offsite upstream system is ssociated with the upland-cut ditch (non-RPW) that traverses the eastern edge of the project site; there are no onsite wetlands djacent to the non-RPW ditch. Additional wetlands are associated with downstream sections of the drainage network east of the primer Cecil Field Naval Air Station runways.)		
hist	(	(a)	sical Characteristics:  General Wetland Characteristics:  Properties:  Wetland size: ~ 60 acres  Wetland type: palustrine forested deciduous  Wetland quality: moderate (surrounded by silviculture and ranching operations), hydroperiod adversely affected by ge from conveyance feature (upland-cut ditch)	
	(	(b)	Project wetlands cross or serve as state boundaries: N/A  General Flow Relationship with Non-TNW: Flow is: Intermittent flow. Explain: flow from the wetland only occurs during storm events	
			Surface flow is: Not present Characteristics:	
			Subsurface flow: Unknown. Explain findings:  Dye (or other) test performed:	
	(	(c)	Wetland Adjacency Determination with Non-TNW:  □ Directly abutting – ditch was historically cut into the wetland area to drain it □ Not directly abutting □ Discrete wetland hydrologic connection. Explain: □ Ecological connection. Explain: □ Separated by berm/barrier. Explain:	
	(	(d)	Proximity (Relationship) to TNW  Offsite wetlands are 10-15 river miles from TNW.  Offsite waters are 10-15 aerial (straight) miles from TNW.  Flow is from: Wetland to navigable waters.  Estimate approximate location of wetland as within the 100 - 500-year floodplain.	
	(	Cha	mical Characteristics: racterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.): Unknown tify specific pollutants, if known: Unknown	
		$\square$	ogical Characteristics. Wetland supports (check all that apply): Riparian buffer. Characteristics (type, average width): Vegetation type/percent cover. Explain: Wetland is palustrine forested deciduous system with substantial cover. Habitat for:  Federally Listed species. Explain findings:  Fish/spawn areas. Explain findings:  Other environmentally-sensitive species. Explain findings:  Aquatic/wildlife diversity. Explain findings:	
3.		All v	ristics of all wetlands adjacent to the tributary (if any) wetland(s) being considered in the cumulative analysis:   roximately (60) acres in total are being considered in the cumulative analysis.	

For each wetland, specify the following:

~60 Yes

Size (in acres) Directly abuts? (Y/N) Size (in acres) Directly abuts? (Y/N)

Summarize overall biological, chemical and physical functions being performed: Offsite wetland, due to the relative size, likely provides habitat for reptilian, avian, and mammalian species. This system likely provides stormwater retention/detention. As this system is not within the project site, an inspection of the system was not possible and the analysis is limited to general features of similar wetland systems.

## C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical, and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the Rapanos Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

- Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
- Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: The upland-cut ditch traversing the eastern edge of the project site conveys stormwater flow from a large (~60 acres) wetland north of the project site. The non-RPW receives additional flow input from a separate drainage feature and wetland east of the project site; and, joins other drainage features south of the project site. The onsite feature, due to the relationship to the wetland north of the project site, contributes to the retention/detention of stormwater; and, in combination with the downstream network, significantly affects the flow regime of Taylor Creek, Yellow Water Creek, and (eventually) Black Creek. The effect upon flow and the conveyance of stormwater and associated surface pollutants and/or organic components, significantly affects the downstream chemical nature and physical flow (chemical and physical effects).
- Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

DETERMINATIONS OF JURISDICTIONAL FINDINGS – THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):						
	TNWs and Adjacent Wetlands. Check all that apply and TNWs: linear feet width (ft), Or, a Wetlands adjacent to TNWs: acres	d provide size estimates in review area: cres				

<b>–</b> '''`	defined in 1111/15.
Tı	that flow directly or indirectly into TNWs. ibutaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that ibutary is perennial: ibutaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are
	urisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows easonally:
P F	rovide estimates for jurisdictional waters in the review area (check all that apply):  Tributary waters: linear feet width (ft)

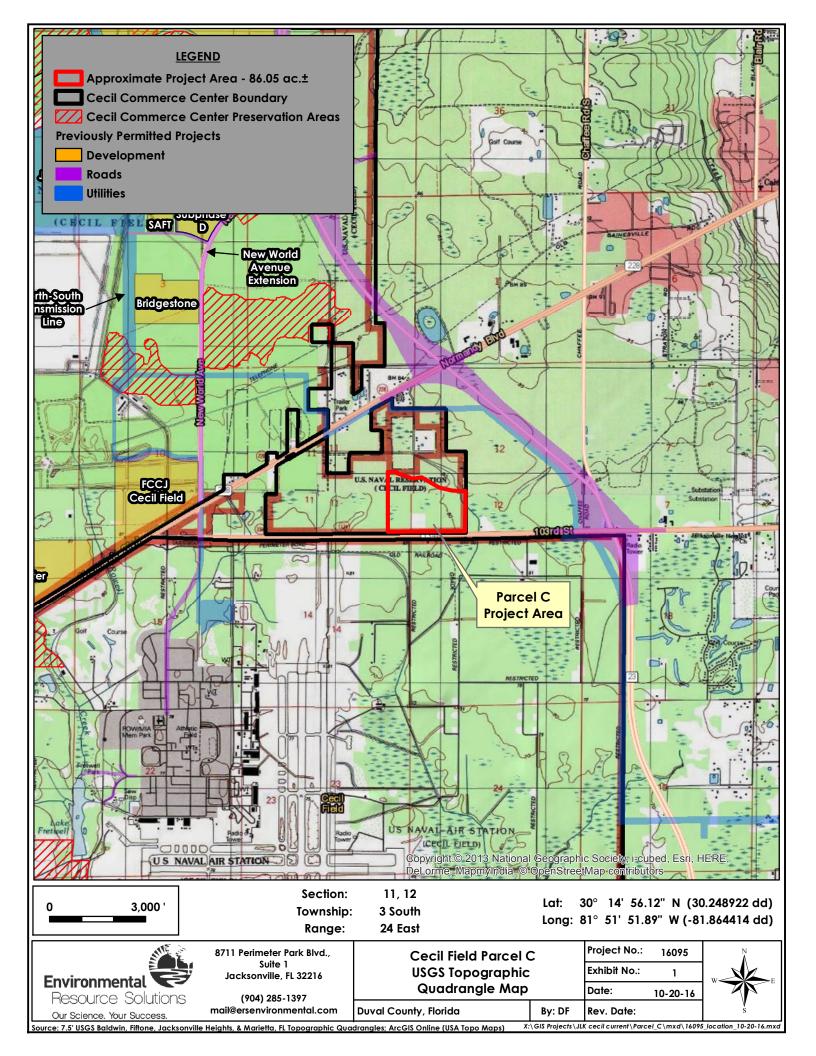
	Other non-wetland waters: Identify type(s) of waters:	acres			
3.		ly into TNWs.  RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a ang this conclusion is provided at Section III.C.			
	Provide estimates for jurisdictional water  Tributary waters: 0.24 acre Other non-wetland waters: Identify type(s) of waters:	s within the review area (check all that apply):  acres			
4.	☐ Wetlands directly abutting an R	low directly or indirectly into TNWs. us are jurisdictional as adjacent wetlands. PW where tributaries typically flow year-round. Provide data and rationale millinial in Section III.D.2, above. Provide rationale indicating that wetland is			
		PW where tributaries typically flow "seasonally". Provide data indicating that tributary is tionale in Section III.D.2, above. Provide rationale indicating that wetland is directly			
	Provide acreage estimates for jurisdiction	al wetlands in the review area: acres			
5.	Wetlands that do not directly abut a	ting an RPW that flow directly or indirectly into TNWs.  n RPW, but when considered in combination with the tributary to which they are adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this .C.			
	Provide acreage estimates for jurisdiction	al wetlands in the review area: acres			
6.	with similarly situated adjacent wet	directly or indirectly into TNWs.  Ind have when considered in combination with the tributary to which they are adjacent and ands, have a significant nexus with a TNW are jurisdictional. Data supporting this analysis are offsite of the project property to the north			
	Provide estimates for jurisdictional wetla	nds in the review area: ~60 acres offsite			
7.	Demonstrate that impoundment was Demonstrate that water meets the cr	durisdictional tributary remains jurisdictional.  created from "waters of the U.S.," or iteria for one of the categories presented above (1-6), or ith a nexus to commerce (see E below).			
ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): 10					
Ider	tify water body and summarize rationale	upporting determination:			
Provide estimates for jurisdictional waters in the review area (check all that apply):  Tributary waters: linear feet width (ft)					

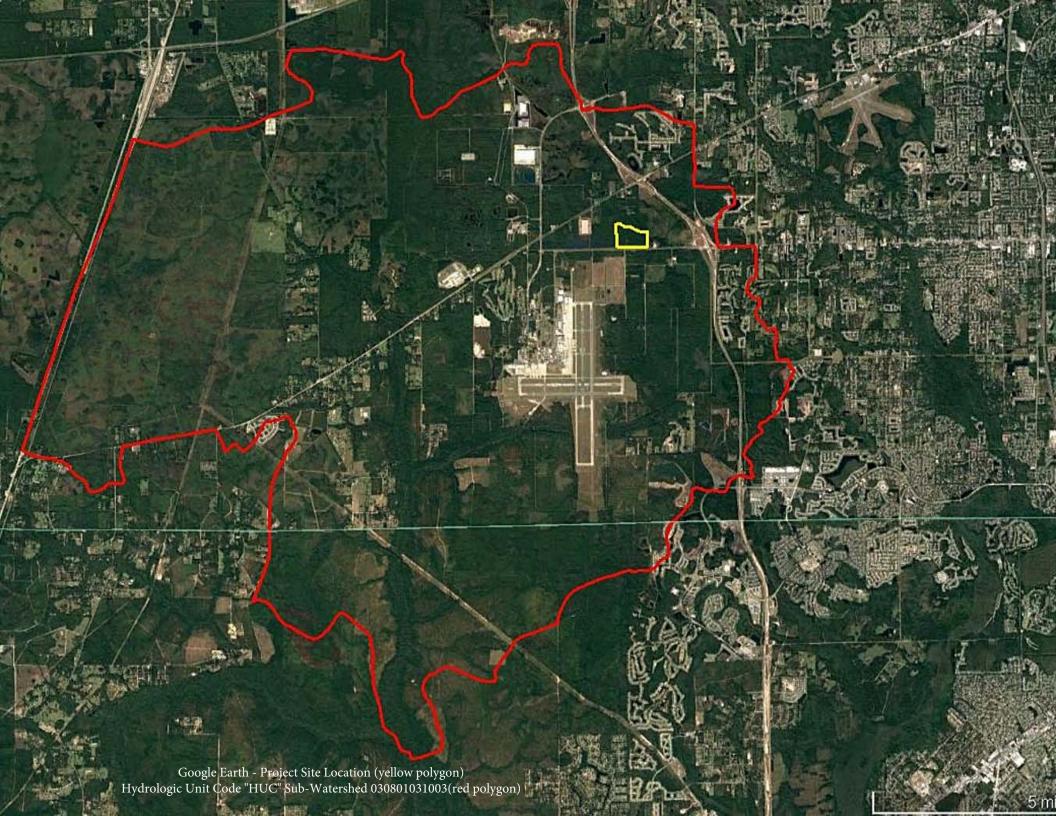
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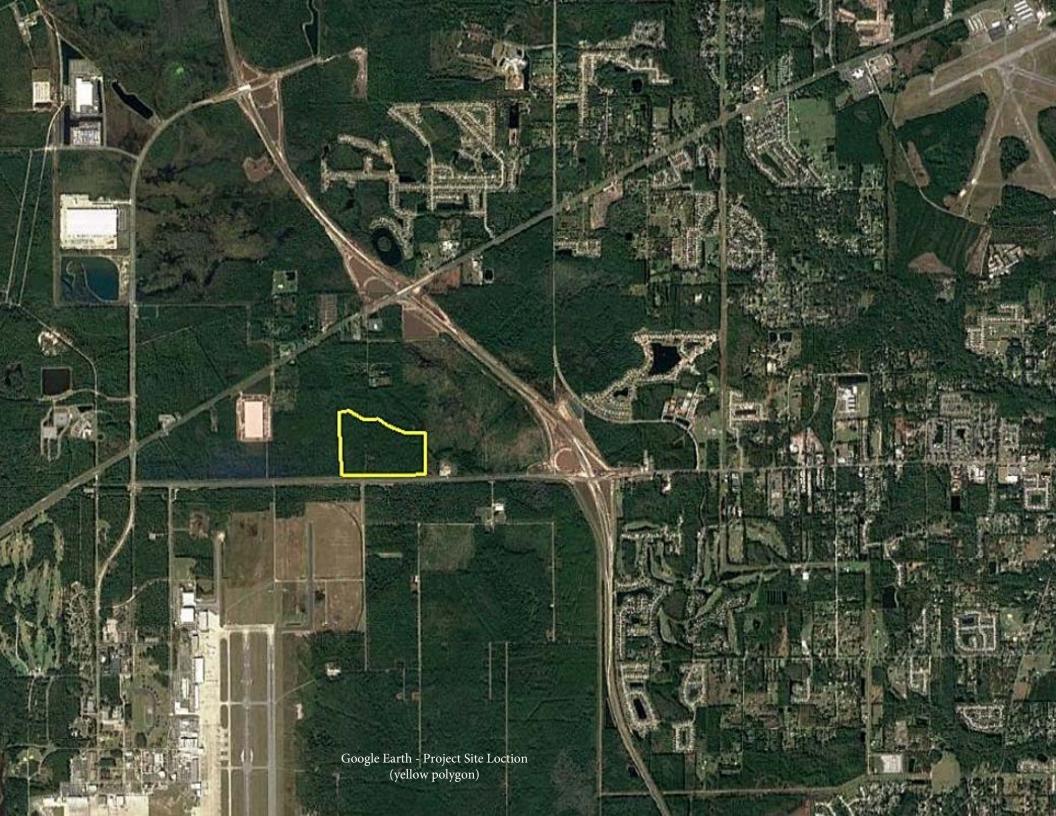
 <sup>&</sup>lt;sup>8</sup>See Footnote # 3.
 <sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
 <sup>10</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

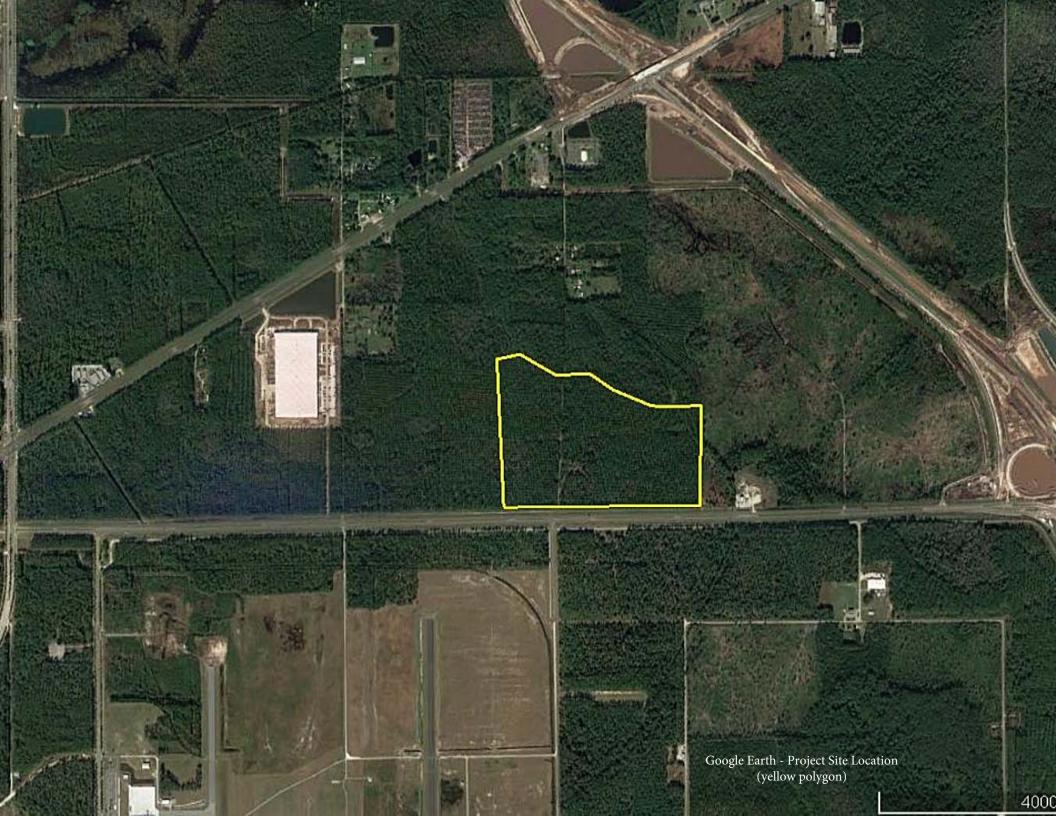
	Other non-wetland waters: acres Identify type(s) of waters: Wetlands: acres					
F.	NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):  ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.  ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.  ☐ Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).  ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:  ☐ Other: (explain, if not covered above):					
	Provide acreage estimates for non-jurisdictional waters in the review area, where the <u>sole</u> potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):  Non-wetland waters (i.e., rivers, streams): linear feet width (ft)  Lakes/ponds: acres  Other non-wetland waters: acres. List type of aquatic resource:  Wetlands: 5.07 acres onsite					
	Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):  Non-wetland waters (i.e., rivers, streams): linear feet, width (ft)  Lakes/ponds: acres  Other non-wetland waters: acres. List type of aquatic resource:  Wetlands: acres					
SEC	CTION IV – DATA SOURCES:					
A. ,	SUPPORTING DATA: Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):    Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:   Data sheets prepared/submitted by or on behalf of the applicant/consultant.   Office concurs with data sheets/delineation report.   Office does not concur with data sheets/delineation report.   Data sheets prepared by the Corps:   Corps navigable waters' study:   U.S. Geological Survey Hydrologic Atlas:   USGS NHD data   USGS 8 and 12 digit HUC maps   U.S. Geological Survey map(s)   USDA Natural Resources Conservation Service Soil Survey   National wetlands inventory map(s). Cite name:   State/Local wetland inventory map(s):   FEMA/FIRM maps:   100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)   Photographs:   Aerial: GoogleEarth®; Microsoft Bing®; St. Johns River Water Management District or   Other:					
	Previous determination(s). File no. and date of response letter:  Applicable/supporting case law:  Applicable/supporting scientific literature:  Other information (please specify):					

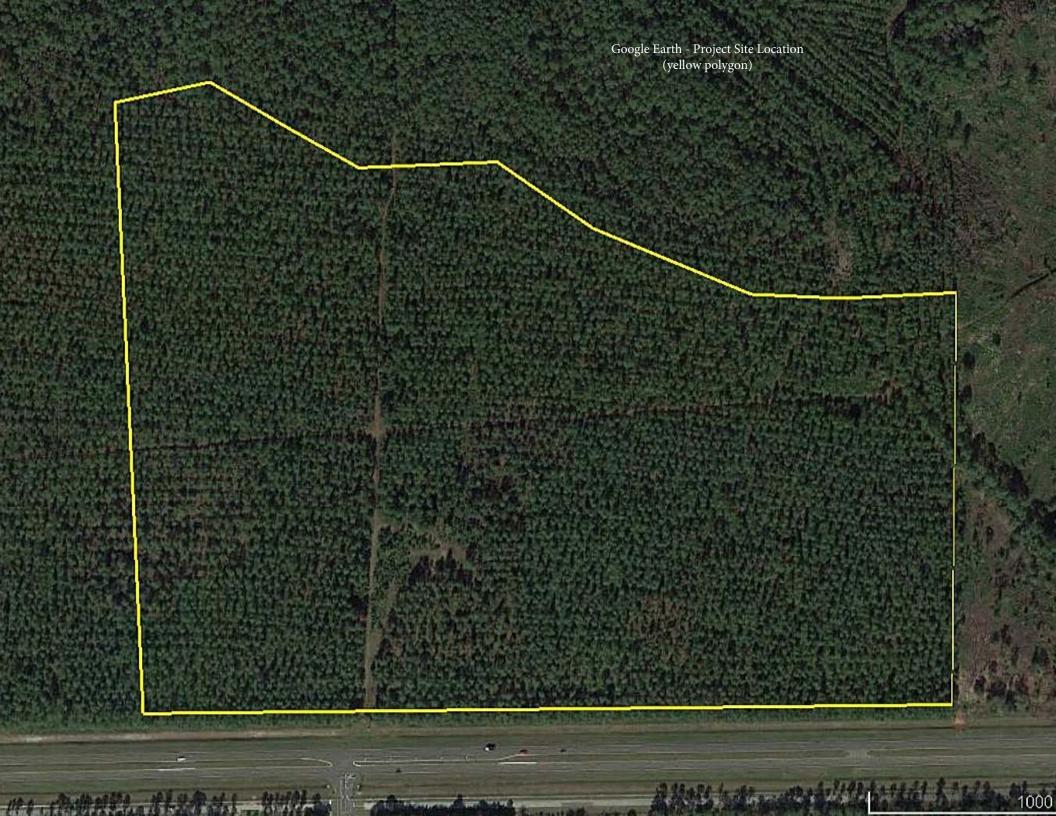
B. ADDITIONAL COMMENTS TO SUPPORT JD: The project site is located within the boundary of the former Cecil Field Naval Air Station (closed as a result of the *Base Realignment and Closure Act*). The overall area encompasses numerous wetland systems that may be isolated or associated with the large network of drainage features established during the history of the Naval Air Station. The Jacksonville District is evaluating each area within the overall property as the Jacksonville District receives permit applications for work affecting waters of the United States (wetlands). The wetlands specifically considered at the current site are isolated (in consideration of SWANCC); and, non-jurisdictional. The drainage feature traversing the eastern edge of the project site, in consideration of upstream and downstream contributions, supports a significant nexus to downstream waters.

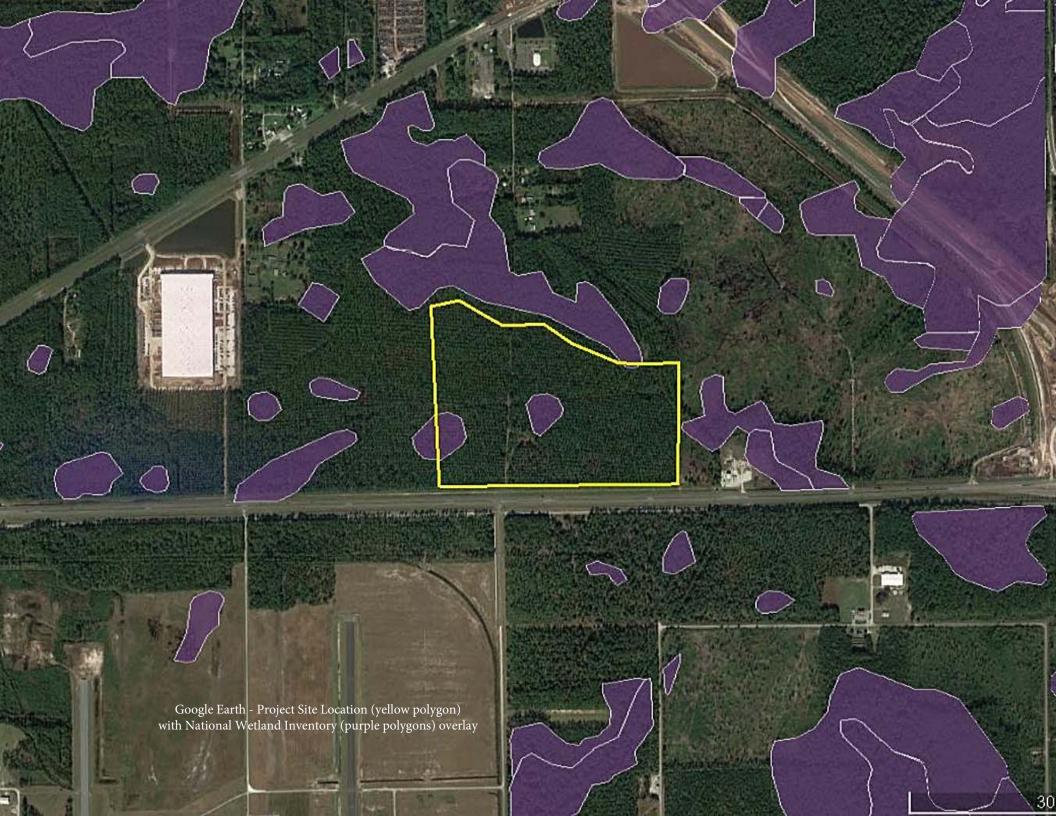


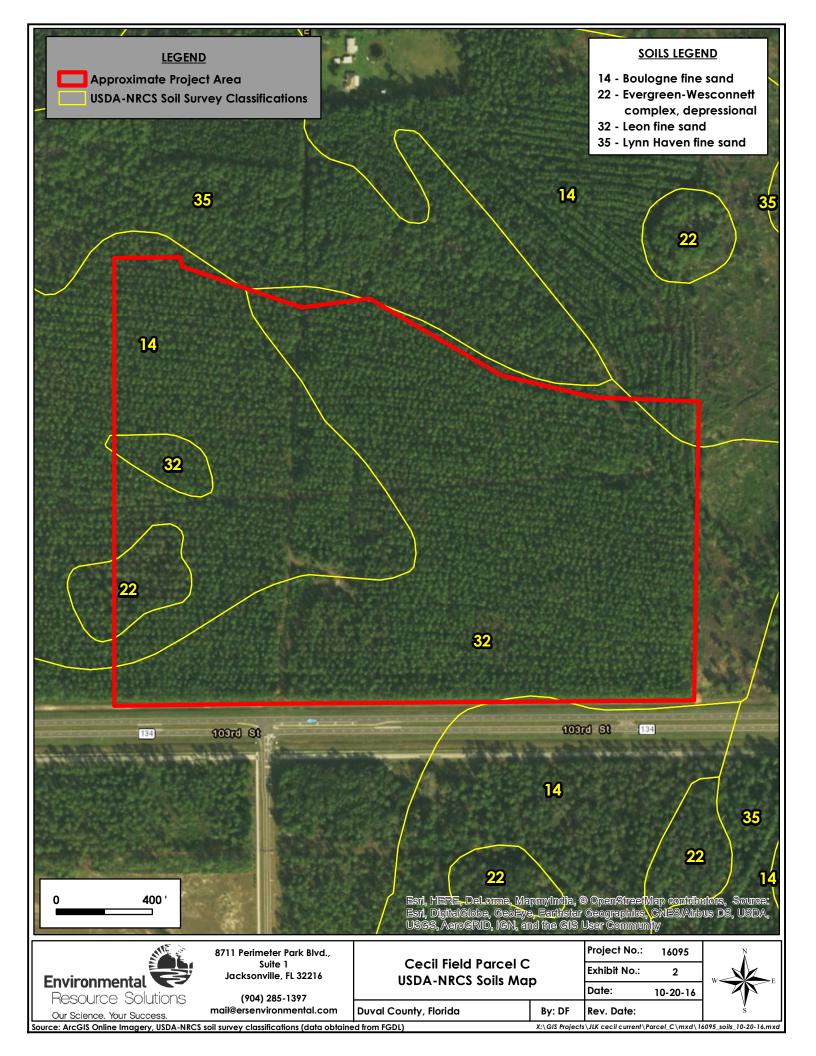


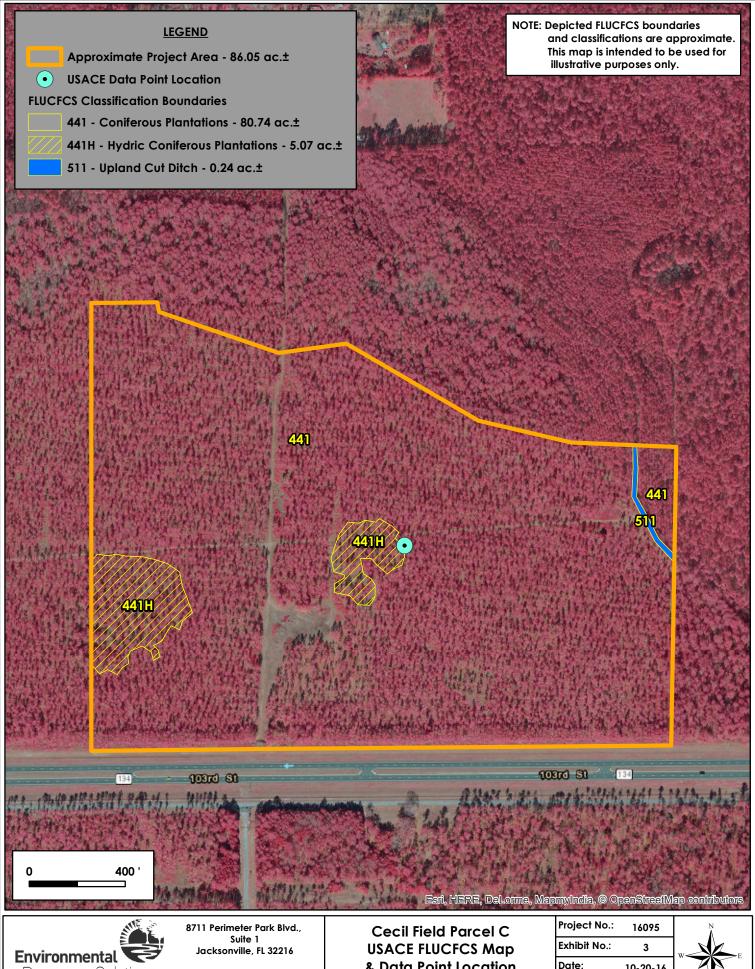












Resource Solutions

(904) 285-1397 mail@ersenvironmental.com & Data Point Location

Date: 10-20-16



By: JKN Rev. Date:

