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.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 18 March 2016.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville; Pine Lakes Commercial Center; SAJ-1995-03926 (JD-BJC)

C. PROJECT LOCATION AND BACKGROUND INFORMATION: The Pine Lakes Commercial Center project site encompasses approximately 11.57 acres located in Section 24, Township 11 South, Range 30 East, Flagler County, Florida. The project site is located at the northeast quadrant of the intersection of Pine Lakes Parkway and Wynnfield Road.

State: FL County: Flagler City: Palm Coast

Center coordinates of site (lat/long in degree decimal format): Lat. 29.53159°, Long. -81.23759°.

Name of nearest waterbody: Graham Swamp
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Bulow Creek
Name of watershed or Hydrologic Unit Code (HUC): 030802010303 – Graham Swamp
☒ 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: 25 February 2016
☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: Within the review area, the on-site wetland system, several man-made tributaries (RPWs) feed into Graham Swamp (RPW) which flows south to Bulow Creek (TNW). Bulow Creek is located in the eastern portion of the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **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. [*Required*]

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 waters[2] (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:**
      RPWs: ~ 3.72 acres

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: A 2.4-acre forested wetland and a 0.06-acre forested wetland encompassed by the project site do not have a significant nexus to the downstream TNW (Bulow Creek). A physical connection between these wetlands and a man-made

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] 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).
[3] Supporting documentation is presented in Section III.F.

drainage ditch (RPW) traversing the site is absent. These two wetlands are depressional and are separated from the man-made drainage ditch by a berm; therefore, these wetlands do not have a physical connection to the downstream waters. In addition, due to the presence of the berm, these wetlands do not perform chemical filtration of waters entering the ditch or contribute organics or other nutrients to waters entering the ditch. These wetlands could support nominal wildlife populations including mammals, amphibians, birds, and reptiles; however, due to the location, orientation, and size of these wetlands, in consideration of other nearby habitats, the Corps does not believe that any biological nexus is significant.

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. TNW: N/A

2. Wetland adjacent to TNW: N/A

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[4] 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 that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: Bulow Creek ~20,800 **acres**
Drainage area: ~5000 **acres**
Average annual rainfall: 45-55 inches
Average annual snowfall: 0 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **3** tributaries before entering TNW.

Project waters are **10-15** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **5-10** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain:

[4] 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[5]: The project wetland is adjacent to a man-made RPW that is part of a larger man-made drainage system that flows to the east and then to the south through larger man-made channels until it reaches Lehigh Canal (RPW). Lehigh Canal flows to the east into Graham Swamp (RPW). Graham Swamp drains into Bulow Creek (TNW).

Tributary stream order, if known: Order 1 is the man-made drainage tributaries and Canal, Order 2 is Graham Swamp and Order 3 is the TNW, Bulow Creek.

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☐ Natural
☒ Artificial (man-made). Explain: Series of man-made drainage canals that has perennial flow.
☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):
Average width: 10-15 feet
Average depth: 2 to 8 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 Deciduous/Evergreen/25% - Scrub Shrub/20%	
☐ Other. Explain:		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Graded/Planted sloping banks.
Presence of run/riffle/pool complexes. Explain: N/A
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): 0-50 %

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **11-20**
Describe flow regime: The man-made tributaries (RPWs) which appear to have little or no flow outside rain events with surface water present year round.
Other information on duration and volume:

Surface flow is: **Confined.** Characteristics: Man-made artificial drainage swale.

Subsurface flow: **Unknown**. Explain findings:
☐ Dye (or other) test performed:

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (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.[7] 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	
☐ other (list):	

[5] 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.
[6]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.
[7]Ibid.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: The black water color occurs from water soluble tannins leached in the system from decaying vegetation. The tannins will alter the alkalinity of the water to more acidic creating a sulfuric smell and bitter taste.

Identify specific pollutants, if known:

The man-made tributary serves as a drainage for storm water run-off of surrounding roads and streets; therefore, pollutants and such as dioxins, fertilizers, and motor oil maybe present in the basin.

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian corridor. Characteristics (type, average width):

☒ Wetland fringe.

Characteristics: The man-made drainage canals is vegetated with emergent aquatic species with areas that are open and without vegetation. In those areas, occurrence of submerged vegetation is typical.

☒ Habitat:

☐ Federally Listed species. Explain finding:

☒ Fish/spawn areas. Explain finding: Fish (small minnows were observed in the RPW/canal adjacent to the on-site wetland)

☐ Other environmentally-sensitive species. Explain findings:

☒ Aquatic/wildlife diversity. Explain finding: The RPW could be a source of water for mammals such as American raccoon, birds such as Great Blue Heron, amphibians such as Cope's gray treefrog, and reptiles such as the cottonmouth snake.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: Two wetlands on-site a 2.40 acre wetland and a .06 acre wetland totaling 2.46 acres

Wetland type. Explain: Mixed forested wetlands.

Wetland quality. Explain: Palustrine wetland supports native and non-native mature trees. Ecological or functional value is assessed as low quality. A landscape perspective in relation to the project site exhibits an area surrounded by residential/commercial development.

Project wetlands cross or serve as state boundaries. Explain: No

(b) General Flow Relationship with Non-TNW:

Flow is: **No Flow** Explain: The low quality wetlands are depressional topographical features separated by a berm from the man-made drainage ditch (RPW) .

Surface flow is**: Not present**

Subsurface flow: **Unknown**. Explain findings: The previous field site visit included walking the entire project site, especially the berm between the onsite wetland and the manmade ditch. Visual inspection did not discover subsurface flow.

☐ Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

☐ Directly abutting

☒ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain:

☐ Ecological connection. Explain:

☒ Separated by berm/barrier. Explain: Wetlands are depressional topographical features separated by a berm of the man-made drainage ditch (RPW).

(d) Proximity (Relationship) to TNW

Project wetlands are **10-15** river miles from TNW.

Project waters are **5-10** aerial (straight) miles from TNW.

Flow is from: **No Flow**

Estimate approximate location of wetland as within the **100 - 500-year** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: The underlying geological formations include Valkaria fine sand, and Udarents. The soil-drainage characteristics are generally somewhat to poorly drained with an approximate recharge of 0-4 inches per year.

Identify specific pollutants, if known: Not known

(iii) Biological Characteristics. Wetland supports (check all that apply):

☐ Riparian buffer. Characteristics (type, average width):

☒ Vegetation type/percent cover. Explain: The project wetlands consist of slash pine (*Pinus elliotii*), bald cypress (*Taxodium distichum*), Chinese tallow (*Sapium sebiferum*), St. Johns wort (*Hypericum fasciculatum*), red maple (*Acer rubrum*), sweetgum (*Liquidambar styraciflua*), hackberry (*Celtis laevigata*), sweet bay (*Magnolia virginiana*), red bay (*Persea borbonia*), chain fern (*Woodwardia virginica*), cinnamon fern (*Osmunda cinnamomea*), river birch (*Betula nigra*), dahoon holly (*llex cassine*), and royal fern (*Osmunda regalis*). Many of these species are second growth trees or saplings; few were identified as old growth trees.

☒ Habitat for:

☐ Federally Listed species. Explain findings:

☐ Fish/spawn areas. Explain findings:

☐ Other environmentally-sensitive species. Explain findings:

☒ Aquatic/wildlife diversity. Explain findings: The wetlands could provide food and cover for mammals such as American raccoon, birds such as Great Blue Heron, amphibians such as Cope's gray treefrog, and reptiles such as the cottonmouth snake

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **2**

Approximately 2.46 acres are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
N	2.40	N	.06

Summarize overall biological, chemical and physical functions being performed: The physical connection between the wetland and the man-made drainage ditch (RPW) is absent. The wetlands are depressional and are separated by a berm from the adjacent RPW. The on-site wetlands adjacent to the man-made drainage ditch (RPW) are low quality with minimal ecological or functional value. The wetlands could support wildlife populations including mammals, amphibians, birds, and reptiles. The on-site wetlands are separated by a berm, and therefore do not perform chemical filtration or add pollutants to the RPW. Also, it should be noted that, a physical connection is present between the man-made drainage ditch (RPW) and a more permanent tributary (canal).

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:

1. 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: N/A

2. 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: N/A

3. **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: N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: N/A linear feet N/A width (ft), Or,
   - ☐ Wetlands adjacent to TNWs: N/A acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
   - ☒ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: Soils in the RPW exhibit a fully saturated level of hydrology with sporadic occurrences of standing water. Submerged aquatic vegetation occurs in the standing waters and obligate species occur along the slopes of the RPW. Also, information from applicant wetland delineation map classifies the area as a canal easement.

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: 1,320 linear feet 12 width (ft).
   - ☐ Other non-wetland waters: N/A acres.
     Identify type(s) of waters:

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: N/A linear feet N/A width (ft)
   - ☐ Other non-wetland waters: N/A acres
     Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

   Provide acreage estimates for jurisdictional wetlands in the review area: ~ 6,420 acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area:

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: N/A acres.

[8]See Footnote # 3.

7. **Impoundments of jurisdictional waters.**[9]
As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. 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]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain:
☐ Other factors. Explain:

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: N/A linear feet N/A width (ft).
☐ Other non-wetland waters: N/A acres.
Identify type(s) of waters:
☐ Wetlands: N/A 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: A 2.4-acre forested wetland and a 0.06-acre forested wetland encompassed by the project site do not have a significant nexus to the downstream TNW (Bulow Creek). A physical connection between these wetlands and a man-made drainage ditch (RPW) traversing the site is absent. These two wetlands are depressional and are separated from the man-made drainage ditch by a berm; therefore, these wetlands do not have a physical connection to the downstream waters. In addition, due to the presence of the berm, these wetlands do not perform chemical filtration of waters entering the ditch or contribute organics or other nutrients to waters entering the ditch. These wetlands could support nominal wildlife populations including mammals, amphibians, birds, and reptiles; however, due to the location, orientation, and size of these wetlands, in consideration of other nearby habitats, the Corps does not believe that any biological nexus is significant.

☐ Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole 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): N/A linear feet N/A width (ft).
☐ Lakes/ponds: N/A acres
☐ Other non-wetland waters: N/A acres. List type of aquatic resource:
☐ Wetlands: N/A acres

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): 0 linear feet, 0 width (ft).
☐ Lakes/ponds: 0 acres.
☐ Other non-wetland waters: 0 acres. List type of aquatic resource:
☒ Wetlands: 2.46 total acres.

[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] 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.*

SECTION 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: Wetland Delineation Map (Exhibit 5); reference administrative record year 2009.

☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.

☒ Office concurs with data sheets/delineation report. Reference administrative record year 2009

☐ 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: Exhibit 6.

☒ USGS NHD data.

☒ USGS 8 and 12 digit HUC maps. Google Earth – Graham Swamp (Exhibit 7)

☒ U.S. Geological Survey map(s). Exhibit 8

☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Websoil Survey (Exhibit 9).

☒ National wetlands inventory map(s). Cite name: Google Earth (Exhibit 10).

☐ State/Local wetland inventory map(s):

☐ FEMA/FIRM maps:

☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): Aerial Location (Exhibit 1) Google Earth Photo of Review Area. Photo comparison of project site years 2009 and 2014 (Exhibit 2). Photo of RPW from field site visit 2009 (Exhibit 4).

or ☐ Other (Name & Date):

☒ Previous determination(s). File no. and date of response letter: Approved Jurisdiction Determination dated 13 February 2009 (reference administrative record.

☐ Applicable/supporting case law:

☐ Applicable/supporting scientific literature:

☒ Other information (please specify): SJRWMD Watershed Fact Sheet for Bulow Creek Basin (reference administrative record).

B. ADDITIONAL COMMENTS TO SUPPORT JD: This action is a re-verification of a previous jurisdictional determination, coordinated with the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers Headquarters Offices.

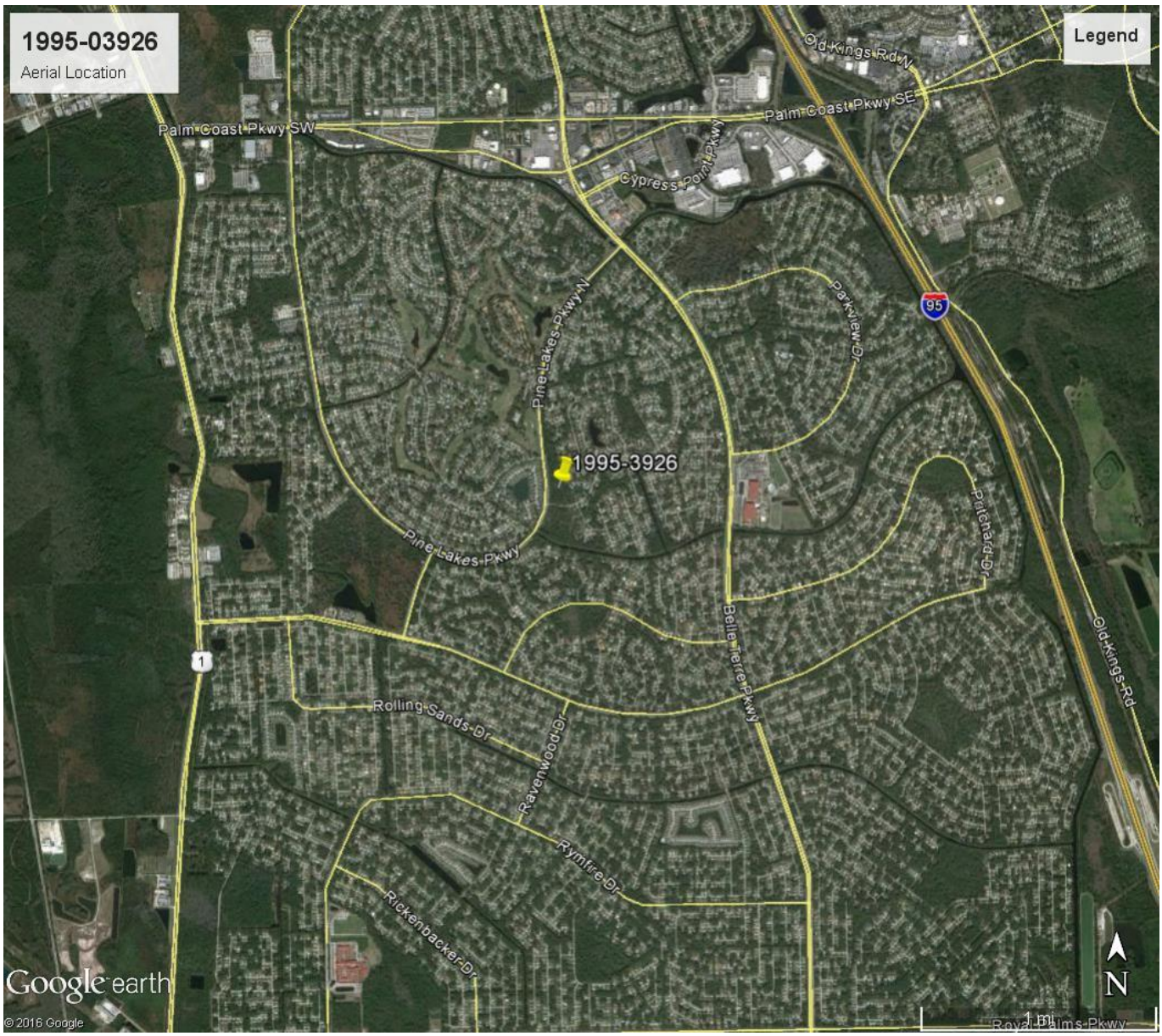
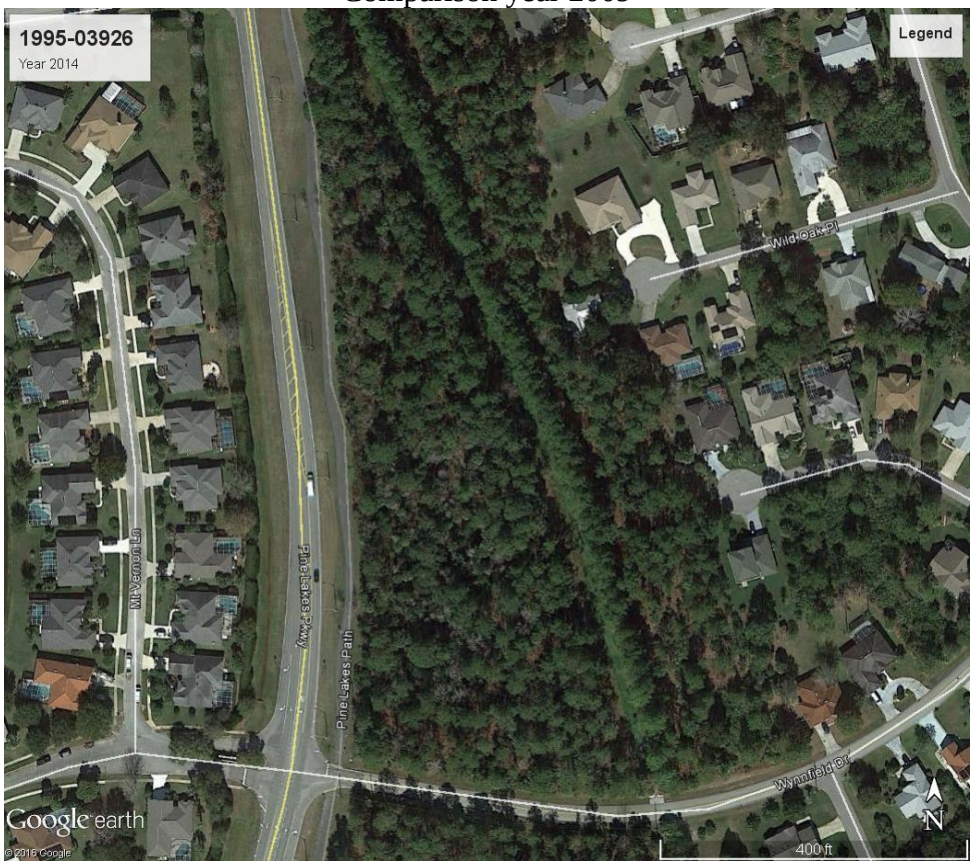


Exhibit 1: Aerial Location

Comparison year 2009



Comparison year 2014

Exhibit: 2

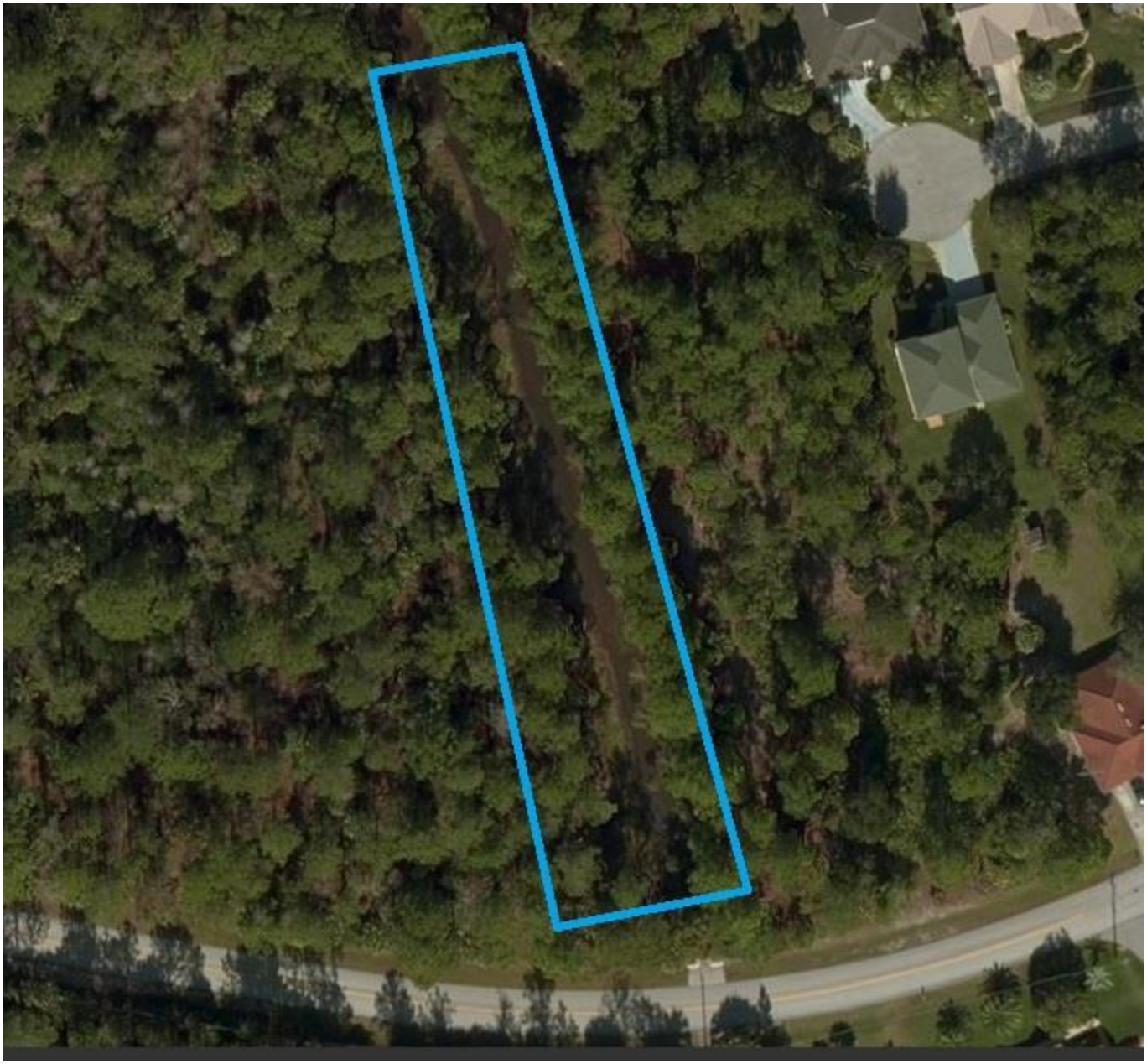


Exhibit 3: Relatively Permanent Water (RPW)

Exhibit 4: Photo of RPW year 2009

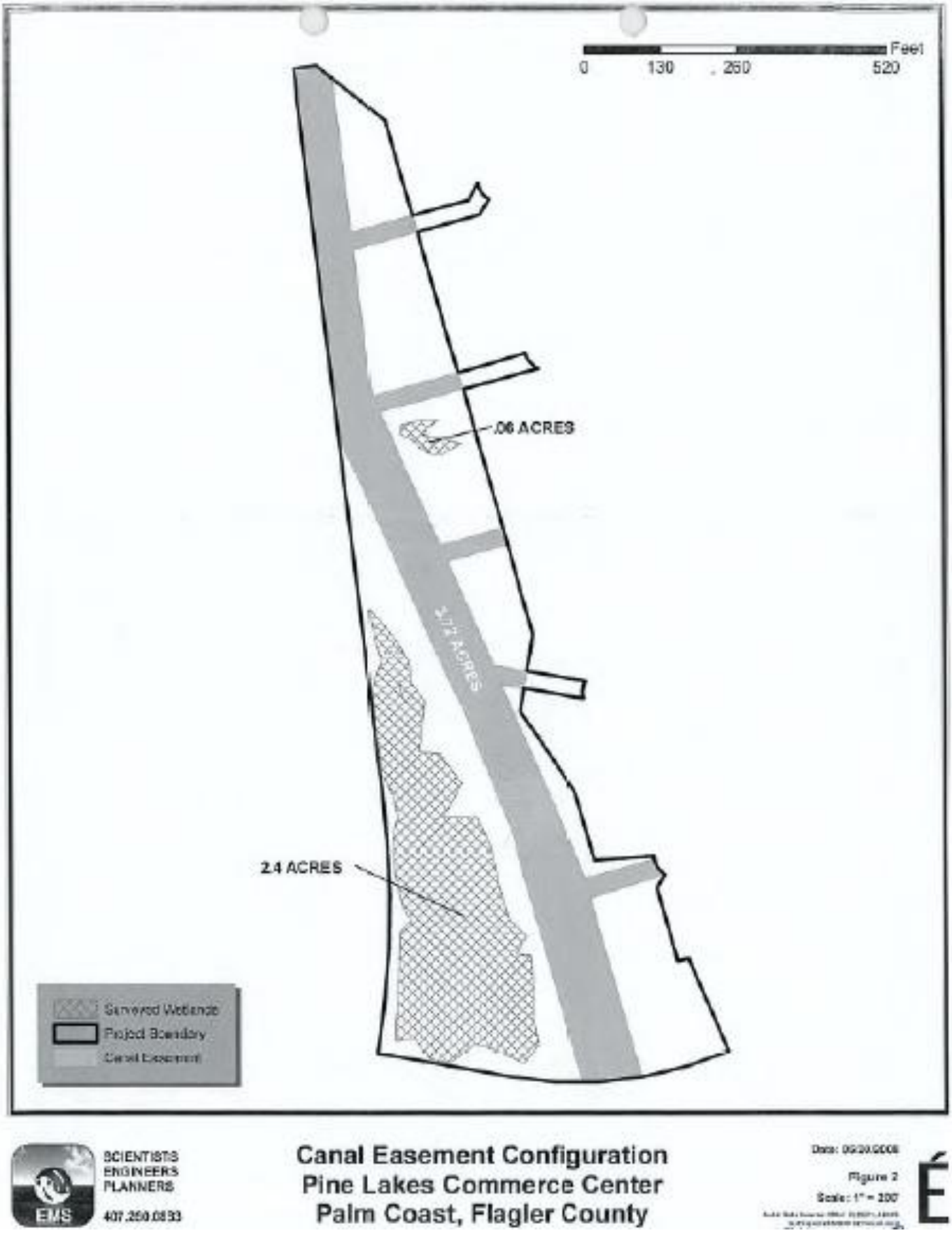


Exhibit 5: Delineated Wetlands Map

USGS
science for a changing world

SAJ-1995-3926

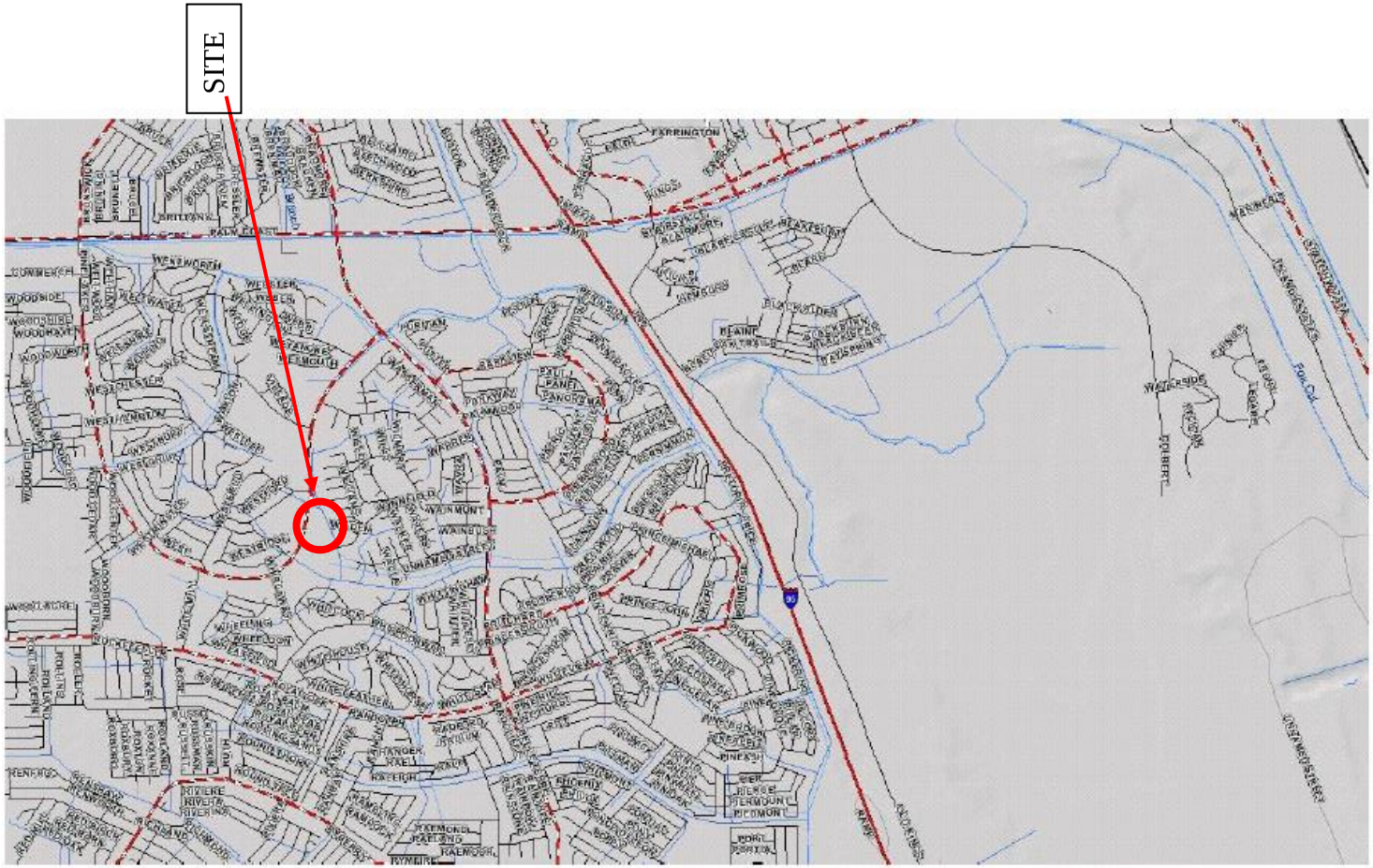


Exhibit 6: USGS Water Flow Map

U.S. Department of the Interior || Not accurate for measurement purposes. || Visit us at http://gisdata.usgs.net
U.S. Geological Survey || Images are derived from *The National Map* Seamless Server

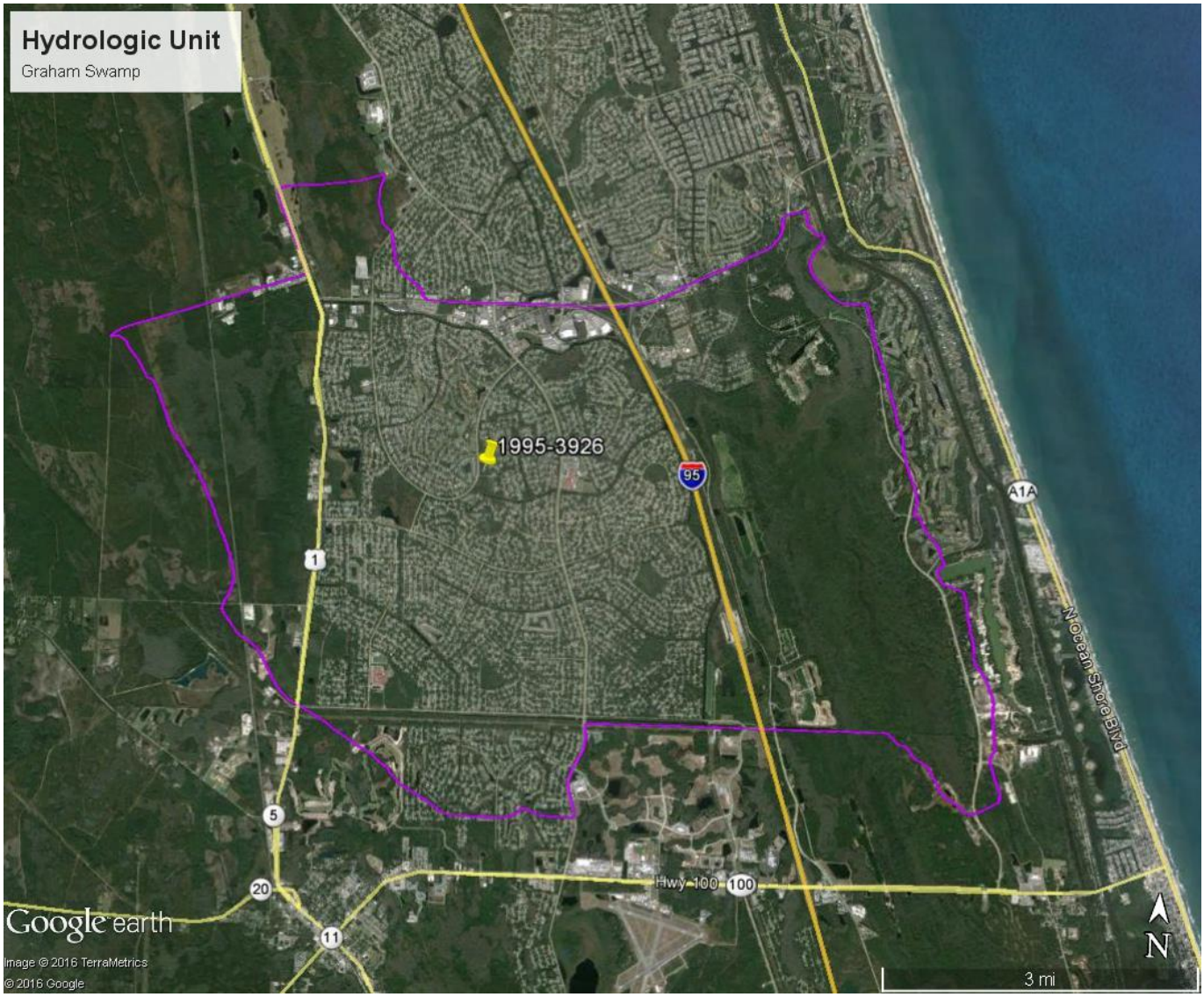


Figure 7: Hydrologic Unit

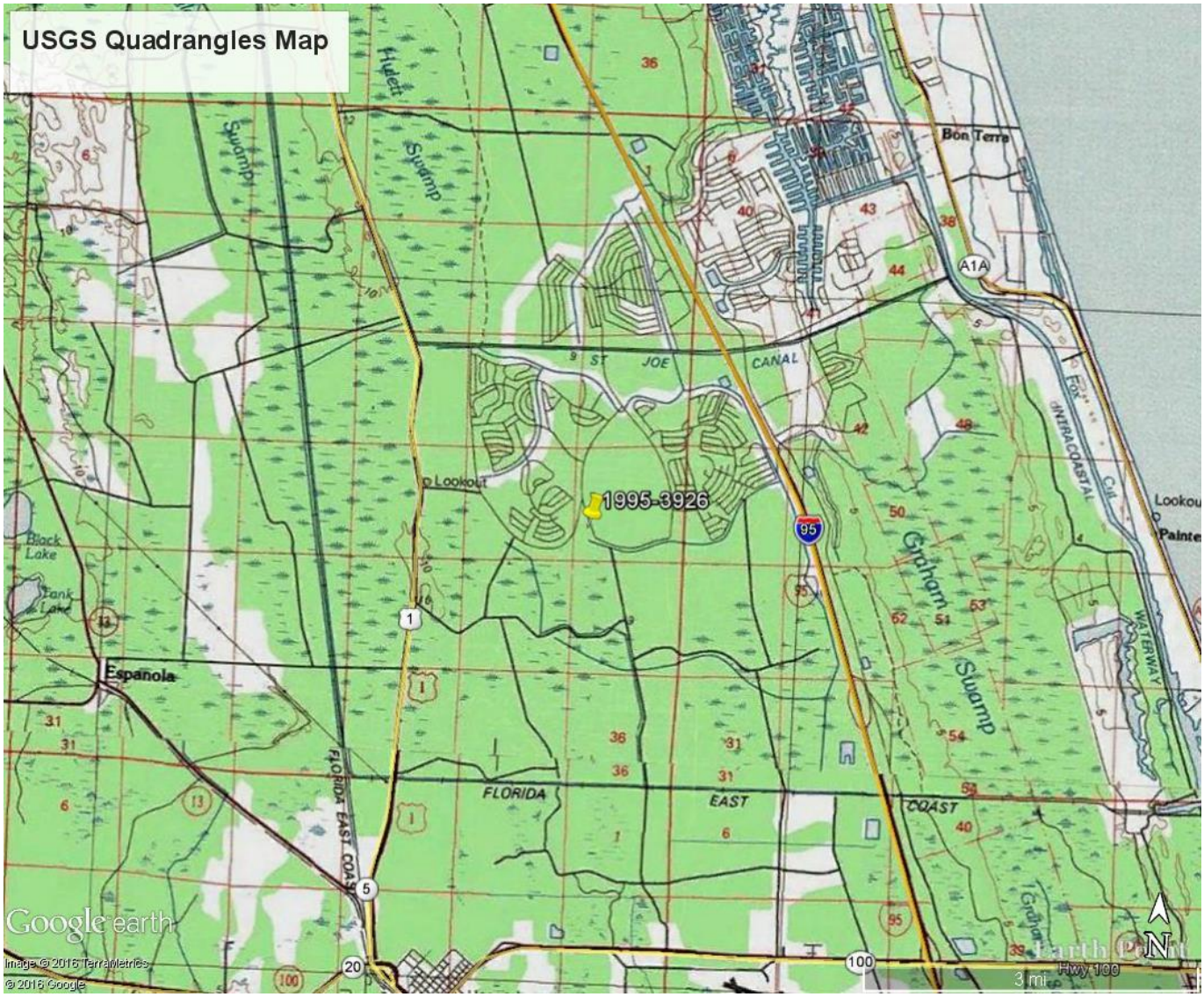


Exhibit 8: USGS Quadrangle Map

Map Unit Legend

Flagler County, Florida (FL035)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
19	Valkaria fine sand, 0 to 2 percent slopes	15.9	40.7%
21	Smyrna fine sand, 0 to 2 percent slopes	11.6	29.6%
29	Udarents, moderately wet	11.6	29.7%
Totals for Area of Interest		39.2	100.0%

Exhibit 9: Websoil Survey

Exhibit 10: National Wetlands Inventory Map