

**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): February 22, 2017**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville District; Heritage Investments of Polk, Inc. / Solis Gardens; SAJ-2016-00834**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Florida County/parish/borough: Polk City: Winter Haven

Center coordinates of site (lat/long in degree decimal format): Lat. 27.963808° N, Long. 81.719125° W.

Universal Transverse Mercator:

Name of nearest waterbody: Wahneta Farms Drainage Canal

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Peace River

Name of watershed or Hydrologic Unit Code (HUC): Peace River subbasin (03100101), Peace Creek Drainage Canal watershed (0310010102), and Lake Eloise subwatershed (031001010204)

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: February 22, 2017

Field Determination. Date(s): August 04, 2016

**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: .

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are** "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):<sup>1</sup>**

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (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: 300 linear feet: 25 width (ft) and/or acres.

Wetlands: 3.83 acres.

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

Elevation of established OHWM (if known): .

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: **Surface water SW-1 is 0.17 acre in size. The surface water is a man-made cattle pond excavated in dry land from nonhydric soils. Field investigations confirm that this excavated feature does not have an apparent hydrologic connection with, or serve to connect wetlands or other waters of the U.S. to the downstream TNW. This feature is**

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

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

considered non-jurisdictional based on the preamble to 33 CFR Part 328 in the November 13, 1986, Federal Register (51 FR 41217, Section 328.3).

### 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

Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": .

#### 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 that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 2,342 square miles

Drainage area: 20,465 acres

Average annual rainfall: 51 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 5-10 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: N/A.

Identify flow route to TNW<sup>5</sup>: Waters flow from the wetland into the Wahneta Farms Drainage Canal, which flows through Lake Gwyn, then south into an unnamed tributary, then into Peace Creek, and south into the Peace River.

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

<sup>5</sup> 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.

Tributary stream order, if known: .

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

**Tributary is:**  Natural  
 Artificial (man-made). Explain: The Wahnetta Farms Drainage Canal is visible in the 1941 aerials, and does not appear to follow any natural drainage pattern, but rather was constructed to drain wetlands along the route.  
 Manipulated (man-altered). Explain: The Wahnetta Farms Drainage Canal bisects Lake Gwyn (as is visible on the 1941 aerial) and there are control structures on the north and south ends of the canal in the lake.

**Tributary properties with respect to top of bank (estimate):**

Average width: 25 feet  
Average depth: 6 feet  
Average side slopes: **2:1**.

**Primary tributary substrate composition (check all that apply):**

Silts  Sands  Concrete  
 Cobbles  Gravel  Muck  
 Bedrock  Vegetation. Type/% cover: Herbaceous/shrubby vegetation with exotic encroachment.  
 Other. Explain: .

**Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:** Channel is stable.

**Presence of run/riffle/pool complexes. Explain:** N/A.

**Tributary geometry:** **Relatively straight**

**Tributary gradient (approximate average slope):** 5 %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: Flow is year-round.

Other information on duration and volume: Dry season observations of flow and volume (using aerial photography from the 1940s to present) indicate that this wide, deep canal has flowing or standing water year-round.

Surface flow is: **Discrete and confined**. Characteristics: Flow is likely generally confined within the canal banks, except during peak flow times, likely during the rainy season.

Subsurface flow: **Unknown**. Explain findings: Subsurface flow is expected; however, no tests were conducted.

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  
 other (list):

(iii) **Chemical Characteristics:**

<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.

<sup>7</sup>Ibid.

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

Explain: Water appeared tannic.

Identify specific pollutants, if known: The majority of the pollutants can be attributed to pesticides and herbicides from citrus groves and historical agricultural uses, livestock grazing and runoff from adjacent roadways.

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

- Riparian corridor. Characteristics (type, average width): The canal banks support trees which provide a limited forested buffer (average 100 feet in width).
- Wetland fringe. Characteristics: The canal is contiguous with forested and herbaceous wetlands in multiple locations along its route. The canal also bisects Lake Gwyn.
- Habitat for:
  - Federally Listed species. Explain findings: Potential wood stork foraging habitat.
  - Fish/spawn areas. Explain findings: The canal may provide fish habitat.
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings: The RPW provides habitat for invertebrate and amphibian species and foraging opportunities for terrestrial species and wading birds.

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: 3.83 acres
- Wetland type. Explain: Forested, mixed hardwood wetland.
- Wetland quality. Explain: The quality of the wetland is degraded from historical agricultural operations and manipulation of the water table. Evidence of poor quality and disturbance includes presence of nuisance and exotic vegetation such as Brazilian pepper, banana trees and primrose willow.
- Project wetlands cross or serve as state boundaries. Explain: N/A.

(b) General Flow Relationship with Non-TNW:

Flow is: **Perennial flow**. Explain: Dry season observations of flow and volume (using aerial photography from the 1940s to present) indicate that the Wahneta Farms Drainage Canal has flowing or standing water year-round.

Surface flow is: **Overland sheetflow**

Characteristics: Water from the adjacent, contiguous wetlands enters the canal from overland sheet flow and likely subsurface interactions. The site plans show an old control structure in the wetlands, which may have provided a discrete, piped connection in the past.

Subsurface flow: **Unknown**. Explain findings: Subsurface flow likely occurs, but no tests were conducted.

- 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:

(d) Proximity (Relationship) to TNW

Project wetlands are **5-10** river miles from TNW.  
Project waters are **5-10** aerial (straight) miles from TNW.  
Flow is from: **Wetland to navigable waters**.  
Estimate approximate location of wetland as within the **50 - 100-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: No notable water quality issues observed within the wetland.  
Identify specific pollutants, if known: The wetlands were not tested for specific pollutants; however, they could conceivably contain oils, pesticides, herbicides or other chemicals based on residential, industrial and agricultural uses in the watershed.

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

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain: Mixed wetland hardwoods, 100% cover.
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings: The wetland may support reptiles, amphibians, wading birds, perching birds, small mammals and aquatic macroinvertebrates.

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

All wetland(s) being considered in the cumulative analysis: **10**  
Approximately ( 218 ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Y	76		
Y	9		
Y	16		
Y	7		
N	1		
Y	5		
Y	1		
Y	8		
Y	76		
Y	19		

Summarize overall biological, chemical and physical functions being performed: Storage of flood waters; reduction of downstream peak discharge and volume; recharge of aquifers; maintenance of seasonal/baseflows; maintenance of groundwater supplies; sediment and nutrient removal; provide breeding grounds and wildlife habitat (e.g. feeding, nesting, spawning, rearing of young); support diverse communities of benthic invertebrates, a major food source for vertebrates.

### 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:
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:
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:
4. **Significant Nexus Determination:** The Eleventh Circuit has concluded that the Kennedy standard is the sole method of determining CWA jurisdiction in that Circuit (*United States v. McWane, Inc., et al.*, 505 F.3d 1208 [11th Cir. 2007]); therefore, unless the aquatic resources are traditional navigable waters or wetlands adjacent to traditional navigable waters, the Corps needs to conduct a significant nexus determination on all other waters in order to determine jurisdiction under the CWA. The Corps has determined that for this review, the RPW and all of its adjacent wetlands have more than an insubstantial or speculative effect on the physical, chemical, and biological integrity of the downstream TNW, as described below.
- 5.
6. The following represents the significant nexus finding for the RPW (tributary):

7. **PHYSICAL:** The canal receives rainfall and stormwater runoff from a large area and transports this water and sediment load downstream. Flows from the canal affect the duration, frequency and volume of flow into Lake Gwyn, Peace Creek and ultimately the Peace River.
8. **CHEMICAL:** The tributary has the capacity to transfer nutrients and organic carbon that supports downstream food webs, as well as transfer potential pollutants to the downstream TNW, which could negatively affect aquatic resources.
9. **BIOLOGICAL:** The tributary is important biologically as it provides habitat for reptiles, amphibians, fish, birds and other aquatic species, including species which move between aquatic and upland environments during their life cycles. The biological functions provided by the tributary addressed in this JD are expected to be exported downstream to, and provide benefits to, the downstream TNW.
- 10.
11. The following represents the significant nexus finding for the wetlands adjacent to the RPW:
12. **PHYSICAL:** The wetlands perform important flow maintenance functions including storage of flood waters and maintenance of groundwater supplies, and therefore directly affect the duration, frequency and volume of flow in the tributary and the downstream TNW. The wetlands provide a means of slowing water's velocity and reducing the amount of sediments entering downstream waters.
13. **CHEMICAL:** Adjacent wetlands improve water quality by removing sediment and nutrients and other pollutants that would otherwise reach the downstream TNW and have a negative effect on aquatic resources.
14. **BIOLOGICAL:** The wetlands are important biologically since a substantial amount of the historical wetland coverage in the watershed has been altered for residential and commercial development, and agriculture. They provide breeding grounds for species that cannot reproduce in faster-moving water and move between wetlands and uplands over their lifecycle, and provide habitat for a variety of species. The biological functions provided by the wetlands and surface waters addressed in this JD are expected to also be exported downstream to, and provide benefits to, the downstream TNW.

**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: linear feet width (ft), Or, acres.  
 Wetlands adjacent to TNWs: 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: Dry season observations of flow and volume (using aerial photography from the 1940s to present) indicate that this wide, deep canal has flowing or standing water year-round.
- 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: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: **300** linear feet; **25** width (ft).  
 Other non-wetland waters: acres.  
 Identify type(s) of waters: .

3. **Non-RPWs<sup>8</sup> 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: linear feet width (ft).  
 Other non-wetland waters: 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: **The wetlands within the review area directly abut the Wahneta Farms Drainage Canal (RPW). The wetland edge is contiguous with the canal.**

<sup>8</sup>See Footnote # 3.

- 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: **3.83** 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area:        acres.

**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:        acres.

**7. Impoundments of jurisdictional waters.<sup>9</sup>**

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):<sup>10</sup>**

- 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:        linear feet        width (ft).  
 Other non-wetland waters:        acres.  
    Identify type(s) of waters: .  
 Wetlands:        acres.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

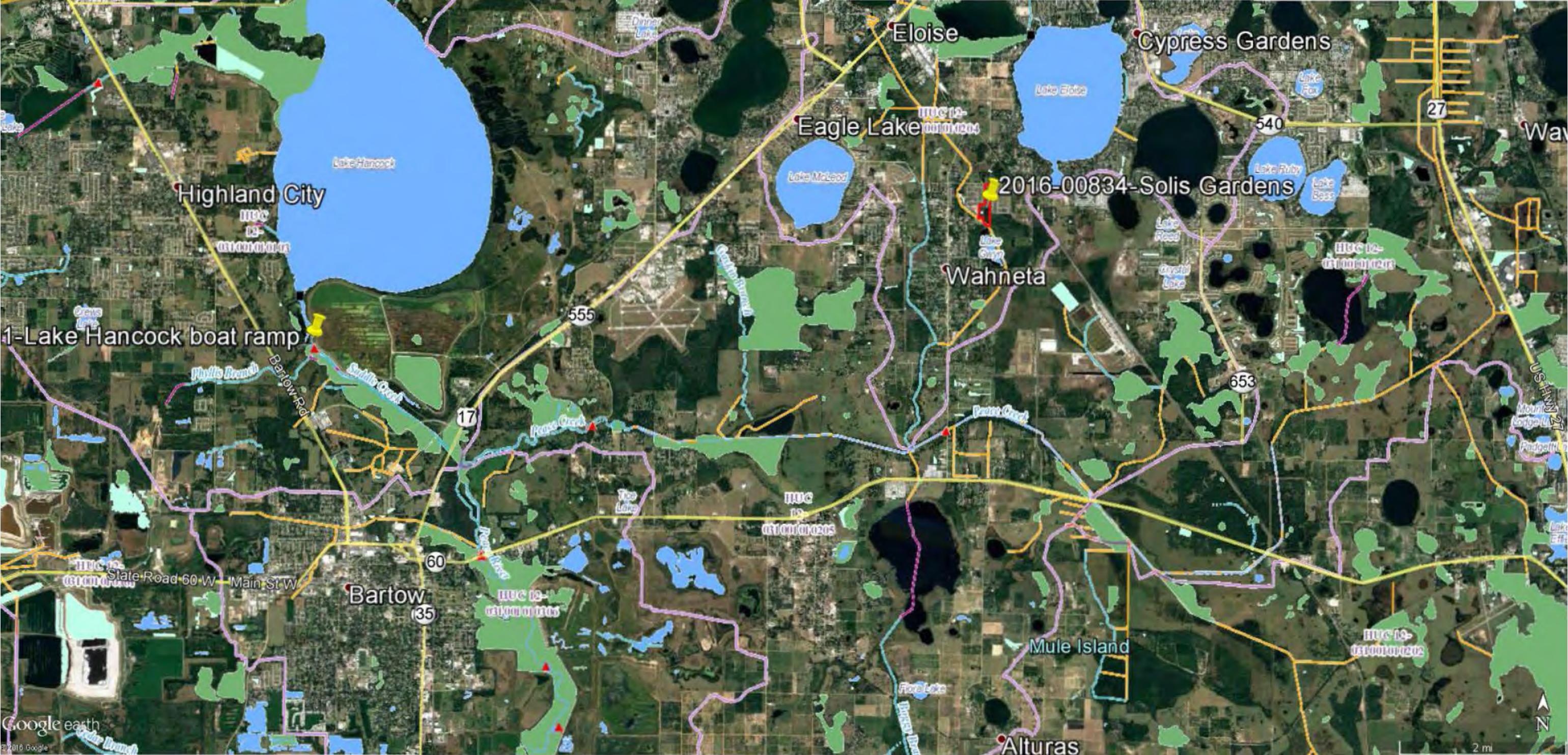
- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.  
 Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.  
     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): **Surface water SW-1 is 0.17 acre in size. The surface water is a man-made cattle pond excavated in dry land from nonhydric soils. Field investigations confirm that this excavated feature does not have an apparent hydrologic connection with, or serve to connect wetlands or other waters of the U.S. to the downstream TNW. This feature is considered non-jurisdictional based on the preamble to 33 CFR Part 328 in the November 13, 1986, Federal Register (51 FR 41217, Section 328.3).**

<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*.





Highland City

Eloise

Cypress Gardens

Eagle Lake

2016-00834-Solis Gardens

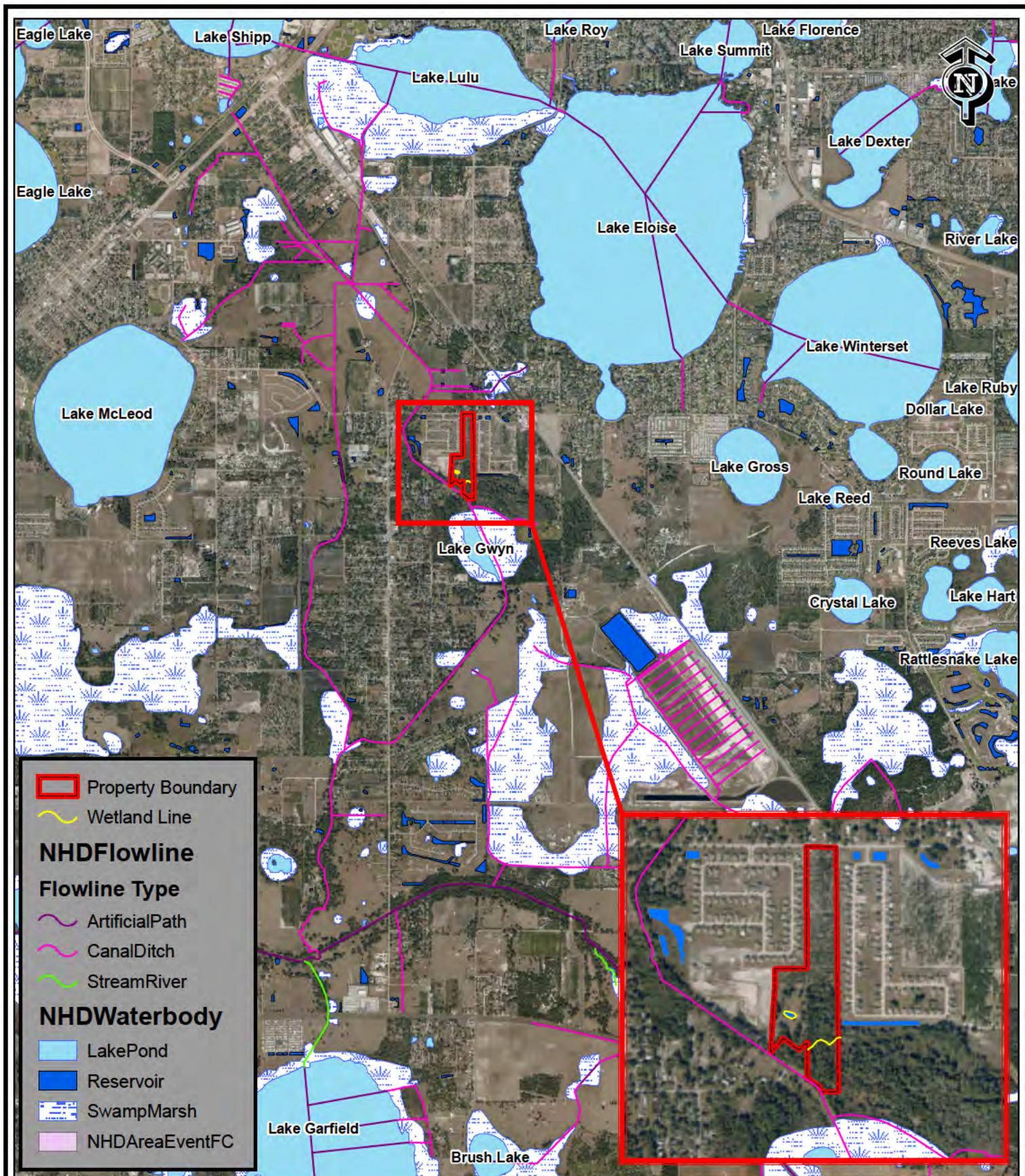
Wahneta

1-Lake Hancock boat ramp

Bartow

Mule Island

Alturas



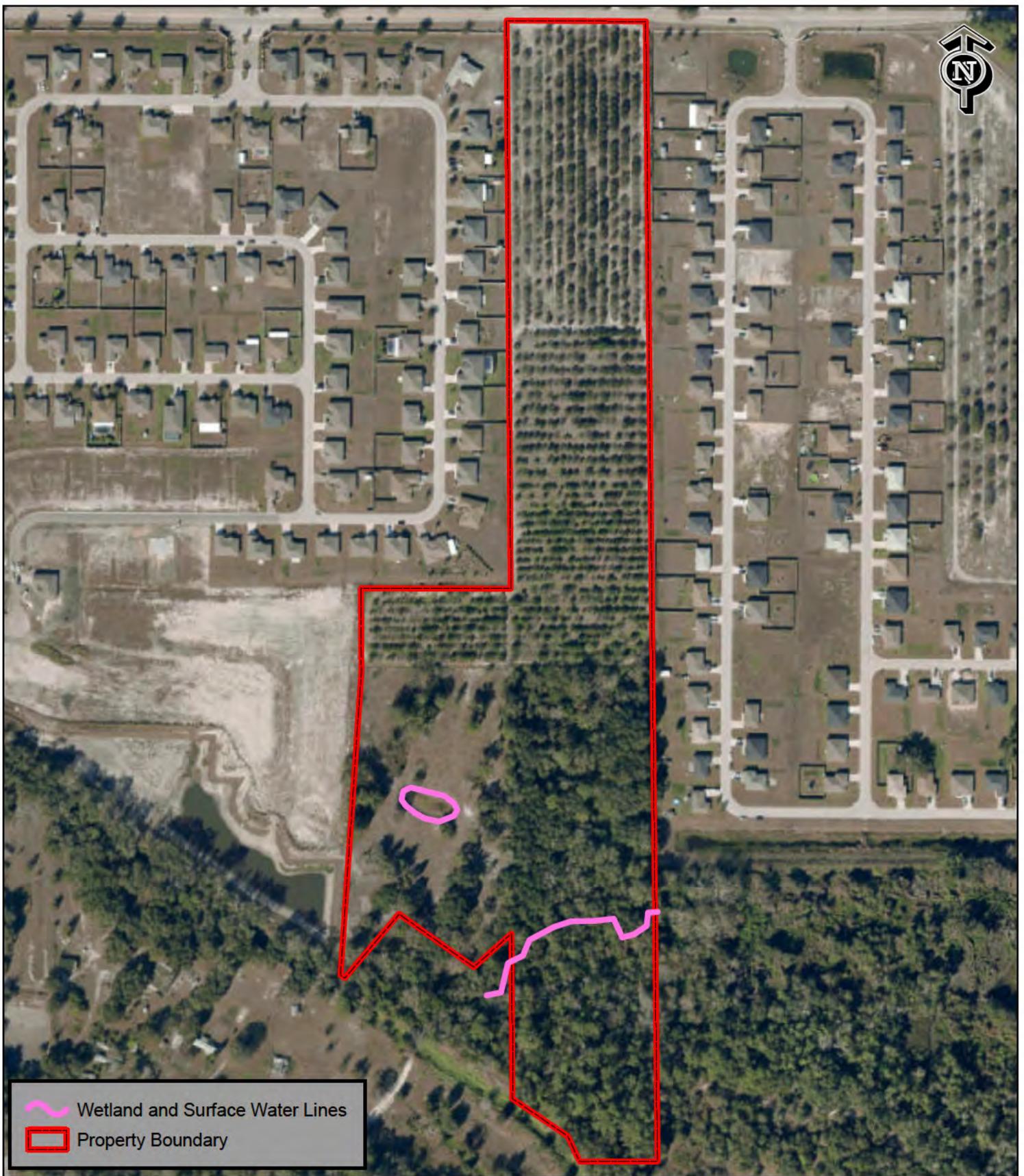
### Solis Gardens

National Hydrography Dataset Map  
 Section 16, T29E, R26E  
 Polk County, FL



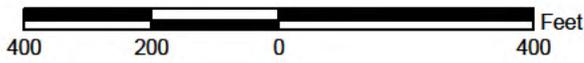
**MODICA & ASSOCIATES**  
 302 Mohawk Road  
 Clermont, Florida 34715  
 P: (352) 394-2000  
 F: (352) 394-1159

Email: [Environmental@Modica.cc](mailto:Environmental@Modica.cc)  
[www.ModicaAndAssociates.com](http://www.ModicaAndAssociates.com)



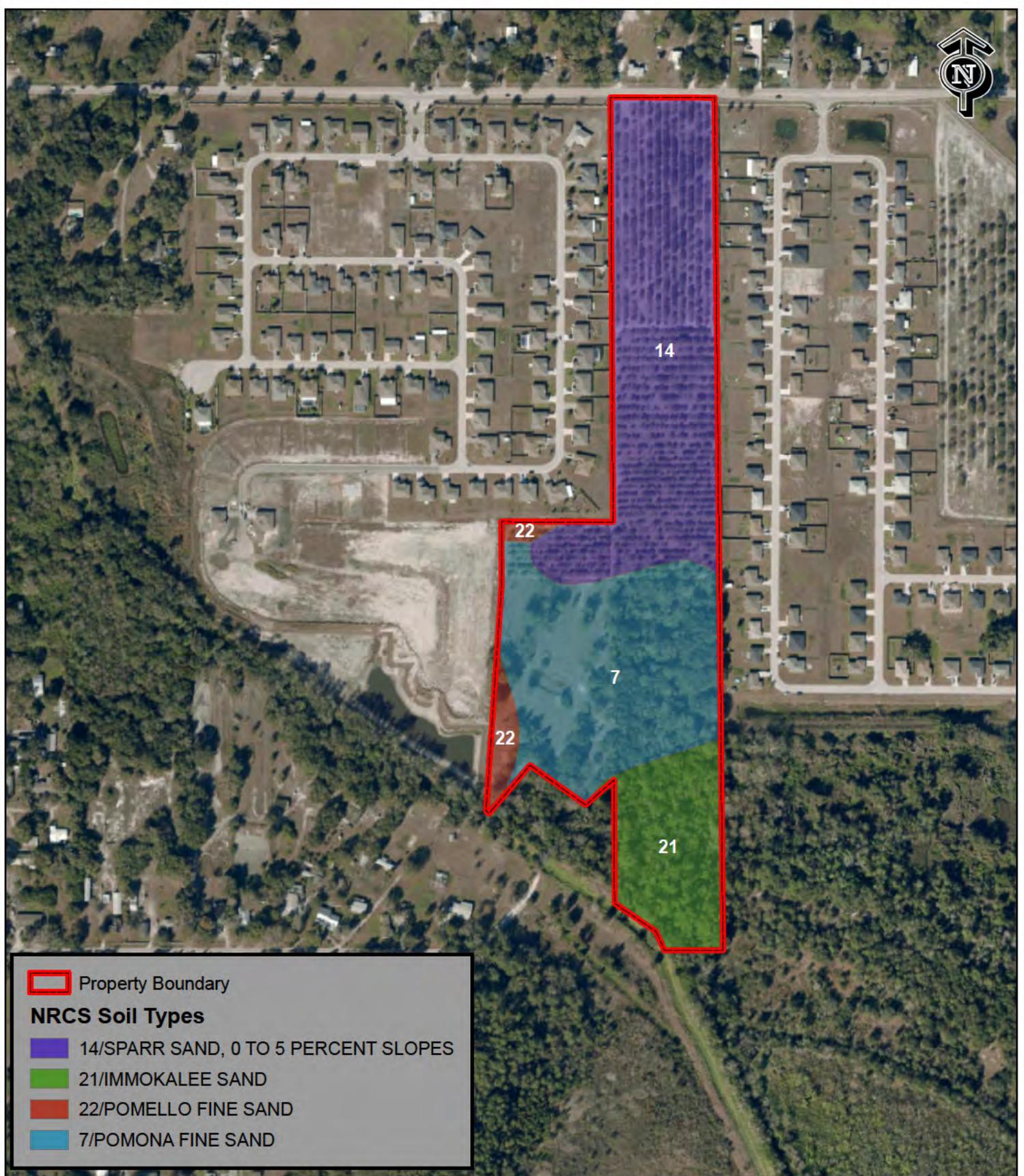
 Wetland and Surface Water Lines  
 Property Boundary

**Solis Gardens**  
Wetland and Surface Water Map  
Section 16, T29E, R26E  
Polk County, FL



**MODICA & ASSOCIATES**  
302 Mohawk Road  
Clermont, Florida 34715  
P: (352) 394-2000  
F: (352) 394-1159  
Email: [Environmental@Modica.cc](mailto:Environmental@Modica.cc)  
[www.ModicaAndAssociates.com](http://www.ModicaAndAssociates.com)





 Property Boundary

**NRCS Soil Types**

-  14/SPARR SAND, 0 TO 5 PERCENT SLOPES
-  21/IMMOKALEE SAND
-  22/POMELLO FINE SAND
-  7/POMONA FINE SAND

### Solis Gardens

Soils Map  
Section 16, T29E, R26E  
Polk County, FL



MODICA & ASSOCIATES  
302 Mohawk Road  
Clermont, Florida 34715  
P: (352) 394-2000  
F: (352) 394-1159  
Email: [Environmental@Modica.cc](mailto:Environmental@Modica.cc)  
[www.ModicaAndAssociates.com](http://www.ModicaAndAssociates.com)