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): March 27, 2017

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville District, SAJ-2016-01168-Massey

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State:FL County/parish/borough: Polk City: Lakeland
Center coordinates of site (lat/long in degree decimal format): Lat. 28.078591° N, Long. 81.989333° W.
Universal Transverse Mercator:
Name of nearest waterbody: Unnamed tributary
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Hillsborough River
Name of watershed or Hydrologic Unit Code (HUC): 0310020501-Itchepackesassa 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: March 24, 2017
☒ Field Determination. Date(s): January 17, 2017

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):** [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:**
      Non-wetland waters: 610 linear feet: width (ft) and/or acres.
      Wetlands: *5.8* 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):**[3]
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: .

[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.

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[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: 72,295 **acres**
Drainage area: 20,783 **acres**
Average annual rainfall: 53.65 inches
Average annual snowfall: 0 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **4** tributaries before entering TNW.

Project waters are **15-20** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **10-15** 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: NA.

Identify flow route to TNW[5]: The stream flows southwest to a confluence point with another stream, then flows west into Itchepackesassa Creek, which flows north into Blackwater Creek, which flows west into the Hillsborough River.

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[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[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.

Tributary stream order, if known: .

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

Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):
Average width: 15 feet
Average depth: 4 feet
Average side slopes: **3:1** .

Primary tributary substrate composition (check all that apply):

☐ Silts	☒ Sands	☐ Concrete
☐ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover:	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Stable.
Presence of run/riffle/pool complexes. Explain: None observed.
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): %

(c) Flow:

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

Describe flow regime: Steady flow in the wet season, lighter flow during the dry season. The tributary had flowing water during the January 17, 2017, site visit.

Other information on duration and volume: The adjacent property to the east receives a high volume of water from the adjacent stormwater pond, which has resulted in the the tributary on that property to be highly eroded in its eastern extent. The Corps observed the creek on the adjacent property on August 25, 2015, April 19, 2016, and September 07, 2016, and on the subject property (Massey Property) on January 17, 2017. The Corps observed steady flow in the tributary during each visit. These additional observations of the tributary upstream of the review area during both wet and dry seasons indicate that the tributary has flow that is at least seasonal, and is likely year-round.

Surface flow is: **Discrete.** Characteristics: The tibutary flows within its channel and receives sheetflow from the adjacent wetlands. During peak flows, water overtops the banks and enters the adjacent wetlands.

Subsurface flow: **Yes**. Explain findings: Part of the wetlands is on a seep hill. During the April 19, 2016, field visit on the adjacent property, the Corps observed erosion in the tributary down to a clay layer in the area which receives high velocity discharges from the stormwater pond. Groundwater flows down-gradient over this impermeable clay layer, keeping the wetland soils hydrated, and then flows into the creek.

☐ 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;

[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.

☐ physical markings/characteristics ☐ vegetation lines/changes in vegetation types.
☐ tidal gauges
☐ other (list):

(iii) Chemical Characteristics:

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

Explain: The water appeared clear or tannic during the January 17, 2017, field visit.

Identify specific pollutants, if known: The Corps did not test the water for specific pollutants; however, the tributary does receive discharges from a large stormwater pond east of the review area. The tributary also receives agricultural, residential and roadway runoff throughout its range. Itchepackesassa Creek, into which the tributary flows, is an impaired water according to the Florida Department of Environmental Protection (FDEP) and the Environmental Protection Agency (EPA) for fecal coliform bacteria, biochemical oxygen demand, chlorophyll-a and dissolved oxygen. The Hillsborough River, the TNW into which the tributary flows (and the major receiving water for the watershed) is deemed impaired by the EPA for chlorophyll-a, dissolved oxygen, mercury in fish tissue and fecal coliform bacteria.

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

☒ Riparian corridor. Characteristics (type, average width): The tributary supports a forested wetland hardwood corridor, followed by forested/shrub uplands. Approximate width of entire natural corridor is 600 feet.

☒ Wetland fringe. Characteristics: Wetland hardwood forest/stream bottomland swamp.

☒ Habitat for:

☒ Federally Listed species. Explain findings: Wood stork foraging habitat.

☒ Fish/spawn areas. Explain findings: Fish habitat provided in the stream.

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: The tributary and its adjacent wetlands support fish, reptiles, amphibians, wading birds, perching birds, small mammals and aquatic macroinvertebrates.

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: 5.8 acres

Wetland type. Explain: Wetland hardwood forest/stream bottomland swamp.

Wetland quality. Explain: The on-site wetlands are heavily vegetated with exotic and/or nuisance vegetation in some locations.

Project wetlands cross or serve as state boundaries. Explain: NA.

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: Flow .

Surface flow is: **Overland sheetflow**

Characteristics: The wetlands receive rainfall and runoff from the adjacent uplands. This water is transported to the tributary via overland sheetflow as well as seepage flow. Flow is greater during the wet season when rainfall is more abundant.

Subsurface flow: **Yes**. Explain findings: Part of the wetlands are on a seep hill. During the April 19, 2016, field visit on the adjacent property, the Corps observed erosion in the tributary down to a clay layer in the area which receives high velocity discharges from the stormwater pond. Groundwater flows down-gradient over this impermeable clay layer, keeping the wetland soils hydrated, and then flows into the creek.

☐ 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 **15-20** river miles from TNW.

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

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **Pick List** 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 Corps did not observe any indicators of poor water quality in the wetland during the field assessment. Land uses in the watershed such as residential, commercial, agricultural, industrial and roadways release a variety of pollutants into wetlands and waterways, including fertilizers, pesticides, petroleum wastes, heavy metals, bacteria and cleaning solvents.

Identify specific pollutants, if known: The Corps did not test for specific pollutants; however, the tributary and wetlands receive discharges from a large stormwater pond east of the review area. The review area also receives agricultural, residential and roadway runoff. Itchepackesassa Creek, into which the tributary flows, is an impaired water according to the FDEP and the EPA for fecal coliform bacteria, biochemical oxygen demand, chlorophyll-a and dissolved oxygen. The Hillsborough River, the TNW into which the tributary flows (and the major receiving water for the watershed) is deemed impaired by the EPA for chlorophyll-a, dissolved oxygen, mercury in fish tissue and fecal coliform bacteria.

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

☒ Riparian buffer. Characteristics (type, average width): The wetland provides an approximatley 350 foot wide riparian buffer. The wetland is classified as stream bottomland swamp.

☒ Vegetation type/percent cover. Explain: Stream bottomland swamp/wetland hardwood forest.

☒ 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 support reptiles, amphibians, 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: **5**
Approximately (78.5) acres in total 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)
Y	24	Y	23
Y	3.5		
Y	17		
Y	11		

Summarize overall biological, chemical and physical functions being performed: The subject wetlands, in combination with similarly situated wetlands, perform the following functions: Storage of flood waters; reduction of downstream peak discharges and volumes; recharge of the aquifer; maintenance of seasonal/baseflows; maintenance of groundwater supplies; removal of sediments, nutrients and pollutants; provision of breeding grounds and wildlife habitat (e.g. feeding/foraging, nesting, spawning, rearing of young); support diverse community 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.
5. Signicant 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 subject tributary and its directly abutting wetlands, in combination with similarly situated waters, have more than an insubstantial or speculative effect on the physical, chemical, and biological integrity of the downstream TNW, as described below.
6.
7. The following represents the significant nexus finding for the RPW tributary and similarly situated waters:
8. PHYSICAL: The tributary receives rainfall and stormwater runoff and transports this water and sediment load downstream. The tributary also receives a large amount of water from a nearby stormwater pond. Flows from the subject tributary and similarly situated tributaries in the upper reaches of the watershed have a direct effect on the duration, frequency and volume of flow into the Hillsborough River, the receiving TNW.

9. CHEMICAL: The tributary transfers pollutants from the adjacent land uses and stormwater pond to the downstream TNW. Cumulative polluant loads from the tributary system has led to an impairment rating of Itchepackesassa Creek, the first major downstream tributary into which the subject tributary flows, and the Hillsborough River, the downstream TNW. This demonstrates an observable chemical functional relationship between the subject tributaries and similarly situated waters, and the downstream TNW. These chemical contributions occuring in the upper reaches of the watershed negatively affect aquatic resources downstream and can contribute to eutrophication and algal blooms.
10. BIOLOGICAL: The tributary, in combination with similarly situated waters, provides foraging habitat for wading birds and habitat for reptiles, amphibians, fish and aquatic insects, and species which move between aquatic and upland environments during their life cycles. The biological functions provided by the tributary addressed in this JD are exported to the downstream TNW.
11.
12. The following represents the significant nexus finding for the adjacent wetlands and similarly situated wetlands:
13. 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 tributaries and the downstream TNW. The wetlands provide a means of slowing water's velocity and reducing the amount of sediments entering downstream waters.
14. CHEMICAL: The subject wetlands and similarly situated wetlands in the watershed improve water quality by removing sediments, nutrients and other pollutants that would otherwise reach the downstream TNW. The wetlands filter and assimilate pollutants from the adjacent land uses and stormwater pond prior to discharge to the TNW, reducing nutrient loads downstream into the Hillsborough River. The downstream waters are deemed impaired waterbodies by the FDEP and EPA. The cumulative loss in historic wetland coverage has reduced the capacity of the watershed to naturally filter polluntants prior to entering downstream waters.
15. BIOLOGICAL: The subject wetlands and similarly situated 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 foraging, nesting and rearing habitat for a variety of species. The biological functions provided by the wetlands discussed in this JD are 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: .
   - ☒ 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: The Corps observed the creek on the adjacent property on August 25, 2015, April 19, 2016, and September 07, 2016, and on the subject property (Massey Property) on January 17, 2017. The Corps observed steady flow in the tributary during each visit. These additional observations of the tributary upstream of the review area during both wet and dry seasons indicate that the tributary has flow that is at least seasonal, and is likely year-round.

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: **610** linear feet width (ft).
   - ☐ Other non-wetland waters: 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: 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.

[8]See Footnote # 3.

☐ 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: The tributary flows through the wetland. The wetland is contiguous with the tributary.

Provide acreage estimates for jurisdictional wetlands in the review area: **5.8** 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: 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.[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: 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): .

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[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.***

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

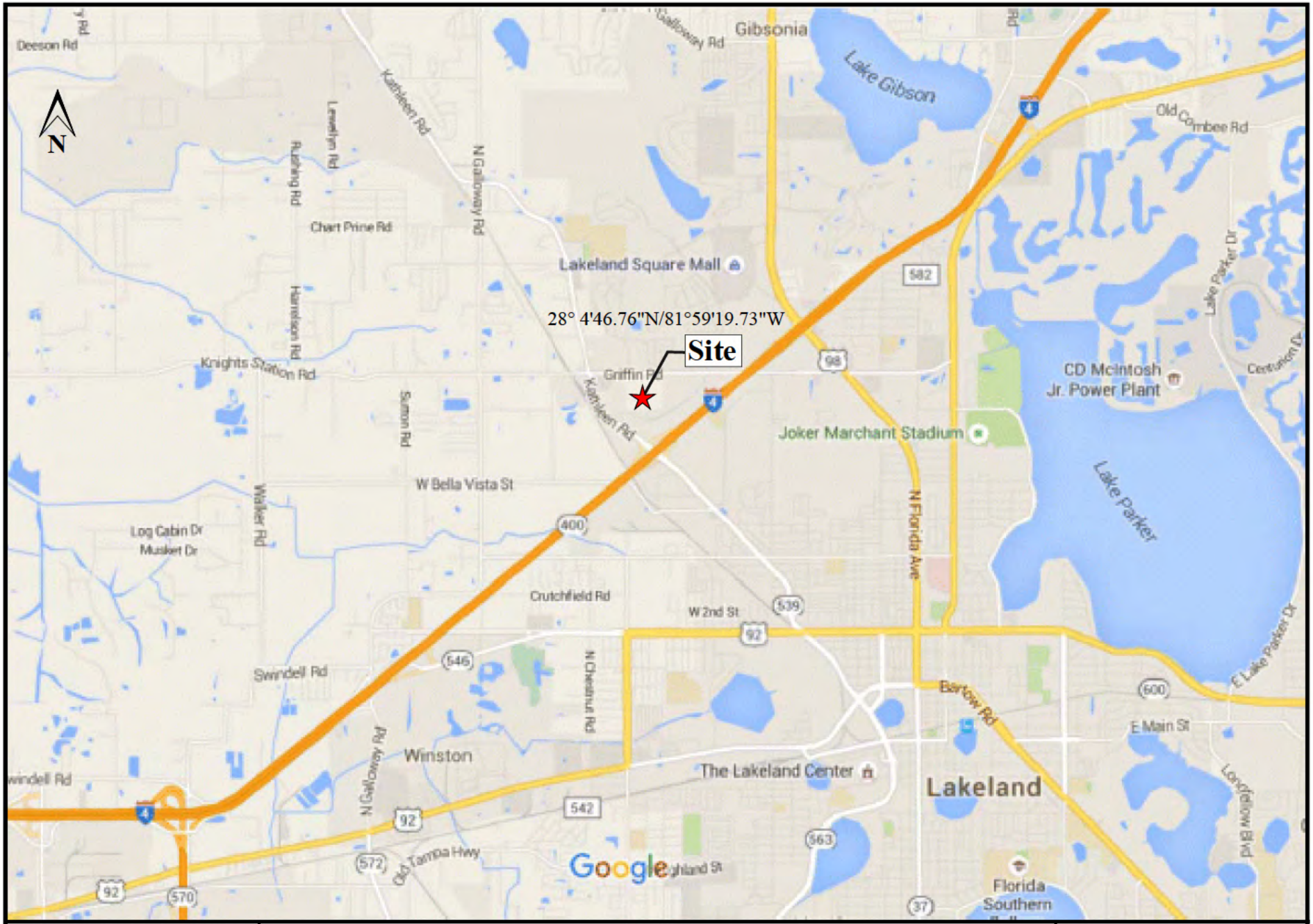
SECTION IV: DATA SOURCES.

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 map and survey provided by 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). Cite scale & quad name: Submitted by applicant/consultant.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Submitted by applicant/consultant.
- ☒ National wetlands inventory map(s). Cite name: from https://www fws.gov/wetlands/data/mapper html.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth (2016); aerials provide by applicant/consultant.
  or ☐ Other (Name & Date): .
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify):

Tampa Bay Water Atlas: http://www.tampabay.wateratlas.usf.edu/river/waterquality.asp?wbodyid=47&wbodyatlas=river; http://www.tampabay.wateratlas.usf.edu/river/waterquality.asp?wbodyid=41&wbodyatlas=river.

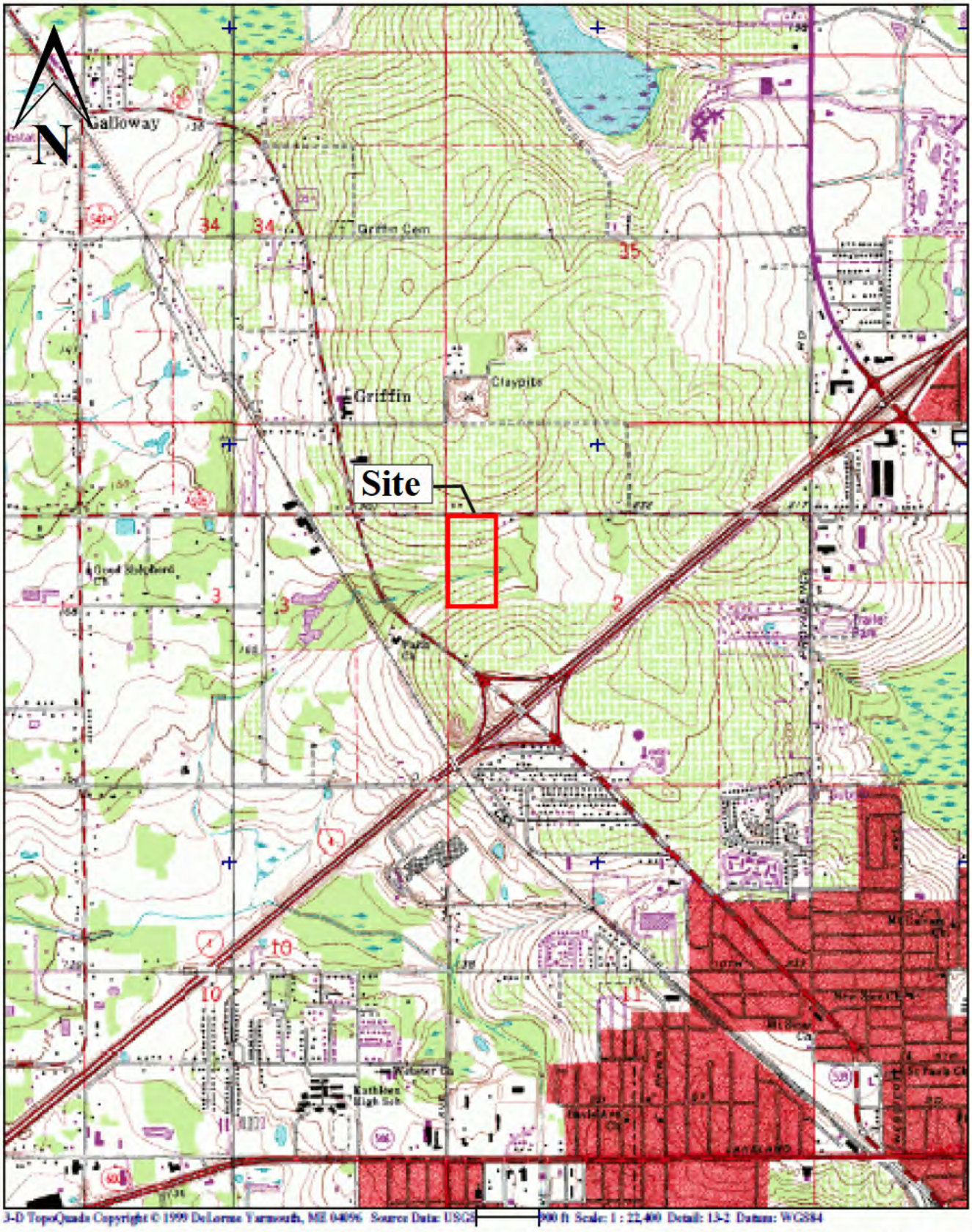
B. ADDITIONAL COMMENTS TO SUPPORT JD: .



McAlpine Environmental Consulting, Inc
18312 Cortez Boulevard, Brooksville, FL 34601
352-585-2033 (Cell)
davidmec7@gmail com

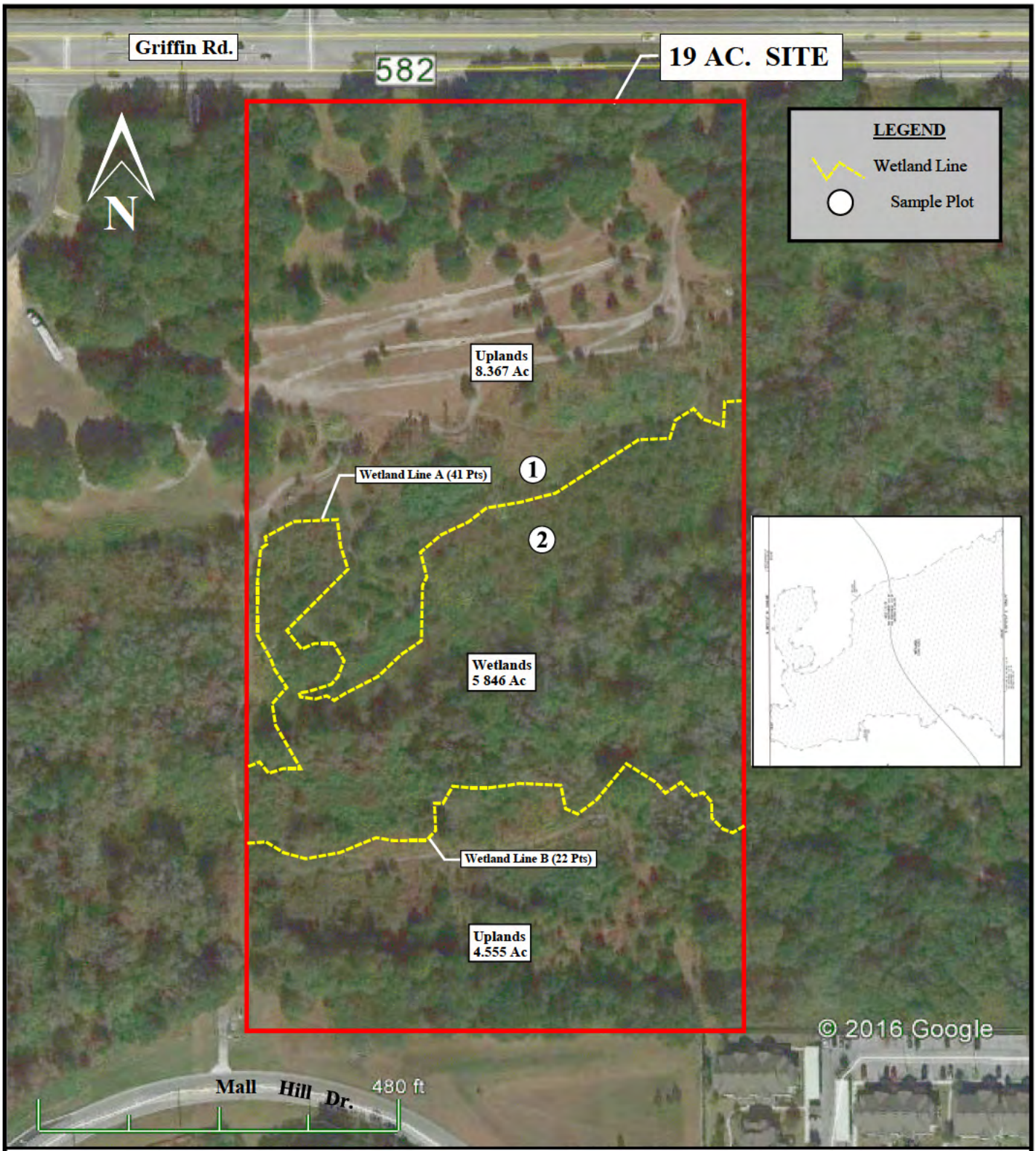
Massey Property
Wetland Delineation
Lakeland, Polk County

Figure 1: Vicinity Map



Lakeland and Plant City East Quads

McAlpine Environmental Consulting, Inc . 18312 Cortez Boulevard, Brooksville, FL 34601 352-585-2033 (Cell) davidmec7@gmail.com	***Massey Property, Landland*** **Wetland Delineation** **Polk County**	**Figure 2: Quad Map**



28° 4'46.76"N/81°59'19.73"W

The wetland lines shown are from a Wetland Delineation Survey provided by DC Johnson (see inset). The wetland lines were field approved by Chaz LaRiche of the SWFWMD on 5/6/15 and by Jessica Cordwell of the ACOE on 1/17/15.

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Fig 3: Project Aerial
Image From: Google Earth
Image Date: 1/22/2014