# DEPARTMENT OF THE ARMY CORPS OF ENGINEERS, JACKSONVILLE DIS

A PARTY OF STATES OF STATE

CORPS OF ENGINEERS, JACKSONVILLE DISTRICT 701 SAN MARCO BOULEVARD JACKSONVILLE, FLORIDA 32207-8175

**January 21, 2025** 

Regulatory Division
West Branch
Ft Myers Permits Section

## **PUBLIC NOTICE**

Permit Application No. SAJ-2024-03610 (SP-CMJ)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) for a project known as Horse Trials.

If you are interested in receiving additional project drawings associated with this public notice, please send an email to the project manager at <a href="mailto:Christine.M.Jacek@usace.army.mil">Christine.M.Jacek@usace.army.mil</a>.

APPLICANT: Tarpon Blue Silver King I, LLC d/b/a Collier Enterprises

c/o Christian Spilker

999 Vanderbilt Beach Road, Suite 507

Naples, FL 34108

WATERWAY AND LOCATION: The Horse Trials site, including on-site preservation areas, totals 1,778.05± acres and is located in Sections 5, 6, 7, 8, 17, and 18; Township 48 South; Range 30 East; Collier County. The site contains approximately 255.41± acres of freshwater wetlands and 16.31± acres of other surface waters located within the Okaloacoochee Slough Watershed (10-HUC # 0309020409) of the Big Cypress Drainage Basin.

Directions to the site are as follows: From I-75, take Exit 111 to Immokalee Road (County Road (CR) 846), head east for approximately 3.4 miles, and turn right (east) on Oil Well Road (CR 858) toward the intersection with State Road 2. The project site is located in the northwest quadrant of the intersection.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.313897

Longitude -81.355498

#### PROJECT PURPOSE:

Basic: Construction of a mixed-use residential community

Overall: Construction of a master planned, mixed-use residential community within rural eastern Collier County.

EXISTING CONDITIONS: The project site consists of approximately 1,778.05 total acres. Freshwater wetlands comprise a total of 255.41± acres, or approximately 14.4 percent of the site. The on-site wetlands are generally forested and dominated by cypress with areas of cypress/pine, hydric pine, mixed wetland hardwood, and freshwater marsh habitats. The wetlands contain varying degrees of exotic infestation, including the exotic species Brazilian pepper, primrose willow, torpedograss, paragrass, Old World climbing fern, and West Indian marsh grass. Exotic vegetation is generally most dense where wetlands border agricultural fields. The hydrology of the landscape within and surrounding the site has historically been affected by roadways, ditches, and permitted agricultural activities.

The land-use types Improved Pasture (FLUCFCS Code 211); Row Crops (FLUCFCS Code 214); Fallow Cropland (FLUCFCS Code 261); and Low Pasture, Hydric (FLUCFCS Code 262) compose approximately 65 percent (1,156.36± acres) of the site. The native areas on-site are dominated by Mixed Hardwood Conifer, Disturbed (FLUCFCS Code 4349), which composes approximately 9.2 percent (164.08± acres) of the site; Pine Flatwood, Disturbed (FLUCFCS Code 4119), which composes approximately 5.0 percent (88.33± acres) of the site; Cypress, Disturbed (FLUCFCS Code 6219), which composes approximately 5.0 percent (88.73± acres) of the site; and Wetland Mixed Hardwood Conifer, Disturbed (FLUCFCS Code 6309), which composes approximately 3.3 percent (59.05± acres) of the site. The other 12.5 percent of the Project site consists of a variety of different land uses.

The existing area surrounding the Horse Trials site consists of agricultural lands. State Road 29 abuts the eastern boundary of the site and Oil Well Road abuts the southern boundary of the site.

PROPOSED WORK: The applicant seeks authorization to discharge fill material into 29.48± acres of wetlands and 7.63± acres of surface waters comprised of agricultural ditches, and to excavate 8.93± acres of wetlands. Proposed wetland impacts are primarily limited to lower quality wetlands which are part of existing agricultural operations.

AVOIDANCE AND MINIMIZATION INFORMATION – The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

Horse Trials follows the rural planning strategy adopted through the Collier County in the Rural Lands Stewardship Program (RLSP). The purpose of the RLSP is to create an incentive-based land use overlay system to encourage smart growth patterns in rural areas of the county, known as the Rural Lands Stewardship Area (RLSA). Under the RLSP, new communities can only be established on privately owned lands that meet specific suitability criteria, and cannot occur on lands designated as Flow-way Stewardship Areas (FSAs) or Habitat Stewardship Areas (HSAs). During the development of the RLSP, natural resources, including wetlands and listed species habitat, were identified and mapped on a regional scale. FSAs are primarily wetlands located within the Camp Keais Strand and Okaloacoochee Slough, which establish the primary wetland flow-way systems in the RLSA. HSAs include lands whose natural

characteristics make them suitable habitat for listed species, as well as lands that are contiguous to this suitable habitat that form a continuum of landscape that could improve habitat value for listed species. Areas that have minimal ecological significant were designated as open in the RLSA. In order to direct development away from areas of higher natural resource value, the open areas act as receiving areas for density and development, and the HSAs and FSAs are used as sending areas. As such, the applicant is furthering the purposes of Section 230.10(d) by participating in and complying with the requirements of the RLSP, including by focusing development within open areas and away from HSAs and FSAs. The RLSP requires the applicant to avoid impacts to significant wetlands and listed species habitat by directing development away from HSAs and FSAs. The site plan was designed to utilize the existing and permitted agriculture fields for the construction of the project, and to avoid and minimize discharges to the natural wetland habitats on-site. The regulated discharge to wetlands is mostly limited to the lower quality wetlands which are part of the historical agricultural operations. The Horse Trials site plan preserves and enhances 84.5 percent (216.06± acres) of the wetlands within the project site. In addition, to minimize impacts to higher quality wetlands and higher quality uplands on-site, the project focuses development on lower quality agriculture fields.

Seasonal water elevations for the preserved wetlands will be maintained by routing surface water flows from the proposed development areas through stormwater management facilities. Treated stormwater will then be discharged into on-site wetlands and sheet flow through the wetlands will convey surface flows to off-site receiving wetlands. Control elevations for the stormwater management system were established based on the biological indicators elevations of wetland water levels. These design features will ensure that the hydroperiod within on-site preserved wetlands and off-site receiving wetlands are maintained.

COMPENSATORY MITIGATION – The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

The Project will provide a total of 557.26± acres of on-site conservation areas, approximately 217.29± acres of which will be utilized as compensatory mitigation for impacts to wetlands. The on-site conservation areas also include 141.02± acres of upland preservation and enhancement and 198.09± acres of native habitat restoration in existing farm fields and disturbed lands under the RLSA. In addition, the on-site conservation areas include 0.86± acre of nature trails and boardwalks.

The on-site compensatory wetland mitigation includes the enhancement and preservation of 217.29± acres of wetlands. Within this area, exotic vegetation will be hand removed from 94.14± acres of wetlands. Supplemental planting will be conducted in hand removal areas where exotic vegetation currently exceeds 50 percent coverage if, after two years, natural recruitment has not occurred or if sufficient coverage of native vegetation has not been achieved. Mechanical removal of exotics will be conducted within 123.15± acres of

wetlands with greater than 75 percent cover by exotic species. After exotic removal, these areas will be graded to wetland elevations, and planted with native vegetation.

### **CULTURAL RESOURCES:**

The Corps has evaluated the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act and has followed the guidelines of 33 CFR Part 325, Appendix C. An archaeological and historical survey of the site was conducted by Archaeological Consultants, Inc. (ACI) in July and August 2023. No archaeological or historic sites were documented during the survey. The Florida Department of State, Division of Historical Resources (DHR) issued a letter dated March 1, 2024, indicating concurrence with ACI's determination. The DHR letter states that the development of the site will not affect any historic properties eligible for listing in the National Register of Historic Places, or otherwise of historical or archaeological value. Therefore, the Corps has determined that Horse Trials would have No Potential to Cause Effects to Historic Properties.

This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, those federally recognized tribes with concerns in Florida and the Permit Area, and other interested parties.

#### **ENDANGERED AND THREATENED SPECIES:**

The Corps has determined the proposed action will have no effect on the red-cockaded woodpecker (*Picoides borealis*); may affect but is not likely to adversely affect the Everglade snail kite (*Rostrhamus sociabilis plumbeus*); is not likely to adversely affect the wood stork (*Mycteria americana*); may affect the Eastern indigo snake (*Drymarchon corais couperi*), Florida panther (*Puma concolor coryi*), crested caracara (*Caracara cheriway*), and tri-colored bat (*Perimyotis subflavus*) (a species that is not currently listed but has been proposed for federal listing); and may affect, and is likely to adversely affect the Florida bonneted bat (*Eumops floridanus*), subject to further consultation with the USFWS. No critical habitat has been designated for Eastern indigo snake, wood stork, crested caracara, red-cockaded woodpecker, Florida panther, or tri-colored bat. Critical habitat has been designated for the Everglade snail kite and Florida bonneted bat. The Horse Trials site is not located within the critical habitat for the Everglades snail kite or the Florida bonneted bat.

The Corps will request the concurrence from USFWS on the determinations for the Everglade snail kite and wood stork via a separate letter. The letter will also request the initiation of formal consultation on the Eastern indigo snake, crested caracara, Florida panther, Florida bonneted bat, and tri-colored bat. The following provides a summary and justification for each effects determination

The Project site is located in an area where the Everglade snail kite, a federally endangered species, may occur. Everglade snail kites have been documented foraging on the Horse Trials site in areas designated as Cropland and Pastureland (FLUCFCS Code 210) and as Wetland Mixed Hardwood Conifer (FLUCFCS Code 6309). No Everglade snail kite nesting activities have been observed within the Horse Trials site. Critical habitat has been designated for the Everglade snail kite; however, the site is not located within or adjacent to this critical habitat. On-site wetland mitigation and the creation of Horse Trials lake buffer and stormwater management ponds, with associated littoral zones and native plantings, will increase the potential foraging habitat for the Everglade snail kite within the landscape. As such, the Corps anticipates the proposed action may affect but is not likely to adversely affect the Everglade snail kite.

The Horse Trials site includes cover types that could be used by red-cockaded woodpeckers, a federally endangered species, if situated in an appropriate landscape. Surveys for red-cockaded woodpeckers, conducted by the applicant's agent, did not reveal the presence of red-cockaded woodpecker within the Horse Trials site and no cavities in live trees (which could be excavated by red-cockaded woodpecker) were documented. According to the Florida Fish and Wildlife Conservation Commission (FWCC) database of documented occurrences of listed species, there are no documented red-cockaded woodpecker colonies within the Horse Trials site. The nearest documented red-cockaded woodpecker colony is located approximately seven miles southwest of the site. Therefore, the Corps anticipates the proposed action will have no effect on the red-cockaded woodpecker.

The Horse Trials site is located in an area where the eastern indigo snake, a federally threatened species, may occur. Surveys conducted within the Horse Trials site by the applicant's agent, did not reveal the presence of eastern indigo snake but did document occurrences of its commensal species, the gopher tortoise; gopher tortoise burrows were identified on site during the listed species surveys. The applicant will implement an eastern indigo snake management plan at the Horse Trials site which follows the USFWS guidelines outlined in the Standard Protection Measures for the Eastern Indigo Snake. Using the USFWS North and South Florida Programmatic Effect Determination Key results in the following sequential determination: A>B>C "may effect".

The Horse Trials site is located within the Core Foraging Area (CFA) for three wood stork colonies. The wood stork is federally listed as threatened. Habitat compensation for impacts to wetlands and waters that may be used by wood storks will be provided through the on-site wetland compensatory mitigation. Using the wood stork key provided in the USFWS's May 18, 2010 South Florida Programmatic Concurrence Letter results in the following sequential determination: A > B > C > E "not likely to adversely affect".

Crested caracara surveys have been conducted within the Horse Trials site with documented caracara nest locations. USFWS Draft Species Conservation Guidelines, South Florida, Audubon's Crested Caracara was referenced for the effect determination for Horse Trials. Use of the guidelines results in the determination that the proposed action may affect the crested caracara. The applicant has proposed a management plan

for the crested caracara to minimize the potential for disturbance to nesting individuals. If construction activities are to occur within the primary zone of an active nest identified during the most recent nesting season, restoration of caracara nesting and foraging habitat on a scale equal to the portion of the breeding territory that is impacted by construction activities will be conducted. The USFWS's Florida Ecological Services Office and the FWCC will be contacted prior to start of the construction activities and will provide the location and extent of proposed restoration activities. Once restoration activities have been completed, the restored habitat will be maintained in perpetuity and managed in a state that supports use by crested caracara.

The Horse Trials site contains cover types that could be used by the bonneted bat and tri colored bat for foraging and roosting if situated in an appropriate landscape. The Florida bonneted bat is federally listed as endangered and the tri colored bat is a species proposed for federal listing under the Endangered Species Act. Florida bonneted bat calls were recorded during an acoustic survey conducted at the Horse Trials site by the applicant's agent. According to data available through the USGS North American Bat Monitoring Program, the tri-colored bat has been documented via acoustic surveys at nearby properties, including Golden Gate Estates. The October 22, 2019, the Florida Bonneted Bat Consultation Guidelines were used to conduct a sequential effect determination. Use of the key resulted in the following determination for the bonneted bat: 1a > 2a > 3b > 6a > 7a > 8b > "May affect and is likely to adversely affect" (LAA). The applicant has proposed to implement several best management practices set out in the Florida Bonneted Bat Consultation Key. Implementation of best management practices could change the LAA determination to "may affect, not likely to adversely affect". Potential direct effects to the tri-colored bat include harassment by construction activities, and disruption of normal behaviors as a result of the conversion of available habitat for roosting, foraging, breeding, and dispersing. Potential indirect effects include reduced foraging and roosting opportunities due to habitat loss. As a result, the Corps anticipates the proposed action may affect the tri-colored bat.

The Horse Trials site is within the USFWS designated Focus Areas for the Florida panther. Florida panthers and their sign have been documented within the Horse Trails site during wildlife surveys conducted by the applicant's agent. Application of the Florida Panther Effect Determination Key (February 19, 2007) results in keyed responses A., B., which is a "may affect" determination under the Key. Horse Trials also includes regional conservation measures that will be implemented to preserve, restore, and connect potential panther habitat.

NAVIGATION: The proposed activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The project will not require permission under Section 14 of the Rivers and Harbors Act (33 U.S.C. §408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works Project.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the U.S. Army Corps of Engineers, New England District, Regulatory Division, 696 Virginia Road, Concord, Massachusetts 01742 within 30 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the Project manager, Christine Jacek, in writing at the U.S. Army Corps of Engineers, New England District, Regulatory Division, 696 Virginia Road, Concord, Massachusetts 01742; by electronic mail at Christine.M.Jacek@usace.army.mil; or, by telephone at (978)-318-8026.

IMPACT ON NATURAL RESOURCES: Coordination with USFWS, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act.

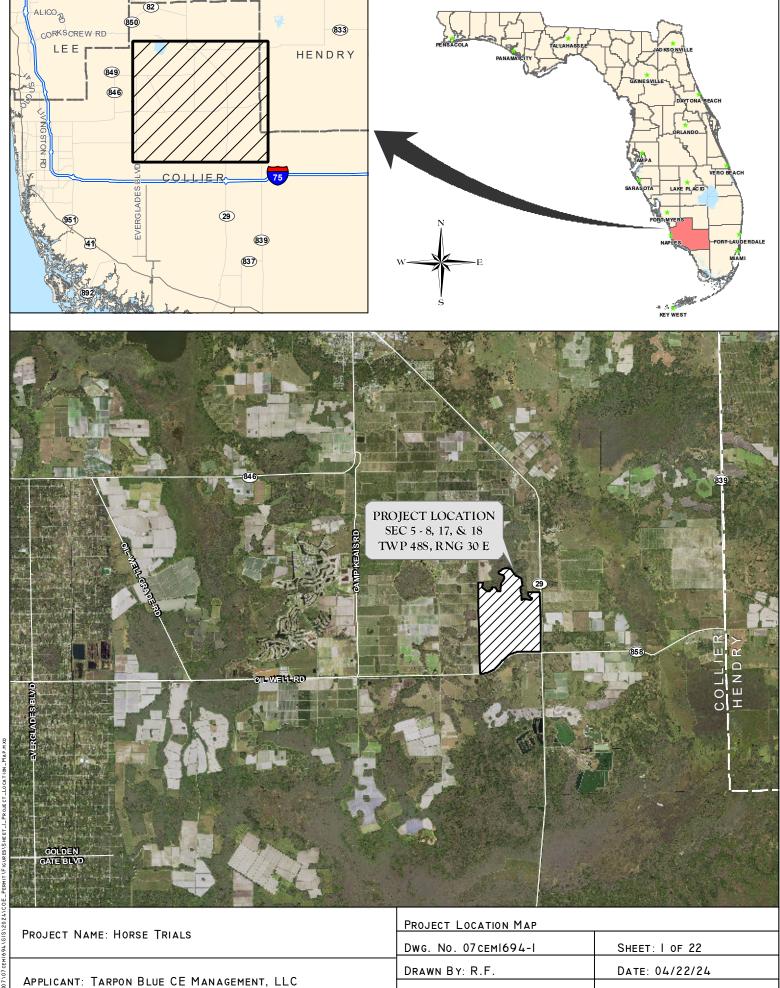
The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received

will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

WATER QUALITY CERTIFICATION: Water Quality Certification may be required from the South Florida Water Management District (SFWMD). An application for an ERP is currently under review by the SFWMD (Application No. 240202-42238).

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.



REVISIONS:

SCALE: N.T.S



WETLAND PRESERVE (216.06 Ac.±)



WETLAND PRESERVE -NOT USED FOR MITIGATION (0.95 Ac.±)



WETLAND FILL (29.48 Ac.±)



WETLAND EXCAVATION (8.93 Ac.±)



WATERS PRESERVE (8.67 Ac.±)



WATERS FILL (7.63 Ac.±)



UPLAND PRESERVE (337.84 Ac.±)



UPLAND PRESERVE -NOT USED FOR MITIGATION (I.99 Ac.±)



LAKE



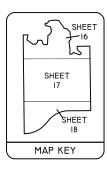
PROPERTY BOUNDARY AND SITE PLAN PER LJA ENGINEERING INC., DRAWING No. 1362IPBASE01-091624.DWG DATED SEPTEMBER 16, 2024.

SURVEYED WETLAND LINES PER AGNOLI BARBER & BRUNDAGE INC., DRAWING No. 13453ME06-JDL-112023.DWG DATED NOVEMBER 20, 2023.

FLUCFCS LINES ESTIMATED FROM I"=200' AERIAL PHOTOGRAPHS AND LOCATIONS APPROXIMATED.

FLUCFCS PER FLORIDA LAND USE, COVER AND FORMS CLASSIFICATION SYSTEM (FLUCFCS) (FDOT 1999).

UPLAND/WETLAND LIMITS HAVE NOT BEEN REVIEWED BY ANY REGULATORY AGENCY AND ARE SUBJECT TO CHANGE.



CODE PRESERVE MITIGATION FILL EXCAVATION PRESERVE FILL 262 9.37 Ac.± 6.48 Ac.± 5.93 Ac.± 4221 30.60 Ac.± 0.18 Ac.± 4281 E1 0.29 Ac. ± 0.02 Ac.± 514 7.35 Ac. ± 7.63 Ac.± 525 1.32 Ac.± 6189 E2 2.71 Ac.± 6189 E3 2.45 Ac.± 0.13 Ac.±  $0.04~\text{Ac.} \pm$ 0.53 Ac.± 6219 E1 0.35 Ac.+ 6219 E2 2.93 Ac. ± 0.02 Ac. ± 6219 E3 38.41 Ac.± 0.17 Ac.± 0.24 Ac.± 6219 E4 45.56 Ac.± 1.06 Ac.± 6249 E1 7.61 Ac.± 0.20 Ac.± 6249 E2 3.72 Ac.± 0.20 Ac.± 6249 E3 0.04 Ac.+ 13.18 Ac.± 6249 E4 5.67 Ac.± 0.48 Ac.± 6259 E4 5.33 Ac.± 6309 F1 6.04 Ac + 0.53 Ac.± 0.18 Ac + 4.39 Ac + 6309 E2 5.35 Ac.± 0.65 Ac.± 6309 E3 15.33 Ac.± 0.93 Ac.± 6309 E4 22.65 Ac.± 3.01 Ac.±

0.12 Ac.±

2 22 Ac +

0.32 Ac.±

0.43 Ac.±

0.50 Ac. ±

1 83 Ac +

29.48 Ac. ± 8.93 Ac. ±

WETLAND WETLAND

WATERS

WATERS

TOTAL

21.78 Ac.±

30.78 Ac.±

0.31 Ac.±

14.99 Ac.±

1.32 Ac.±

2.71 Ac.±

3.15 Ac.±

0.35 Ac.±

2.95 Ac. ±

38.81 Ac.±

46.62 Ac.±

7.81 Ac.±

3.92 Ac.±

13.22 Ac.±

6.14 Ac.±

5.33 Ac.±

11 14 Ac +

6.00 Ac.±

16.26 Ac.±

25.65 Ac.±

0.00 Ac.±

4.43 Ac.±

4.37 Ac.±

0.32 Ac.±

2.84 Ac.±

0.50 Ac.±

8.67 Ac. ± 7.63 Ac. ± 271.72 Ac. ±

WETLAND PRESERVE -

NOT USED FOR

0.29 Ac.±

0.95 Ac. ±

**FLUCFCS** 

6319 E3

6419 E3

6419 F4

6439 E1

7401

8321

TOTAL

4.02 Ac.±

0.33 Ac.±

2.41 Ac.±

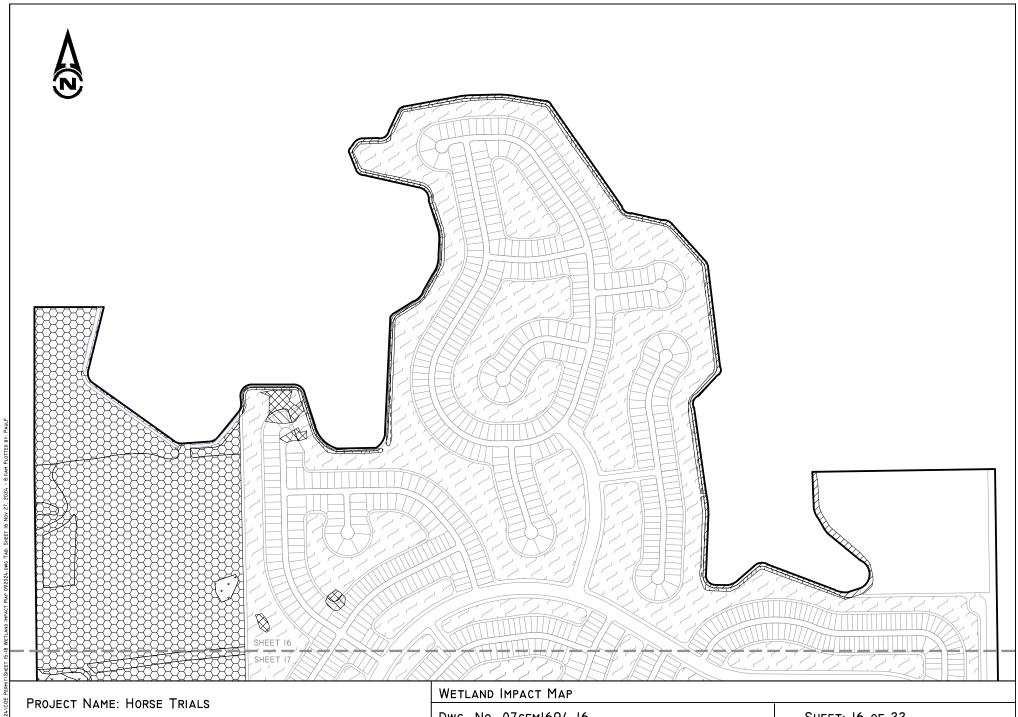
216.06 Ac. ±

WETLAND

PROJECT NAME: HORSE TRIALS	WETLAND IMPACT MAP	
	DWG. No. 07CEMI694-I5	SHEET: 15 OF 22
APPLICANT: TARPON BLUE CE MANAGEMENT, LLC	DRAWN BY: R.F.	DATE: 04/22/24
	REVISIONS: 09/20/24	Scale: I"=800'

T\SHEET I5-I8 WETLAND IMPACT MAP 092024.DNG TAB: SHEET I5 NOV 27, 2024 - 8:IIAM PLOTTED BY: PAULF

107cem1694120241COE PERMITSHEET 15-18 WETLAND IMPACT MAP 092024.DWG TAB: SHEET 15 NOV 2

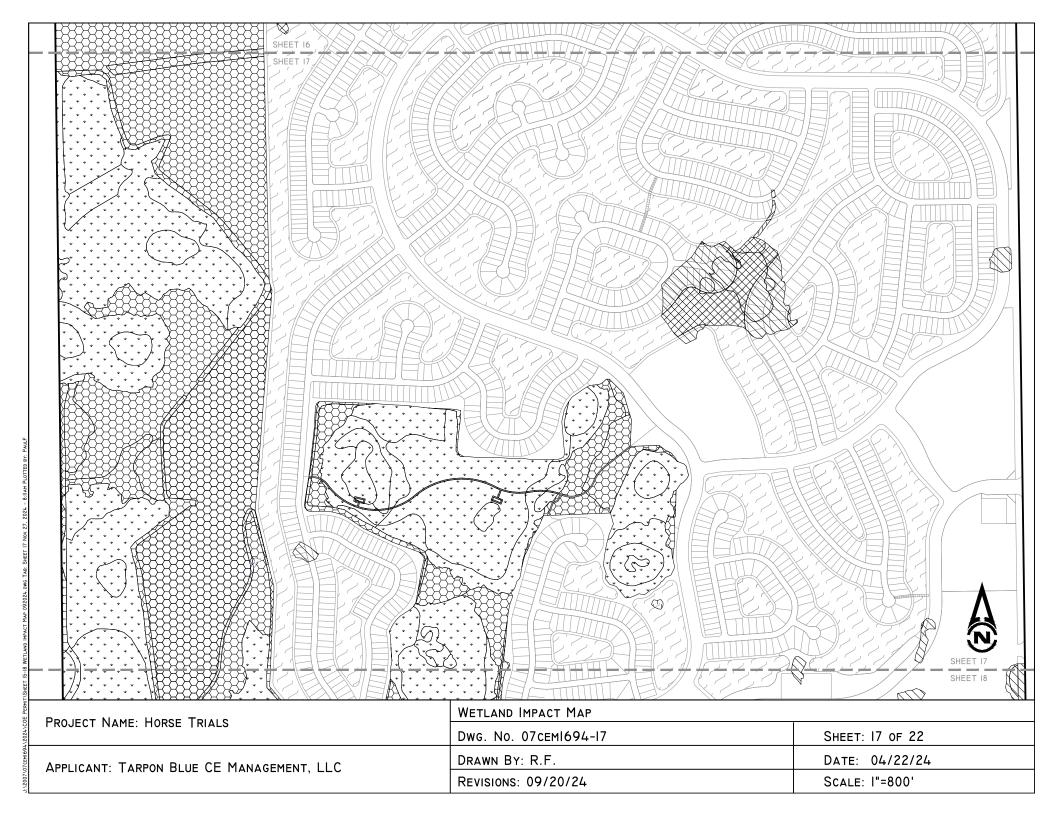


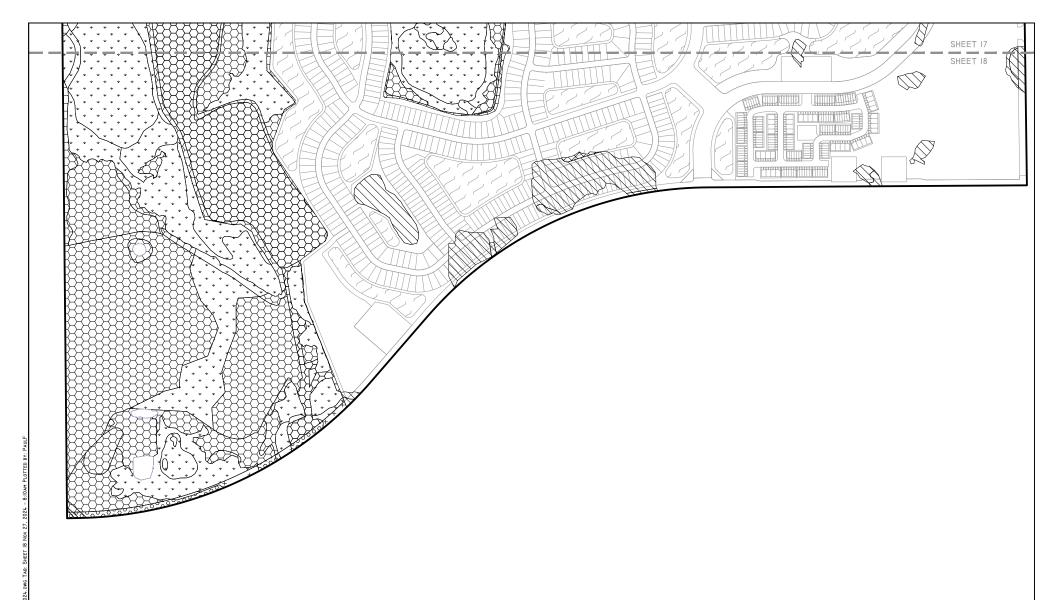
APPLICANT: TARPON BLUE CE MANAGEMENT, LLC

 DWG. No. 07cemI694-I6
 SHEET: I6 OF 22

 DRAWN BY: R.F.
 DATE: 04/22/24

 REVISIONS: 09/20/24
 SCALE: I"=800'







PROJECT NAME: HORSE TRIALS	WETLAND IMPACT MAP	
	DWG. No. 07CEMI694-18	SHEET: 18 OF 22
APPLICANT: TARPON BLUE CE MANAGEMENT, LLC	DRAWN BY: R.F.	DATE: 04/22/24
	REVISIONS: 09/20/24	Scale: I"=800'