



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
POST OFFICE BOX 4970
JACKSONVILLE, FLORIDA 32232

June 19, 2020

REPLY TO
ATTENTION OF

Regulatory Division
North Permits Branch
Jacksonville Permits Section
SAJ-2020-00313
JURISDICTIONAL VERIFICATION

Ganesh Bayard Development, LLC
Attn: Mr. Vipul Patel
644 Cesery Boulevard, Suite 106
Jacksonville, Florida 32211

Sent via: drpatel@absoluteinjury.com

Dear Mr. Patel:

Reference is made to information submitted to the U.S. Army Corps of Engineers (Corps) regarding the potential extent of Federal jurisdiction at 12715 Philips Highway (Duval County Property Appraiser – Parcel Identification Numbers 167934-1000 and 167935-0010), in Section 20, Township 4 South, Range 28 East, Jacksonville, Duval County, Florida. The evaluation of this jurisdictional determination involved many factors and may have included a field visit, review of aerial photographs, geological quad sheets, county soils maps, and site specific information provided by you. A copy of the approved jurisdictional determination form and depiction of the geographic extent of Federal jurisdiction are enclosed. A Department of the Army permit may be required for work in areas identified as waters of the United States.

This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the South Atlantic Division Office at the following address: If you object to this determination, you may request an administrative appeal under Corps' regulations at 33 CFR Part 331. If you request to appeal this determination, you must submit a completed RFA form to the South Atlantic Division Office at the following address:

Mr. Jason Steele
South Atlantic Division
U.S. Army Corps of Engineers
CESAD-CM-CO-R, Room 9M15
60 Forsyth St., SW.
Atlanta, Georgia 30303-8801.

Mr. Steele can be reached by telephone number at 404-562-5137, or by facsimile at 404-562-5138.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the above address by August 17, 2020. It is not necessary to submit a RFA form to the Division Office if you do not object to the determination in this letter.

The determination shown on the enclosed information represents the upland/wetland boundary for purposes of determining the Corps jurisdictional line. As depicted on the enclosed drawings, the property encompasses waters of the United States, which are not subject to regulation by the Corps. Please be advised that the jurisdictional determination shown is based on the *Corps of Engineers Wetlands Delineation Manual (1987)* or current regional supplement, and is valid for a period no longer than 5 years from the date of this letter unless new information warrants a revision of the determination before the expiration date. If, after the 5-year period, the Corps has not specifically revalidated this jurisdictional determination, it shall automatically expire. Any reliance upon this jurisdictional determination beyond the expiration date may lead to possible violation of current Federal laws and/or regulations. You may request revalidation of the jurisdictional determination prior to the expiration date. Any revalidation or updating will be considered under the method of jurisdictional determination and other applicable regulations in use at the time of the request. Additionally, this determination has been based on information provided by you or your agent; should we determine that the information was incomplete or erroneous this delineation would be invalid.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are U.S. Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

You are cautioned that work performed below the mean high water line or ordinary high water line in waters of the United States; and/or, the discharge of dredged or fill material into any areas identified on the enclosed information as within Federal jurisdiction, without a Department of the Army permit could subject you to enforcement action. Receipt of a permit from the Department of Environmental Protection or the Water Management District does not obviate the requirement for obtaining a Department of the Army permit.

The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. Please complete our automated Customer Service Survey at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. Your input is appreciated – favorable or otherwise. Please be aware this Internet address is case sensitive and should be entered as it appears above.

Thank you for your cooperation with our permit program. If you have any questions concerning this matter please contact Mark R. Evans by mail at the letterhead address, by electronic mail at mark.r.evans@usace.army.mil, or by telephone at 904-232-2028.

Sincerely,

Muriel M. Blaisdell
Chief, Jacksonville Permits Section

Enclosure

Copy Furnished:

Mr. Byron Peacock (peacockconsultinggroup@yahoo.com)

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Ganesh Bayard Development LLC		File Number: SAJ-2020-00313	Date: June 18, 2020
Attached is:		See Section below	
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
<input type="checkbox"/>	PERMIT DENIAL	C	
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D	
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** *If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.*
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** *If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.*
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** *You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.*
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

Project Manager as noted in letter

If you have questions regarding the appeal process you may contact:

Jason W. Steele
Administrative Appeals Review Officer
USACE – South Atlantic Division
60 Forsyth Street SW, Room 10M15
Atlanta, Georgia 30303-8801
(404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



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): 9 June 2020
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville, Ganesh Bayard Development, LLC, SAJ-2020-00313
C. PROJECT LOCATION AND BACKGROUND INFORMATION: State: Florida, County/parish/borough: Duval, City: Jacksonville, Approximate center coordinates of site (in degree decimal format): Latitude 30.1410°, Longitude -81.5143°, Name of nearest waterbody: Corklan Branch, Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Durbin Creek, Name of watershed or Hydrologic Unit Code (HUC): Durbin Creek - 030801031301
D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY): Office (Desk) Determination - Date: 9 June 2020 - Corps, Field Determination - Date(s): 27 January 2020 - agent

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 no "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 waters2 (RPWs) that flow directly or indirectly into TNWs
Non-RPWs that flow directly or indirectly into TNWs
Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
Impoundments of jurisdictional waters
Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: N/A
Wetlands: ~1.9 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: The project site encompasses two rectangular parcels. The northern parcel is generally surrounded by development, which includes residential properties, a major roadway (U.S. Highway 1), and a local stormwater pond. Similarly, the southern parcel is bordered by a major roadway (U.S. Highway 1), the same local stormwater pond, and a commercial development. A local non-relatively permanent waterway (drainage channel) runs perpendicular to the southern parcel,

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.

between the project parcel and the adjacent commercial development. The northern parcel encompasses 0.95 acre of wetlands, which extends offsite to the northeast. That wetland, including the offsite portion, is approximately 1.75 acres in size. The southern parcel entirely encompasses a 0.14 acre wetland. Both of these wetlands are hydrologically isolated [i.e., *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (SWANCC)] with no nexus to downstream waters. Due to the local topography, neither of these wetland systems has any flow to other waters of the United States (including the nearby non-RPW), even during storm events.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW – N/A
2. Wetland adjacent to TNW – N/A

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

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

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months) if there is a significant nexus. A wetland that directly abuts an RPW is also jurisdictional if there is a significant nexus. A wetland that is adjacent to but that does not directly abut an RPW also 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 (and its adjacent wetlands if any) and a traditional navigable water.

If a significant nexus is required, 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 a significant nexus is required, 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: N/A

(i) General Area Conditions:

Watershed size: **Pick List**
Drainage area: **Pick List**
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW⁴: .
Tributary stream order, if known: .

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

Tributary is: Natural
 Artificial (man-made). Explain: .

⁴ 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 properties with respect to top of bank (estimate):

Average width: feet
Average depth: feet
Average side slopes: **Pick List**.

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: .

Presence of run/riffle/pool complexes. Explain: .

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): %

(c) **Flow:**

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: **Pick List**. Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

Dye (or other) test performed: .

Tributary has (check all that apply):

Bed and banks
 OHWM⁵ (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.⁶ 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:

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

Explain: .

Identify specific pollutants, if known: .

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

Riparian corridor. Characteristics (type, average width): .
 Wetland fringe. Characteristics: .
 Habitat for:
 Federally Listed species. Explain findings: .
 Fish/spawn areas. Explain findings: .
 Other environmentally-sensitive species. Explain findings: .
 Aquatic/wildlife diversity. Explain findings: .

⁵A 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.

⁶Ibid.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

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 **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

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: .

Identify specific pollutants, if known: .

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

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

Vegetation type/percent cover. Explain: .

Habitat for:

Federally Listed species. Explain findings: .

Fish/spawn areas. Explain findings: .

Other environmentally-sensitive species. Explain findings: .

Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any) – N/A

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

Approximately acres in total are being considered in the cumulative analysis.

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 an RPW where the RPW flows directly or indirectly into a TNW.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
4. **Significant nexus findings for wetlands adjacent to an RPW where the RPW flows directly or indirectly into a TNW.** 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:

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: .

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: .

3. **Non-RPWs⁷ 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: .
 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: acres.

⁷See Footnote # 3.

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.⁸**

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):⁹**

- 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): _____

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; i.e., SWANCC Decision), 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: 1.09 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard (i.e., Rapanos Decision), 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.

⁸ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

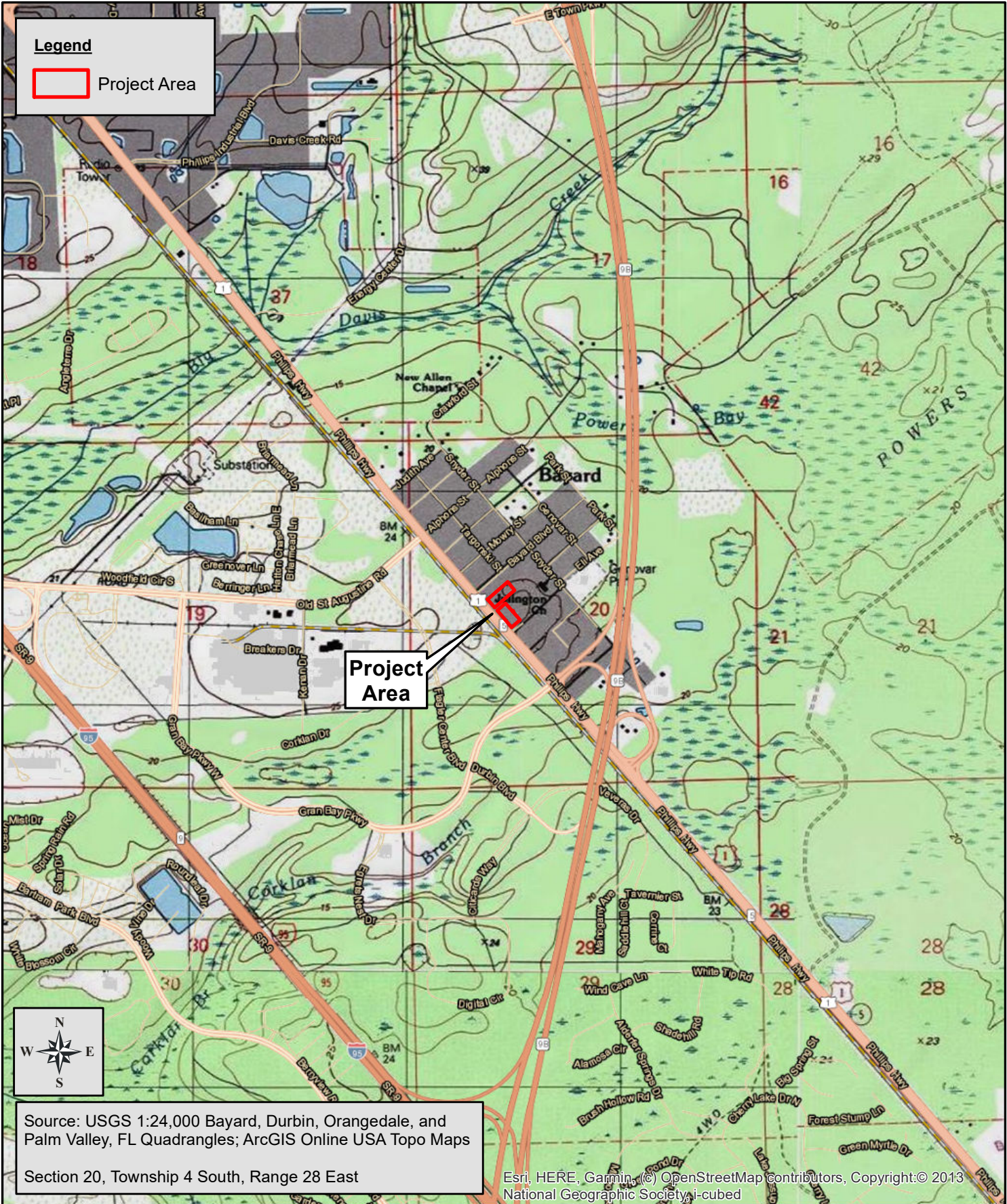
⁹ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Peacock Consulting Group, LLC
- 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: 1" = 2000', Bayard, FL
- USDA Natural Resources Conservation Service Soil Survey: Soil Survey City of Jacksonville, Duval County, Florida
- National wetlands inventory map(s): Bayard, FL
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation:
- Photographs: Aerial: FDOT 2019
or Other: Google Earth (online), Microsoft Bing (online)
- Previous determination(s):
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: St. Johns River Water Management District (SJRWMD) action on the property northeast of the site depicts a definitive separation between the wetland encompassed by the northern project parcel, which extends offsite, and the offsite wetland system associated with the local drainage feature. The SJRWMD action supports the Corps' position/determination that the wetland encompassed by the northern project parcel is hydrologically isolated.



Legend
 Project Area

Project Area

Source: USGS 1:24,000 Bayard, Durbin, Orangedale, and Palm Valley, FL Quadrangles; ArcGIS Online USA Topo Maps
 Section 20, Township 4 South, Range 28 East

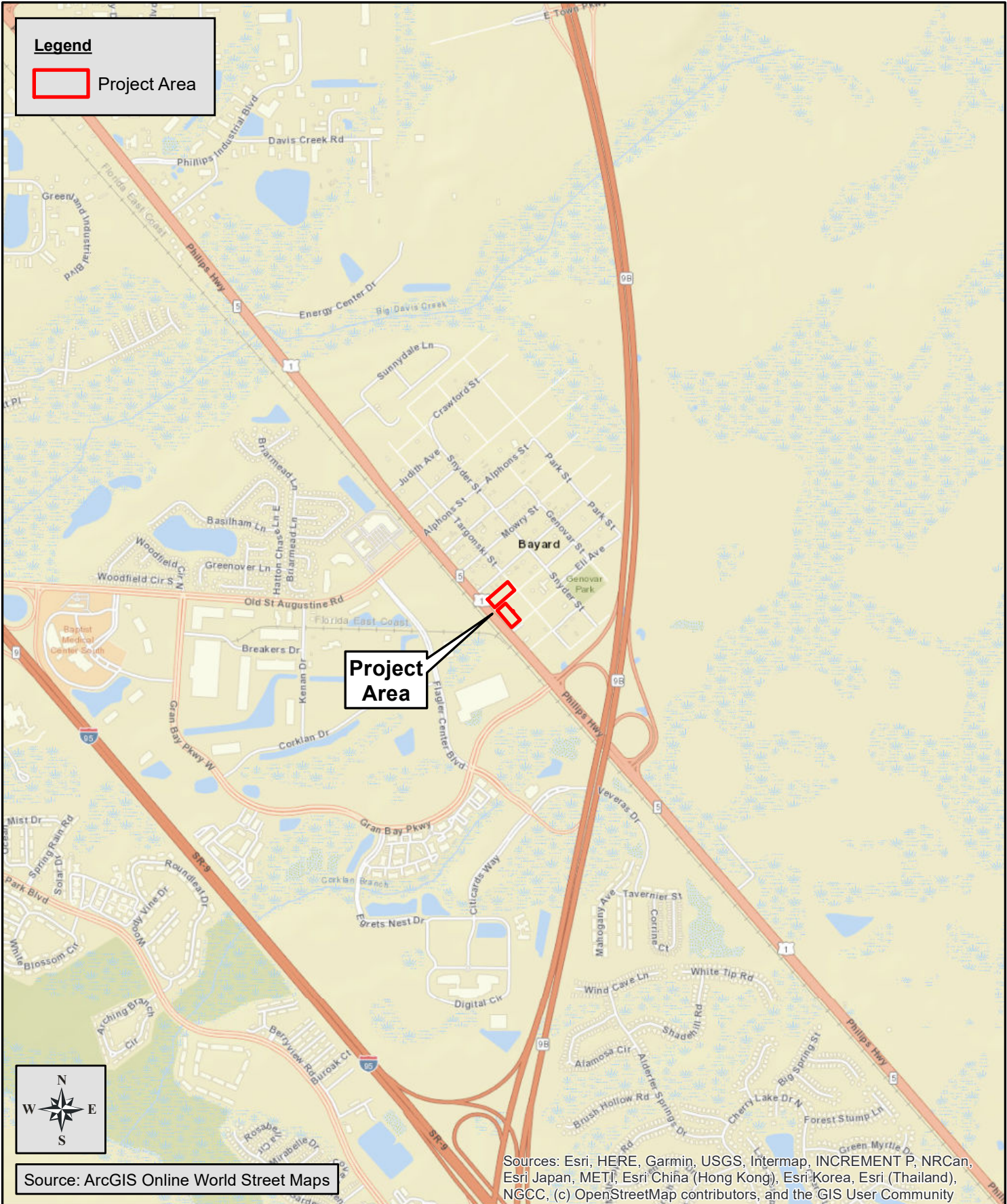
Esri, HERE, Garmin, (c) OpenStreetMap contributors, Copyright:© 2013 National Geographic Society, i-cubed

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Bayard Commercial
 Duval County, Florida
Location/Topographic Map

Figure: 1
 Date: 5-19-20



Legend
 Project Area

Project Area



Source: ArcGIS Online World Street Maps

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

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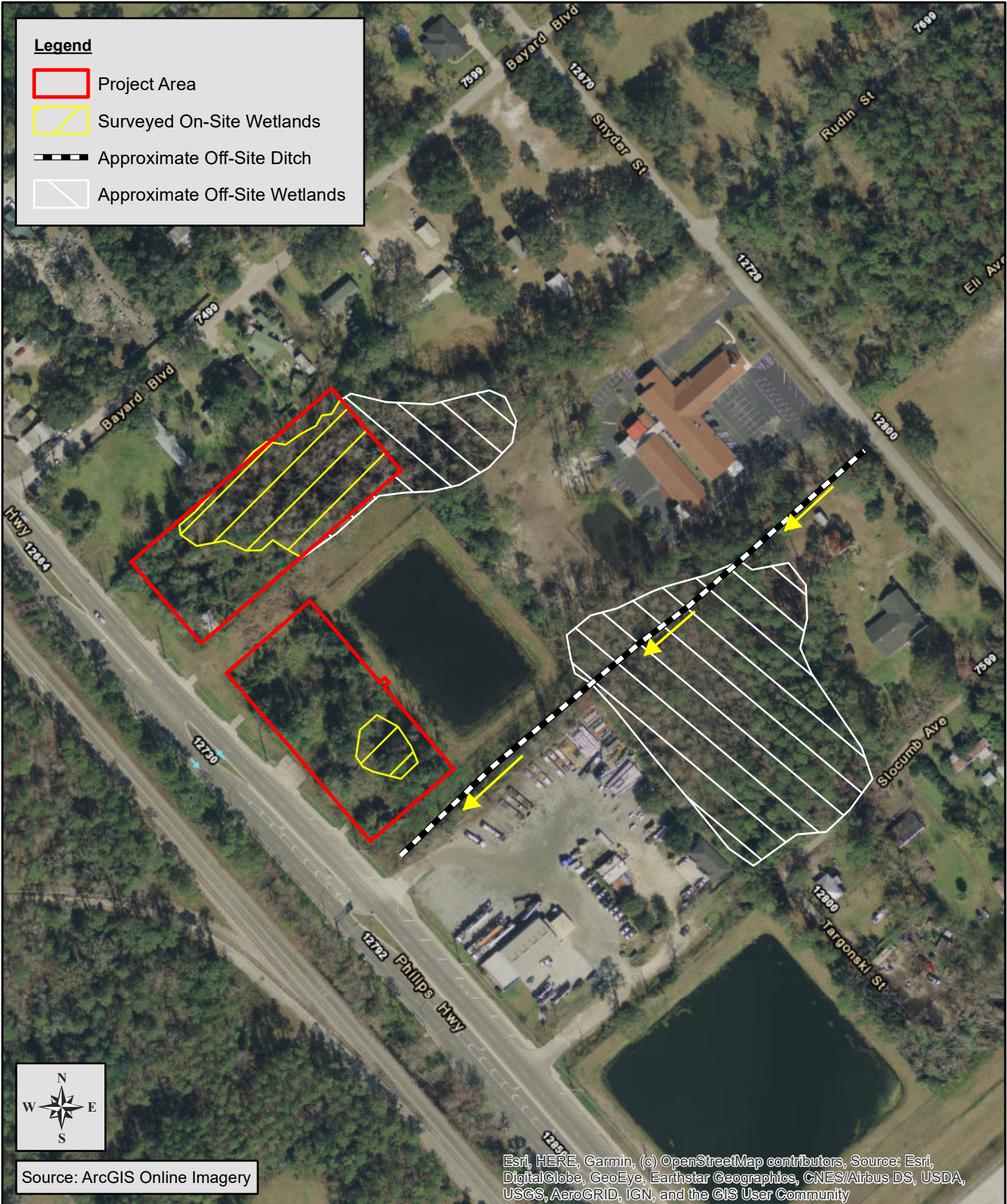
Duval County, Florida

Vicinity Map

Figure: 2

Date: 5-19-20





Legend

- Project Area
- Surveyed On-Site Wetlands
- Approximate Off-Site Ditch
- Approximate Off-Site Wetlands



Source: ArcGIS Online Imagery

Esri, HERE, Garmin, (c) OpenStreetMap contributors, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



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Bayard Commercial
 Duval County, Florida
Current Aerial Photograph

Figure:	3
Date:	5-19-20

Legend

-  Project Area
-  USDA-NRCS Soil Survey, Duval Co

Soil Legend:

- 14 - Boulogne fine sand, 0-2% slopes
- 22 - Evergreen-Wesconnett complex, depressional, 0-2% slopes



Source: ArcGIS Online Imagery, USDA-NRCS Web Soil Survey

Esri, HERE, Garmin, (c) OpenStreetMap contributors, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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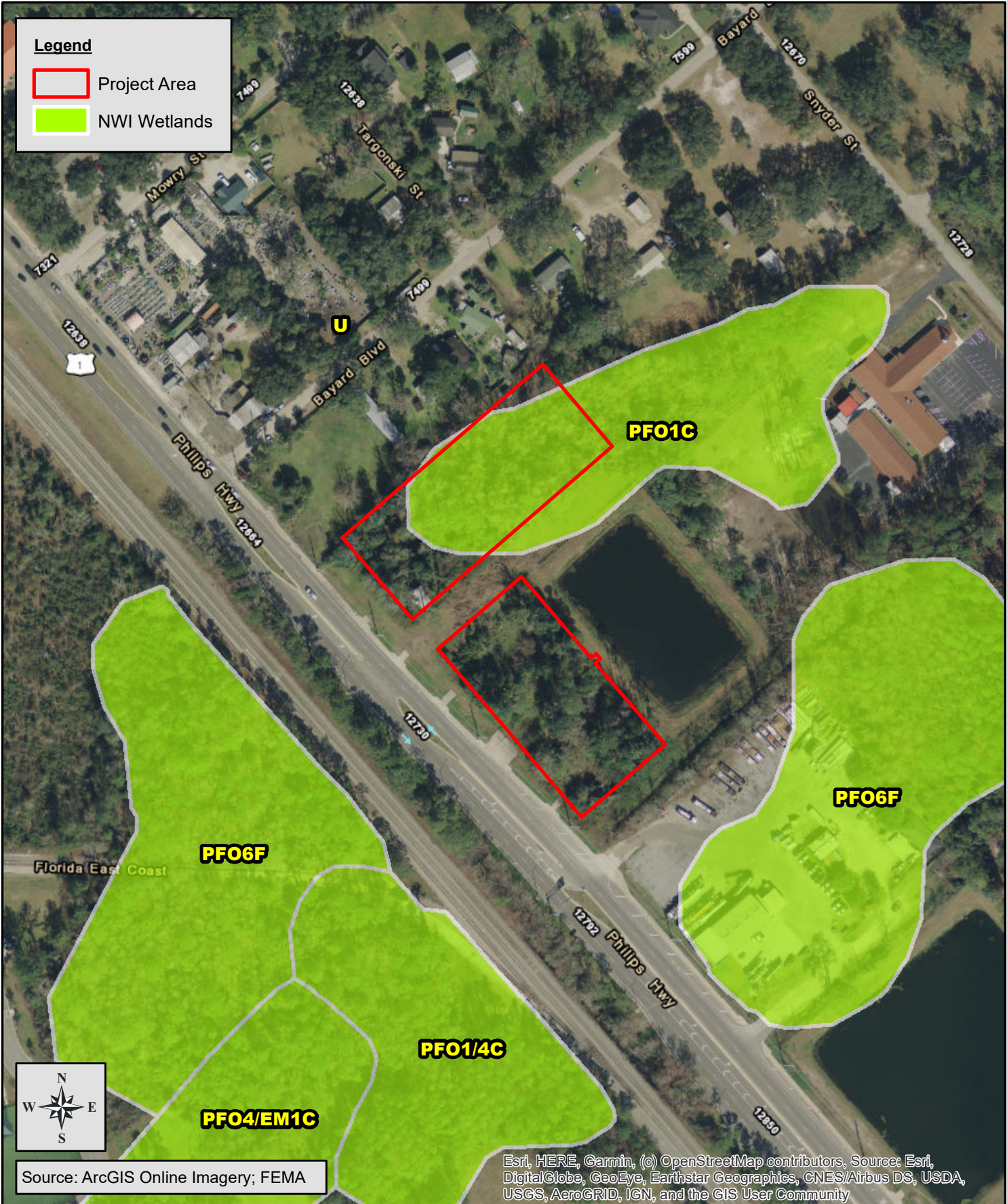
Duval County, Florida

Soils Map

Figure: 4

Date: 5-19-20





Legend

- Project Area
- NWI Wetlands



Source: ArcGIS Online Imagery; FEMA

Esri, HERE, Garmin, (c) OpenStreetMap contributors, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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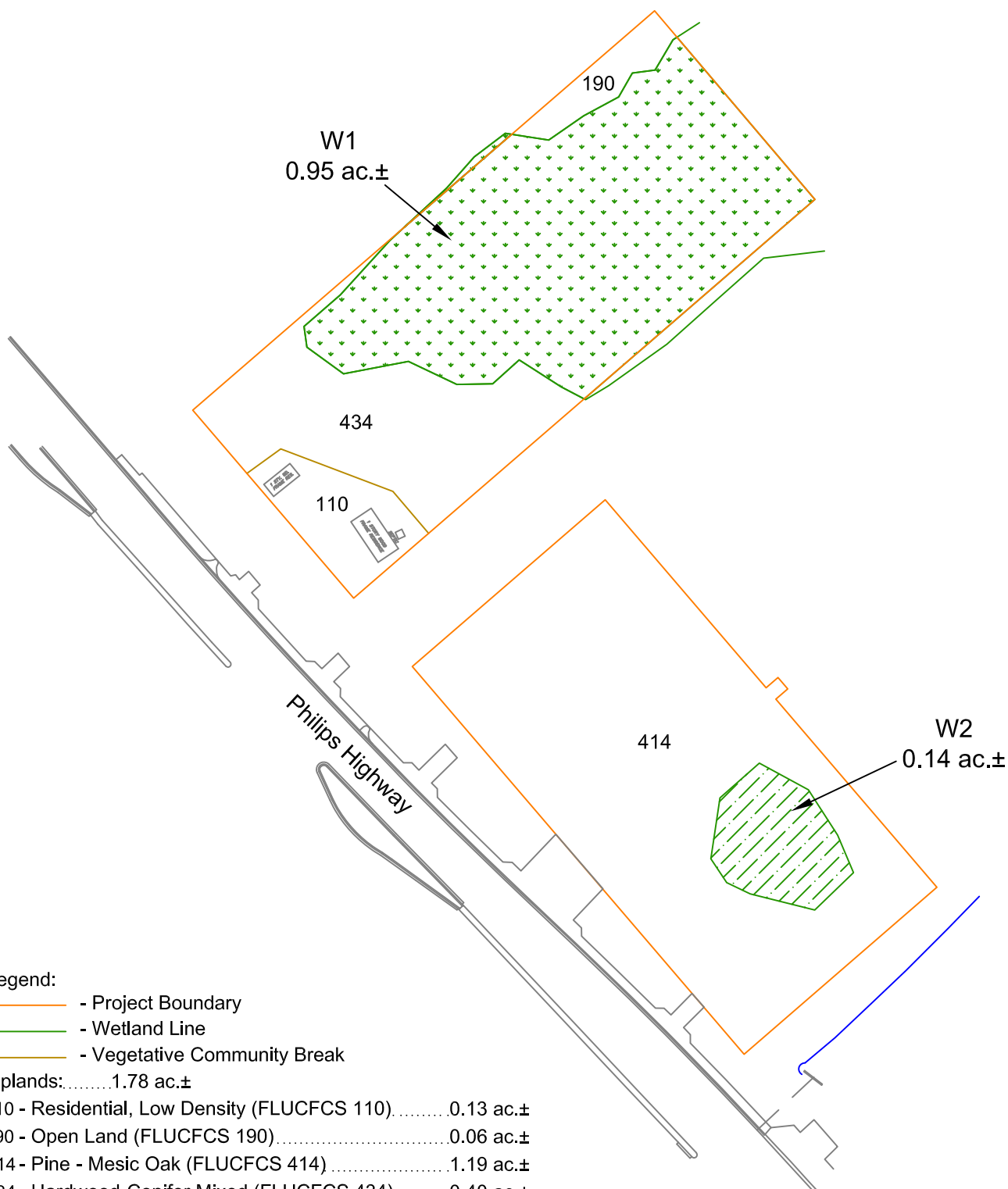
Duval County, Florida

National Wetlands Inventory Map

Figure: 5

Date: 5-19-20





Legend:

- - Project Boundary
- - Wetland Line
- - Vegetative Community Break

Uplands:1.78 ac.±

110 - Residential, Low Density (FLUCFCS 110)0.13 ac.±
190 - Open Land (FLUCFCS 190)0.06 ac.±
414 - Pine - Mesic Oak (FLUCFCS 414)1.19 ac.±
434 - Hardwood-Conifer Mixed (FLUCFCS 434)0.40 ac.±

Wetlands:1.09 ac.±

- ▣ - Inland Ponds and Sloughs (FLUCFCS 616).....0.95 ac.±
- ▨ - Wetland Forested Mixed (FLUCFCS 630).....0.14 ac.±

Total: 2.87 ac.±



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Duval County, Florida
Existing Site Conditions

Figure: 6

Scale: 1" = 100'

Date: 5-19-20

