



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
701 SAN MARCO BLVD
JACKSONVILLE, FL 32207

CESAJ-RDW-T

23 October 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023),¹ SAJ-2024-01073

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court’s decision in *Sackett*. This AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in this state due to litigation.

1. SUMMARY OF CONCLUSIONS.

¹ While the Supreme Court’s decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

Name of Aquatic Resource / Type	Acres (ac) / Linear Feet (LF)	Waters of the US (WOUS)	Section 404 / Section 10
Wetland 1 (W1)	0.84 ac	Non-Jurisdictional	N/A
Wetland 2 (W2)	0.60 ac	Non-Jurisdictional	N/A
Wetland 3 (W3)	0.03 ac	Non-Jurisdictional	N/A
Wetland 4 (W4)	22.25 ac	Non-Jurisdictional	N/A
Wetland 5 (W5)	0.01 ac	Non-Jurisdictional	N/A
Wetland 7 (W7)	24.50 ac	Non-Jurisdictional	N/A
Wetland 8 (W8)	0.04 ac	Non-Jurisdictional	N/A
Wetland 9 (W9)	8.31 ac	Non-Jurisdictional	N/A

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- e. EPA Memorandum dated March 12, 2025, titled "MEMORANDUM TO THE FIELD BETWEEN THE U.S. DEPARTMENT OF THE ARMY, U.S. ARMY CORPS OF ENGINEERS AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY CONCERNING THE PROPER IMPLEMENTATION OF "CONTINUOUS SURFACE CONNECTION" UNDER THE DEFINITION OF "WATERS OF THE UNITED STATES" UNDER THE CLEAN WATER ACT
3. REVIEW AREA. The review area is ±182.75-acre project located immediately west of County Road 33, north of Hammock Grove Road, and south of Falabella Court within Section 33 & 34, Township 20 South, and Range 24 East in Groveland, Lake County, Florida at 28.7061 latitude, -81.9024 longitude. There are no prior jurisdictional determinations for the review area.

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4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest TNW is the Palatlahaha River. The aquatic resources do not flow to the TNW.
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. The aquatic resources within the review area have no direct flow path to the nearest TNW.
6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ N/A
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. TNWs (a)(1): N/A
 - b. Interstate Waters (a)(2): N/A
 - c. Other Waters (a)(3): N/A

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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- d. Impoundments (a)(4): N/A
- e. Tributaries (a)(5): N/A
- f. The territorial seas (a)(6): N/A
- g. Adjacent wetlands (a)(7): N/A

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as “generally non-jurisdictional” in the preamble to the 1986 regulations (referred to as “preamble waters”).⁷ Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water. N/A
- b. Describe aquatic resources and features within the review area identified as “generally not jurisdictional” in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance. N/A
- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. N/A
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. N/A
- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “*SWANCC*,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with *SWANCC*. N/A

⁷ 51 FR 41217, November 13, 1986.

- f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court’s decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

Resource Name	Size	Rationale
Wetland 1 (W1)	0.84 ac	Based on a review of information submitted by Ecological Consulting Solutions, Inc., and a desktop review on August 26, 2025 including: aerial photography, a USGS quadrangle map, NRCS Soil Maps, a review of the National Hydrologic Dataset, Flood Hazard Map, LiDAR and DEP Hillshade maps, Historical Aerials, and photographs of the review area and surrounding areas, the wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfied the criteria set forth in the 1987 Corps’ Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement. Wetland 1 appears to extend offsite to the north. However, Wetland 1, including the offsite portion, is surrounded by uplands. Therefore, Wetland 1 does not abut an (a)(1)-(a)(6) water and is a non-adjacent wetland that is not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a).
Wetland 2 (W2)	0.60 ac	Based on a review of information submitted by Ecological Consulting Solutions, Inc., and a desktop review on August 26, 2025 including: aerial photography, a USGS quadrangle map, NRCS Soil Maps, a review of the National Hydrologic Dataset, Flood Hazard Map, LiDAR and DEP Hillshade maps, Historical Aerials, and photographs of the review area and surrounding areas, the wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfied the criteria set forth in the 1987 Corps’ Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional

		<p>Supplement. Wetland 2 appears to extend offsite to the north. However, Wetland 2 including the offsite portion, is surrounded by uplands. Therefore, Wetland 2 does not abut an (a)(1)-(a)(6) water and is therefore a non-adjacent wetland that is not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a).</p>
Wetland 3 (W3)	0.03 ac	<p>Based on a review of information submitted by Ecological Consulting Solutions, Inc., and a desktop review on August 26, 2025 including: aerial photography, a USGS quadrangle map, NRCS Soil Maps, a review of the National Hydrologic Dataset, Flood Hazard Map, LiDAR and DEP Hillshade maps, Historical Aerials, and photographs of the review area and surrounding areas, the wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfied the criteria set forth in the 1987 Corps' Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement. Wetland 3 is surrounded by uplands and does not abut an (a)(1)-(a)(6) water. Therefore, Wetland 3 is a non-adjacent wetland that is not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a).</p>
Wetland 4 (W4)	22.25 ac	<p>Based on a review of information submitted by Ecological Consulting Solutions, Inc., and a desktop review on August 26, 2025 including: aerial photography, a USGS quadrangle map, NRCS Soil Maps, a review of the National Hydrologic Dataset, Flood Hazard Map, LiDAR and DEP Hillshade maps, Historical Aerials, and photographs of the review area and surrounding areas, the wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfied the criteria set forth in the 1987 Corps' Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement. However, Wetland 4 is part of a larger wetland that extends offsite and appears to</p>

		flow offsite to Clearwater Lake. Clearwater Lake does not appear to flow directly or indirectly to a TNW and is not considered an (a)(5) tributary or other requisite water. Wetland 4 does not abut an (a)(1)-(a)(6) water and is a non-adjacent wetland that is not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a).
Wetland 5 (W5)	0.01 ac	Based on a review of information submitted by Ecological Consulting Solutions, Inc., and a desktop review on August 26, 2025 including: aerial photography, a USGS quadrangle map, NRCS Soil Maps, a review of the National Hydrologic Dataset, Flood Hazard Map, LiDAR and DEP Hillshade maps, Historical Aerials, and photographs of the review area and surrounding areas, the wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfied the criteria set forth in the 1987 Corps' Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement. Wetland 5 is surrounded by uplands and does not abut an (a)(1)-(a)(6) water. Therefore, Wetland 5 is a non-adjacent wetland that is not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a).
Wetland 7 (W7)	24.50 ac	Based on a review of information submitted by Ecological Consulting Solutions, Inc., and a desktop review on August 26, 2025 including: aerial photography, a USGS quadrangle map, NRCS Soil Maps, a review of the National Hydrologic Dataset, Flood Hazard Map, LiDAR and DEP Hillshade maps, Historical Aerials, and photographs of the review area and surrounding areas, the wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfied the criteria set forth in the 1987 Corps' Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement. Wetland 7 appears to extend offsite to the north. However, Wetland 7 including the

		offset portion, is surrounded by uplands. Therefore, Wetland 7 does not abut an (a)(1)-(a)(6) water and is a non-adjacent wetland that is not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a).
Wetland 8 (W8)	0.04 ac	Based on a review of information submitted by Ecological Consulting Solutions, Inc., and a desktop review on August 26, 2025 including: aerial photography, a USGS quadrangle map, NRCS Soil Maps, a review of the National Hydrologic Dataset, Flood Hazard Map, LiDAR and DEP Hillshade maps, Historical Aerials, and photographs of the review area and surrounding areas, the wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfied the criteria set forth in the 1987 Corps' Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement. Wetland 8 is surrounded by uplands and does not abut an (a)(1)-(a)(6) water. Therefore, Wetland 8 is a non-adjacent wetland that is not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a).
Wetland 9 (W9)	8.31 ac	Based on a review of information submitted by Ecological Consulting Solutions, Inc., and a desktop review on August 26, 2025 including: aerial photography, a USGS quadrangle map, NRCS Soil Maps, a review of the National Hydrologic Dataset, Flood Hazard Map, LiDAR and DEP Hillshade maps, Historical Aerials, and photographs of the review area and surrounding areas, the wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology, which satisfied the criteria set forth in the 1987 Corps' Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement. Wetland 9 is surrounded by uplands and does not abut an (a)(1)-(a)(6) water. Therefore, Wetland 9 is a non-adjacent wetland that is not jurisdictional under Section 404 of the

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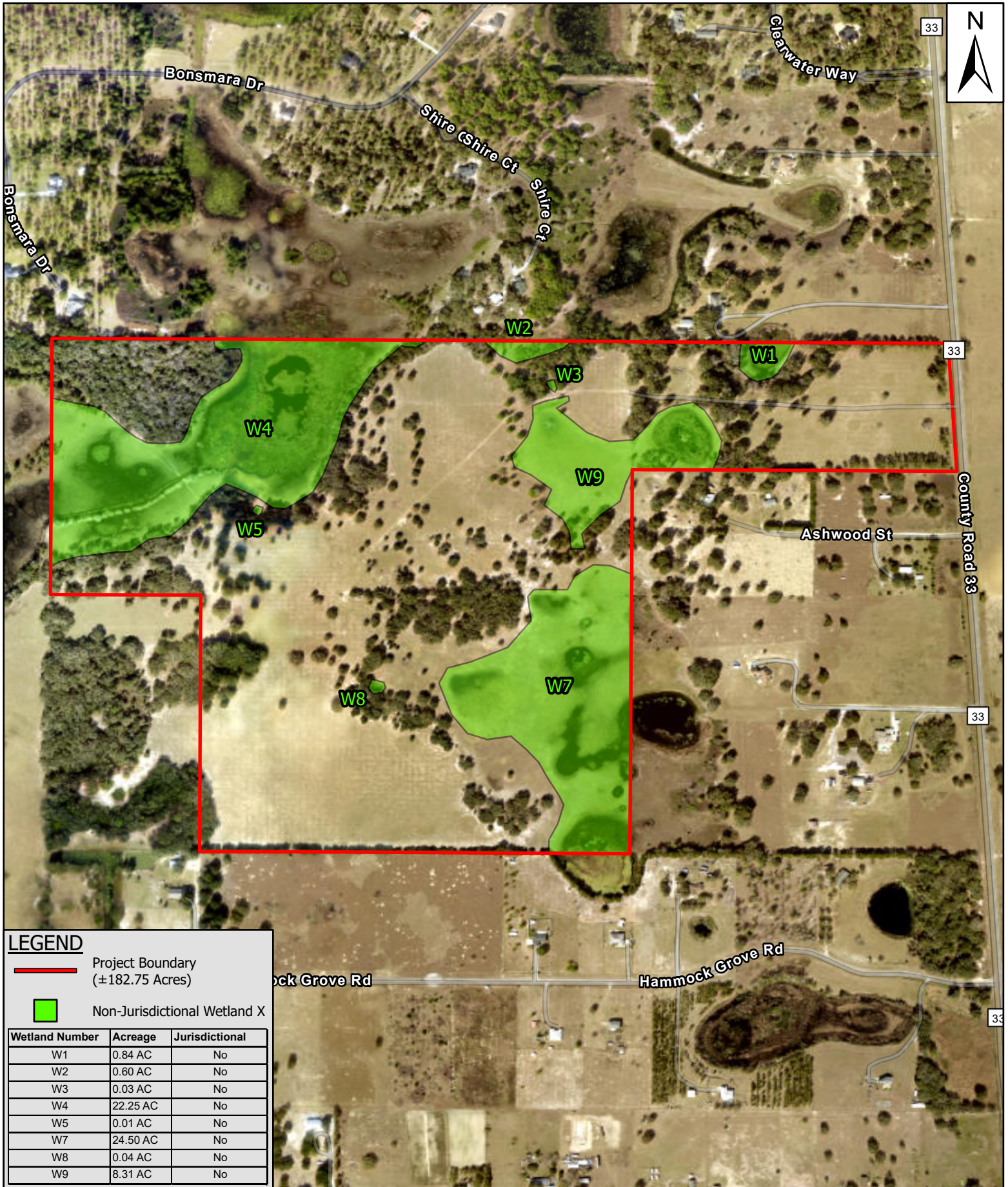
		Clean Water Act as defined by 33 CFR Part 328.3(a).
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9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. Review Performed for Site Evaluation: Office (Desk) Determination. Date: August 22, 2025.
- b. Aquatic Resources delineation submitted by, or on behalf of, the requestor: Approved Jurisdictional Determination Request package including wetland delineation forms, associated data maps, aerials, and photos submitted on February 20, 2025.
- c. USGS 3D Elevation Program (3DEP) Map Service
- d. National Hydrography Dataset (NHD)

10. OTHER SUPPORTING INFORMATION. N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



LEGEND

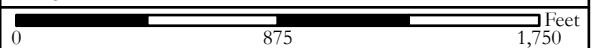
- Project Boundary (±182.75 Acres)
- Non-Jurisdictional Wetland X

Wetland Number	Acreage	Jurisdictional
W1	0.84 AC	No
W2	0.60 AC	No
W3	0.03 AC	No
W4	22.25 AC	No
W5	0.01 AC	No
W7	24.50 AC	No
W8	0.04 AC	No
W9	8.31 AC	No



**BANNING RANCH
LAKE COUNTY, FLORIDA
AQUATIC RESOURCE MAP**

Project #: 191.153.21 DATE: 10/15/25 FIGURE: 3



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