



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
4400 PGA BLVD, SUITE 500
PALM BEACH GARDENS, FL 33410

CESAJ-RD (SAJ-2024-01556)

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-2024-01556.

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 Florida 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).
 - i. On- Site Lake, 11.65 acres, Jurisdictional, Section 404 of the Clean Water Act, Impoundment of historic jurisdictional waters.
 - ii. On-Site Ditch, 0.06 acres, Jurisdictional, Section 404 of the Clean Water Act, Section 10, Tributary.

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)

3. REVIEW AREA. The approximately 72-acre review area is located immediately east of U.S. 27 approximately 3-miles south of Interstate 75 on a family ranch at SW 16th Street, Weston, Broward County, Florida, (Latitude: 26.100428N Longitude: - 80.430141W). Please see Attachment 1 for location map.

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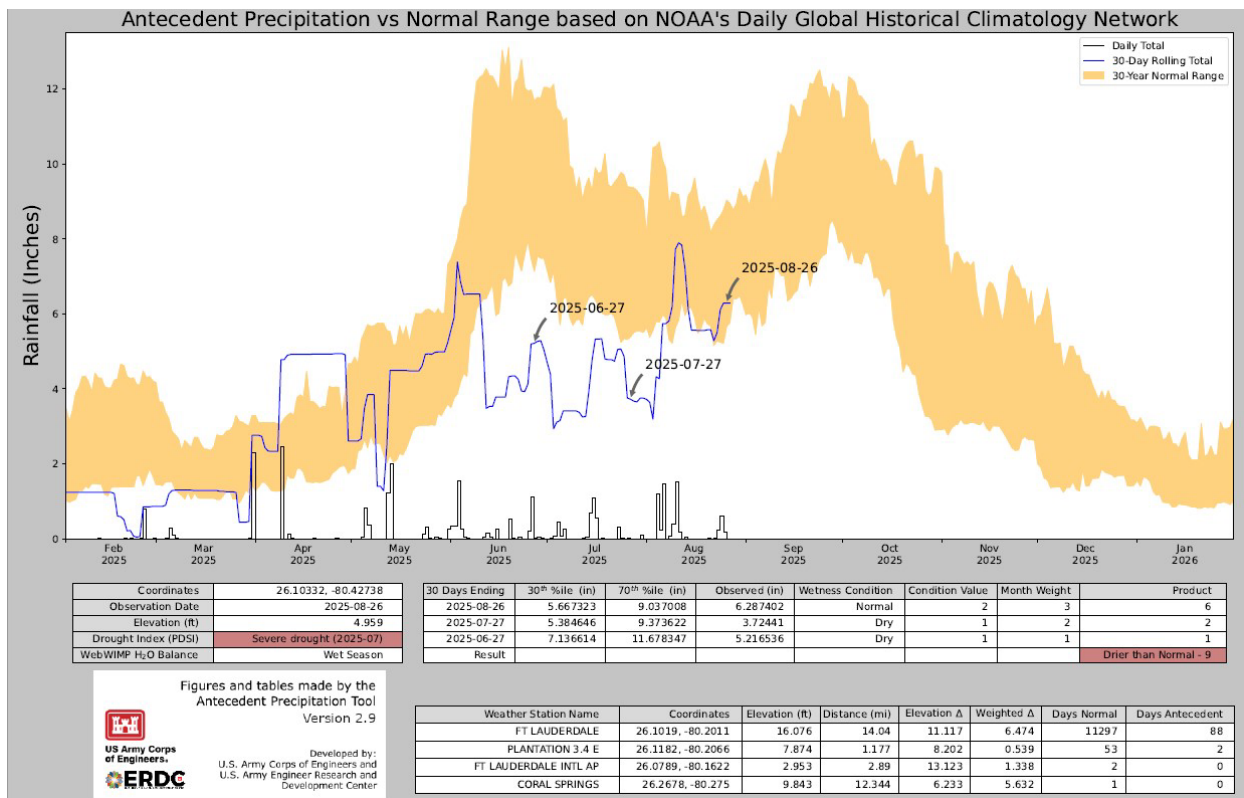


Figure 1: Anticident Precipitation Tool

- NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The Miami Canal is on the Jacksonville District’s Section 10 Waters list. The Miami Canal has a direct connection to Biscayne Bay and Lake Okeechobee. Biscayne Bay is subject to the ebb and flow of the tide and is a Section 10 of the Rivers and Harbors Act water and Lake Okeechobee is a territorial sea. The Miami Canal’s lower reach is subject to the ebb and flow of tide, however distance and water control structures halts the tide. With the removal or modification of several water control structures, the Miami Canal could be used for interstate or foreign commerce.
- FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS: The on-site lake, drains immediately into the on-site ditch which drains into the local A-5 Canal. The A-5 canal runs south through multiple control structures to the C-11 which runs east and west. The C-11 connects the Dania Cut-Off Canal (a Section 10 water) on the coastline that empties into the Intracoastal Waterway to the L-37 and later to the

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Miami Canal (a Section 10 water) west of the site, all three of which are Central and South Florida Canal (C&SF) system.

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
 - d. Impoundments (a)(4): N/A
 - e. Tributaries (a)(5):

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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i. Ditch: The 0.6-acre on-site ditch that flows from the on-site impoundment (lake) is a tributary to the A-5 Canal which is in turn a tributary to the C-11 Canal, a C & SF Canal that connects the Miami Canal (a Section 10 water) and the Dania Cut-Off Canal (a Section 10 water). The ditch has defined banks with sparse aquatic vegetation like lily pads and cattails in the bottom along with historic and current aeriels show that the ditch is a relatively permanent water, and water was actively flowing at the time of the site visit which according to the APT in Figure 1 above was conducted in a wet season severe drought resulting in drier than normal conditions..

ii. Lake: The 11.65-acre lake on-site is a permanent water that appears in historic aeriels to have been dug from wetlands included in the greater Everglades ecosystem. The historic aeriels then indicate the surrounding land was filled, creating the lake and a relatively permanent connection with the on-site ditch.

f. The territorial seas (a)(6): 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

⁷ 51 FR 41217, November 13, 1986.

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- 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
- 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).
N/A
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. Application Figures received from applicant on 24 April 2024, Project Plans. Applicant’s response the Corps request for additional information on 30 May 2025, Historic Aerial Photos, C-512 Canal Exhibit from FDEP Permit, data sheets from
- b. U.S. Army Corps of Engineers. Corps of Engineers Wetland Delineation Manual. January 1987
- c. U.S. Army Corps of Engineers, Engineer Research and Development Center. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, Version 2.0, November 2010.
- d. U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Web Soil Survey, Hydric Rating by Map Unit, accessed on 25 August 2025, <https://websoilsurvey.nrcs.usda.gov/app/>
- e. USDA, NRCS, Field Indicators of Hydric Soils in the United States, version 9.0, <https://www.nrcs.usda.gov/resources/guides-and-instructions/field-indicators-of-hydric-soils>

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- f. Google Earth Aerial Imagery Dated: 06 March 2025, 14 January 2023, 20 Novemebr 2016, 19 November 2007, 30 November 2005, 31, 31 Novemebr 2001, 20 February 1999, 14 January 1994, 30 December 1985
- g. U.S. Army Corps of Engineers, Antecedent Precipitation Tool (APT), v. 2.9: accessed on 30 June 2025
- h. U.S. Army Corps of Engineers, Site Inspection Report dated 19 September 2025
- i. U.S. Army Corps of Engineers, Site Visit Data Forms dated 26 August 2025.

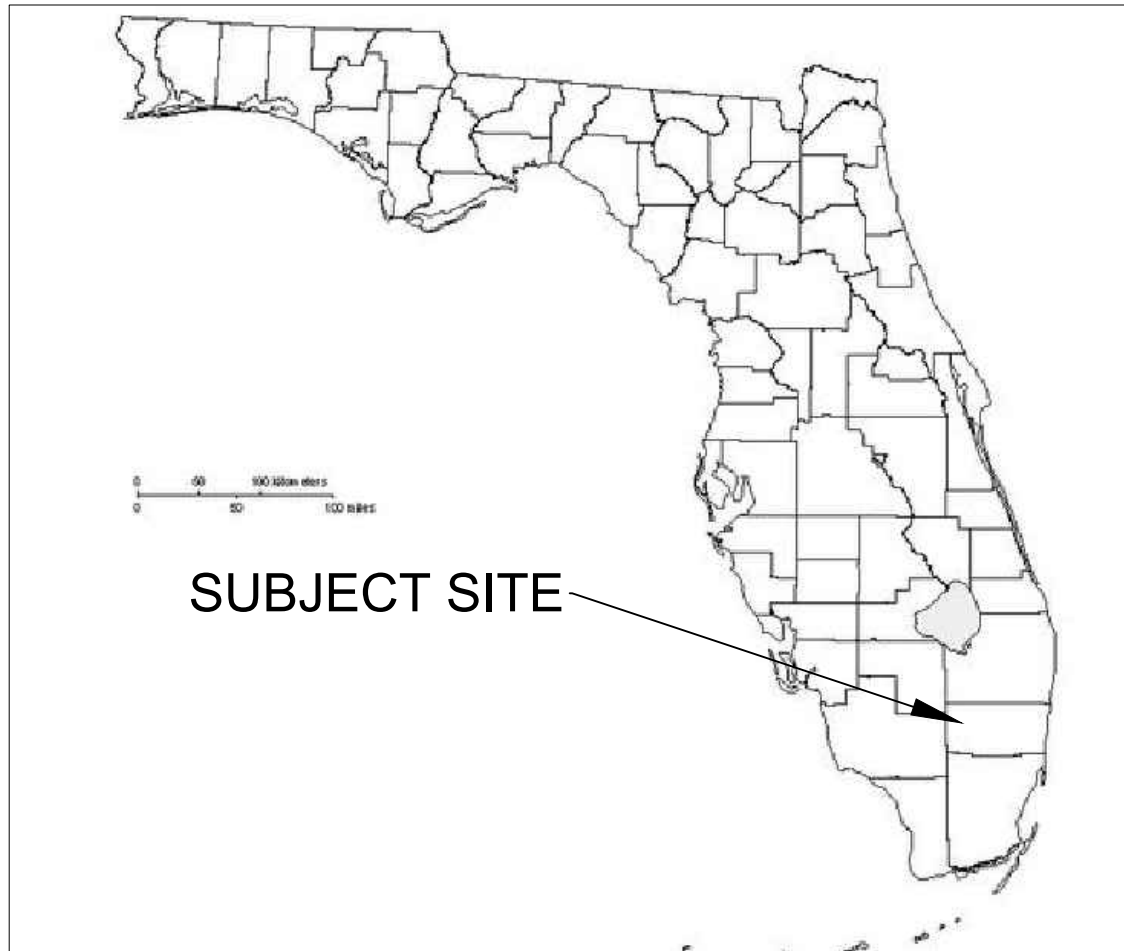
10. OTHER SUPPORTING INFORMATION. N/A

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.

GREEN GLADES EAST

CITY OF WESTON

PLAN SET



DRAWING INDEX

SHEET 1: COVER

**SHEET 2: EXISTING
CONDITIONS**

SHEET 3: DREDGE/FILL

SHEET 4: SECTION A



VICINITY AERIAL (N.T.S.)

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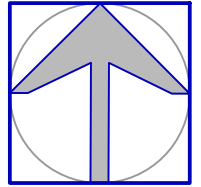
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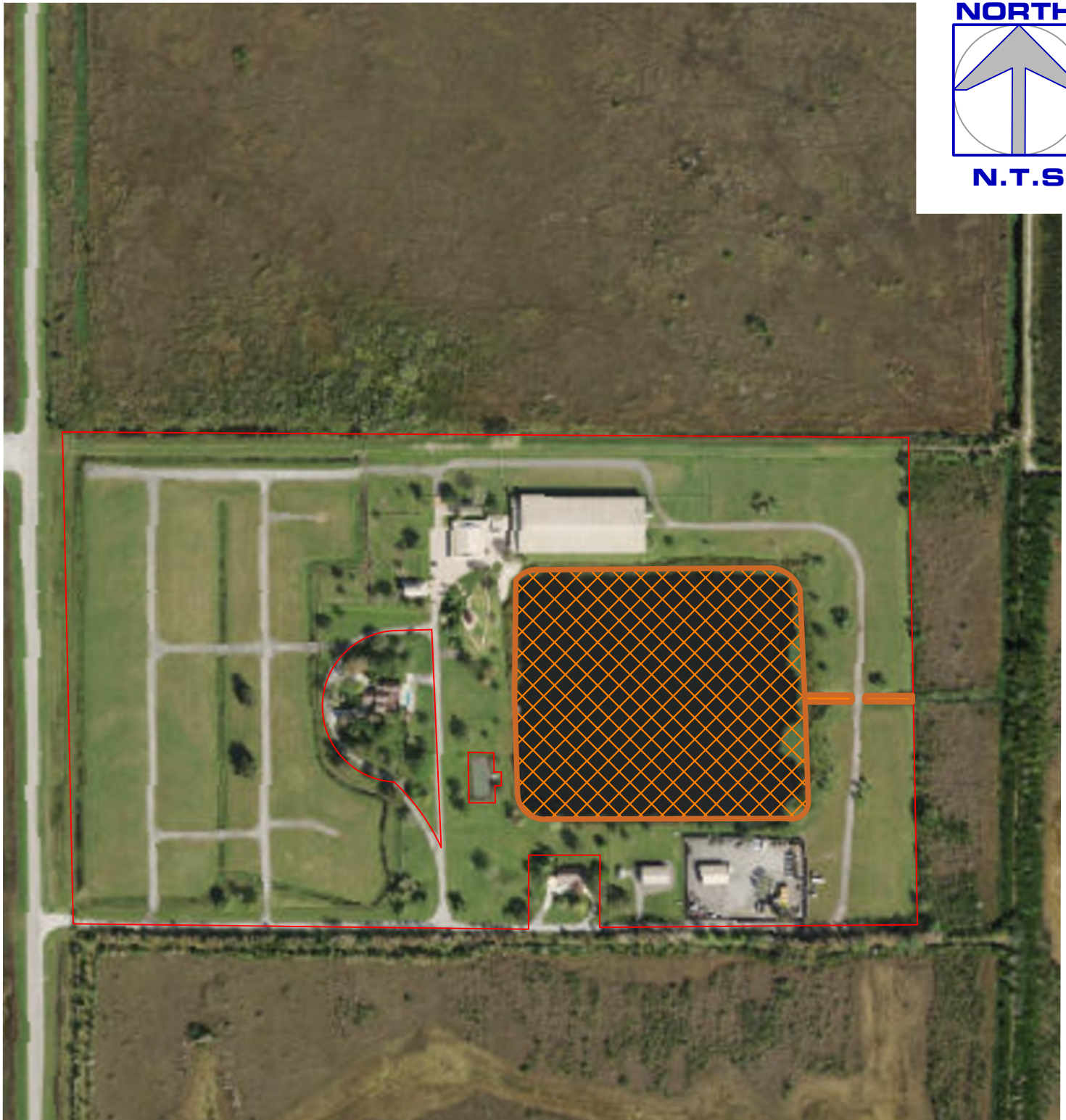
COVER

Date: 4/5/2024	Sheet :	of :
Proj No.: 20-0008	1	4




NORTH



N.T.S



LEGEND

-  SUBJECT SITE ±66.684 AC
-  AQUATIC RESOURCE: LAKE (11.65 AC)
-  AQUATIC RESOURCE: DITCH (0.06 AC)

THE Chappell GROUP INC.

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AQUATIC RESOURCE		
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