US Army Corps of Engineers

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 29, 2019

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville District; SAJ-2009-00624-Suncoast Lakes Commercial Property

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: FL County/parish/borough: Pasco City: Land O' Lakes
Approximate center coordinates of site (in degree decimal format): Latitude: 28.327997°, Longitude: -82.556136°
Universal Transverse Mercator Zone:
Name of nearest waterbody: Bear Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Name of watershed or Hydrologic Unit Code (HUC): 03100207-Tampa Bay/Crystal-Pithlachascotee
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination – Date: May 02, 2019
☒ Field Determination – Date(s): February 21, 2019

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 and are not** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
   ☐ TNWs, including territorial seas
   ☐ Wetlands adjacent to TNWs
   ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
   ☐ Non-RPWs that flow directly or indirectly into TNWs
   ☒ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
   ☒ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
   ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
   ☐ Impoundments of jurisdictional waters
   ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
   Non-wetland waters: linear feet: width (ft) and/or acres
   Wetlands: 9.53 acres

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Wetland Delineation Manual and Regional Supplement**
   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 Corps assessed Wetland C (4.57 acres) and determined it is isolated and nonjurisdictional. The Corps assessed Wetland B (2.52 acres) and determined it is a permitted stormwater treatment system and is therefore nonjurisdictional.**

---

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent":

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

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

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months) 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

(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 TNW[4]: .
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.

☐ Manipulated (man-altered). Explain: .

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
☐ OHWM[5] (check all indicators that apply):
☐ clear, natural line impressed on the bank
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☐ sediment deposition
☐ water staining
☐ other (list):
☐ the presence of litter and debris
☐ destruction of terrestrial vegetation
☐ the presence of wrack line
☐ sediment sorting
☐ scour
☐ multiple observed or predicted flow events
☐ abrupt change in plant community
☐ 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:
☐ oil or scum line along shore objects
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tidal gauges
☐ other (list):
☐ Mean High Water Mark indicated by:
☐ survey to available datum;
☐ physical markings;
☐ vegetation lines/changes in vegetation types.

(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: .

---

[5]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[6]Ibid.

☐ Other environmentally-sensitive species. Explain findings: .
☐ Aquatic/wildlife diversity. Explain findings: .

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: Wetland A: 8.07 acres; Wetland AA: 0.84 acre; Wetland D: 0.62 acre

Wetland type. Explain: Wetland A: Palustrine emergent; Wetland AA: Palustrine emergent; Wetland D: Palustrine forested (cypress).

Wetland quality. Explain: High quality. Appropriate species and zonation present; minimal invasive or nuisance plant species; appropriate hydrologic regime; no indications of water quality issues.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: Surface water interaction between the wetland and tributary is greater during the rainy season when rainfall is more abundant. Flow is continuous at least seasonally (at least 3 months out of the year), and likely most or all of the year. A substantial amount of water was visible in the ditch referenced below during the February 21, 2019, field visit.

Surface flow is**: Overland sheetflow; discrete; confined**

Characteristics: Wetlands A and AA share a surface connection via a conveyance swale along the eastern property boundary on the west side of the Suncoast trail. Water flows from these wetlands into a large ditch (off-property) that flows south from the southeast corner of Wetland AA and connects downstream with Wetland D south of the stormwater pond. At this point the ditch appears to terminate/blend into Wetland D. Wetland D shares a surface water connection with wetlands south of the review area. These wetlands are part of a wetland continuum that crosses the Suncoast Lakes residential development through culverts under Burning Bush Terrace. The wetland slough system continues west, connected through overland flow, swales, ditches and piped road crossings until reaching Bear Creek.

Subsurface flow: **Unknown**. Explain findings: Given the shallow aquifer, high groundwater levels, minimal topography and concepts of hyporheic exchange, subsurface interactions are very likely; however, the Corps did not perform any site-specific tests for measuring subsurface flow in the review area for this JD.

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting
☒ Not directly abutting

☒ Discrete wetland hydrologic connection. Explain: Wetlands A and AA share a surface connection via a conveyance swale along the eastern property boundary on the west side of the Suncoast trail. Water flows from these wetlands in a large ditch that flows south from the southeast corner of Wetland AA and connects downstream with Wetland D south of the stormwater pond. In reference to this RPW ditch, Wetland A is considered "not directly abutting" and Wetlands AA and D are considered "directly abutting."

☐ Ecological connection. Explain: .
☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are 10-15 river miles from TNW.
Project waters are 5-10 aerial (straight) miles from TNW.
Flow is from: wetland to navigable waters**.**
Estimate approximate location of wetland as within the 50-100 year 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: Water is fairly clear with tannin staining from forested wetland systems. No obvious indicators of poor water quality. The review area is bordered on three sides by roadways. The dominant land uses in the Pithlachascotee River & Bear Creek watershed are summarized in the 2013 Justification Report for this watershed. At this time, built-up land use accounted for nearly 24% of the area, primarily as single-family residential development. Some commercial and industrial development occurs along several transportation corridors. Much of the upland open space is still undeveloped, with approximately 26% classified as upland forest. Approximately 18% of the watershed is described as agriculture, with much of this occurring as pastureland. Water comprises approximately 3% of the area and wetlands comprise about 23%.

Identify specific pollutants, if known: Pollutants may include those associated with transportation and agricultural uses such as petroleum wastes, nitrogen, phosphorus and coliform bacteria. The downstream segment of Bear Creek in Pinellas County is deemed impaired by the Environmental Protection Agency for dissolved oxygen which is typically associated with algal blooms triggered by high nutrient loads. It is also deemed impaired for Enterococci, which is associated with agricultural (animal) wastes.

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

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

☒ Vegetation type/percent cover. Explain: Wetlands A and AA consist of palustrine emergent systems. Wetland D is a palustrine forested (cypress) system.

☒ Habitat for:

☒ Federally Listed species. Explain findings: Potential for utilization by wood stork, particularly in Wetlands A and AA.

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: Habitat for small fish, reptiles, amphibians, macroinvertebrates and insects.

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: 5

Approximately 124 acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
N	8.07	Y	0.84
Y	100		

Summarize overall biological, chemical and physical functions being performed: The subject wetlands, in combination with similarly situated wetlands, perform the following functions: Storage of flood waters; reduction of downstream peak discharges and volumes; recharge of aquifer; maintenance of seasonal/baseflows; maintenance of groundwater supplies; removal of sediments and nutrients; provision of breeding grounds and wildlife habitat (e.g. feeding/foraging, nesting, spawning, rearing of young); support diverse community of benthic invertebrates, a major food source for vertebrates.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. **Significant nexus findings for 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:

The Corps has determined that for this review, the subject wetlands, in combination with similarly situated waters, have more than an insubstantial or speculative effect on the physical, chemical, and biological integrity of the downstream TNW (Gulf of Mexico), as described below. The following significant nexus determination based on a representative subset of adjacent wetlands and tributaries in the watershed would be consistent with a determination based on an evaluation of all waters of the same type in the watershed.

PHYSICAL: Adjacent wetlands connected to the stream network by channelized flow or overland flow are sources of downstream water and baseflow. They can also be sinks for water by intercepting overland or subsurface flow, if available water storage capacity of the wetlands is not exceeded, which can reduce or attenuate flow to downstream waters and flooding. The wetlands can temporarily store water following overbank flow, which can then move back to the stream over time as baseflow during drier periods. Riparian/floodplain forested wetlands are sources of woody debris that can affect stream morphology and flow regime. The adjacent wetlands therefore affect the duration, frequency and volume of flow in the receiving water, Bear Creek, which affects the downstream TNW, the Gulf of Mexico. The wetlands provide a means of slowing water's velocity and reducing the amount of sediments entering downstream waters. The holding capacity of adjacent wetlands helps control flooding. The braking action of wetland trees, roots and groundcover lowers flood heights and reduces erosion. The cumulative assessment includes more than 100 acres of adjacent wetlands performing the aforementioned functions. There are thousands of acres of wetlands in the Bear Creek basin that are similarly situated. These wetlands have more than an insubstantial or speculative effect on the physical integrity of the downstream TNW.

CHEMICAL: Adjacent wetlands can be sinks for sediments and chemical contaminants, such as pesticides, metals, mercury and excess nutrients carried by overland or subsurface flow, potentially reaching downstream waters. They can be sinks for water, sediment, pesticides, and nutrients from overbank flow events, reducing or attenuating downstream peak flows and materials entrained in the water column. The wetlands can also be sinks for nitrogen by converting oxidized forms of nitrogen to molecular nitrogen through denitrification, which is then lost to the atmosphere. Bear Creek is an impaired water as discussed in Section IIIB1(iii) above. The wetlands in this analysis assimilate pollutants from adjacent transportation, residential and agricultural land uses prior to discharge to the TNW, reducing nutrient loads downstream in Bear Creek and ultimately the Gulf of Mexico. These functions are essential to the integrity of the water quality downstream.

BIOLOGICAL: Adjacent wetlands are sources of dissolved organic matter that aquatic food webs use. They are sources of organisms, including plants, invertebrates, amphibians, reptiles, and fish, to downstream waters transported via passive or active dispersal. The wetlands provide feeding habitat for riverine organisms, such as fish, during periods of overbank flow. They provide refuge for fish, aquatic insects, or other lotic organisms from predators or other environmental stressors, facilitating individual or population survival. The adjacent wetlands can provide refuge during certain life stages for lotic organisms. For example, they are breeding sites for frogs and other amphibians that reside in streams as adults. The subject wetlands and similarly situated wetlands are important biologically since a substantial amount of the historical wetland coverage in the watershed has been altered for residential and commercial development, and agriculture. The adjacent floodplain wetlands of Bear Creek form an important intact corridor for the passage of wildlife and biological material, including detrital material transported to downstream food webs. The biological functions provided by the wetlands discussed in this JD are exported downstream to, and provide benefits to, the downstream TNW.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

   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-RPWs[7] 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.

[7]See Footnote # 3.

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: **Water flows from Wetlands A and AA in a large ditch (off-property) that flows south from the southeast corner of Wetland AA and connects downstream with Wetland D south of the stormwater pond. Wetlands AA and D directly abut this ditch**.

Provide acreage estimates for jurisdictional wetlands in the review area: **1.46** acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **8.07** 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.

---

[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.***

☒ 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): The Corps assessed Wetland B (2.52 acres) and determined it is a stormwater treatment system permitted under Section 402 of the CWA. This feature is non-jurisdictional pursuant to 40 CFR 230.3(s)(7). The authorized agent provided information in support of this determination, including permitting documents from the Southwest Florida Water Management under permit number 44023968.000.

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: 4.57 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.

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: Maps submitted by agent.
☒ 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:
☒ USDA Natural Resources Conservation Service Soil Survey: Soil map provided by applicant; hydric soil rating map obtained from https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx
☒ National wetlands inventory map(s): Obtained from https://www.fws.gov/wetlands/data/mapper.html.
☐ State/Local wetland inventory map(s):
☐ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation:
☒ Photographs: ☒ Aerial: Google Earth (1994-2018); Aerials submitted by applicant
  or ☒ Other: Site photos taken by Corps during February 21, 2019, site visit.
☐ Previous determination(s):
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☒ Other information (please specify):

1. Floodplain Justification Report for the Bear Creek and Pithlachascotee River Watersheds within Pasco and Hernando County, Florida (August 2013) by Ardaman & Associates, Inc. Obtained from: https://www.pascocountyfl.net/1857/Bear-Creek---Pithlachascotee-Watershed
2. Florida Department of Environmental Protection (https://floridadep.gov/dear/watershed-assessment-section/documents/comprehensive-verified-list)
3. Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in Rapanos v. United States & Carabell v. United States. U.S. EPA and U.S. Army Corps of Engineers. December 02, 2008.
4. Environmental Law Institute. Clean Water Act Jurisdictional Handbook. 2007.
5. ArcGIS MyMap (https://www.arcgis.com/home/webmap/viewer.html); using LiDAR data from South Florida Water Management District (2015).
6. Southwest Florida Water Management District permitting documents from permit number 44023968.000, furnished by the authorized agent.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

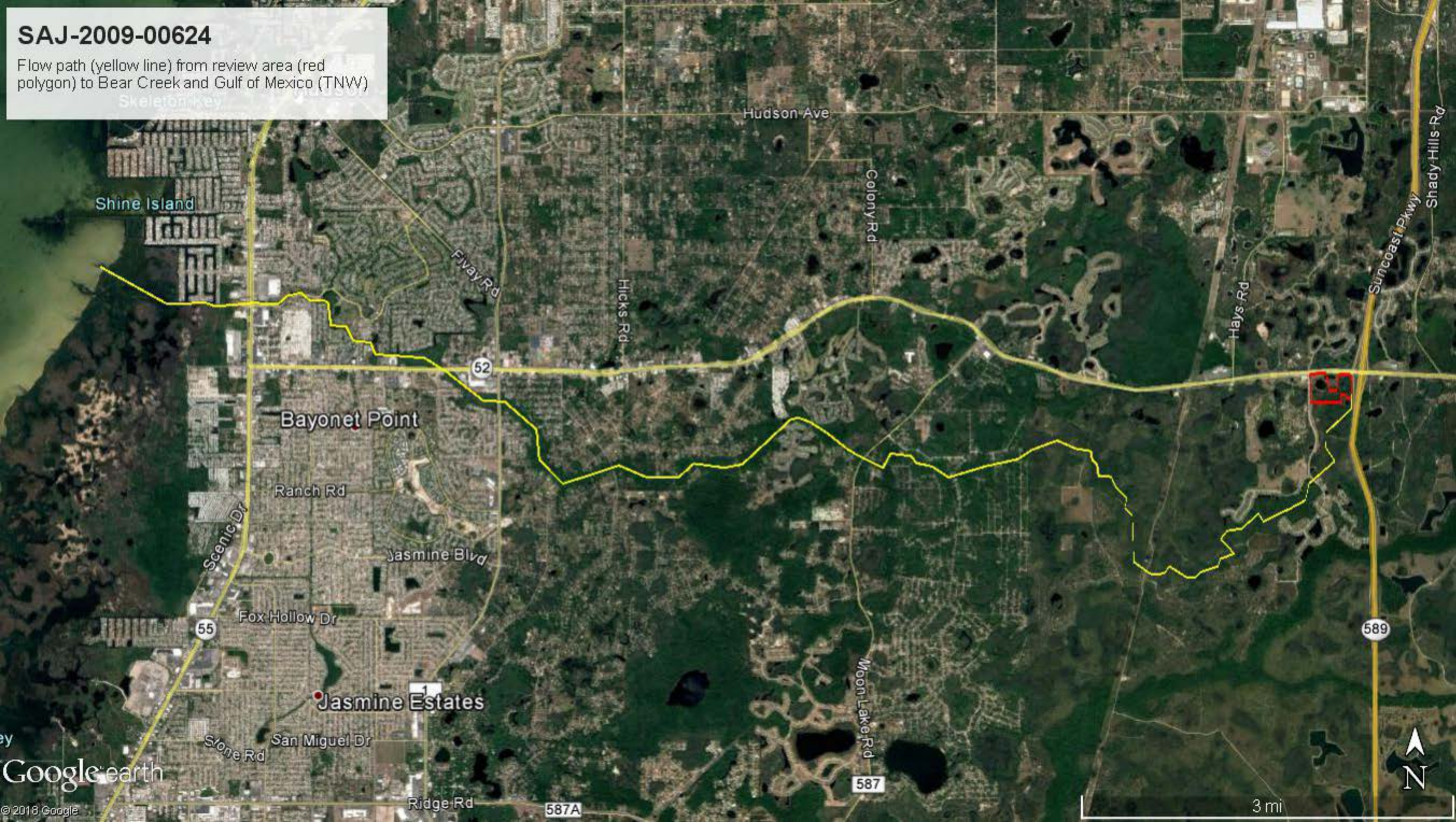
The Corps assessed Wetland C (4.57 acres) and determined it is isolated and non-jurisdictional. This wetland is considered isolated and not adjacent because:

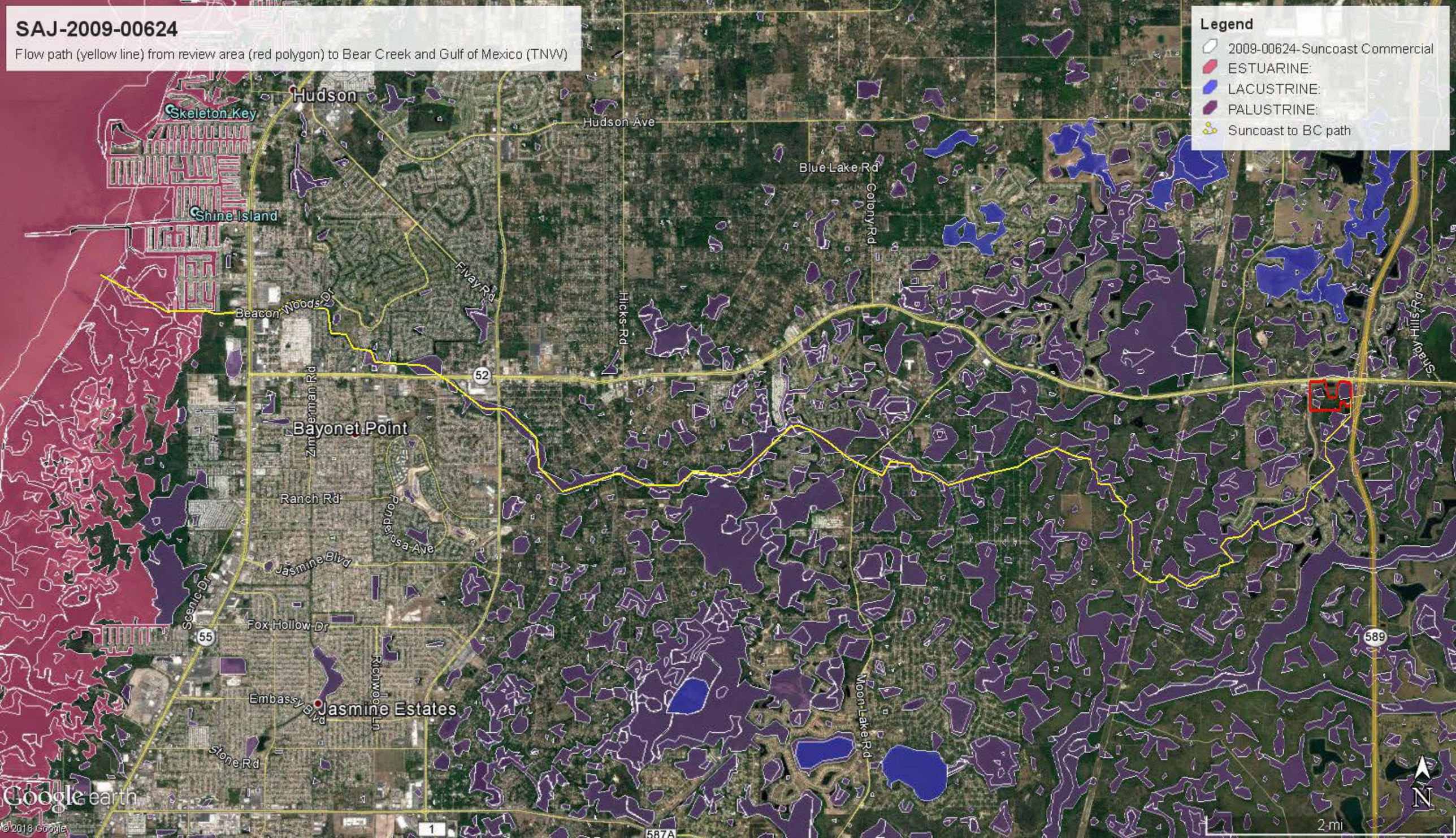
1. There is not an unbroken surface or shallow sub-surface connection to jurisdictional waters. A review of hydrographic and topographic data shows that these waters do not have any apparent direct or indirect surface connections to a downstream TNW. The wetland is surrounded by uplands with nonhydric soils and existing topography prevents surface outflows to downstream waters. There are no ditches, pipes, swales, or cattle trails that could serve to hydrologically connect the isolated waters to a downstream TNW. A field inspection revealed no surface connections to waters of the U.S.

2. The wetlands are not physically separated from jurisdictional waters by man-made dikes or barriers, natural river berms, beach dunes, and the like. Based on historic aerial photographs, Wetland C appears to have been an isolated freshwater marsh which was subsequently disturbed by excavation.

3. The proximity of Wetland C to a jurisdictional tributary is not reasonably close to support a science-based inference of ecological interconnectedness. The wetland is not near a tributary and does not allow for amphibians or anadramous and catadramous fish to move between the wetland and tributary for spawning and life stage requirements. Migratory species use is more likely, but cannot be used to support an ecological interconnection.

Additional comments supporting significant nexus determination: The analysis considers the functions performed cumulatively by all wetlands that are adjacent to the tributary, such as storage of flood water and runoff; pollutant trapping and filtration; improvement of water quality; support of habitat for aquatic species; and other functions that contribute to the maintenance of water quality, aquatic life, commerce, navigation, recreation and public health in the downstream TNW. These functions, considered cumulatively, have more than a speculative or insubstantial effect on the physical, chemical and biological integrity of the downstream TNW. In general, tributaries and their adjacent wetlands function as an integrated hydrologic system, and as a unit they affect the amount of pollutants and floodwaters that reach the downstream TNW.


SAJ-2009-00624
Flow path (yellow line) from review area (red polygon) to Bear Creek and Gulf of Mexico (TNW)
Skeleton Key
Shine Island
Hudson Ave
Colony Rd
Shady Hills Rd
Suncoast Pkwy
Hays Rd
Hicks Rd
Fivay Rd
52
Bayonet Point
Ranch Rd
Scenic Dr
Jasmine Blvd
Fox Hollow Dr
55
589
Jasmine Estates
Moon Lake Rd
San Miguel Dr
Stone Rd
587
Ridge Rd
587A
3 mi
N
Google earth
© 2018 Google


SAJ-2009-00624
Flow path (yellow line) from review area (red polygon) to Bear Creek and Gulf of Mexico (TNW)
Legend
2009-00624-Suncoast Commercial
ESTUARINE:
LACUSTRINE:
PALUSTRINE:
Suncoast to BC path
Hudson
Skeleton Key
Shine Island
Hudson Ave
Blue Lake Rd
Colony Rd
Fivay Rd
Beacon Woods Dr
Hicks Rd
Zimmerman Rd
Bayonet Point
Ranch Rd
Ponderosa Ave
Jasmine Blvd
Scenic Dr
Fox Hollow Dr
Richwood Ln
Embassy Blvd
Jasmine Estates
Stone Rd
Moon Lake Rd
Shady Hills Rd
52
55
589
1
587A
2 mi
N
Google earth
© 2018 Google

N
W E
S

1 inch = 300 feet

FLORIDA DESIGN
CONSULTANTS, INC.
THINK IT. ACHIEVE IT.

SOURCES

2006 Aerial Photograph from Aerial Express
2008 Roads from Pasco County GIS Department

GIS DATA

This drawing is comprised of data obtained from a variety of sources. It is for informational purposes only and is not to be considered comprehensive for site-specific data.

Suncoast Lakes Commercial

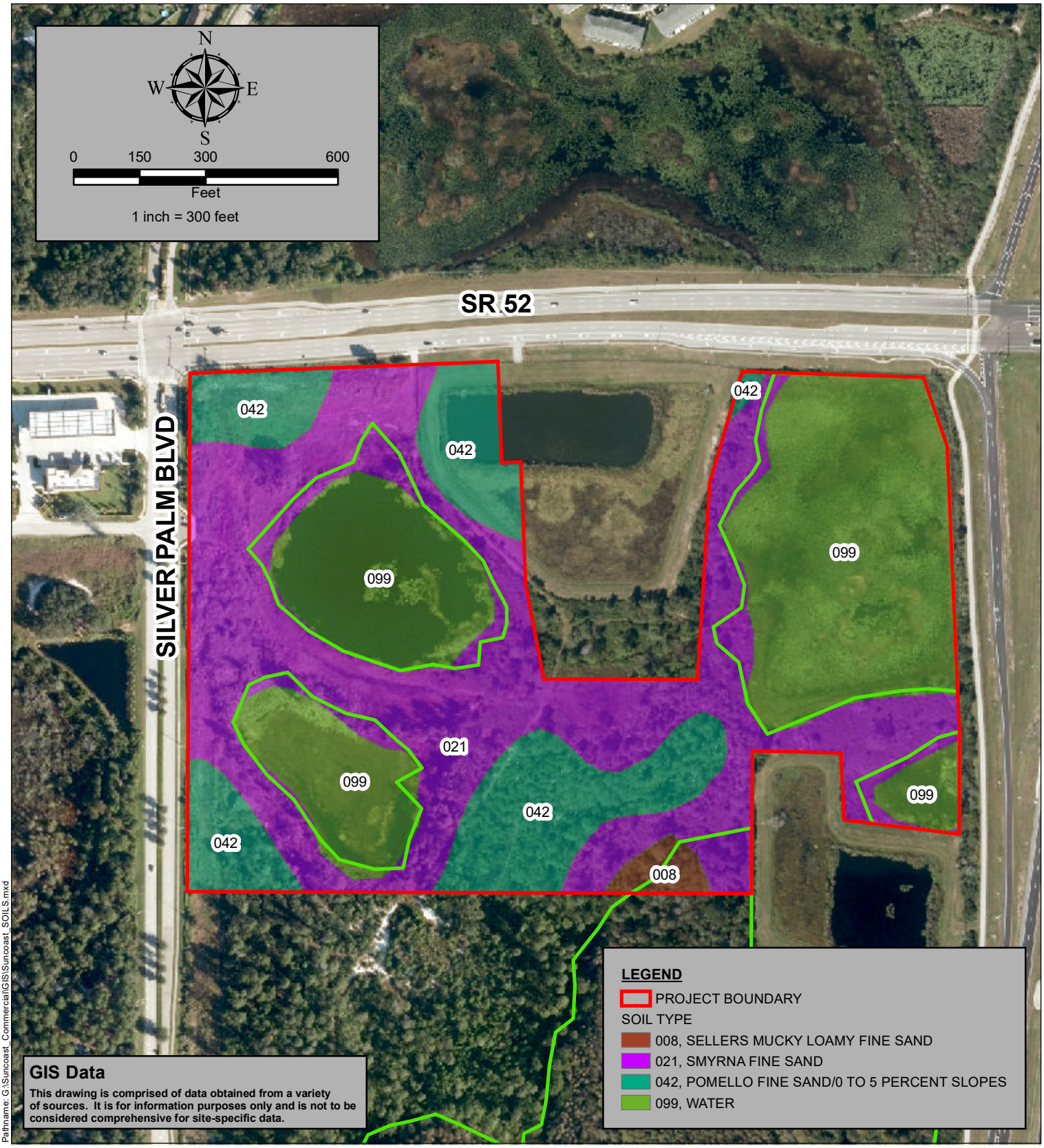
USACE WETLAND MAP

prepared for

RIZK FLORIDA JV

©2008 Florida Design Consultants, Inc.

G:\Suncoast Commercial\GIS\Suncoast_Reach2.mxd | 09/08/2008



Pathname: G:\Suncoast_Commercial\GIS\Suncoast_SOILS.mxd

Print Date: 03/13/2007

SUNCOAST LAKES COMMERCIAL

SOILS MAP

© 2007

FLORIDA DESIGN CONSULTANTS, INC.
THINK IT. ACHIEVE IT.

Hydric Rating by Map Unit—Pasco County, Florida
(SAJ-2009-00624)

Map Scale: 1:3,230 if printed on A landscape (11" x 8.5") sheet.

N

Meters: 0 45 90 180 270

Feet: 0 150 300 600 900

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 17N WGS84

MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Rating Polygons

Hydric (100%)

Hydric (66 to 99%)

Hydric (33 to 65%)

Hydric (1 to 32%)

Not Hydric (0%)

Not rated or not available

Soil Rating Lines

Hydric (100%)

Hydric (66 to 99%)

Hydric (33 to 65%)

Hydric (1 to 32%)

Not Hydric (0%)

Not rated or not available

Soil Rating Points

Hydric (100%)

Hydric (66 to 99%)

Hydric (33 to 65%)

Hydric (1 to 32%)

Not Hydric (0%)

Not rated or not available

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

Background

Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Pasco County, Florida
Survey Area Data: Version 17, Sep 13, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Dec 31, 2009—Nov 26, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Hydric Rating by Map Unit

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
8	Sellers mucky loamy fine sand	100	0.4	1.0%
21	Smyrna fine sand	20	18.2	46.4%
26	Narcoossee fine sand, 0 to 2 percent slopes	0	0.0	0.0%
42	Pomello fine sand, 0 to 5 percent slopes	2	6.0	15.3%
99	Water	0	14.6	37.3%
Totals for Area of Interest			**39.3**	**100.0%**

Description

This rating indicates the percentage of map units that meets the criteria for hydric soils. Map units are composed of one or more map unit components or soil types, each of which is rated as hydric soil or not hydric. Map units that are made up dominantly of hydric soils may have small areas of minor nonhydric components in the higher positions on the landform, and map units that are made up dominantly of nonhydric soils may have small areas of minor hydric components in the lower positions on the landform. Each map unit is rated based on its respective components and the percentage of each component within the map unit.

The thematic map is color coded based on the composition of hydric components. The five color classes are separated as 100 percent hydric components, 66 to 99 percent hydric components, 33 to 65 percent hydric components, 1 to 32 percent hydric components, and less than one percent hydric components.

In Web Soil Survey, the Summary by Map Unit table that is displayed below the map pane contains a column named 'Rating'. In this column the percentage of each map unit that is classified as hydric is displayed.

Hydric soils are defined by the National Technical Committee for Hydric Soils (NTCHS) as soils that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part (Federal Register, 1994). Under natural conditions, these soils are either saturated or inundated long enough during the growing season to support the growth and reproduction of hydrophytic vegetation.

The NTCHS definition identifies general soil properties that are associated with wetness. In order to determine whether a specific soil is a hydric soil or nonhydric soil, however, more specific information, such as information about the depth and duration of the water table, is needed. Thus, criteria that identify those estimated soil properties unique to hydric soils have been established (Federal Register, 2002). These criteria are used to identify map unit components that normally are associated with wetlands. The criteria used are selected estimated soil properties that are described in "Soil Taxonomy" (Soil Survey Staff, 1999) and "Keys to Soil Taxonomy" (Soil Survey Staff, 2006) and in the "Soil Survey Manual" (Soil Survey Division Staff, 1993).

If soils are wet enough for a long enough period of time to be considered hydric, they should exhibit certain properties that can be easily observed in the field. These visible properties are indicators of hydric soils. The indicators used to make onsite determinations of hydric soils are specified in "Field Indicators of Hydric Soils in the United States" (Hurt and Vasilas, 2006).

References:

Federal Register. July 13, 1994. Changes in hydric soils of the United States.

Federal Register. September 18, 2002. Hydric soils of the United States.

Hurt, G.W., and L.M. Vasilas, editors. Version 6.0, 2006. Field indicators of hydric soils in the United States.

Soil Survey Division Staff. 1993. Soil survey manual. Soil Conservation Service. U.S. Department of Agriculture Handbook 18.

Soil Survey Staff. 1999. Soil taxonomy: A basic system of soil classification for making and interpreting soil surveys. 2nd edition. Natural Resources Conservation Service. U.S. Department of Agriculture Handbook 436.

Soil Survey Staff. 2006. Keys to soil taxonomy. 10th edition. U.S. Department of Agriculture, Natural Resources Conservation Service.

Rating Options

Aggregation Method: Percent Present

Component Percent Cutoff: None Specified

Tie-break Rule: Lower

ArcGIS My Map

New Map Sign In

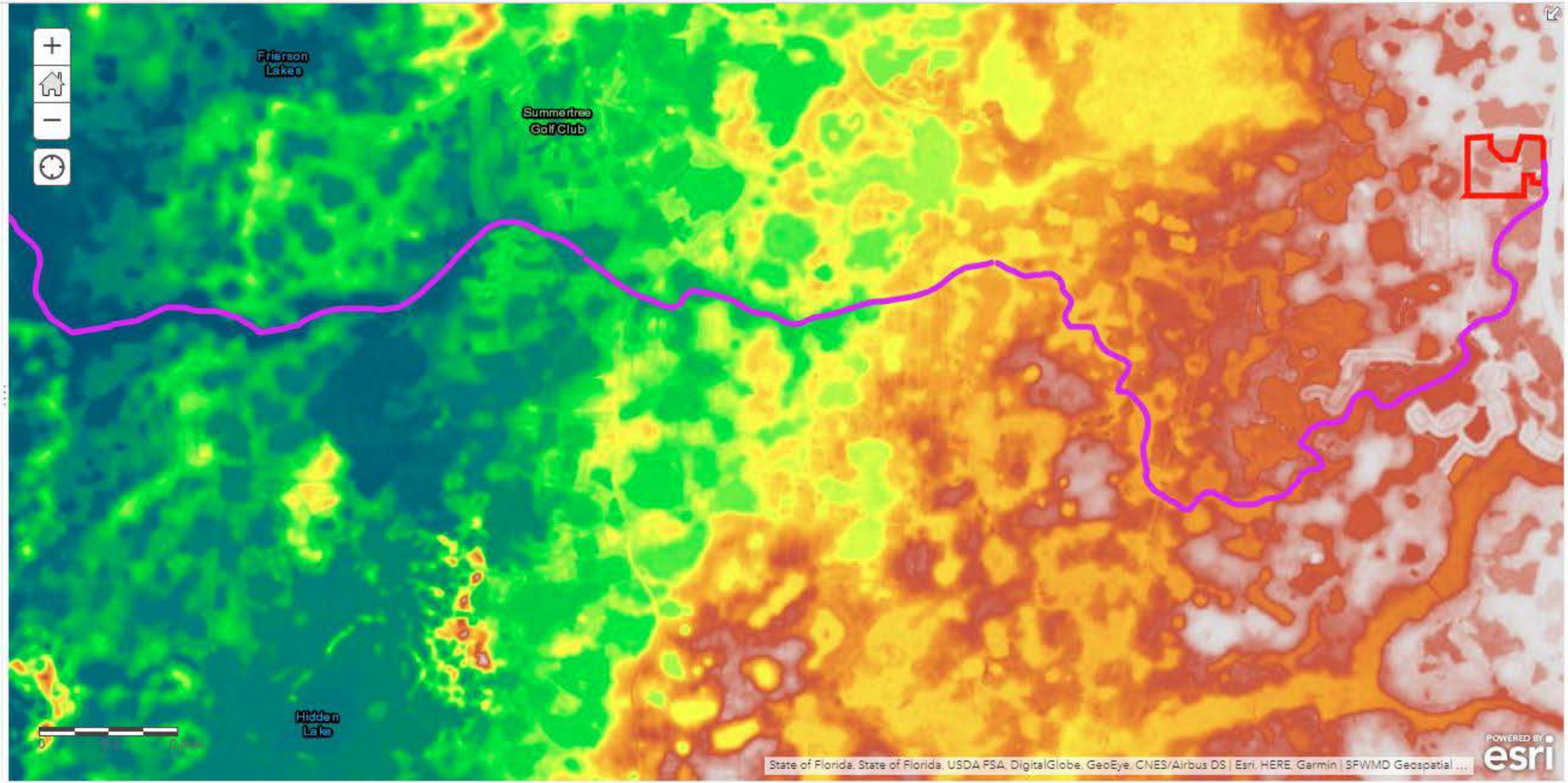
Details Add Edit Basemap Save Print Measure Bookmarks Find address or place

Legend

SFWMD_SF_COMP_2015_50FT

High : 200

Low : -2



Trust Center Legal Contact Esri
Report Abuse

ArcGIS My Map

New Map Sign In

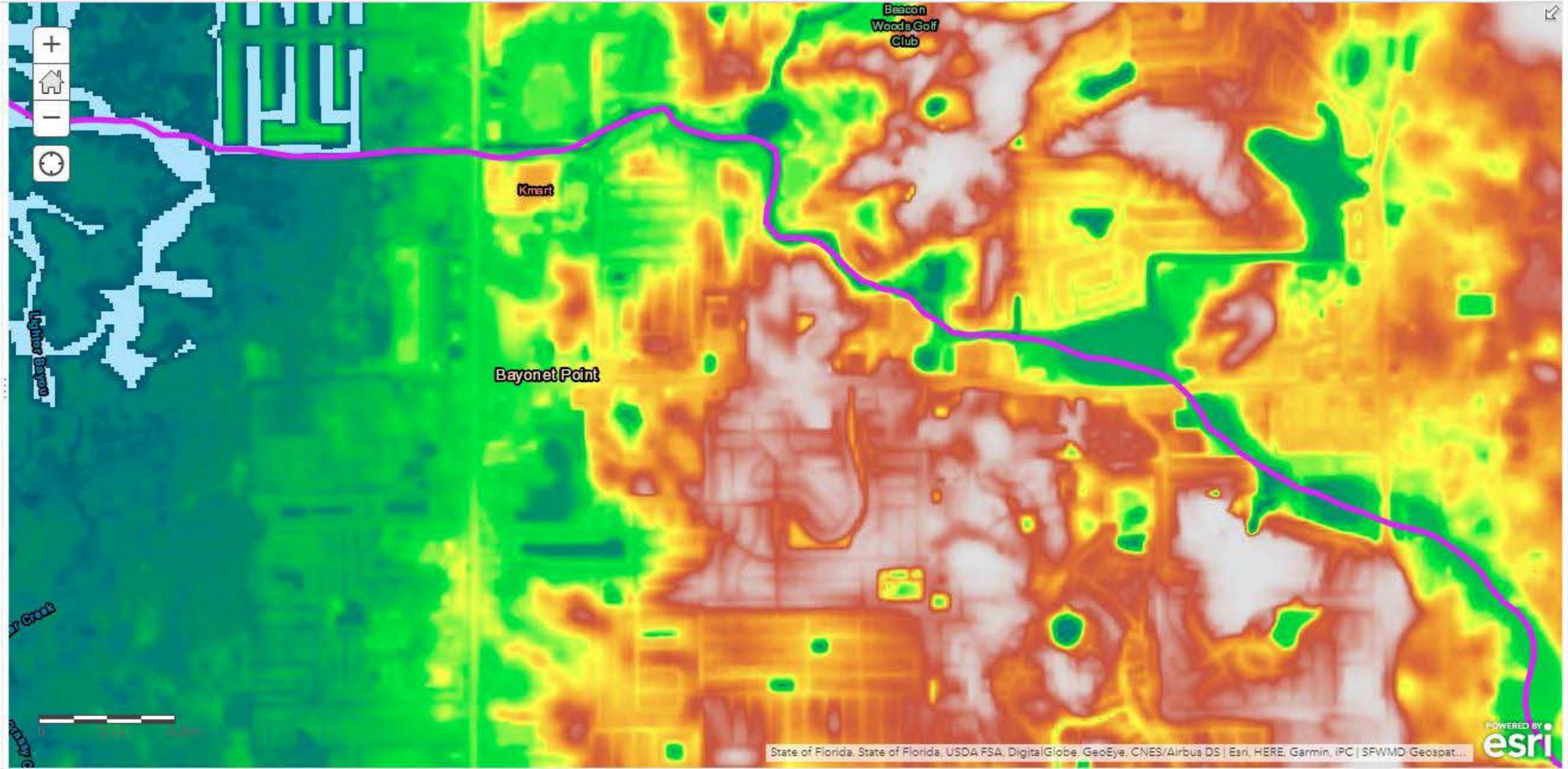
Details Add Edit Basemap Save Print Measure Bookmarks Find address or place

Legend

SFWMD_SF_COMP_2015_50FT

High : 200

Low : -2



Trust Center Legal Contact Esri Report Abuse

ArcGIS My Map

New Map Sign In

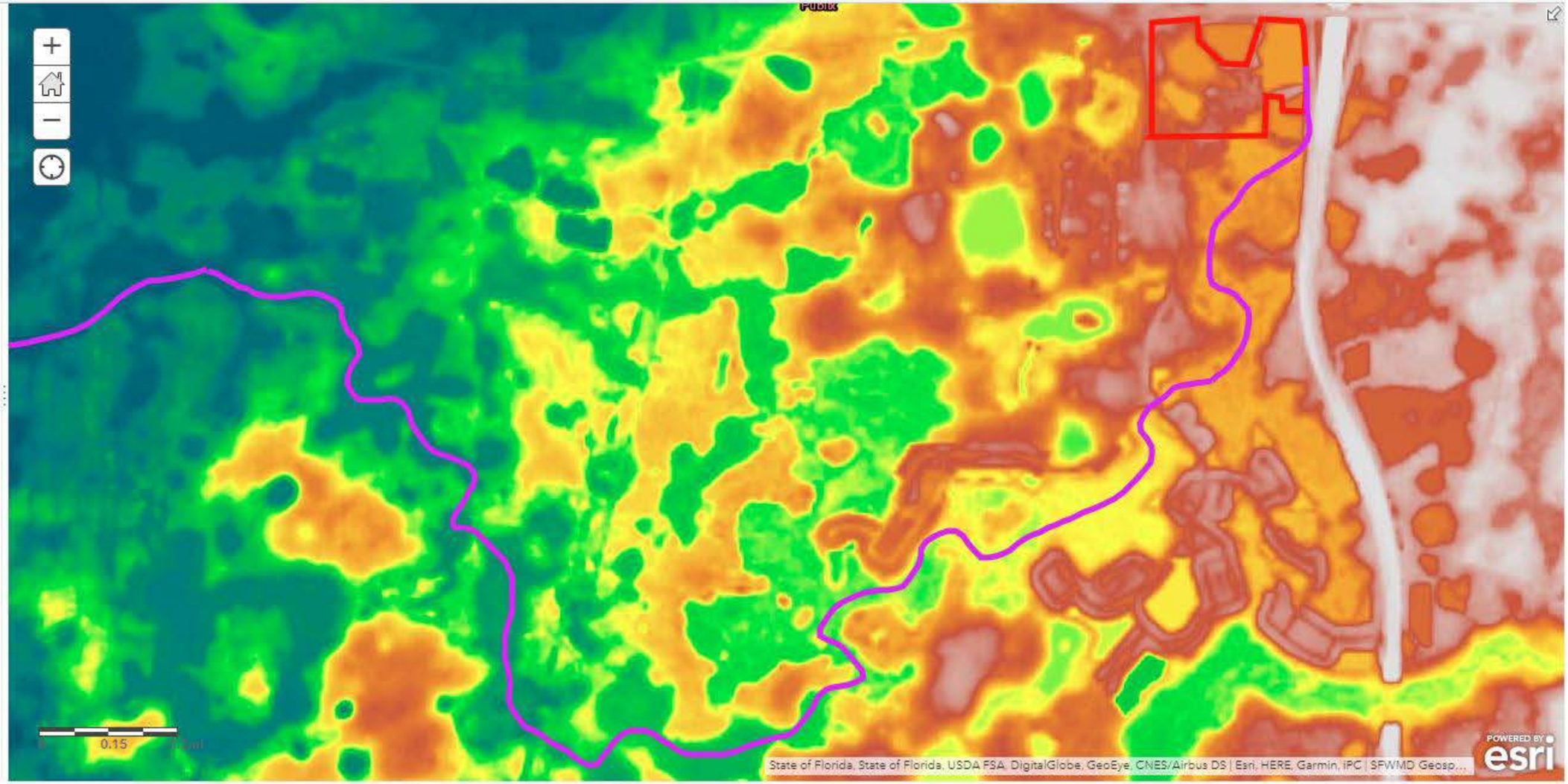
Details Add Edit Basemap Save Print Measure Bookmarks Find address or place

Legend

SFWMD_SF_COMP_2015_50FT

High : 200

Low : -2



Trust Center Legal Contact Esri

Report Abuse

ArcGIS My Map

New Map Sign In

Details Add Edit Basemap Save Print Measure Bookmarks Find address or place

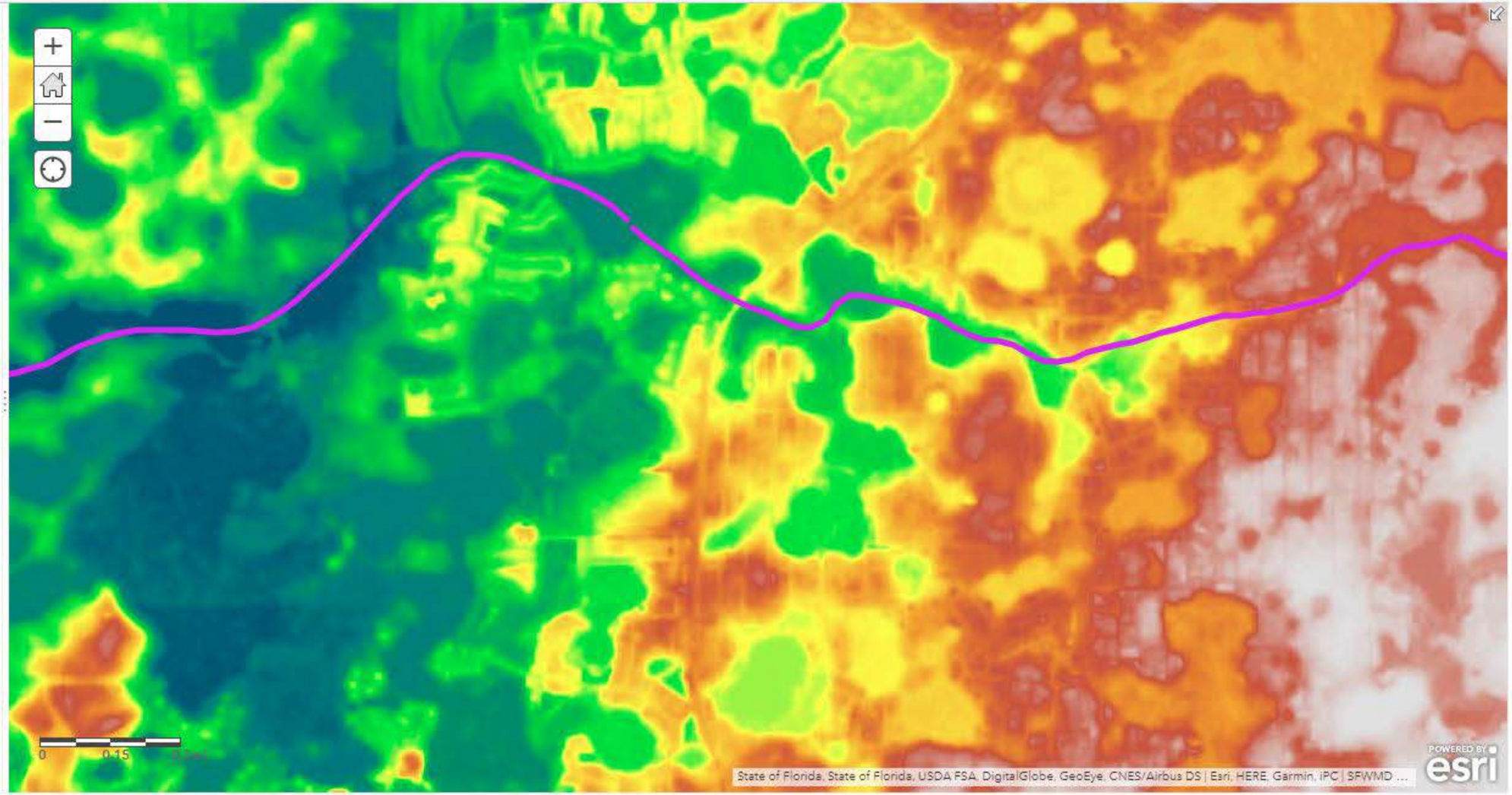
About Content Legend

Legend

SFWMD_SF_COMP_2015_50FT

High : 200

Low : -2



Trust Center Legal Contact Esri Report Abuse

ArcGIS My Map

New Map Sign In

Details Add Edit Basemap Save Print Measure Bookmarks Find address or place

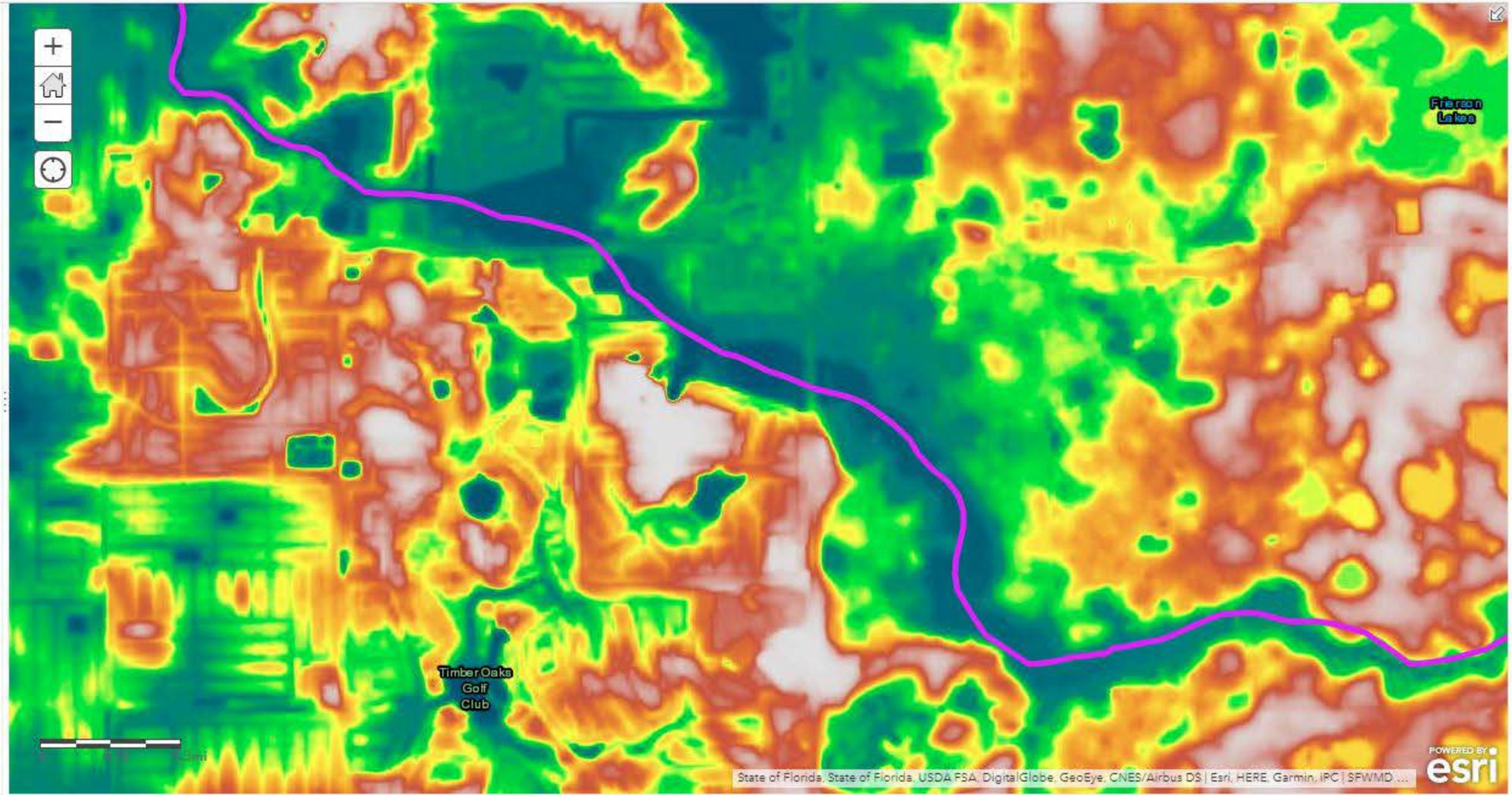
About Content Legend

Legend

SFWMD_SF_COMP_2015_50FT

High : 200

Low : -2



Trust Center Legal Contact Esri Report Abuse

ArcGIS My Map

New Map Sign In

Details Add Edit Basemap Save Print Measure Bookmarks Find address or place

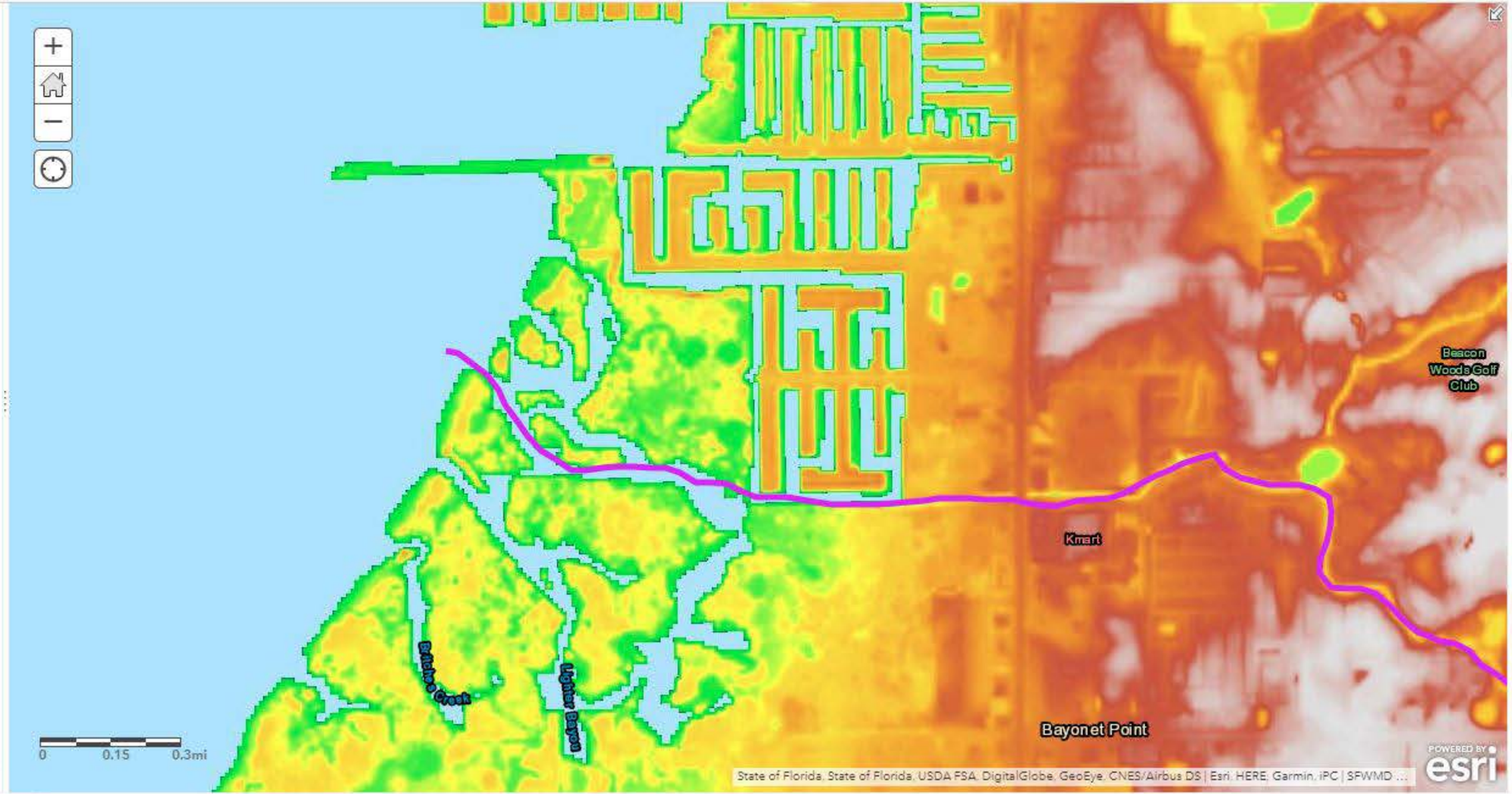
About Content Legend

Legend

SFWMD_SF_COMP_2015_50FT

High : 200

Low : -2



Trust Center Legal Contact Esri Report Abuse