



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): 21 Feb 2020

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:CESAJ-RD-WT SAJ-2019-02358 Parrish Plantation Residential Development, Manatee County, FL

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State:FL County/parish/borough: Manatee City: Parrish
Center coordinates of site (lat/long in degree decimal format): Lat. 27.584080° N, Long. -82.419199 ° W.
Universal Transverse Mercator:

Name of nearest waterbody: Gamble Creek

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Manatee River

Name of watershed or Hydrologic Unit Code (HUC): Upper Manatee River (HUC 0310020201)

[X] 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):

[X] Office (Desk) Determination. Date: 14 Jan 2020

[X] Field Determination. Date(s): 27 Sept 2019 and 24 Oct 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
[X] Relatively permanent waters2 (RPWs) that flow directly or indirectly into TNWs
[ ] Non-RPWs that flow directly or indirectly into TNWs
[X] Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
[X] 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 6.62 acres.
Wetlands: 53.728 acres.

c. Limits (boundaries) of jurisdiction based on: Pick List

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):3

[X] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: SW100, SW106, SW105, SW108-SW123, SW125, SW126, SW128, SW129, and SW130 were determined to be non-tidal drainage and irrigation ditches excavated on dryland (Preamble to 33 CFR Part 328 in the Nov 13, 1986 FR).

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). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW 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 that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, 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 the JD covers a tributary with adjacent wetlands, 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: 138199.802155 acres

Drainage area: **Pick List**

Average annual rainfall: 55 inches

Average annual snowfall: inches

(ii) **Physical Characteristics:**

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

Project waters are 5-10 river miles from TNW.

Project waters are 1-2 river miles from RPW.

Project waters are 2-5 aerial (straight) miles from TNW.

Project waters are 1-2 aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: No.

Identify flow route to TNW<sup>5</sup>: Water flows through a man-made channel and culvert system that runs under Spencer Parrish Road into a canal/ditch that flows directly into Gamble Creek, an official tributary of Manatee River (Fig. 4).

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> 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 stream order, if known: .

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

**Tributary is:**  Natural  
 Artificial (man-made). Explain:  
 Manipulated (man-altered). Explain: Tributaries or RPWs, as identified in Enclosure 1, are a

series of 10-15 ft wide, man-made channels. The site was historically modified for agriculture land use. Today the site is composed of a surface water drainage system consisting of several channelized streams, a series of shallow-cut ditches, and two surface water pond.

**Tributary properties with respect to top of bank (estimate):**

Average width: 15-25 feet  
Average depth: 5-15 feet  
Average side slopes: **2:1**.

**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: Relatively straight**

**Tributary gradient (approximate average slope):** %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **11-20**

Describe flow regime: Water flow typically follows rainfall patterns (<http://www.manatee.wateratlas.usf.edu>). It rains on average 102 days a year in Manatee FL, with a typical wet (July-Sept) and dry (Oct-June) season.

Other information on duration and volume: A water sampling site situated just 0.5 miles downstream from project location indicated that on 24 Nov 2019 water levels in Gamble Creek were 3.57 ft (Gamble Creek at County Road 675 Near Parrish FL, Station ID 02300017, Datasource USGS\_NWIS via <http://www.manatee.wateratlas.usf.edu>). Between April and Nov 2019 water levels ranged from 2.7 -13.9 ft.

Surface flow is: **Confined**. Characteristics: .

Subsurface flow: **Yes**. Explain findings: Soil properties and hrdogeology demonstrate a shallow subsurface exchange of water. Soil Series data (for Canova, Eau Gallie, Wabasso, and Floridana) show that the water table is at depth within 10 inches for more than 6 months in most years (<https://soilseries.sc.egov.usda.gov>).

Dye (or other) test performed: .

**Tributary has (check all that apply):**

Bed and banks  
 OHWM<sup>6</sup> (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.<sup>7</sup> 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

<sup>6</sup>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.

<sup>7</sup>Ibid.

other (list):

**(iii) Chemical Characteristics:**

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

Explain: Gamble Creek has been associated with the following WBIDs deemed impaired by the Florida Department of Environmental Protection: Fecal Coliform (<http://www.manatee.wateratlas.usf.edu>).

Identify specific pollutants, if known: Total Nitrogen (TN) 564.0 ug/l; Total Phosphorus (TP) 376.0 ug/L; Total Coliform 880 CFU/100ml; Fecal Coliform 1,986 CFU/100 ml, Enterococcus 613 CFU/100ml (Gamble Creek at County Road 675 Near Parrish FL, Station ID 02300017, Datasource USGS\_NWIS via <http://www.manatee.wateratlas.usf.edu>).

(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: Wood stork (*Mycteria americana*) was observed foraging near SW124 (USACE Site Assessment 2019). The review area occurs within the Core Foraging Area of two colonies. The closest documented colony is located 5 miles north of review area, RPWs have the potential to be used for foraging by Wood stork because they are relatively calm, open, and in certain areas, have the appropriate water depth with concentrated prey.

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings: Roseate spoonbills (*Platalea ajaja*) were observed foraging in in SW124 (USACE Site Assessment 2019).

Aquatic/wildlife diversity. Explain findings: Habitat for a multitude of invertebrates, birds, reptiles, amphibians, and mammals. Nutrient/pollutant filtration functions maintain water quality for aquatic flora and fauna found in estuarine habitats downstream.

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: 53.72 acres

Wetland type. Explain: Palustrine: emergent and scrub-shrub broad-leaved evergreen.

Wetland quality. Explain: Moderate, forested wetlands are now isolated and hydrology has been significantly impacted by land use.

Project wetlands cross or serve as state boundaries. Explain: No.

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain:

Surface flow is: **Discrete and confined**

Characteristics:

Subsurface flow: **Yes**. Explain findings: Soil properties and hydrogeology demonstrate a shallow subsurface exchange of water. Soil Series data (for Canova, Eauggallie, Wabasso, and Floridana) show that the water table is at depth within 10 in for more than 6 months in most years (<https://soilseries.sc.egov.usda.gov>).

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: The proximity to a jurisdictional water is reasonably close, supporting the science-based inference, that such wetlands have an ecological interconnection with jurisdictional waters.

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **5-10** river miles from TNW.

Project waters are **1-2** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters**

Estimate approximate location of wetland as within the **100 - 500-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:

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: Wood stork (*Mycteria americana*) was observed foraging near Pond 10 (USACE Site Assessment 2019). The review area occurs within the Core Foraging Area of two colonies. The closest documented colony is located 5 miles north of review area, Pond 10 has the potential to be used for foraging by Wood stork because it is relatively calm, open, and in certain areas, has the appropriate water depth with concentrated prey.

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: Provides breeding, nesting, and foraging habitat for insects, reptiles, birds, amphibians, mollusks, and mammals (Haag and Lee 2010).

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

All wetland(s) being considered in the cumulative analysis: **25-30**

Approximately ( 53.728 ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
W1 Y	18.13 ac		
W2 Y	24.265 ac		
W3/9 Y	7.779 ac		
W11 Y	1.088 ac		
Pond 10 Y	0.772 ac		
W4 N	1.12 ac		
W6 N	0.004 ac		
W7 N	0.251 ac		
W8 N	0.319 ac		

Summarize overall biological, chemical and physical functions being performed: Contributes freshwater inflow into TNW and filters and removes sediments and nutrients from watershed (Harper et al 1986 and Johengen & LaRock 1993). Maintains water flow within watershed, providing temporary storage of surface water to reduce local flooding (Smith et al 1995). Provides breeding, nesting, and foraging habitat for insects, reptiles, birds, amphibians, mollusks, and mammals (Haag and Lee 2010).

### 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 wetlands adjacent to an RPW but that do not directly abut the RPW.** 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 Eleventh Circuit has concluded that the Kennedy standard is the sole method of determining CWA jurisdiction (United States v. McWane, Inc., et al., 505 F.3d 1208 [11th Cir. 2007]); therefore, unless the aquatic resources are traditional navigable waters or wetlands adjacent to traditional navigable waters, the Corps needs to conduct a significant nexus determination on all other waters in order to determine jurisdiction under the CWA. The Corps has determined that for this review, the subject tributaries (referred to as RPWs) and adjacent and abutting wetlands (referred to as 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.

The following represents the significant nexus finding for RPWs and Subject Wetlands identified in Enclosure 1: Collectively RPWs and Subject Wetlands provide numerous functions that benefit downstream water integrity. These functions include storage of floodwater; recharge of ground water that sustains river baseflow; retention and transformation of nutrients, metals, and pesticides; export of organisms or reproductive propagules to downstream waters; and habitats needed for stream species (EPA 2015).

**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: Water flow typically follows rainfall patterns (<http://www.manatee.wateratlas.usf.edu>). It rains on average 102 days a year in Manatee FL, with a typical wet (July-Sept) and dry (Oct-June) season.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).  
 Other non-wetland waters: **6.62** acres.

Identify type(s) of waters: **Surface Waters/Channelized Streams.**

**3. Non-RPWs<sup>8</sup> 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: A direct surface connection between subject wetlands and RPWs were observed at site visits.

Provide acreage estimates for jurisdictional wetlands in the review area: **52.034** 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **1.694** acres.

**6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

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<sup>8</sup>See Footnote # 3.

- 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.<sup>9</sup>**

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):<sup>10</sup>**

- 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), 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: **7.19** acres. List type of aquatic resource: Upland-cut ditches.  
 Wetlands: \_\_\_\_\_ acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, 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.**

<sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> 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.

**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:Heidt Design.
- 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. Citation:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):  
or  Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature: See below.
- Other information (please specify): See below.

Websites:

Manatee County Wateratlas (website accessed on 14 Jan 2020)

<http://www.manatee.wateratlas.usf.edu/river/hydrology.asp?wbodyid=21004&wbodyatlas=river>

USDA-NCSS SSURGO and STATSGO Soil Survey Products. Ca Soil Resource Lab, 2008 (website accessed 14 Jan 2020)

[https://soilseries.sc.egov.usda.gov/OSD\\_Docs/F/FLORIDANA.html](https://soilseries.sc.egov.usda.gov/OSD_Docs/F/FLORIDANA.html)

Applicable/supporting scientific literature:

Environmentatl Protection Agency (EPA). 2015. Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence. EPA/600/R-14/475.

Haag, K. and Lee, T. 2010. Hydrology and Ecology of Freshwater Wetlands in Central Florida-A Primer. Prepared in cooperation with the St. Johns River Water Management District, the Southwest Florida Water Management District and Tampa Bay Water. U.S. Department of the Interior, U.S. Geological Survey.

Harper, H., Wanielista, M., Baker, D., Fries, B., and Livingston, E. 1986. Treatment Efficiencies for Residential Stormwater Runoff in a Hardwood Wetland. Lake and Reservoir Management. 2:1, 351-356.

Johengen, T. and LaRock, P. 1993. Quantifying Nutrient Removal Processes Within a Constructed Wetland Designed to Treat Urban Stormwater Runoff. Ecological Engineering, 2(1993) 347-366.

Smith. RD., Ammann, A., Bartoldus, C., and Brinson, M.M. 1995. An Approach for Assessing Wetland Functions Using Hydrogeomorphic Classification, Reference Wetlands, and Functional Incies, Wetland Research Program Technical Report, USACE.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

List of Figures

Figure 1: Project Location

Figure 2: Review Area

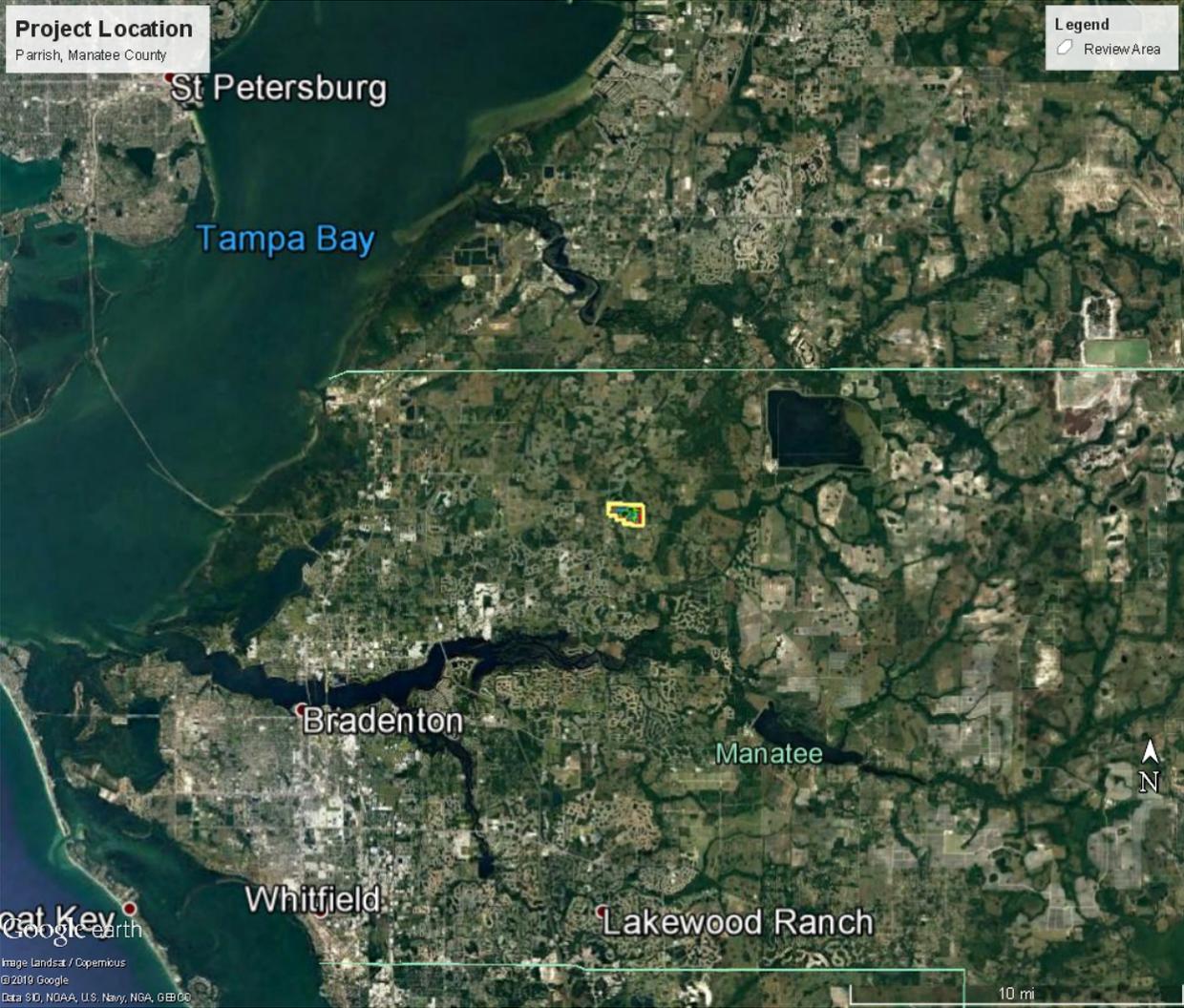
Figure 3: Wetlands and Surface Waters within the Review Area

Figure 4: Flow Route to TNW, RPWs, and Relevant Reach

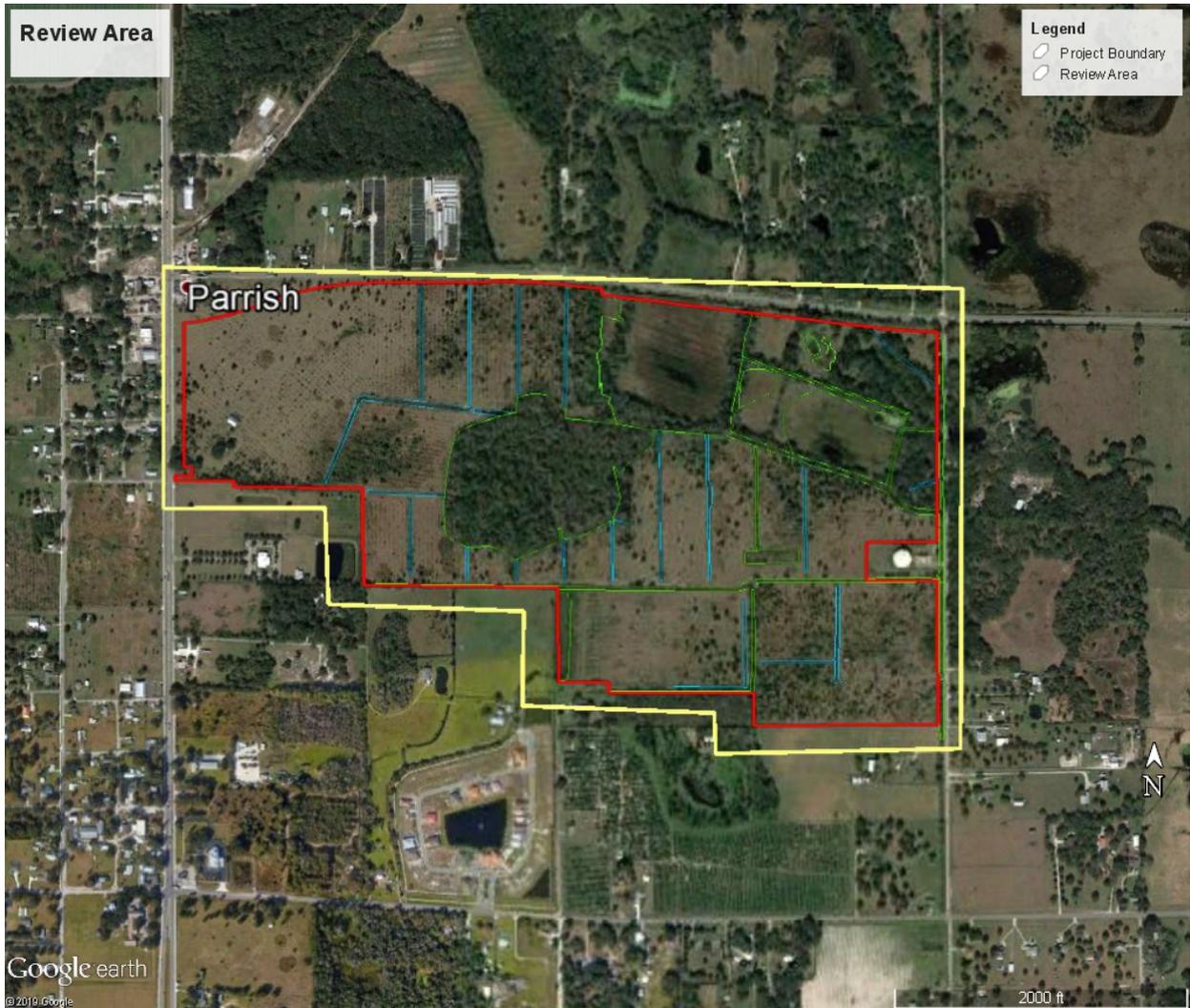
Enclosure

Memorandum for Record: Description of Jurisdictional Waters in Review Area (1 page).

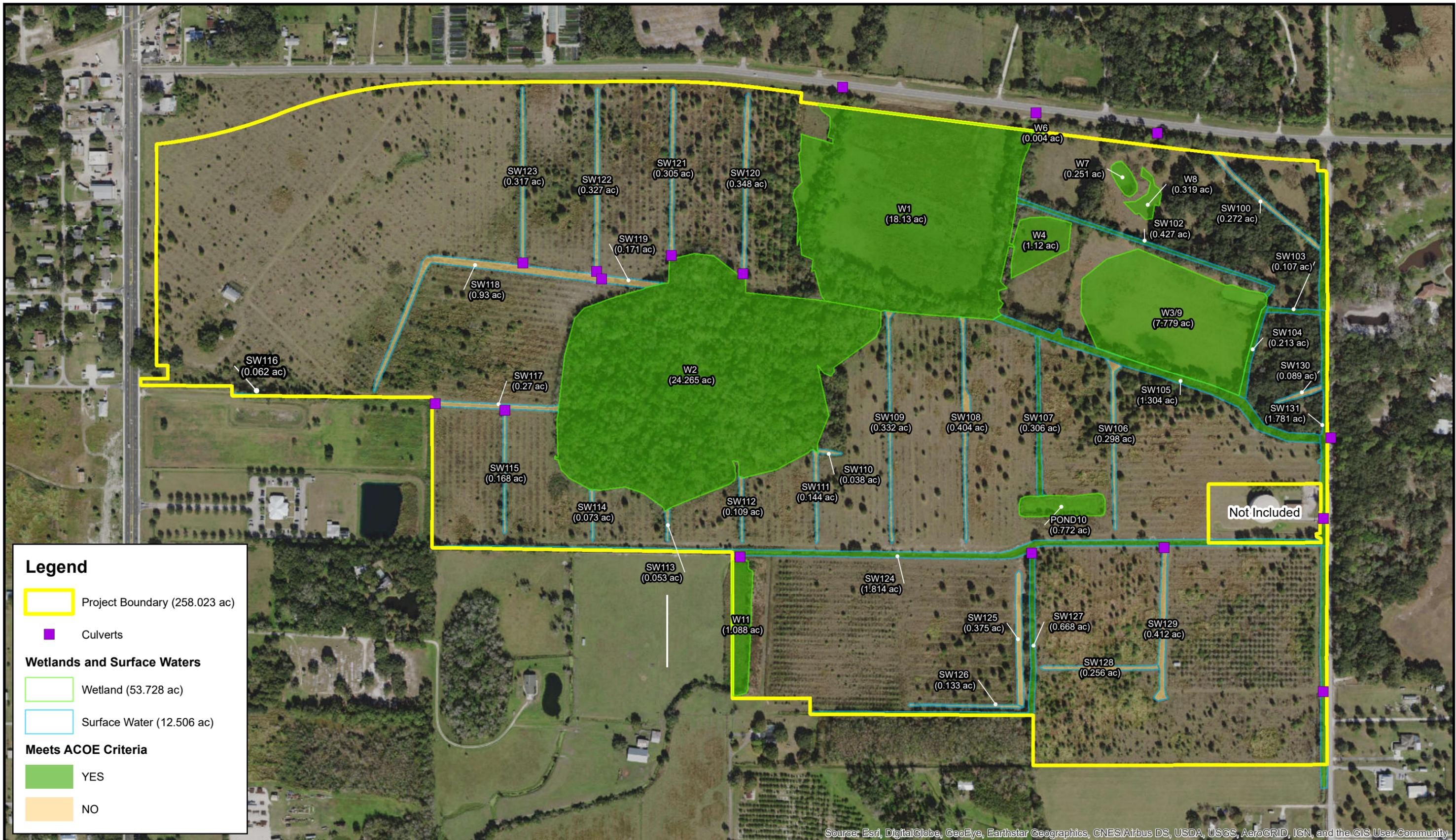
**Figure 1:** Project Location (File Number SAJ-2019-02358 Parrish Plantation Residential Development, Manatee County, FL)



**Figure 2:** Review Area (File Number SAJ-2019-02358 Parrish Plantation Residential Development, Manatee County, FL)



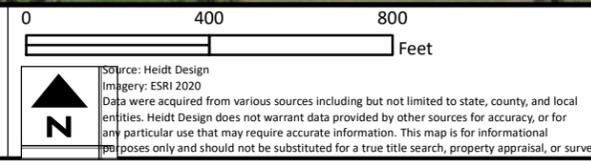
**Figure 3: Wetlands and Surface Waters Within the Review Area (File Number SAJ-2019-02358 Parrish Plantation Residential Development, Manatee County, FL)**



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

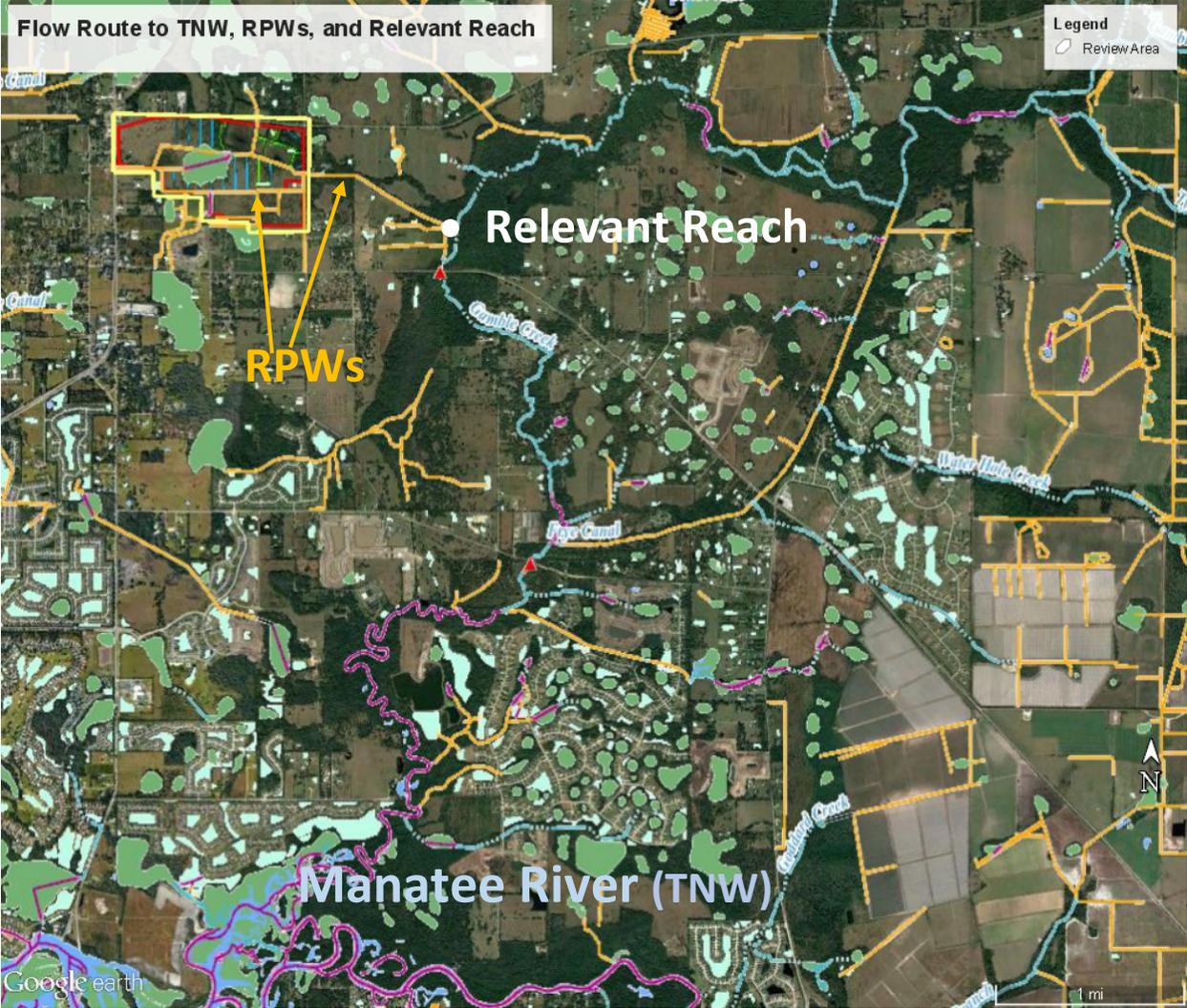
**Parrish Plantation**  
Wetlands and Surface Waters Exhibits

Manatee County



Date Saved: 1/7/2020 Map Document: G:\GIS\Projects\Parrish\_Plantation\MXD\PPP\_wet\_20191009.mxd -- T. Miller

**Figure 4:** National Hydrography Dataset Showing Flow Route to TNW, RPWs, and Relevant Reach (File Number SAJ-2019-02358 Parrish Plantation Residential Development, Manatee County, FL)



## MEMORANDUM FOR RECORD

**SUBJECT:** Description of Jurisdictional Waters for Approved Jurisdictional Determination, File Number SAJ-2019-02358, Parrish Plantation Residential Development, Manatee County, FL.

The Corps utilized the June 5, 2007 memorandum that provides guidance for Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (referred to as "Rapanos Guidance") and 33 CFR 328.3(a) to identify which waters in the review area were subject to jurisdiction under the Clean Water Act.

**The Corps found the following jurisdictional and non-jurisdictional waters within the review area:**

1. Relatively Permanent Waters (RPWs) that flow indirectly into a TNW (for a total of 6.62 ac):
  - SW102 (0.42 ac), SW103 (0.10 ac), SW104 (0.21 ac), SW105 (1.30 ac), SW107 (0.30 ac), SW124 (1.81 ac), SW127 (0.68 ac), and SW131 (1.78 ac).
2. Wetlands directly abutting RPWs that flow indirectly into a TNW (for a total of 52.03 ac):
  - W1 (18.13 ac), W2 (24.26 ac), Pond 10 (0.77 ac), W3/9 (7.77 ac), and W11 (1.08 ac).
3. Wetlands adjacent to but not directly abutting RPWs that flow indirectly into a TNW (for a total of 1.69 ac):
  - W4 (1.12 ac), W6 (0.004 ac), W7 (0.25 ac), and W8 (0.32 ac).
4. Non-regulated surface waters/wetlands (for a total of 5.886 ac):
  - SW100 (0.272), SW106 (0.298), SW105 (1.304 ac), SW108 (0.404) ac, SW109 (0.332 ac), SW110 (0.038), SW111 (0.144 ac), SW112 (0.109 ac), SW113 (0.053), SW114(0.073 ac), SW115 (0.168 ac), SW116 (0.062 ac), SW117 (0.27 ac), SW118 (0.93 ac), SW119 (0.171 ac), SW120 (0.348 ac), SW121 (0.305 ac), SW122 (0.327 ac), SW123 (0.317 ac), SW125 (0.375), SW126 (0.133 ac), SW128 (0.256 ac), SW129 (0.412 ac), and SW130 (0.089 ac).