



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**JACKSONVILLE DISTRICT CORPS OF ENGINEERS**  
1002 WEST 23<sup>RD</sup> STREET, SUITE 350  
PANAMA CITY, FLORIDA 32405-3648

**October 5, 2009**

Panama City Permit Section  
SAJ-2008-00490 (JD2-GAH)  
JURISDICTIONAL VERIFICATION  
"Approved" and "Preliminary"  
(PEF/LNP Site - North and South Parcels)

Progress Energy Florida  
c/o Mr. John J. Hunter  
Lead Environmental Specialist  
Post Office Box 14042, PEF-903  
St. Petersburg, Florida 33733

Dear Mr. Hunter:

Reference is made to information submitted on behalf of Progress Energy Florida (PEF) to the U.S. Army Corps of Engineers (Corps) regarding the potential extent of Federal jurisdiction at the site of the proposed Levy Nuclear Plant in Sections 7, 17-20, and 29-32, Township 16 South, Range 17 East, and Sections 5 and 6, Township 17 South, Range 17 East, Inglis, Levy County, Florida. The site in the context of this jurisdiction determination is comprised of two parcels, known as the north and south parcels. The evaluation of this jurisdictional determination involved many factors and included field visits, review of aerial photographs, geological quad sheets, county soils maps, and other site specific information provided by you and your consultants. Your consultants requested that most of the site be the subject of an "Approved Jurisdictional Determination" by the Corps, with the remainder of the site to be the subject of a "Preliminary Jurisdictional Determination." The areas subject to the Approved Jurisdictional Determination are areas currently identified by PEF for impact by the construction and operation of the proposed nuclear power plant, its attendant components, including areas proposed to be used for compensatory mitigation. The area subject to the Preliminary Jurisdictional Determination is an area, in which no direct impacts (either upland or wetland) are currently proposed. Enclosure 1 is a copy of a site drawing, which shows the Approved and Preliminary Jurisdictional Determination areas.

**Approved Jurisdictional Determination**

A copy of the Approved Jurisdictional Determination form and any identification of information used by our office to support our decision are enclosed (Enclosure 2). A Department of the Army permit will be required for any regulated work within any areas identified within that information as waters of the United States.

**Instructions for Objecting to an Approved Jurisdictional Determination:** Enclosed you will find a Notification of Appeal Process fact sheet and Request for Appeal (RFA) form. If you object to this determination, you may request an administrative appeal under Corps' regulations at 33 CFR Part 331. If you request to appeal this determination, you must submit a completed RFA form to the South Atlantic Division Office at the following address:

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

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

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the above address by November 24, 2009.

The Approved Jurisdictional Determination shown on the enclosed information, in conjunction with the set of 33 sheets showing the flagged, wetland jurisdiction lines on the site, which were received by the Corps on August 12, 2009, represent the upland/wetland boundary for purposes of determining the extent of Corps jurisdictional wetlands and non-jurisdictional, isolated wetlands within the Approved Jurisdictional Determination area of the project site. As depicted on Enclosure 1 and the 33 sheets referenced above, it has been determined you have waters of the United States onsite, which are subject to

regulation by the Corps, and/or you have wetlands onsite which are considered to be isolated, and thus not subjected to regulation by the Corps. Please be advised that the Approved Jurisdictional Determination shown is based on the Corps of Engineers Wetlands Delineation Manual (1987) or current regional supplement, and is valid for a period no longer than 5 years from the date of this letter unless new information warrants a revision of the determination before the expiration date. If, after the 5-year period, the Corps has not specifically revalidated this jurisdictional determination, it shall automatically expire. Any reliance upon this jurisdictional determination beyond the expiration date may lead to possible violation of current Federal laws and/or regulations. You may request revalidation of the jurisdictional determination prior to the expiration date. Any revalidation or updating will be considered under the method of jurisdictional determination and other applicable regulations in use at the time of the request. Additionally, this determination has been based on information provided by you or your agent; should we determine that the information was incomplete or erroneous this delineation would be invalid.

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

You are cautioned that work performed below the mean high water line or ordinary high water line in waters of the United States, or the discharge of dredged or fill material into adjacent wetlands, without a Department of the Army permit could subject you to enforcement action. Receipt of a permit from the Department of Environmental Protection or the Water Management District does not obviate the requirement for obtaining a Department of the Army permit for the work described above prior to commencing work.

### Preliminary Jurisdictional Determination

Reference is made to your request for a Preliminary Jurisdictional Determination (Preliminary JD) within the area on the Levy Nuclear Plant site, as indicated on Enclosure 1. Based on information submitted to the U.S. Army Corps of Engineers (Corps) we have preliminarily determined there may be waters of the United States, including wetlands within this area. The approximate locations of waters of the United States, including wetlands, are shown on Enclosure 1. Two copies of the Preliminary JD form in support of our Preliminary JD are enclosed Enclosure 3. Please carefully read the Preliminary JD form, then sign and return one of the copies to us at the letterhead address within 30 days from the date of this letter.

Please be advised a Department of the Army permit will be required for regulated work in all areas which may be waters of the United States, as indicated in this Preliminary JD. The wetland delineations subject of this Preliminary Jurisdiction are approximate indications of the location and presence of wetlands based on work done by your consultants, and according to our understanding, was based on the use of mapping tools, such as FLUCCS and NWI maps. The approximate delineations subject to this Preliminary Jurisdiction are not suitable for purposes of computation of impacts and compensatory mitigation requirements.

Should you desire an official Corps determination that jurisdictional "waters of the United States," or "navigable waters of the United States," or both, are either present or absent on a particular site, the Corps will issue an Approved JD when requested.

You are cautioned that work performed in areas which may be waters of the United States, as indicated in the Preliminary JD, without a Department of the Army permit could subject you to enforcement action. Receipt of a permit from the Florida Department of Environmental Protection or the Water Management District does not obviate the requirement for obtaining a Department of the Army permit for such work prior to commencing work.

This Preliminary JD has been conducted to identify the potential for Clean Water Act and/or Rivers and Harbors Act jurisdiction for the particular site identified in this request. This Preliminary JD may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are U.S. Department of Agriculture (USDA) program

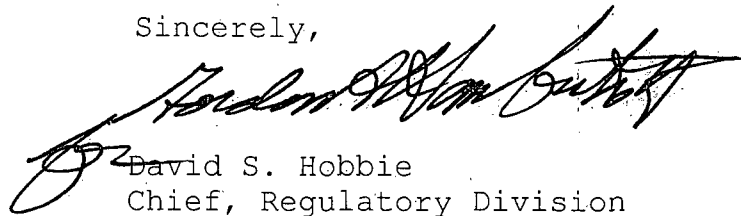
participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

### Conclusion

The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit the following link and complete our automated Customer Service Survey: <http://per2.nwp.usace.army.mil/survey.html>. Your input is appreciated - favorable or otherwise.

Thank you for your cooperation with our permit program. If you have any questions concerning this matter please contact Mr. Don Hambrick by mail at the letterhead address, by electronic mail at [gordon.a.hambrick@usace.army.mil](mailto:gordon.a.hambrick@usace.army.mil), or by telephone at (850) 763-0717 ext. 25.

Sincerely,



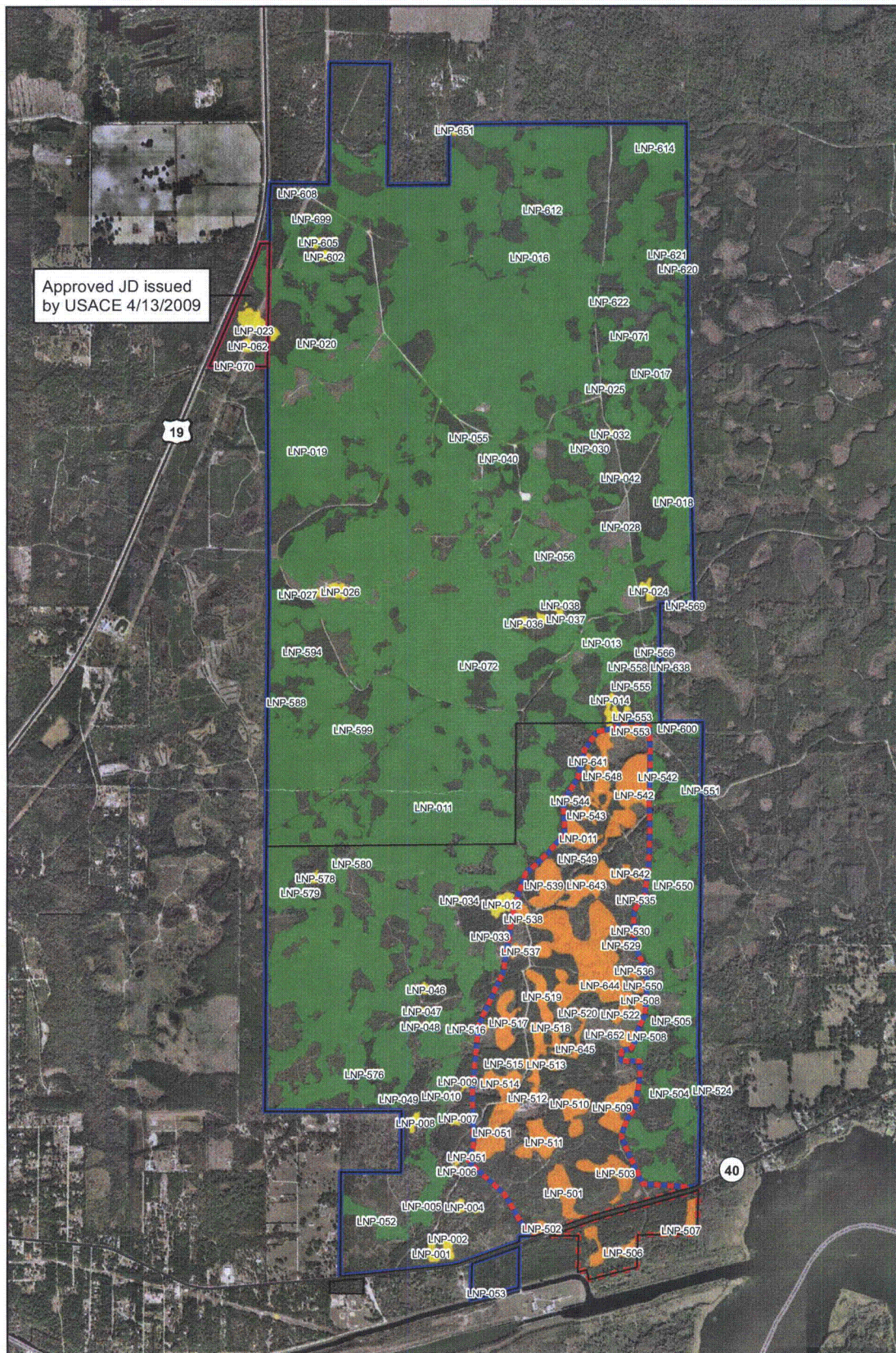
David S. Hobbie  
Chief, Regulatory Division

Enclosures

Copy Furnished: (w/ encls)

NRC (Douglas Bruner), Bethesda, MD





#### LEGEND

- |   |  |
|---|--|
| <span style="display: inline-block; width: 15px; height: 15px; background-color: green; border: 1px solid black;"></span> Approved JD Wetland           | <span style="display: inline-block; width: 15px; height: 15px; border: 2px solid blue;"></span> Approved JD Area   |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> Approved JD Isolated Wetland | <span style="display: inline-block; width: 15px; height: 15px; border: 1px solid black;"></span> Property Boundary |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> Preliminary JD Wetland       | <span style="display: inline-block; width: 15px; height: 15px; border: 1px solid gray;"></span> County Boundary    |
| <span style="display: inline-block; width: 15px; height: 15px; border: 2px dashed red;"></span> Preliminary JD Area                                     |  |
| <span style="display: inline-block; width: 15px; height: 15px; border: 2px solid red;"></span> Approved JD issued by USACE                              |  |

Source  
CH2M HILL Wetland  
Delineation, 2009



0 490  
Meters  
0 0.5  
Miles

Progress Energy Florida  
**Levy Nuclear Plant**  
Levy County, Florida

USACE Jurisdictional Wetlands

*Enclosure I*



**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): September 3, 2009**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SAJ-RD-NP/Panama City Section, Progress Energy Levy Nuclear Plant, SAJ-2008-0490 (JD2-GAH)**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Florida      County/parish/borough: Levy County      City: Inglis - approximately 4 miles to south of site  
Center coordinates of site (lat/long in degree decimal format): Lat. 29.065833° N, Long. 82.622222° W.  
Universal Transverse Mercator:

Name of nearest waterbody: Withlatchoochee River & Gulf of Mexico

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Withlatchoochee River & Gulf of Mexico

Name of watershed or Hydrologic Unit Code (HUC): Withlatchoochee River

☒ 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: September 4, 2009

☒ Field Determination. Date(s): July 30 & 31; September 10 & 11, 2008; January 22 & 23, 2009; April 22-24, 2009

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There Pick/List "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 Pick/List "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):<sup>1</sup>**

- ☒ TNWs, including territorial seas
- ☒ Wetlands adjacent to TNWs
- ☒ Relatively permanent waters<sup>2</sup> (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 35 acres.

Wetlands: 3000 acres.

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual**

Elevation of established OHWM (if known):

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: See Section III F. below and attached MFR (Attachment 1). 37.58 acres of non-regulated, isolated wetlands within the Approved JD area of the project site (see Attachment 2, site map with delineated wetlands, and Attachment 3, list of isolated wetlands).

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

*Enclosure 2*

### 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: Poorly defined, complex assemblage of drainages comprised of natural tributaries embedded deep within large wetlands, and numerous ditches, to the Withlacoochee River and Gulf of Mexico- Pick List

Drainage area: over 30 square miles

Average annual rainfall: inches

Average annual snowfall: inches

###### **(ii) Physical Characteristics:**

###### **(a) Relationship with TNW:**

☐ Tributary flows directly into TNW.

☒ Tributary flows through 10 (or more) tributaries before entering TNW.

Project waters are 2.5 river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

Project waters are 1.2 aerial (straight) miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain:

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



Identify flow route to TNW<sup>5</sup>: Poorly defined, complex assemblage of drainages comprised of natural tributaries embedded deep within large wetlands, and numerous ditches, to the Withlacoochee River and Gulf of Mexico.  
Tributary stream order, if known:

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

Tributary is: ☒ Natural  
☒ Artificial (man-made). Explain: ditches and natural tributaries.  
☐ 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: Intermittent but not seasonal flow

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

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<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  
☐ other (list):

(iii) Chemical Characteristics:

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

<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.

<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.

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

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

The complex of natural tributaries and ditches are habitat for insects, insect larvae, amphibians, and various invertebrates. Other species (blue heron and white ibis, for example) utilize the tributaries for foraging. The tributaries also provides a corridor for aquatic insects and amphibians, thereby contributing to the genetic diversity of these populations.

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: over 3000 acres

Wetland type. Explain: Forested, pine plantations, shrub, emergents.

Wetland quality. Explain: See Attachment 2 for location of wetlands and Attachment 4 is a list of wetlands on the project site, which are subject to this review, and have been determined to have a significant nexus to the Gulf of Mexico and/or the Withlacoochee River, and thus jurisdictional.

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: Intermittent flow. Explain:

Surface flow is: Discrete and confined

Characteristics:

Subsurface flow: Pick List. Explain findings:

- ☐ Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

- ☒ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain:
  - ☐ Ecological connection. Explain:
  - ☐ Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are 1-2 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:
  - ☐ Fish/spawn areas. Explain findings:
  - ☐ Other environmentally-sensitive species. Explain findings:
- ☒ Aquatic/wildlife diversity. Explain findings:

The wetlands are habitat for insects, insect larvae, amphibians, various invertebrates, birds, and small and large mammals.

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

All wetland(s) being considered in the cumulative analysis: 30 (or more)

Approximately ( over 3000 ) 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>
All wetlands abutt non-RPWs	3000+		

Summarize overall biological, chemical and physical functions being performed:

### 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: The review area encompasses the related LNP site, which is approximately 5000 acres in size, plus some adjacent areas, which are comprised of a complex landscape of uplands and very large areas of interconnected wetlands, totaling more than 3000 acres of wetlands. The landscape is very flat with a gentle tilt to the west and south. Though drainage maps show that there are two main watersheds that meet on the site (Gulf of Mexico and Withlacoochee River), the wetlands are interconnected and contiguous throughout the review area with no breaks in the wetlands. The subject wetlands drain through a multitude of unnamed non-RPW natural tributaries and ditches to offsite non-RPWs and RPWs, which flow either to the Gulf of Mexico to the west or the Withlacoochee River to the south. This huge complex of non-RPW tributaries and their adjacent wetlands directly contribute to the physical, biological, and chemical properties of the TNWs. Almost of the wetlands within the review area are comprised of forested wetlands, which along with the many tributaries, provide functions that benefit the downstream TNWs. These functions include, but are not limited to, carbon cycling, food web support, wildlife habitat, detention and attenuation of stormwater, nutrient cycling, filtration of pollutants, and sediment trapping. Wetlands considered in this review provide for the production (i.e., primary production of plant material), decomposition, storage, and transport of carbon, both through surface flow into the tributaries, which supports the food web of the downstream TNWs. Observation of tannin-stained, non-turbid, waters within portions of the wetlands and tributaries as well as water stains on trees within the wetlands, serve as physical indicators that decomposed organic matter is present within the wetlands. Likewise, the wetlands provide water, nutrients (e.g., nitrogen and phosphorus), and food (e.g., organic matter, microorganisms, and invertebrate prey) which support aquatic life in the downstream TNWs. It is expected that the tributaries and their adjacent wetlands provide habitat for prey items including minnows, frogs, invertebrates, and small reptiles, that are consumed by species, including blue heron and other avian species, that also depend on the downstream TNWs during part of their lifecycle. Additionally, the forested wetlands within this review are expected to provide nesting, resting, and foraging habitat for several species that also utilize the downstream TNWs during part of their lifecycles, such as the Great blue heron, Little blue heron, Tricolored heron, Snowy egret, and Southeastern kestrel. Wetlands within the review will hold water for extended periods. As such, the wetlands provide detention and attenuation of rainfall, as

well as sediment trapping functions, that benefit the downstream TNWs by reducing flash flows within the tributaries and sediment transport associated with such flows.

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:

**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<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:

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

---

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

Provide estimates for jurisdictional wetlands in the review area: **3000** 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: acres. List type of aquatic resource:
- ☒ Wetlands: See attachment 3 for list - 37.58 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.**

**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:
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.

<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.



- ☒ 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: Yankeetown and Yankeetown SE, Quad Sheet blowups.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Levy County Soils Survey.
- ☒ National wetlands inventory map(s). Cite name: Yankeetown and Yankeetown SE, Quad Sheet blowups.
- ☐ 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:
- ☒ Other information (please specify): See attached MFR.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** See attached MFR (Attachment 1), site map with wetlands (Attachment 2), and lists of wetlands subject of this Approved JD form - both jurisdictional (Attachment 4) and non-jurisdictional-isolated (Attachment 3).

## MEMORANDUM FOR RECORD

SUBJECT: Progress Energy Florida (PRF)/Levy Nuclear Plant (LNP)  
Jurisdictional Determination Request for "North" and "South" Parcels  
File # SAJ-2008-00490 (JD2-GAH)

1. This MFR serves as background and additional information for the request by PEF for a combination "Approved" and "Preliminary" jurisdictional determination (JD) on the two main parcels for the proposed LNP site in Levy County, Florida (see Attachment 2, which is a map of the two parcels showing the location of both jurisdictional and isolated wetlands within the two parcels). This MFR is identified as Attachment 1 for the Approved JD form for isolated wetlands and for wetlands adjacent to non-RPWs, located on the majority of the site, as well as for the Preliminary JD form for wetlands located within a portion of the site, for which the applicant requested that only a Preliminary JD be confirmed. Attachment 2 shows which portions of the site was the subject of the Approved JDs versus the Preliminary JD. All of the wetlands subject to the Approved JD form were flagged by PEF's consultants, and spot checked by the Corps. It is the Corps determination that the wetlands, as flagged and shown on Attachment 2, and the surveys of the flagged wetland delineations, on which Attachment 2 is based (copies of which are in the administrative file for this project), delineate wetlands in compliance with the Corps' requirements for Approved JDs. The boundaries of the wetlands within the area of the project site, in which the applicant requested that only a Preliminary JD be confirmed, is based on aerial photography and NWI maps. The wetland boundaries were not flagged, nor field checked by the Corps. The Preliminary JD only determines that there are jurisdictional wetlands in the specific area subject to the Preliminary JD. A single letter will be sent to the applicant regarding the Approved JD and the Preliminary JD. The letter will specifically caveat the limitations of the Preliminary JD in terms of wetland boundaries and locations.

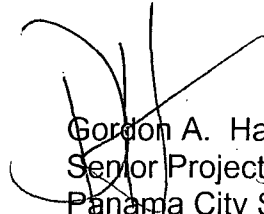
2. Background information for this request:

a. PEF has submitted a Department of the Army application for the construction of the LNP electrical generation facility, and various associated, integral project components, including electrical transmission lines and substations, access roads, a barge slip at the Cross Florida Barge Canal (CFBC), cooling make-up water pipeline with an intake structure at the CFBC, and water (blowdown) pipelines (approximately 13 miles in length) with discharge at the discharge canal located within the Crystal River Energy Complex. This project is currently going under review through the development of an EIS with the U.S. Nuclear Regulatory Commission acting as the lead agency under NEPA, and the Corps, acting as a cooperating agency.

*Attachment 1*

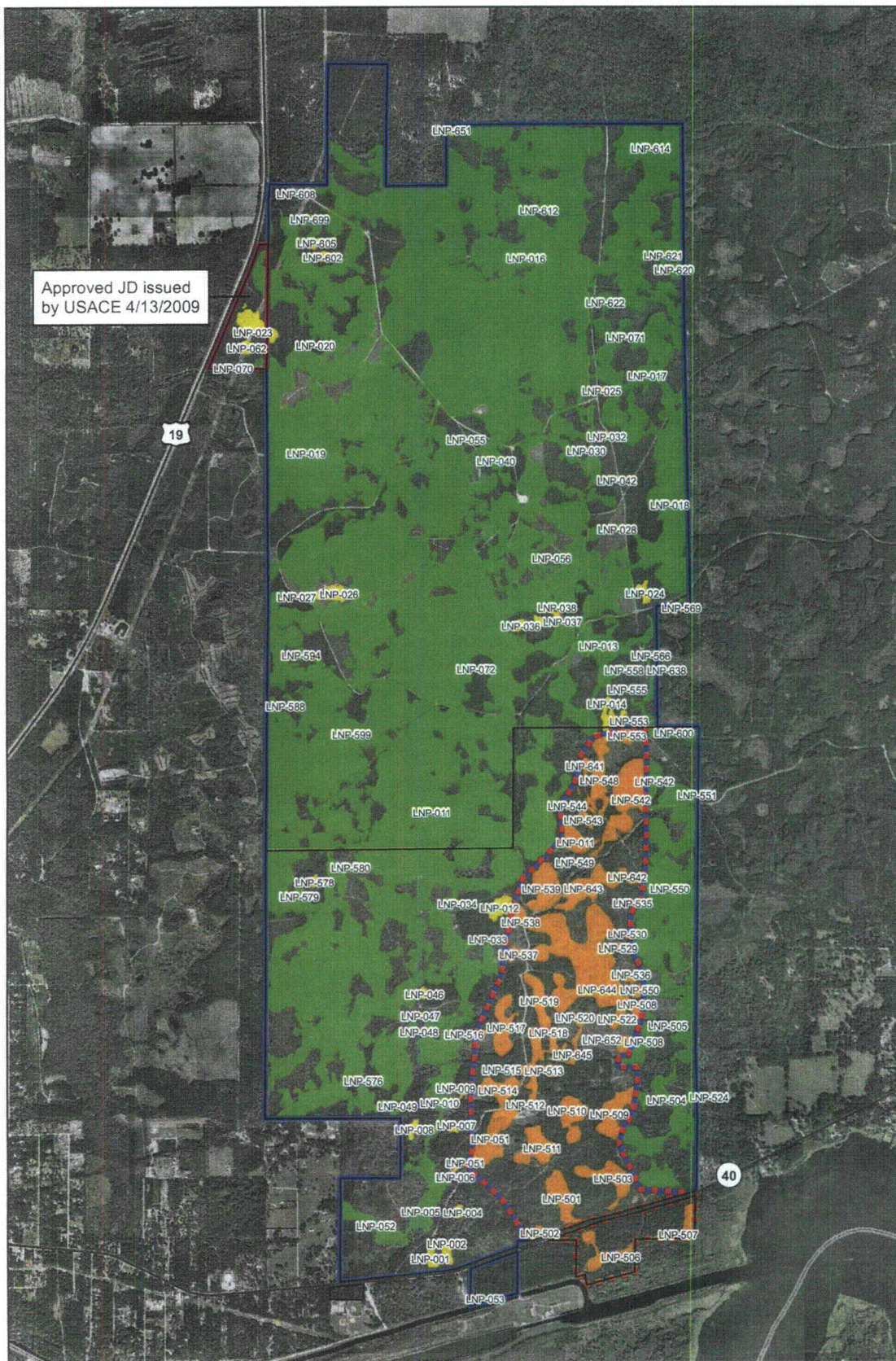
b. The review area is comprised of the two parcels, which encompass the LNP power generation site and surrounding land for access, various associated facilities, and other uses. The two parcels together are approximately 5000 acres in size and are comprised of a complex landscape of uplands and very large areas of interconnected wetlands. The wetlands total to approximately 3000 acres. The landscape is very flat with a gentle tilt to the west and south. Drainage maps show that there are two main watersheds that meet on the site (Gulf of Mexico and Withlacoochee River). Almost 99% of the wetlands (2697.58 acres within the "Approved" JD area and 263.88 acres within the "Preliminary" JD area) on the two parcels are interconnected, contiguous, and drain through a multitude of unnamed non-RPW natural tributaries and ditches to offsite non-RPWs and RPWs, which flow either to the Gulf of Mexico to the west or the Withlacoochee River to the south. Isolated wetlands comprise about 1% of the wetlands on the parcels (37.58 acres), and are separated by uplands from other wetlands. There is no evidence from aerial photographs, soils maps, and other map resources, as well as from extensive ground-truthing, that any of the wetlands on the list of isolated wetlands (see Attachment 3) are near or adjacent to any tributaries or conveyances to tributaries.

3. The point of contact for the above is the undersigned (tel.# (850) 763-0717 ext. 25).



Gordon A. Hambrick, III  
Senior Project Manager  
Panama City Section



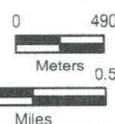


#### LEGEND

- Approved JD Wetland
- Approved JD Isolated Wetland
- Preliminary JD Wetland
- Preliminary JD Area
- Approved JD issued by USACE

- Approved JD Area
- Property Boundary
- County Boundary

Source  
CH2M HILL Wetland  
Delineation, 2009



Progress Energy Florida  
Levy Nuclear Plant  
Levy County, Florida

USACE Jurisdictional Wetlands

*Attachment 2*



Onsite wetlands - <i>Non-Jurisdictional</i>					
Isolated wetlands with total acreage - <i>Approved</i>					
WETLAND NA	CODE	FLUCSDEC	ISOLATED	JD	Total
LNP-001	621	CYPRESS	YES	APPROVED	1.87
LNP-002	621	CYPRESS	YES	APPROVED	1.61
LNP-003	621	CYPRESS	YES	APPROVED	0.44
LNP-004	643	WET PRAIRIES	YES	APPROVED	1.19
LNP-006	624	CYPRESS-PINE-CABBAGE PALM	YES	APPROVED	0.23
LNP-007	643	WET PRAIRIES	YES	APPROVED	0.72
LNP-008	643	WET PRAIRIES	YES	APPROVED	1.30
LNP-009	643	WET PRAIRIES	YES	APPROVED	0.28
LNP-012	621	CYPRESS	YES	APPROVED	4.74
LNP-014	621	CYPRESS	YES	APPROVED	2.95
LNP-020	643	WET PRAIRIES	YES	APPROVED	0.17
LNP-022	621	CYPRESS	YES	APPROVED	0.08
LNP-023	621	CYPRESS	YES	APPROVED	6.15
LNP-024	621	CYPRESS	YES	APPROVED	1.76
LNP-025	643	WET PRAIRIES	YES	APPROVED	0.21
LNP-026	621	CYPRESS	YES	APPROVED	2.82
LNP-027	621	CYPRESS	YES	APPROVED	0.59
LNP-030	621	CYPRESS	YES	APPROVED	0.07
LNP-032	621	CYPRESS	YES	APPROVED	0.24
LNP-034	643	WET PRAIRIES	YES	APPROVED	0.23
LNP-036	621	CYPRESS	YES	APPROVED	0.94
LNP-037	621	CYPRESS	YES	APPROVED	0.91
LNP-038	643	WET PRAIRIES	YES	APPROVED	0.50
LNP-042	643	WET PRAIRIES	YES	APPROVED	0.11
LNP-046	621	CYPRESS	YES	APPROVED	1.23
LNP-047	621	CYPRESS	YES	APPROVED	0.45
LNP-048	621	CYPRESS	YES	APPROVED	0.09
LNP-062	621	CYPRESS	YES	APPROVED	1.39
LNP-554	643	WET PRAIRIES	YES	APPROVED	0.29
LNP-578	621	CYPRESS	YES	APPROVED	1.02
LNP-602	643	WET PRAIRIES	YES	APPROVED	1.18
LNP-605	643	WET PRAIRIES	YES	APPROVED	0.54
LNP-651	617	MIXED WETLAND HARDWOODS	YES	APPROVED	1.27

**Total 37.58**

*Attachment 3*



Onsite wetlands - <i>Jurisdictional</i>					
Approved but non isolated wetlands with total acreage					
WETLAND NA	CODE	FLUCSDEC	ISOLATED	JD	Total
LNP-005	624	CYPRESS-PINE-CABBAGE PALM	NO	APPROVED	18.29
LNP-011	621	CYPRESS	NO	APPROVED	1179.75
LNP-013	621	CYPRESS	NO	APPROVED	37.39
LNP-016	617	MIXED WETLAND HARDWOODS	NO	APPROVED	549.88
LNP-017	621	CYPRESS	NO	APPROVED	57.35
LNP-018	621	CYPRESS	NO	APPROVED	65.88
LNP-019	621	CYPRESS	NO	APPROVED	301.89
LNP-028	643	WET PRAIRIES	NO	APPROVED	1.13
LNP-031	621	CYPRESS	NO	APPROVED	0.06
LNP-033	643	WET PRAIRIES	NO	APPROVED	0.21
LNP-040	621	CYPRESS	NO	APPROVED	6.99
LNP-049	643	WET PRAIRIES	NO	APPROVED	0.08
LNP-050	643	WET PRAIRIES	NO	APPROVED	0.04
LNP-051	621	CYPRESS	NO	APPROVED	0.98
LNP-052	624	CYPRESS-PINE-CABBAGE PALM	NO	APPROVED	10.53
LNP-053	621	CYPRESS	NO	APPROVED	0.31
LNP-054	643	WET PRAIRIES	NO	APPROVED	0.10
LNP-055	643	WET PRAIRIES	NO	APPROVED	0.60
LNP-056	643	WET PRAIRIES	NO	APPROVED	0.18
LNP-070	621	CYPRESS	NO	APPROVED	0.12
LNP-071	643	WET PRAIRIES	NO	APPROVED	0.15
LNP-072	643	WET PRAIRIES	NO	APPROVED	0.12
LNP-504	621	CYPRESS	NO	APPROVED	47.16
LNP-505	621	CYPRESS	NO	APPROVED	0.37
LNP-508	621	CYPRESS	NO	APPROVED	7.14
LNP-524	643	WET PRAIRIES	NO	APPROVED	1.44
LNP-542	621	CYPRESS	NO	APPROVED	5.84
LNP-550	621	CYPRESS	NO	APPROVED	90.80
LNP-551	621	CYPRESS	NO	APPROVED	0.11
LNP-553	621	CYPRESS	NO	APPROVED	0.64
LNP-555	643	WET PRAIRIES	NO	APPROVED	0.27
LNP-558	643	WET PRAIRIES	NO	APPROVED	0.22
LNP-566	643	WET PRAIRIES	NO	APPROVED	0.62
LNP-569	621	CYPRESS	NO	APPROVED	0.39
LNP-576	621	CYPRESS	NO	APPROVED	0.10
LNP-579	621	CYPRESS	NO	APPROVED	0.55
LNP-580	621	CYPRESS	NO	APPROVED	1.02
LNP-588	643	WET PRAIRIES	NO	APPROVED	0.29
LNP-591	643	WET PRAIRIES	NO	APPROVED	0.06
LNP-594	621	CYPRESS	NO	APPROVED	1.67
LNP-599	621	CYPRESS	NO	APPROVED	176.93
LNP-600	621	CYPRESS	NO	APPROVED	10.94
LNP-607	617	MIXED WETLAND HARDWOODS	NO	APPROVED	0.19
LNP-608	617	MIXED WETLAND HARDWOODS	NO	APPROVED	0.42
LNP-612	621	CYPRESS	NO	APPROVED	0.27
LNP-614	621	CYPRESS	NO	APPROVED	100.86
LNP-620	621	CYPRESS	NO	APPROVED	2.17
LNP-621	621	CYPRESS	NO	APPROVED	0.27
LNP-622	621	CYPRESS	NO	APPROVED	2.72
LNP-637	643	WET PRAIRIES	NO	APPROVED	0.06
LNP-638	621	CYPRESS	NO	APPROVED	0.08
LNP-699	643	WET PRAIRIES	NO	APPROVED	0.40

Total 2686.03

*Attachment 4*

file

**ATTACHMENT**

**PRELIMINARY JURISDICTIONAL DETERMINATION FORM**

**BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): September 4, 2009**

**B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:**  
Progress Energy Florida  
P.O. Box 14042, PEF-903  
St. Petersburg, FL 33733

**C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville District - Panama City Permits Section / Progress Energy Florida - Levy Nuclear Power Plant / SAJ-2009-00490(IP-GAH)**

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION: / (USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)**

State: Florida County/parish/borough: Levy City: N/A  
Center coordinates of site (lat/long in degree decimal format): Lat. 29.065833° N, Long. 82.622222° W.

Universal Transverse Mercator:

Name of nearest waterbody: Withlacoochee River / Cross Florida Barge Canal / Gulf of Mexico

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 0 linear feet: width (ft) and/or acres.

Cowardin Class:

Stream Flow:

Wetlands: Wetland delineation lines have not been confirmed nor approved by the Corps within the "Preliminary Jurisdictional Determination" area within the area labeled as "Preliminary Wetland JD" as shown on Attachment 1. The lines are very approximate and based on FLUCS or NWI maps. Approximately 263.77 acres.

Cowardin Class:

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal:

Non-Tidal:

Enclosure 3

**E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

☒ Office (Desk) Determination. Date: September 1, 2009

☐ Field Determination. Date(s):

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or

to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

**SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply)**

- checked items should 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:

☐ 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:

☒ Other information (please specify): Attachment 1 - MFR for background information, and Attachment 2 - Site map showing area of site subject of this Preliminary JD.

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

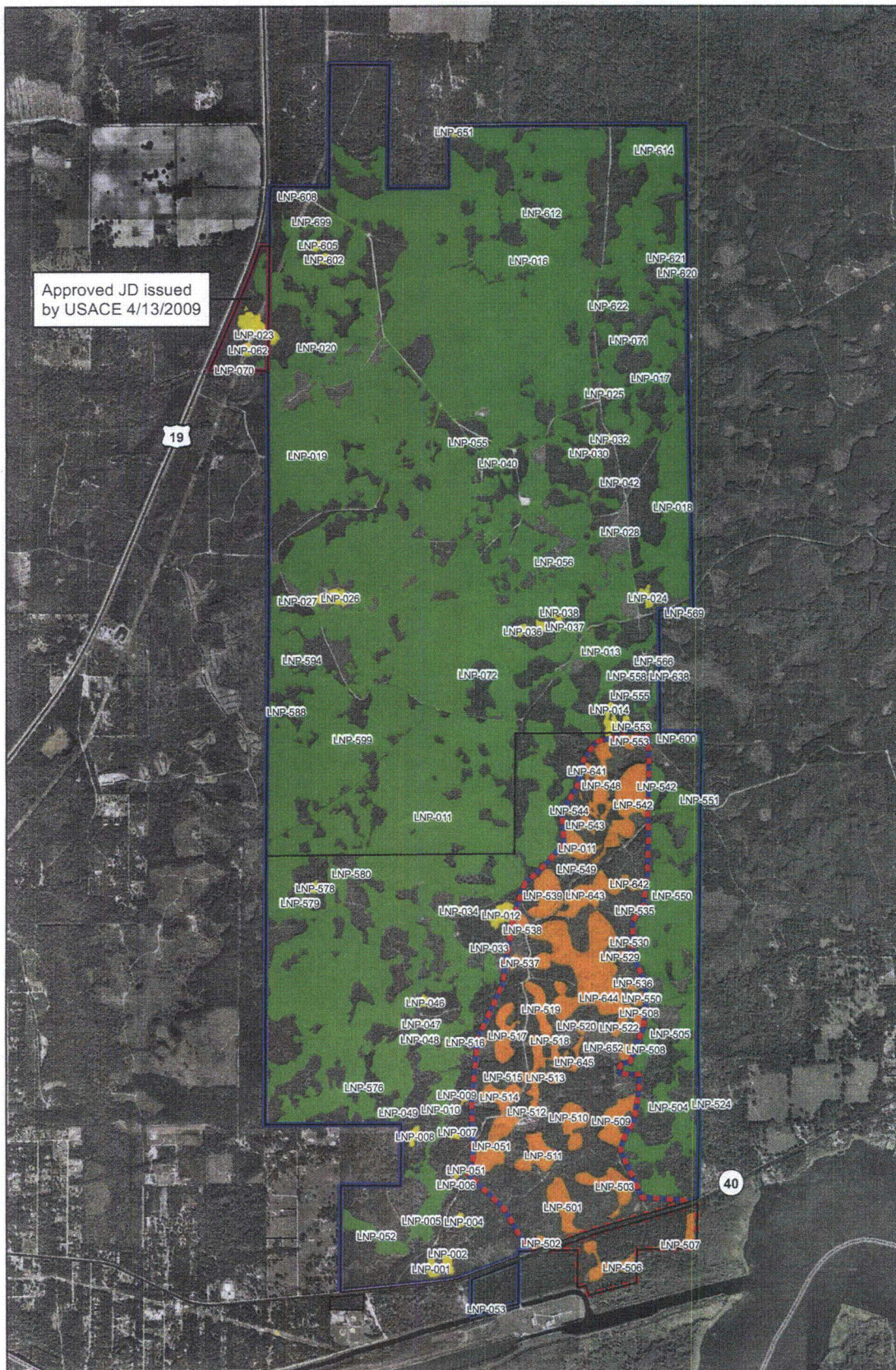
---

Signature and date of  
Regulatory Project Manager  
(REQUIRED)

---

Signature and date of  
person requesting preliminary JD  
(REQUIRED, unless obtaining  
the signature is impracticable)





#### LEGEND

- Approved JD Wetland
- Approved JD Isolated Wetland
- Preliminary JD Wetland
- Preliminary JD Area
- Approved JD issued by USACE

- Approved JD Area
- Property Boundary
- County Boundary

Source  
CH2M HILL Wetland  
Delineation, 2009



0 490  
Meters  
0 0.5  
Miles

Progress Energy Florida  
Levy Nuclear Plant  
Levy County, Florida

USACE Jurisdictional Wetlands

*Attachment 1*



Onsite wetlands					
Preliminary Wetlands with total acreage					
WETLAND_NA	CODE	FLUCSDEC	ISOLATED	JD	Total
LNP-011	621	CYPRESS	NO	PRELIMINARY	7.56
LNP-051	621	CYPRESS	NO	PRELIMINARY	14.20
LNP-501	621	CYPRESS	NO	PRELIMINARY	10.27
LNP-502	621	CYPRESS	NO	PRELIMINARY	1.24
LNP-503	621	CYPRESS	NO	PRELIMINARY	10.52
LNP-506	621	CYPRESS	NO	PRELIMINARY	7.30
LNP-507	621	CYPRESS	NO	PRELIMINARY	4.68
LNP-508	621	CYPRESS	NO	PRELIMINARY	2.11
LNP-509	621	CYPRESS	NO	PRELIMINARY	11.31
LNP-510	621	CYPRESS	NO	PRELIMINARY	9.28
LNP-511	621	CYPRESS	NO	PRELIMINARY	10.22
LNP-512	643	WET PRAIRIES	NO	PRELIMINARY	1.19
LNP-513	643	WET PRAIRIES	NO	PRELIMINARY	9.60
LNP-514	643	WET PRAIRIES	NO	PRELIMINARY	7.51
LNP-515	643	WET PRAIRIES	NO	PRELIMINARY	1.06
LNP-516	621	CYPRESS	NO	PRELIMINARY	0.36
LNP-517	643	WET PRAIRIES	NO	PRELIMINARY	8.40
LNP-518	643	WET PRAIRIES	NO	PRELIMINARY	0.53
LNP-519	621	CYPRESS	NO	PRELIMINARY	6.87
LNP-520	621	CYPRESS	NO	PRELIMINARY	0.39
LNP-521	621	CYPRESS	NO	PRELIMINARY	0.37
LNP-522	621	CYPRESS	NO	PRELIMINARY	2.22
LNP-529	643	WET PRAIRIES	NO	PRELIMINARY	0.62
LNP-530	643	WET PRAIRIES	NO	PRELIMINARY	0.14
LNP-535	621	CYPRESS	NO	PRELIMINARY	0.54
LNP-536	643	WET PRAIRIES	NO	PRELIMINARY	0.91
LNP-537	643	WET PRAIRIES	NO	PRELIMINARY	1.58
LNP-538	621	CYPRESS	NO	PRELIMINARY	1.79
LNP-539	621	CYPRESS	NO	PRELIMINARY	11.88
LNP-542	621	CYPRESS	NO	PRELIMINARY	23.40
LNP-543	621	CYPRESS	NO	PRELIMINARY	1.56
LNP-544	643	WET PRAIRIES	NO	PRELIMINARY	0.19
LNP-546	643	WET PRAIRIES	NO	PRELIMINARY	0.15
LNP-548	621	CYPRESS	NO	PRELIMINARY	10.66
LNP-549	643	WET PRAIRIES	NO	PRELIMINARY	0.31
LNP-550	621	CYPRESS	NO	PRELIMINARY	2.49
LNP-553	621	CYPRESS	NO	PRELIMINARY	2.86
LNP-641	643	WET PRAIRIES	NO	PRELIMINARY	0.88
LNP-642	643	WET PRAIRIES	NO	PRELIMINARY	1.49
LNP-643	643	WET PRAIRIES	NO	PRELIMINARY	12.76
LNP-644	643	WET PRAIRIES	NO	PRELIMINARY	57.27
LNP-645	643	WET PRAIRIES	NO	PRELIMINARY	2.74
LNP-652	621	CYPRESS	NO	PRELIMINARY	2.38

**Total 263.77**

*Attachment 2*